

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY MAY 16, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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

1 described in subdivision (c) of Section 50199.20 of the Health and  
2 Safety Code, the low-income housing project shall be located in  
3 California and shall meet either of the following requirements:

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

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

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

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

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

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

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

38 (B) In the case of a partnership or an "S" corporation, the  
39 housing sponsor shall provide a copy of the California Tax Credit  
40 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~~ *paragraphs* (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 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) ~~Subject to annual approval in a budget measure, three~~ *Three*  
4 hundred million dollars (\$300,000,000) for the 2017 calendar year,  
5 and, for the 2018 calendar year and each calendar year thereafter,  
6 three hundred million dollars (\$300,000,000) increased by the  
7 percentage, if any, by which the Consumer Price Index for the  
8 preceding calendar year exceeds the Consumer Price Index for the  
9 2017 calendar year. For the purposes of this paragraph, the term  
10 “Consumer Price Index” means the last Consumer Price Index for  
11 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 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 and required equity, and a development fee that  
25 does not exceed a specified percentage of the eligible basis of the  
26 project prior to inclusion of the development fee in the eligible  
27 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, means the sole  
36 owner in the case of an individual, the partners in the case of a  
37 partnership, and the shareholders in the case of an "S" corporation.

38 (3) "Housing sponsor," for purposes of this section, means the  
39 sole owner in the case of an individual, the partnership in the case

1 of a partnership, and the “S” corporation in the case of an “S”  
2 corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (1) In the case of any qualified low-income building that is a  
40 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 allocated under ~~paragraph~~ paragraphs (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.



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, 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 that shall include the amount of the capital  
32 contributions actually paid to the housing sponsor and shall not  
33 include any amounts until they are paid on an investor note.

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

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

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

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

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

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

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

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

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

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

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

35 (1) Section 42(h)(2) of the Internal Revenue Code shall not be  
36 applicable and instead the following provisions 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 shall  
5 not 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) ~~Subject to annual approval in a budget measure, three~~ *Three*  
20 hundred million dollars (\$300,000,000) for the 2017 calendar year,  
21 and, for the 2018 calendar year and each calendar year thereafter,  
22 three hundred million dollars (\$300,000,000) increased by the  
23 percentage, if any, by which the Consumer Price Index for the  
24 preceding calendar year exceeds the Consumer Price Index for the  
25 2017 calendar year. For the purposes of this paragraph, the term  
26 "Consumer Price Index" means the last Consumer Price Index for  
27 All Urban Consumers published by the federal Department of  
28 Labor. A housing sponsor receiving an allocation under paragraph  
29 (1) of subdivision (c) shall not be eligible for receipt of the housing  
30 credit allocated from the increased amount under this subparagraph.  
31 A housing sponsor receiving an allocation under paragraph (1) of  
32 subdivision (c) shall remain eligible for receipt of the housing  
33 credit allocated from the credit ceiling amount under subparagraph  
34 (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) (A) Of the amount allocated pursuant to subparagraph (B)  
6 of paragraph (1), twenty-five million dollars (\$25,000,000) per  
7 calendar year for projects to provide farmworker housing, as  
8 defined in subdivision (h) of Section 50199.7 of the Health and  
9 Safety Code.

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

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

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

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

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

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

37 (3) A provision stating which state and local agencies can  
38 enforce the regulatory agreement in the event the housing sponsor  
39 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 thereto  
3 and that allows individuals, whether prospective, present, or former  
4 occupants of the building, who meet the income limitation  
5 applicable to the building, the right to enforce the regulatory  
6 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, include, but are not limited to, allowing any of the parties  
22 designated to enforce the regulatory agreement to collect all rents  
23 with respect to the project; taking possession of the project and  
24 operating the project in accordance with the regulatory agreement  
25 until the enforcer determines the housing sponsor is in a position  
26 to operate the project in accordance with the regulatory agreement;  
27 applying to any court for specific performance; securing the  
28 appointment of a receiver to operate the project; or any other relief  
29 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 and  
17 demand for low-income housing in the community or region for  
18 which it is proposed.

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

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

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

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

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

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

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

27 The term "secretary" shall be replaced by the term "California  
28 Franchise Tax Board."

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

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

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

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



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

4 (n) The credit period with respect to an allocation of credit in  
5 1989 by the California Tax Credit Allocation Committee of which  
6 any amount is attributable to unallocated credit from 1987 or 1988  
7 shall not begin until after December 31, 1989.

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

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

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

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

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

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

23 23610.5. (a) (1) There shall be allowed as a credit against the  
24 "tax," as defined by Section 23036, a state low-income housing  
25 tax credit in an amount equal to the amount determined in  
26 subdivision (c), computed in accordance with Section 42 of the  
27 Internal Revenue Code except as otherwise provided in this section.

28 (2) "Taxpayer," for purposes of this section, means the sole  
29 owner in the case of a "C" corporation, the partners in the case of  
30 a partnership, and the shareholders in the case of an "S"  
31 corporation.

32 (3) "Housing sponsor," for purposes of this section, means the  
33 sole owner in the case of a "C" corporation, the partnership in the  
34 case of a partnership, and the "S" corporation in the case of an "S"  
35 corporation.

36 (4) "Extremely low-income households" has the same meaning  
37 as in Section 50053 of the Health and Safety Code.

38 (5) "Very low-income households" has the same meaning as in  
39 Section 50053 of the Health and Safety Code.

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

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

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

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

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

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

35 (ii) To the extent the allocation of the credit to a partner under  
36 this section lacks substantial economic effect, any loss or deduction  
37 otherwise allowable under this part that is attributable to the sale  
38 or other disposition of that partner's partnership interest made prior  
39 to the expiration of the federal credit shall not be allowed in the  
40 taxable year in which the sale or other disposition occurs, but shall

1 instead be deferred until and treated as if it occurred in the first  
2 taxable year immediately following the taxable year in which the  
3 federal credit period expires for the project described in clause (i).

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

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

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

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

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

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

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

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

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

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

37 (A) For each of the first three years, the percentage prescribed  
38 by the Secretary of the Treasury for new buildings that are not  
39 federally subsidized for the taxable year, determined in accordance

1 with the requirements of Section 42(b)(1) of the Internal Revenue  
2 Code.

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

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

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

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

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

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

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

1 low-income building receiving an allocation under this paragraph  
2 is ineligible to also receive an allocation under paragraph (3).

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

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

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

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

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

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

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

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

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

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

37 (C) Any amount allowed to be distributed under subparagraph  
38 (A) that is not available for distribution during the first five years  
39 of the compliance period may be accumulated and distributed any

1 time during the first 15 years of the compliance period but not  
2 thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (3) The amount of housing credit ceiling returned in the calendar  
36 year. For purposes of this paragraph, the amount of housing credit  
37 dollar amount returned in the calendar year equals the housing  
38 credit dollar amount previously allocated to any project that does  
39 not become a qualified low-income housing project within the  
40 period required by this section or to any project with respect to

1 which an allocation is canceled by mutual consent of the California  
2 Tax Credit Allocation Committee and the allocation recipient.

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

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

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

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

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

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

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

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

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

38 (4) A provision that the regulatory agreement shall be deemed  
39 a contract enforceable by tenants as third-party beneficiaries thereto  
40 and that allows individuals, whether prospective, present, or former



1 occupants of the building, who meet the income limitation  
2 applicable to the building, the right to enforce the regulatory  
3 agreement in any state court.

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

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

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

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

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

39 (2) The committee shall adopt a qualified allocation plan, as  
40 provided in Section 42(m)(1) of the Internal Revenue Code. In

1 adopting this plan, the committee shall comply with the provisions  
2 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue  
3 Code, respectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (Ib) The Below-Market-Interest-Rate Program pursuant to  
26 Section 221(d)(3) of the National Housing Act, Sections  
27 1715l(d)(3) 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 Section  
31 18 101 of the Housing and Urban Development Act of 1965,  
32 Section 1701s of Title 12 of the United States Code, as amended.

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

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

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

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

33 The term "secretary" shall be replaced by the term "California  
34 Franchise Tax Board."

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

39 (m) A project that received an allocation of a 1989 federal  
40 housing credit dollar amount shall be eligible to receive an

1 allocation of a 1990 state housing credit dollar amount, subject to  
2 all of the following conditions:

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

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

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

10 (n) The credit period with respect to an allocation of credit in  
11 1989 by the California Tax Credit Allocation Committee of which  
12 any amount is attributable to unallocated credit from 1987 or 1988  
13 shall not begin until after December 31, 1989.

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

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

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

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

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

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

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

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

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

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

11 SEC. 4. This act provides for a tax levy within the meaning  
12 of Article IV of the California Constitution and shall go into  
13 immediate effect.