

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 377

Introduced by Senator Beall

February 24, 2015

An act to ~~add Section 50466 to the Health and Safety Code~~ amend Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to ~~housing~~ taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 377, as amended, Beall. ~~Accessible housing.~~ *Income taxes: credits: low-income housing: sale of credit.*

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, income, and corporation tax credit amounts among low-income housing projects based on federal law.

This bill would, for taxable years beginning on or after January 1, 2016, allow a taxpayer that is allowed a low-income housing tax credit to sell all or a portion of that credit to one or more unrelated parties for each taxable year in which the credit is allowed.

Existing law, in the case of a partnership, requires the allocation of the credits, on or after January 1, 2009, and before January 1, 2016, to partners based upon the partnership agreement, regardless of how the federal low-income housing tax credit, as provided, is allocated to the partners, or whether the allocation of the credit under the terms of the agreement has substantial economic effect, as specified.

This bill would eliminate the January 1, 2016, date.

This bill would take effect immediately as a tax levy.

Existing law establishes various programs under the Department of Housing and Community Development, including the California Housing Rehabilitation Program for the development of low-income and multifamily rental housing in the state. Existing law creates the Multifamily Housing Program under the department to provide a standardized set of program rules and features applicable to all housing types based on the existing California Housing Rehabilitation Program. Among other things, the program provides financial assistance to fund projects for the development and construction of new, and rehabilitation or acquisition and rehabilitation of, existing, transitional, or rental housing developments. Existing law also requires the department to establish a program for the purpose of housing assistance for the physically or developmentally disabled, or mentally disordered.

The bill would require the owners and managers of multifamily housing projects that have received a department grant or loan, and that have accessible units, to adopt suitable means to ensure that information regarding the availability of accessible residential dwelling units reaches eligible individuals with disabilities, and would require the owners and managers to give priority for those units to persons with disabilities, as specified.

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

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

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

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

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

13 (3) “Housing sponsor,” for purposes of this section, means the
14 sole owner in the case of a “C” corporation, the partnership in the

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

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

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

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

18 (ii) It ~~shall qualify~~ *qualifies* for a credit under Section
19 42(h)(4)(B) of the Internal Revenue Code, *relating to special rule*
20 *where 50 percent or more of building is financed with tax-exempt*
21 *bonds subject to volume cap*.

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, *relating to low-income housing*
26 *credit*. The committee may require a fee if the application for the
27 credit under this section is submitted in a calendar year after the
28 year the application is submitted for 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, *relating to determination of*
39 *distributive share*.

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

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

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

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

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

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

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

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

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

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

3 (G) (i) The California Tax Credit Allocation Committee may
4 allocate a credit under this section in exchange for a credit allocated
5 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,
6 *relating to increase in credit for buildings in high-cost areas*, in
7 amounts up to 30 percent of the eligible basis of a building if the
8 credits allowed under Section 42 of the Internal Revenue Code,
9 *relating to low-income housing credit*, are reduced by an equivalent
10 amount.

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

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

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

19 (A) For each of the first three years, the percentage prescribed
20 by the Secretary of the Treasury for new buildings that are not
21 federally subsidized for the taxable year, determined in accordance
22 with the requirements of Section 42(b)(2) of the Internal Revenue
23 Code, *relating to temporary minimum credit rate for non-federally*
24 *subsidized new buildings*, in lieu of the percentage prescribed in
25 Section 42(b)(1)(A) of the Internal Revenue Code.

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

28 (2) In the case of any qualified low-income building that receives
29 an allocation after 1989 and that is a new building that is federally
30 subsidized or that is an existing building that is “at risk of
31 conversion,” the term “applicable percentage” means the following:

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

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

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

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

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

9 (ii) The Below-Market-Interest-Rate Program pursuant to
10 Section 221(d)(3) of the National Housing Act, Sections
11 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

14 (iv) Programs for rent supplement assistance pursuant to Section
15 101 of the Housing and Urban Development Act of 1965, Section
16 1701s of Title 12 of the United States Code, as amended.

17 (v) Programs pursuant to Section 515 of the Housing Act of
18 1949, Section 1485 of Title 42 of the United States Code, as
19 amended.

20 (vi) The low-income housing credit program set forth in Section
21 42 of the Internal Revenue Code, *relating to low-income housing*
22 *credit*.

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

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

31 (D) The property satisfies the requirements of Section 42(e) of
32 the Internal Revenue Code ~~regarding~~ *relating to* rehabilitation
33 expenditures *treated as a separate new building*, except that the
34 provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

5 (i) The owner equity, which shall include the amount of the
6 capital contributions actually paid to the housing sponsor and shall
7 not include any amounts until they are paid on an investor note.

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

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

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

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

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

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

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

37 (2) The special rule for the first taxable year of the credit period
38 under Section 42(f)(2) of the Internal Revenue Code, *relating to*
39 *special rule for 1st year of credit period*, shall not apply to the tax
40 credit under this section.

1 (3) Section 42(f)(3) of the Internal Revenue Code, *relating to*
2 *determination of applicable percentage with respect to increases*
3 *in qualified basis after 1st year of credit period*, is modified to
4 read:

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

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

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

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

26 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
27 (7), and (8) of Section 42(h) of the Internal Revenue Code, *relating*
28 *to limitation on aggregate credit allowable with respect to projects*
29 *located in a state*, shall 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) Seventy million dollars (\$70,000,000) for the 2001 calendar
35 year, and, for the 2002 calendar year and each calendar year
36 thereafter, seventy million dollars (\$70,000,000) increased by the
37 percentage, if any, by which the Consumer Price Index for the
38 preceding calendar year exceeds the Consumer Price Index for the
39 2001 calendar year. For the purposes of this paragraph, the term
40 “Consumer Price Index” means the last Consumer Price Index for

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (iii) Existing projects that are “at risk of conversion,” as defined
30 by paragraph (3) of subdivision (c).

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

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

38 (4) For purposes of allocating credits pursuant to this section,
39 the committee shall not give preference to any project by virtue

1 of the date of submission of its application except to break a tie
2 when two or more of the projects have an equal rating.

3 (k) Section 42(l) of the Internal Revenue Code, *relating to*
4 *certifications and other reports to secretary*, shall be modified as
5 follows:

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

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

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

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

17 (o) (1) *Notwithstanding any other law, for any credits awarded*
18 *under this section for taxable years beginning on or after January*
19 *1, 2016, a taxpayer may sell all or any portion of any credit*
20 *allowed under this section to one or more unrelated parties for*
21 *each taxable year in which the credit is allowed.*

22 (2) (A) *The sale authorized by paragraph (1) may be*
23 *documented based on any method selected by the taxpayer that*
24 *originally receives the credit.*

25 (B) *The sale authorized by paragraph (1) may be changed for*
26 *any subsequent taxable year if the sale is expressly shown on each*
27 *of the returns of both the transferor and the transferee that sell*
28 *and receive the credit.*

29 (C) *The taxpayer that originally received the credit shall report*
30 *to the Franchise Tax Board prior to the sale of the credit, in the*
31 *form and manner specified by the Franchise Tax Board, all*
32 *required information regarding the purchase and sale of the credit,*
33 *including the social security or other taxpayer identification*
34 *number of the unrelated party to whom the credit has been sold,*
35 *the face amount of the credit sold, and the amount of consideration*
36 *received by the taxpayer for the sale of the credit.*

37 (D) *A subsequent taxpayer that holds the credit shall report to*
38 *the Franchise Tax Board prior to the sale of the credit, in the form*
39 *and manner specified by the Franchise Tax Board, all required*
40 *information regarding the purchase and sale of the credit,*

1 including the social security or other taxpayer identification
 2 number of the unrelated party to whom the credit has been sold
 3 and the face amount of the credit sold.

4 (3) A credit may be sold pursuant to this subdivision to more
 5 than one unrelated party, and may be resold by the unrelated party
 6 to another taxpayer or other party.

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

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

19 (6)

20 (p) This section shall remain in effect for as long as Section 42
 21 of the Internal Revenue Code, relating to low-income housing
 22 credits, credit, remains in effect.

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

25 17058. (a) (1) There shall be allowed as a credit against the
 26 “net tax” (as tax,” as defined in Section ~~17039~~ 17039, a state
 27 low-income housing tax credit in an amount equal to the amount
 28 determined in subdivision (c), computed in accordance with the
 29 provisions of Section 42 of the Internal Revenue Code, relating
 30 to low-income housing credit, except as otherwise provided in this
 31 section.

32 (2) ~~“Taxpayer”~~ “Taxpayer,” for purposes of this section section,
 33 means the sole owner in the case of an individual, the partners in
 34 the case of a partnership, and the shareholders in the case of an
 35 “S” corporation.

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

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, *relating to low-income housing credit*.

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

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

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

38 (ii) To the extent the allocation of the credit to a partner under
39 this section lacks substantial economic effect, any loss or deduction
40 otherwise allowable under this part that is attributable to the sale

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

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

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

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

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

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

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

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

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

1 to Section 42(d)(5)(B) of the Internal Revenue Code, *relating to*
2 *increase in credit for buildings in high-cost areas*, provided that
3 the credit allowed under this section shall not exceed 30 percent
4 of the eligible basis of the building.

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

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

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

18 (1) In the case of any qualified low-income building placed in
19 service by the housing sponsor during 1987, the term “applicable
20 percentage” means 9 percent for each of the first three years and
21 3 percent for the fourth year for new buildings (whether or not the
22 building is federally subsidized) and for existing buildings.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (vi) The low-income housing credit program set forth in Section
29 42 of the Internal Revenue Code, *relating to low-income housing*
30 *credit*.

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

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

39 (D) The property satisfies the requirements of Section 42(e) of
40 the Internal Revenue Code ~~regarding~~ *relating to* rehabilitation

1 expenditures *treated as a separate new building*, except that the
2 provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

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

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

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

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

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

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

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

39 (1) The term “credit period” as defined in Section 42(f)(1) of
40 the Internal Revenue Code, *relating to credit period defined*, is

1 modified by substituting “four taxable years” for “10 taxable
2 years.”

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

7 (3) Section 42(f)(3) of the Internal Revenue Code, *relating to*
8 *determination of applicable percentage with respect to increases*
9 *in qualified basis after 1st year of credit period*, is modified to
10 read:

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

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

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

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

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

36 (g) The aggregate housing credit dollar amount that may be
37 allocated annually by the California Tax Credit Allocation
38 Committee pursuant to this section, Section 12206, and Section
39 23610.5 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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

33 (i) Section 42(j) of the Internal Revenue Code, *relating to*
34 *recapture of credit*, shall not be applicable and the following
35 requirements of this section shall be set forth in a regulatory
36 agreement between the California Tax Credit Allocation Committee
37 and the housing sponsor, ~~which~~ *and this* agreement shall be
38 subordinated, when required, to any lien or encumbrance of any
39 banks or other institutional lenders to the project. The regulatory
40 agreement entered into pursuant to subdivision (f) of Section

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (iii) Existing projects that are “at risk of conversion,” as defined
32 by paragraph (4) of subdivision (c).

33 (iv) Projects for which a public agency provides direct or indirect
34 long-term financial support for at least 15 percent of the total
35 project development costs or projects for which the owner’s equity
36 constitutes at least 30 percent of the total project development
37 costs.

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

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

4 (k) Section 42(l) of the Internal Revenue Code, *relating to*
5 *certifications and other reports to secretary*, shall be modified as
6 follows:

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

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

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

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

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

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

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

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

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

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

35 This section shall remain in effect on and after December 1,
36 1990, for as long as Section 42 of the Internal Revenue Code,
37 relating to low-income housing ~~credits,~~ *credit*, remains in effect.

38 (r) (1) *Notwithstanding any other law, for any credits awarded*
39 *under this section for taxable years beginning on or after January*
40 *1, 2016, a taxpayer may sell all or any portion of any credit*

1 allowed under this section to one or more unrelated parties for
2 each taxable year in which the credit is allowed.

3 (2) (A) The sale authorized by paragraph (1) may be
4 documented based on any method selected by the taxpayer that
5 originally receives the credit.

6 (B) The sale authorized by paragraph (1) may be changed for
7 any subsequent taxable year if the sale is expressly shown on each
8 of the returns of both the transferor and the transferee that sell
9 and receive the credit.

10 (C) The taxpayer that originally received the credit shall report
11 to the Franchise Tax Board prior to the sale of the credit, in the
12 form and manner specified by the Franchise Tax Board, all
13 required information regarding the purchase and sale of the credit,
14 including the social security or other taxpayer identification
15 number of the unrelated party to whom the credit has been sold,
16 the face amount of the credit sold, and the amount of consideration
17 received by the taxpayer for the sale of the credit.

18 (D) A subsequent taxpayer that holds the credit shall report to
19 the Franchise Tax Board prior to the sale of the credit, in the form
20 and manner specified by the Franchise Tax Board, all required
21 information regarding the purchase and sale of the credit,
22 including the social security or other taxpayer identification
23 number of the unrelated party to whom the credit has been sold
24 and the face amount of the credit sold.

25 (3) A credit may be sold pursuant to this subdivision to more
26 than one unrelated party, and may be resold by the unrelated party
27 to another taxpayer or other party.

28 (4) Notwithstanding any other provision of law, the taxpayer
29 that originally received the credit that is sold pursuant to
30 paragraph (1) shall remain solely liable for all obligations and
31 liabilities imposed on the taxpayer by this section with respect to
32 the credit, none of which shall apply to any party to whom the
33 credit has been sold or subsequently transferred. Parties who
34 purchase credits pursuant to paragraph (1) shall be entitled to
35 utilize the purchased credits in the same manner in which the
36 taxpayer that originally received the credit could utilize them.

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

40 (†)

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

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

6 23610.5. (a) (1) There shall be allowed as a credit against the
7 ~~“tax” (as “tax,” as defined by Section 23036)~~ 23036, a state
8 low-income housing tax credit in an amount equal to the amount
9 determined in subdivision (c), computed in accordance with Section
10 42 of the Internal Revenue ~~Code of 1986, Code, relating to~~
11 ~~low-income housing credit~~, except as otherwise provided in this
12 section.

13 (2) “Taxpayer,” for purposes of this section, means the sole
14 owner in the case of a “C” corporation, the partners in the case of
15 a partnership, and the shareholders in the case of an “S”
16 corporation.

17 (3) “Housing sponsor,” for purposes of this section, means the
18 sole owner in the case of a “C” corporation, the partnership in the
19 case of a partnership, and the “S” corporation in the case of an “S”
20 corporation.

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

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

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

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

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

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

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

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

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

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

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

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

9 (E) (i) Except as described in clause (ii), for buildings located
10 in designated difficult development areas (DDAs) or qualified
11 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the
12 Internal Revenue Code, *relating to increase in credit for buildings*
13 *in high-cost areas*, credits may be allocated under this section in
14 the amounts prescribed in subdivision (c), provided that the amount
15 of credit allocated under Section 42 of the Internal Revenue Code,
16 *relating to low-income housing credit*, is computed on 100 percent
17 of the qualified basis of the building.

18 (ii) Notwithstanding clause (i), the California Tax Credit
19 Allocation Committee may allocate the credit for buildings located
20 in DDAs or QCTs that are restricted to having 50 percent of its
21 occupants be special needs households, as defined in the California
22 Code of Regulations by the California Tax Credit Allocation
23 Committee, even if the taxpayer receives federal credits pursuant
24 to Section 42(d)(5)(B) of the Internal Revenue Code, *relating to*
25 *increase in credit for buildings in high-cost areas*, provided that
26 the credit allowed under this section shall not exceed 30 percent
27 of the eligible basis of the building.

28 (G) (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,
31 *relating to increase in credit for buildings in high-cost areas*, in
32 amounts up to 30 percent of the eligible basis of a building if the
33 credits allowed under Section 42 of the Internal Revenue Code,
34 *relating to low-income housing credit*, are reduced by an equivalent
35 amount.

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

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

1 (1) In the case of any qualified low-income building placed in
2 service by the housing sponsor during 1987, the term “applicable
3 percentage” means 9 percent for each of the first three years and
4 3 percent for the fourth year for new buildings (whether or not the
5 building is federally subsidized) and for existing buildings.

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

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

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

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

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

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

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

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

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

38 (ii) The Below-Market-Interest-Rate Program pursuant to
39 Section 221(d)(3) of the National Housing Act, Sections
40 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

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

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

9 (vi) The low-income housing credit program set forth in Section
10 42 of the Internal Revenue Code, *relating to low-income housing*
11 *credit*.

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

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

20 (D) The property satisfies the requirements of Section 42(e) of
21 the Internal Revenue Code ~~regarding~~ *relating to* rehabilitation
22 expenditures *treated as a separate new building*, except that the
23 provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

32 (i) The owner equity, ~~that which~~ shall include the amount of the
33 capital contributions actually paid to the housing sponsor and shall
34 not include any amounts until they are paid on an investor 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
40 low-income units using the “floor space fraction,” as defined in

1 Section 42 of the Internal Revenue Code, *relating to low-income*
2 *housing credit.*

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, *relating to in*
16 *general.*

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

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

24 (2) The special rule for the first taxable year of the credit period
25 under Section 42(f)(2) of the Internal Revenue Code, *relating to*
26 *special rule for 1st year of credit period*, shall not apply to the tax
27 credit under this section.

28 (3) Section 42(f)(3) of the Internal Revenue Code, *relating to*
29 *determination of applicable percentage with respect to increases*
30 *in qualified basis after 1st year of credit period*, is modified to
31 read:

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

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

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

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

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

17 (g) The aggregate housing credit dollar amount that may be
18 allocated annually by the California Tax Credit Allocation
19 Committee pursuant to this section, Section 12206, and Section
20 17058 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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

14 (i) Section 42(j) of the Internal Revenue Code, *relating to*
15 *recapture of credit*, shall not be applicable and the following shall
16 be substituted in its place:

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

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

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

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

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

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

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

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

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

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

35 (2) The committee shall adopt a qualified allocation plan, as
36 provided in Section 42(m)(1) of the Internal Revenue Code,
37 *relating to plans for allocation of credit among projects.* In
38 adopting this plan, the committee shall comply with the provisions
39 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue

1 Code, relating to qualified allocation plan and relating to certain
2 selection criteria must be used, respectively.

3 (3) Notwithstanding Section 42(m) of the Internal Revenue
4 Code, relating to responsibilities of housing credit agencies, the
5 California Tax Credit Allocation Committee shall allocate housing
6 credits in accordance with the qualified allocation plan and
7 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 that there is a need
13 for low-income housing in the community or region for which it
14 is 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 and more bedrooms.

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

13 (iii) Existing projects that are “at risk of conversion,” as defined
14 by paragraph (4) of subdivision (c).

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, *relating to*
36 *certifications and other reports to secretary*, shall be modified as
37 follows:

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

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

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

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

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

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

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

20 (o) 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 1989.

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

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

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

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

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

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

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

9 This section shall remain in effect on and after December 1,
10 1990, for as long as Section 42 of the Internal Revenue Code,
11 relating to low-income housing ~~credits~~, *credit*, remains in effect.

12 (s) (1) *Notwithstanding any other law, for any credits awarded*
13 *under this section for taxable year beginning on or after January*
14 *1, 2016, a taxpayer may sell all or any portion of any credit*
15 *allowed under this section to one or more unrelated parties for*
16 *each taxable year in which the credit is allowed.*

17 (2) (A) *The sale authorized by paragraph (1) may be*
18 *documented based on any method selected by the taxpayer that*
19 *originally receives the credit.*

20 (B) *The sale authorized by paragraph (1) may be changed for*
21 *any subsequent taxable year if the sale is expressly shown on each*
22 *of the returns of both the transferor and the transferee that sell*
23 *and receive the credit.*

24 (C) *The taxpayer that originally received the credit shall report*
25 *to the Franchise Tax Board prior to the sale of the credit, in the*
26 *form and manner specified by the Franchise Tax Board, all*
27 *required information regarding the purchase and sale of the credit,*
28 *including the social security or other taxpayer identification*
29 *number of the unrelated party to whom the credit has been sold,*
30 *the face amount of the credit sold, and the amount of consideration*
31 *received by the taxpayer for the sale of the credit.*

32 (D) *A subsequent taxpayer that holds the credit shall report to*
33 *the Franchise Tax Board prior to the sale of the credit, in the form*
34 *and manner specified by the Franchise Tax Board, all required*
35 *information regarding the purchase and sale of the credit,*
36 *including the social security or other taxpayer identification*
37 *number of the unrelated party to whom the credit has been sold*
38 *and the face amount of the credit sold.*

1 (3) A credit may be sold pursuant to this subdivision to more
 2 than one unrelated party, and may be resold by the unrelated party
 3 to another taxpayer or other party.

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

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

16 (s)

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

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

24 SECTION 1. ~~Section 50466 is added to the Health and Safety~~
 25 ~~Code, to read:~~

26 50466. ~~In order to give priority for accessible units to persons~~
 27 ~~with disabilities in multifamily housing projects that have received~~
 28 ~~a Department of Housing and Community Development grant or~~
 29 ~~loan, and that have accessible units, all of the following shall apply:~~

30 (a) ~~Owners and managers of these multifamily housing projects~~
 31 ~~shall adopt suitable means to ensure that information regarding~~
 32 ~~the availability of accessible residential dwelling units reaches~~
 33 ~~eligible individuals with disabilities and take reasonable,~~
 34 ~~nondiscriminatory steps to maximize the use of those units by~~
 35 ~~eligible disabled individuals who require the accessibility of the~~
 36 ~~particular unit.~~

37 (b) ~~When an accessible unit becomes vacant, an owner or~~
 38 ~~manager shall offer the unit:~~

39 (1) ~~First, to a current occupant of another unit, within the same~~
 40 ~~project or within a comparable project under common control,~~

1 with a disability and who requires the accessibility feature of the
2 vacant unit, but is occupying a unit that does not have those
3 features, or if no such current occupant exists.

4 (2) ~~Second, to an eligible qualified applicant, currently on the
5 owner's or manager's waiting list, if one exists, with a disability
6 and who requires the accessibility features of the vacant unit.~~

7 (e) ~~After compliance with subdivision (b), if an accessible unit
8 is offered by an owner or manager to an applicant who does not
9 have a disability and who does not require accessibility features
10 of the unit, the offer shall be made subject to the condition that the
11 applicant agree to move to a nonaccessible unit if the accessible
12 unit is needed for a person with a disability.~~

13 (d) ~~The Department of Housing and Community Development
14 shall adopt regulations to implement this section.~~

O