

AMENDED IN ASSEMBLY MAY 16, 2016
AMENDED IN ASSEMBLY MARCH 17, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2817

Introduced by Assembly Member Chiu

February 19, 2016

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 amended, Chiu. 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 and allows \$500,000 per year of that amount to be allocated for projects to provide farmworker housing, as specified.

This bill, for calendar years beginning 2017, would increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects by \$300,000,000, *subject to annual approval*, as specified. The bill would also increase the amount the

committee may allocate to farmworker housing projects from \$500,000 to \$25,000,000 per year. The bill, under the insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law, would modify the definition of applicable percentage relating to qualified low-income buildings that meet specified criteria.

This bill would take effect immediately as a tax levy.

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

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

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

3 12206. (a) (1) There shall be allowed as a credit against the
4 “tax,” as described by Section 12201, a state low-income housing
5 tax credit in an amount equal to the amount determined in
6 subdivision (c), computed in accordance with Section 42 of the
7 Internal Revenue Code except as otherwise provided in this section.

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

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

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

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

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

26 (A) Except for projects to provide farmworker housing, as
27 defined in subdivision (h) of Section 50199.7 of the Health and
28 Safety Code, that are allocated credits solely under the set-aside
29 described in subdivision (c) of Section 50199.20 of the Health and

1 Safety Code, the low-income housing project shall be located in
2 California and shall meet either of the following requirements:

3 (i) The project's housing sponsor has been allocated by the
4 California Tax Credit Allocation Committee a credit for federal
5 income tax purposes under Section 42 of the Internal Revenue
6 Code.

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

9 (B) The California Tax Credit Allocation Committee shall not
10 require fees for the credit under this section in addition to those
11 fees required for applications for the tax credit pursuant to Section
12 42 of the Internal Revenue Code. The committee may require a
13 fee if the application for the credit under this section is submitted
14 in a calendar year after the year the application is submitted for
15 the federal tax credit.

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

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

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

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

37 (B) In the case of a partnership or an "S" corporation, the
38 housing sponsor shall provide a copy of the California Tax Credit
39 Allocation Committee certification to the taxpayer.

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

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

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

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

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

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

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

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

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

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

(3) In the case of any qualified low-income building that is (i) an existing building, as defined in Section 42 of the Internal Revenue Code and the regulations promulgated thereunder, (ii) not 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, and (iii) is federally subsidized, the term applicable percentage means the following:

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

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

(4) In the case of any qualified low-income building that is (i) a new or an existing building, (ii) 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, and (iii) federally subsidized, the California Tax Credit Allocation Committee shall reduce the amount of California credit to be allocated under paragraph (2) and (3) by taking into account the increased federal credit received due to the basis boost provided under Section 42(d)(5)(B) of the Internal Revenue Code.

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

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

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

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

4 (D) The qualified low-income building will complete the
5 substantial rehabilitation in connection with the credit allocation
6 herein.

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

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

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

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

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

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

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

29 (2) The limitation on return shall apply in the aggregate to the
30 partners if the housing sponsor is a partnership and in the aggregate
31 to the shareholders if the housing sponsor is an “S” 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 taxable year in which the increase in qualified
17 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 shall not be
21 applicable and instead the following provisions shall be applicable:

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

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

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

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

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

3 (B) ~~Three~~ *Subject to annual approval in a budget measure,*
4 *three* hundred million dollars (\$300,000,000) for the 2017 calendar
5 year, and, for the 2018 calendar year and each calendar year
6 thereafter, three hundred million dollars (\$300,000,000) increased
7 by the percentage, if any, by which the Consumer Price Index for
8 the preceding calendar year exceeds the Consumer Price Index for
9 the 2017 calendar year. For the purposes of this paragraph, the
10 term “Consumer Price Index” means the last Consumer Price Index
11 for All Urban Consumers published by the federal Department of
12 Labor. A housing sponsor receiving an allocation under paragraph
13 (1) of subdivision (c) shall not be eligible for receipt of the housing
14 credit allocated from the increased amount under this subparagraph.
15 A housing sponsor receiving an allocation under paragraph (1) of
16 subdivision (c) shall remain eligible for receipt of the housing
17 credit allocated from the credit ceiling amount under subparagraph
18 (A).

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

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

29 (4) (A) Of the amount allocated pursuant to subparagraph (B)
30 of paragraph (1), twenty-five million dollars (\$25,000,000) per
31 calendar year for projects to provide farmworker housing, as
32 defined in subdivision (h) of Section 50199.7 of the Health and
33 Safety Code.

34 (B) The amount of any unallocated or returned credits pursuant
35 to this paragraph per calendar year shall be added to the aggregate
36 amount of credits allocated pursuant to subparagraph (B) of
37 paragraph (1).

38 (5) The amount of any unallocated or returned credits under
39 former Sections 17053.14, 23608.2, and 23608.3, as those sections
40 read prior to January 1, 2009, until fully exhausted for projects to

1 provide farmworker housing, as defined in subdivision (h) of
2 Section 50199.7 of the Health and Safety Code.

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

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

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

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

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

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

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

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

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

39 (G) A requirement that the housing sponsor, as security for the
40 performance of the housing sponsor’s obligations under the

1 regulatory agreement, assign the housing sponsor's interest in rents
2 that it receives from the project, provided that until there is a
3 default under the regulatory agreement, the housing sponsor is
4 entitled to collect and retain the rents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 17058. (a) (1) There shall be allowed as a credit against the
31 "net tax," as defined in Section 17039, a state low-income housing
32 tax credit in an amount equal to the amount determined in
33 subdivision (c), computed in accordance with Section 42 of the
34 Internal Revenue Code except as otherwise provided in this section.

35 (2) ~~"Taxpayer" for purposes of this section~~ "Taxpayer," for
36 purposes of this section, means the sole owner in the case of an
37 individual, the partners in the case of a partnership, ~~members in~~
38 ~~the case of a limited liability company,~~ and the shareholders in the
39 case of an "S" corporation.

1 (3) ~~“Housing sponsor” for purposes of this section sponsor,~~
2 ~~for purposes of this section,~~ means the sole owner in the case of
3 an individual, the partnership in the case of a partnership, ~~the~~
4 ~~limited liability company in the case of a limited liability company,~~
5 and the “S” corporation in the case of an “S” corporation.

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

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

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

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

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

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

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

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

1 allocation of the credit under the terms of the agreement has
2 substantial economic effect, within the meaning of Section 704(b)
3 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) In the case of any qualified low-income building that (i) is a new building, as defined in Section 42 of the Internal Revenue Code and the regulations promulgated thereunder, (ii) not 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, and (iii) is federally subsidized, the term “applicable percentage” means for the first three years, 15 percent of the qualified basis of the building, and for the fourth year, 5 percent of the qualified basis of the building.

(3) In the case of any qualified low-income building that is (i) an existing building, as defined in Section 42 of the Internal Revenue Code and the regulations promulgated thereunder, (ii) not 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, and (iii) is federally subsidized, the term applicable percentage means the following:

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

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

(4) In the case of any qualified low-income building that is (i) a new or an existing building, (ii) 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, and (iii) federally subsidized, the California Tax Credit Allocation Committee shall reduce the amount of California credit to be

1 allocated under ~~subparagraph~~ *paragraph* (2) and (3) by taking into
2 account the increased federal credit received due to the basis boost
3 provided under Section 42(d)(5)(B) of the Internal Revenue Code.

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

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

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

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

24 (D) The qualified low-income building will complete the
25 substantial rehabilitation in connection with the credit allocation
26 herein.

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

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

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

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

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

39 (B) The amount of the cashflow from those units in the building
40 that are not low-income units. For purposes of computing cashflow

1 under this subparagraph, operating costs shall be allocated to the
2 low-income units using the “floor space fraction,” as defined in
3 Section 42 of the Internal Revenue Code.

4 (C) Any amount allowed to be distributed under subparagraph
5 (A) that is not available for distribution during the first five years
6 of the compliance period may be accumulated and distributed any
7 time during the first 15 years of the compliance period but not
8 thereafter.

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

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

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

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

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

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

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

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

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

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

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

9 (g) The aggregate housing credit dollar amount that may be
10 allocated annually by the California Tax Credit Allocation
11 Committee pursuant to this section, Section 12206, and Section
12 23610.5 shall be an amount equal to the sum of all the following:

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

22 (B) ~~Three~~ *Subject to annual approval in a budget measure,*
23 *three* hundred million dollars (\$300,000,000) for the 2017 calendar
24 year, and, for the 2018 calendar year and each calendar year
25 thereafter, three hundred million dollars (\$300,000,000) increased
26 by the percentage, if any, by which the Consumer Price Index for
27 the preceding calendar year exceeds the Consumer Price Index for
28 the 2017 calendar year. For the purposes of this paragraph, the
29 term “Consumer Price Index” means the last Consumer Price Index
30 for All Urban Consumers published by the federal Department of
31 Labor. A housing sponsor receiving an allocation under paragraph
32 (1) of subdivision (c) shall not be eligible for receipt of the housing
33 credit allocated from the increased amount under this subparagraph.
34 A housing sponsor receiving an allocation under paragraph (1) of
35 subdivision (c) shall remain eligible for receipt of the housing
36 credit allocated from the credit ceiling amount under subparagraph
37 (A).

38 (2) The unused housing credit ceiling, if any, for the preceding
39 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) (A) Of the amount allocated pursuant to subparagraph (B) of paragraph (1), twenty-five million dollars (\$25,000,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(B) The amount of any unallocated or returned credits pursuant to this paragraph per calendar year shall be added to the aggregate amount of credits allocated pursuant to subparagraph (B) of paragraph (1).

(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) Section 42(j) of the Internal Revenue Code shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, 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, provided that the agreement includes all of the following provisions:

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

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

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

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

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

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

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

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

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

1 regulations, or other similar events prevent the use of two allocation
2 periods, the committee may reduce the number of periods and
3 adjust the filing deadlines, maximum percentage of credit allocated,
4 and allocation dates.

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

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

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

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

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

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

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

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

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

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

1 rental subsidies and required equity, and a development fee that
2 does not exceed a specified percentage of the eligible basis of the
3 project prior to inclusion of the development fee in the eligible
4 basis, as determined by the committee.

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

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

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

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

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

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

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

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

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

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

32 (Ib) The Below-Market-Interest-Rate Program pursuant to
33 Section 221(d)(3) of the National Housing Act, Sections
34 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

37 (Id) Programs for rent supplement assistance pursuant to Section
38 18 101 of the Housing and Urban Development Act of 1965,
39 Section 1701s of Title 12 of the United States Code, as amended.

1 (Ie) Programs pursuant to Section 515 of the Housing Act of
2 1949, Section 1485 of Title 42 of the United States Code, as
3 amended.

4 (If) The low-income housing credit program set forth in Section
5 42 of the Internal Revenue Code.

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

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

14 (id) The property satisfies the requirements of Section 42(e) of
15 the Internal Revenue Code, regarding rehabilitation expenditures
16 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
17 apply.

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

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

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

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

30 The term "secretary" shall be replaced by the term "California
31 Franchise Tax Board."

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

36 (m) A project that received an allocation of a 1989 federal
37 housing credit dollar amount shall be eligible to receive an
38 allocation of a 1990 state housing credit dollar amount, subject to
39 all of the following conditions:

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

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

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

7 (n) The credit period with respect to an allocation of credit in
8 1989 by the California Tax Credit Allocation Committee of which
9 any amount is attributable to unallocated credit from 1987 or 1988
10 shall not begin until after December 31, 1989.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (ii) To the extent the allocation of the credit to a partner under
40 this section lacks substantial economic effect, any loss or deduction

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

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

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

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

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

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

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

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

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

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

38 (1) In the case of any qualified low-income building that is a
39 new building, as defined in Section 42 of the Internal Revenue

Code and the regulations promulgated thereunder, and not federally subsidized, the term “applicable percentage” means the following:

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

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

(2) In the case of any qualified low-income building that (i) is a new building, as defined in Section 42 of the Internal Revenue Code and the regulations promulgated thereunder, (ii) not 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, and (iii) is federally subsidized, the term “applicable percentage” means for the first three years, 15 percent of the qualified basis of the building, and for the fourth year, 5 percent of the qualified basis of the building.

(3) In the case of any qualified low-income building that is (i) an existing building, as defined in Section 42 of the Internal Revenue Code and the regulations promulgated thereunder, (ii) not 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, and (iii) is federally subsidized, the term applicable percentage means the following:

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

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

(4) In the case of any qualified low-income building that is (i) a new or an existing building, (ii) 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, and (iii) federally subsidized, the California Tax Credit Allocation Committee shall determine the amount of credit to be allocated under subparagraph (E) of paragraph (2) of subdivision (b) required to produce an equivalent state tax credit to the taxpayer, as produced in paragraph (2), taking into account the basis boost provided under Section 42(d)(5)(B) of the Internal Revenue Code.

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

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

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

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

21 (D) The qualified low-income building will complete the
22 substantial rehabilitation in connection with the credit allocation
23 herein.

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

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

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

31 (i) The owner-~~equity~~, *equity* that shall include the amount of
32 the capital contributions actually paid to the housing sponsor and
33 shall not include any amounts until they are paid on an investor
34 note.

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

37 (B) The amount of the cashflow from those units in the building
38 that are not low-income units. For purposes of computing cashflow
39 under this subparagraph, operating costs shall be allocated to the

1 low-income units using the “floor space fraction,” as defined in
2 Section 42 of the Internal Revenue Code.

3 (C) Any amount allowed to be distributed under subparagraph
4 (A) that is not available for distribution during the first five years
5 of the compliance period may be accumulated and distributed any
6 time during the first 15 years of the compliance period but not
7 thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (B) ~~Three~~ *Subject to annual approval in a budget measure,*
21 *three* hundred million dollars (\$300,000,000) for the 2017 calendar
22 year, and, for the 2018 calendar year and each calendar year
23 thereafter, three hundred million dollars (\$300,000,000) increased
24 by the percentage, if any, by which the Consumer Price Index for
25 the preceding calendar year exceeds the Consumer Price Index for
26 the 2017 calendar year. For the purposes of this paragraph, the
27 term "Consumer Price Index" means the last Consumer Price Index
28 for All Urban Consumers published by the federal Department of
29 Labor. A housing sponsor receiving an allocation under paragraph
30 (1) of subdivision (c) shall not be eligible for receipt of the housing
31 credit allocated from the increased amount under this subparagraph.
32 A housing sponsor receiving an allocation under paragraph (1) of
33 subdivision (c) shall remain eligible for receipt of the housing
34 credit allocated from the credit ceiling amount under subparagraph
35 (A).

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

38 (3) The amount of housing credit ceiling returned in the calendar
39 year. For purposes of this paragraph, the amount of housing credit
40 dollar amount returned in the calendar year equals the housing

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

6 (4) (A) Of the amount allocated pursuant to subparagraph (B)
7 of paragraph (1), twenty-five million dollars (\$25,000,000) per
8 calendar year for projects to provide farmworker housing, as
9 defined in subdivision (h) of Section 50199.7 of the Health and
10 Safety Code.

11 (B) The amount of any unallocated or returned credits pursuant
12 to this paragraph per calendar year shall be added to the aggregate
13 amount of credits allocated pursuant to subparagraph (B) of
14 paragraph (1).

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

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

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

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

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

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

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

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

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

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

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

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

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

1 adjust the filing deadlines, maximum percentage of credit allocated,
2 and allocation dates.

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

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

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

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

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

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

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

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

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

33 (vii) The housing sponsor shall demonstrate the amount of tax
34 credit that is necessary for the financial feasibility of the project
35 and its viability as a qualified low-income housing project
36 throughout the extended use period, taking into account operating
37 expenses, a supportable debt service, reserves, funds set aside for
38 rental subsidies and required equity, and a development fee that
39 does not exceed a specified percentage of the eligible basis of the

1 project prior to inclusion of the development fee in the eligible
2 basis, as determined by the committee.

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

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

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

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

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

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

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

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

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

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

30 (Ib) The Below-Market-Interest-Rate Program pursuant to
31 Section 221(d)(3) of the National Housing Act, Sections
32 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

35 (Id) Programs for rent supplement assistance pursuant to Section
36 18 101 of the Housing and Urban Development Act of 1965,
37 Section 1701s of Title 12 of the United States Code, as amended.

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

1 (If) The low-income housing credit program set forth in Section
2 42 of the Internal Revenue Code.

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

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

11 (id) The property satisfies the requirements of Section 42(e) of
12 the Internal Revenue Code, regarding rehabilitation expenditures
13 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
14 apply.

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

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

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

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

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

37 The term "secretary" shall be replaced by the term "California
38 Franchise Tax Board."

39 (l) In the case where the credit allowed under this section
40 exceeds the "tax," the excess may be carried over to reduce the

1 “tax” in the following year, and succeeding taxable years if
2 necessary, until the credit has been exhausted.

3 (m) A project that received an allocation of a 1989 federal
4 housing credit dollar amount shall be eligible to receive an
5 allocation of a 1990 state housing credit dollar amount, subject to
6 all of the following conditions:

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

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

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

14 (n) The credit period with respect to an allocation of credit in
15 1989 by the California Tax Credit Allocation Committee of which
16 any amount is attributable to unallocated credit from 1987 or 1988
17 shall not begin until after December 31, 1989.

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

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

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

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

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

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

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

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

7 (s) This section shall remain in effect on and after December
8 1, 1990, for as long as Section 42 of the Internal Revenue Code,
9 relating to low-income housing credit, remains in effect.

10 (t) The amendments to this section made by Chapter 1222 of
11 the Statutes of 1993 shall apply only to taxable years beginning
12 on or after January 1, 1994, except that paragraph (1) of subdivision
13 (q), as amended, shall apply to taxable years beginning on or after
14 January 1, 1993.

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