

AMENDED IN SENATE JUNE 1, 2015  
AMENDED IN SENATE MAY 12, 2015  
AMENDED IN SENATE APRIL 29, 2015  
AMENDED IN SENATE APRIL 16, 2015  
AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 377**

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**Introduced by Senator Beall**

February 24, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

SB 377, as amended, Beall. Income taxes: insurance 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, beginning on or after January 1, 2016, would allow a taxpayer that is allowed a low-income housing tax credit to elect 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 for not less than 80% of the amount the credit to be sold, as provided. *The bill would require the Tax Allocation Committee to enter into an agreement with the Franchise*

*Tax Board to pay any costs incurred by the Franchise Tax Board in administering these provisions.*

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.

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

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

1 SECTION 1. Section 12206 of the Revenue and Taxation Code  
 2 is amended to read:  
 3 12206. (a) (1) There shall be allowed as a credit against the  
 4 “tax,” as described by Section 12201, a state low-income housing  
 5 tax credit in an amount equal to the amount determined in  
 6 subdivision (c), computed in accordance with Section 42 of the  
 7 Internal Revenue Code, relating to low-income housing credit,  
 8 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  
 15 case of a partnership, and the “S” corporation in the case of an “S”  
 16 corporation.  
 17 (b) (1) The amount of the credit allocated to any housing  
 18 sponsor shall be authorized by the California Tax Credit Allocation  
 19 Committee, or any successor thereof, based on a project’s need  
 20 for the credit for economic feasibility in accordance with the  
 21 requirements of this section.  
 22 (A) Except for projects to provide farmworker housing, as  
 23 defined in subdivision (h) of Section 50199.7 of the Health and  
 24 Safety Code, that are allocated credits solely under the set-aside  
 25 described in subdivision (c) of Section 50199.20 of the Health and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (ii) The Below-Market-Interest-Rate Program pursuant to  
34 Section 221(d)(3) of the National Housing Act, Sections  
35 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

38 (iv) Programs for rent supplement assistance pursuant to Section  
39 101 of the Housing and Urban Development Act of 1965, Section  
40 1701s of Title 12 of the United States Code, as amended.

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

4 (vi) The low-income housing credit program set forth in Section  
5 42 of the Internal Revenue Code, relating to low-income housing  
6 credit.

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

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

15 (D) The property satisfies the requirements of Section 42(e) of  
16 the Internal Revenue Code relating to rehabilitation expenditures  
17 treated as a separate new building, except that the provisions of  
18 Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (3) Section 42(f)(3) of the Internal Revenue Code, relating to  
24 determination of applicable percentage with respect to increases  
25 in qualified basis after first year of credit period, is modified to  
26 read:

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

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

39 (1) Section 42(h)(2) of the Internal Revenue Code, relating to  
40 allocated credit amount to apply to all taxable years ending during

1 or after credit allocation year, shall not be applicable and instead  
2 the following provisions shall be applicable:

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

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

12 (g) The aggregate housing credit dollar amount that may be  
13 allocated annually by the California Tax Credit Allocation  
14 Committee pursuant to this section, Section 17058, and Section  
15 23610.5 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (2) The committee shall adopt a qualified allocation plan, as  
31 provided in Section 42(m)(1) of the Internal Revenue Code, relating  
32 to plans for allocation of credit among projects. In adopting this  
33 plan, the committee shall comply with the provisions of Sections  
34 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,  
35 relating to qualified allocation plan and relating to certain selection  
36 criteria must be used, respectively.

37 (3) Notwithstanding Section 42(m) of the Internal Revenue  
38 Code, relating to responsibilities of housing credit agencies, the  
39 California Tax Credit Allocation Committee shall allocate housing

1 credits in accordance with the qualified allocation plan and  
2 regulations, which shall include the following provisions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 The term “secretary” shall be replaced by the term “Franchise  
26 Tax Board.”

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

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

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

36 (o) (1) For a project that receives a preliminary reservation  
37 under this section beginning on or after January 1, 2016, a taxpayer  
38 may make an irrevocable election in its application to the California  
39 Tax Credit Allocation Committee to sell all or any portion of any  
40 credit allowed under this section to one or more unrelated parties

1 for each taxable year in which the credit is allowed for  
2 consideration that is not less than 80 percent of the amount of the  
3 credit.

4 (2) (A) The taxpayer that originally received the credit shall  
5 report to the California Tax Credit Allocation Committee within  
6 10 days of the sale of the credit, in the form and manner specified  
7 by the California Tax Credit Allocation Committee, all required  
8 information regarding the purchase and sale of the credit, including  
9 the social security or other taxpayer identification number of the  
10 unrelated party to whom the credit has been sold, the face amount  
11 of the credit sold, and the amount of consideration received by the  
12 taxpayer for the sale of the credit.

13 (B) The California Tax Credit Allocation Committee shall  
14 provide an annual listing to the Franchise Tax Board, in a form  
15 and manner agreed upon by the California Tax Credit Allocation  
16 Committee and the Franchise Tax Board, of the taxpayers that  
17 have sold or purchased a credit pursuant to this subdivision.

18 (3) A credit may be sold pursuant to this subdivision to more  
19 than one unrelated party and shall not be resold by the unrelated  
20 party to another taxpayer or other party.

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

30 (5) A taxpayer shall not sell a credit allowed by this section if  
31 the taxpayer was allowed the credit on any tax return of the  
32 taxpayer.

33 (6) Notwithstanding paragraph (1), the taxpayer, with the  
34 approval of the Executive Director of the California Tax Credit  
35 Allocation Committee, may rescind the election to sell all or any  
36 portion of the credit allowed under this section if the consideration  
37 for the credit falls below 80 percent of the amount of the credit  
38 after the California Tax Credit Allocation Committee reservation.

39 (p) The Franchise Tax Board may prescribe rules, guidelines,  
40 or procedures necessary or appropriate to carry out the purposes

1 of this section, including any guidelines regarding the allocation  
2 of the credit allowed under this section. Chapter 3.5 (commencing  
3 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
4 Government Code shall not apply to any rule, guideline, or  
5 procedure prescribed by the Franchise Tax Board pursuant to this  
6 section.

7 (q) This section shall remain in effect for as long as Section 42  
8 of the Internal Revenue Code, relating to low-income housing  
9 credit, remains in effect.

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

12 17058. (a) (1) There shall be allowed as a credit against the  
13 “net tax,” as defined in Section 17039, a state low-income housing  
14 tax credit in an amount equal to the amount determined in  
15 subdivision (c), computed in accordance with Section 42 of the  
16 Internal Revenue Code, relating to low-income housing credit,  
17 except as otherwise provided in this section.

18 (2) “Taxpayer,” for purposes of this section, means the sole  
19 owner in the case of an individual, the partners in the case of a  
20 partnership, and the shareholders in the case of an “S” corporation.

21 (3) “Housing sponsor,” for purposes of this section, means the  
22 sole owner in the case of an individual, the partnership in the case  
23 of a partnership, and the “S” corporation in the case of an “S”  
24 corporation.

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

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

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

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

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

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

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

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

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)~~

29 (F) (i) The California Tax Credit Allocation Committee may  
30 allocate a credit under this section in exchange for a credit allocated  
31 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,  
32 relating to increase in credit for buildings in high-cost areas, in  
33 amounts up to 30 percent of the eligible basis of a building if the  
34 credits allowed under Section 42 of the Internal Revenue Code,  
35 relating to low-income housing credit, are reduced by an equivalent  
36 amount.

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

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

3 (1) In the case of any qualified low-income building placed in  
4 service by the housing sponsor during 1987, the term “applicable  
5 percentage” means 9 percent for each of the first three years and  
6 3 percent for the fourth year for new buildings (whether or not the  
7 building is federally subsidized) and for existing buildings.

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

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

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

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

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

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

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

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

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

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

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

6 (iv) Programs for rent supplement assistance pursuant to Section  
7 101 of the Housing and Urban Development Act of 1965, Section  
8 1701s of Title 12 of the United States Code, as amended.

9 (v) Programs pursuant to Section 515 of the Housing Act of  
10 1949, Section 1485 of Title 42 of the United States Code, as  
11 amended.

12 (vi) The low-income housing credit program set forth in Section  
13 42 of the Internal Revenue Code, relating to low-income housing  
14 credit.

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

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

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

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

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

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

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

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

1 (B) The amount of the cashflow from those units in the building  
2 that are not low-income units. For purposes of computing cashflow  
3 under this subparagraph, operating costs shall be allocated to the  
4 low-income units using the “floor space fraction,” as defined in  
5 Section 42 of the Internal Revenue Code, relating to low-income  
6 housing credit.

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

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

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

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

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

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

32 (3) Section 42(f)(3) of the Internal Revenue Code, relating to  
33 determination of applicable percentage with respect to increases  
34 in qualified basis after first year of credit period, is modified to  
35 read:

36 If, as of the close of any taxable year in the compliance period,  
37 after the first year of the credit period, the qualified basis of any  
38 building exceeds the qualified basis of that building as of the close  
39 of the first year of the credit period, the housing sponsor, to the  
40 extent of its tax credit allocation, shall be eligible for a credit on

1 the excess in an amount equal to the applicable percentage  
2 determined pursuant to subdivision (c) for the four-year period  
3 beginning with the taxable year in which the increase in qualified  
4 basis occurs.

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

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

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

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

21 (g) The aggregate housing credit dollar amount that may be  
22 allocated annually by the California Tax Credit Allocation  
23 Committee pursuant to this section, Section 12206, and Section  
24 23610.5 shall be an amount equal to the sum of all the following:

25 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar  
26 year, and, for the 2002 calendar year and each calendar year  
27 thereafter, seventy million dollars (\$70,000,000) increased by the  
28 percentage, if any, by which the Consumer Price Index for the  
29 preceding calendar year exceeds the Consumer Price Index for the  
30 2001 calendar year. For the purposes of this paragraph, the term  
31 “Consumer Price Index” means the last Consumer Price Index for  
32 All Urban Consumers published by the federal Department of  
33 Labor.

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

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

1 period required by this section or to any project with respect to  
2 which an allocation is canceled by mutual consent of the California  
3 Tax Credit Allocation Committee and the allocation recipient.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (2) The committee shall adopt a qualified allocation plan, as  
39 provided in Section 42(m)(1) of the Internal Revenue Code, relating  
40 to plans for allocation of credit among projects. In adopting this

1 plan, the committee shall comply with the provisions of Sections  
2 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,  
3 relating to qualified allocation plan and relating to certain selection  
4 criteria must be used, respectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 The term “secretary” shall be replaced by the term “Franchise  
32 Tax Board.”

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

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

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

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

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

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

12 (o) 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 1989.

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

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

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

22 (r) (1) For a project that receives a preliminary reservation  
23 under this section beginning on or after January 1, 2016, a taxpayer  
24 may make an irrevocable election in its application to the California  
25 Tax Credit Allocation Committee to sell all or any portion of any  
26 credit allowed under this section to one or more unrelated parties  
27 for each taxable year in which the credit is allowed for  
28 consideration that is not less than 80 percent of the amount of the  
29 credit.

30 (2) (A) The taxpayer that originally received the credit shall  
31 report to the California Tax Credit Allocation Committee within  
32 10 days of the sale of the credit, in the form and manner specified  
33 by the California Tax Credit Allocation Committee, all required  
34 information regarding the purchase and sale of the credit, including  
35 the social security or other taxpayer identification number of the  
36 unrelated party to whom the credit has been sold, the face amount  
37 of the credit sold, and the amount of consideration received by the  
38 taxpayer for the sale of the credit.

39 (B) The California Tax Credit Allocation Committee shall  
40 provide an annual listing to the Franchise Tax Board, in a form

1 and manner agreed upon by the California Tax Credit Allocation  
2 Committee and the Franchise Tax Board, of the taxpayers that  
3 have sold or purchased a credit pursuant to this subdivision.

4 (3) A credit may be sold pursuant to this subdivision to more  
5 than one unrelated party and shall not be resold by the unrelated  
6 party 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 paragraph  
9 (1) shall remain solely liable for all obligations and liabilities  
10 imposed on the taxpayer by this section with respect to the credit,  
11 none of which shall apply to any party to whom the credit has been  
12 sold or subsequently transferred. Parties who purchase credits  
13 pursuant to paragraph (1) shall be entitled to utilize the purchased  
14 credits in the same manner in which the taxpayer that originally  
15 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) Notwithstanding paragraph (1), the taxpayer, with the  
20 approval of the Executive Director of the California Tax Credit  
21 Allocation Committee, may rescind the election to sell all or any  
22 portion of the credit allowed under this section if the consideration  
23 for the credit falls below 80 percent of the amount of the credit  
24 after the California Tax Credit Allocation Committee reservation.

25 (s) The Franchise Tax Board may prescribe rules, guidelines,  
26 or procedures necessary or appropriate to carry out the purposes  
27 of this section, including any guidelines regarding the allocation  
28 of the credit allowed under this section. Chapter 3.5 (commencing  
29 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
30 Government Code shall not apply to any rule, guideline, or  
31 procedure prescribed by the Franchise Tax Board pursuant to this  
32 section.

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

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

38 23610.5. (a) (1) There shall be allowed as a credit against the  
39 "tax," as defined by Section 23036, a state low-income housing  
40 tax credit in an amount equal to the amount determined in

1 subdivision (c), computed in accordance with Section 42 of the  
2 Internal Revenue Code, relating to low-income housing credit,  
3 except as otherwise provided in this section.

4 (2) “Taxpayer,” for purposes of this section, means the sole  
5 owner in the case of a “C” corporation, the partners in the case of  
6 a partnership, and the shareholders in the case of an “S”  
7 corporation.

8 (3) “Housing sponsor,” for purposes of this section, means the  
9 sole owner in the case of a “C” corporation, the partnership in the  
10 case of a partnership, and the “S” corporation in the case of an “S”  
11 corporation.

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

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

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

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

31 (B) The California Tax Credit Allocation Committee shall not  
32 require fees for the credit under this section in addition to those  
33 fees required for applications for the tax credit pursuant to Section  
34 42 of the Internal Revenue Code, relating to low-income housing  
35 credit. The committee may require a fee if the application for the  
36 credit under this section is submitted in a calendar year after the  
37 year the application is submitted for the federal tax credit.

38 (C) (i) For a project that receives a preliminary reservation of  
39 the state low-income housing tax credit, allowed pursuant to  
40 subdivision (a), on or after January 1, 2009, the credit shall be

1 allocated to the partners of a partnership owning the project in  
2 accordance with the partnership agreement, regardless of how the  
3 federal low-income housing tax credit with respect to the project  
4 is allocated to the partners, or whether the allocation of the credit  
5 under the terms of the agreement has substantial economic effect,  
6 within the meaning of Section 704(b) of the Internal Revenue  
7 Code, relating to determination of distributive share.

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

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

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

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

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

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

33 (E) (i) Except as described in clause (ii), for buildings located  
34 in designated difficult development areas (DDAs) or qualified  
35 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the  
36 Internal Revenue Code, relating to increase in credit for buildings  
37 in high-cost areas, credits may be allocated under this section in  
38 the amounts prescribed in subdivision (c), provided that the amount  
39 of credit allocated under Section 42 of the Internal Revenue Code,

1 relating to low-income housing credit, is computed on 100 percent  
2 of the qualified basis of the building.

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

13 ~~(G)~~

14 (F) (i) The California Tax Credit Allocation Committee may  
15 allocate a credit under this section in exchange for a credit allocated  
16 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,  
17 relating to increase in credit for buildings in high-cost areas, in  
18 amounts up to 30 percent of the eligible basis of a building if the  
19 credits allowed under Section 42 of the Internal Revenue Code,  
20 relating to low-income housing credit, are reduced by an equivalent  
21 amount.

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

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

27 (1) In the case of any qualified low-income building placed in  
28 service by the housing sponsor during 1987, the term “applicable  
29 percentage” means 9 percent for each of the first three years and  
30 3 percent for the fourth year for new buildings (whether or not the  
31 building is federally subsidized) and for existing buildings.

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

35 (A) For each of the first three years, the percentage prescribed  
36 by the Secretary of the Treasury for new buildings that are not  
37 federally subsidized for the taxable year, determined in accordance  
38 with the requirements of Section 42(b)(2) of the Internal Revenue  
39 Code, relating to temporary minimum credit rate for nonfederally

1 subsidized new buildings, in lieu of the percentage prescribed in  
2 Section 42(b)(1)(A) of the Internal Revenue Code.

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

5 (3) In the case of any qualified low-income building that receives  
6 an allocation after 1989 and that is a new building that is federally  
7 subsidized or that is an existing building that is “at risk of  
8 conversion,” 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 federally  
11 subsidized for the taxable year.

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

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

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

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

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

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

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

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

36 (vi) The low-income housing credit program set forth in Section  
37 42 of the Internal Revenue Code, relating to low-income housing  
38 credit.

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

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

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

7 (D) The property satisfies the requirements of Section 42(e) of  
8 the Internal Revenue Code relating to rehabilitation expenditures  
9 treated as a separate new building, except that the provisions of  
10 Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

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

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

24 (B) The amount of the cashflow from those units in the building  
25 that are not low-income units. For purposes of computing cashflow  
26 under this subparagraph, operating costs shall be allocated to the  
27 low-income units using the “floor space fraction,” as defined in  
28 Section 42 of the Internal Revenue Code, relating to low-income  
29 housing credit.

30 (C) Any amount allowed to be distributed under subparagraph  
31 (A) that is not available for distribution during the first five years  
32 of the compliance period may be accumulated and distributed any  
33 time during the first 15 years of the compliance period but not  
34 thereafter.

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

38 (3) The housing sponsor shall apply any cash available for  
39 distribution in excess of the amount eligible to be distributed under  
40 paragraph (1) to reduce the rent on rent-restricted units or to

1 increase the number of rent-restricted units subject to the tests of  
2 Section 42(g)(1) of the Internal Revenue Code, relating to in  
3 general.

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

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

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

15 (3) Section 42(f)(3) of the Internal Revenue Code, relating to  
16 determination of applicable percentage with respect to increases  
17 in qualified basis after first year of credit period, is modified to  
18 read:

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

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

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

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

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

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

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

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

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

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

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

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

1 (i) Section 42(j) of the Internal Revenue Code, relating to  
2 recapture of credit, shall not be applicable and the following shall  
3 be substituted in its place:

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

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

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

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

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

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

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

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

39 (8) A provision that the remedies available in the event of a  
40 default under the regulatory agreement that is not cured within a

1 reasonable cure period include, but are not limited to, allowing  
2 any of the parties designated to enforce the regulatory agreement  
3 to collect all rents with respect to the project; taking possession of  
4 the project and operating the project in accordance with the  
5 regulatory agreement until the enforcer determines the housing  
6 sponsor is in a position to operate the project in accordance with  
7 the regulatory agreement; applying to any court for specific  
8 performance; securing the appointment of a receiver to operate  
9 the project; or any other relief as may be appropriate.

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

22 (2) The committee shall adopt a qualified allocation plan, as  
23 provided in Section 42(m)(1) of the Internal Revenue Code, relating  
24 to plans for allocation of credit among projects. In adopting this  
25 plan, the committee shall comply with the provisions of Sections  
26 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,  
27 relating to qualified allocation plan and relating to certain selection  
28 criteria must be used, respectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (n) The credit period with respect to an allocation of credit in  
2 1989 by the California Tax Credit Allocation Committee of which  
3 any amount is attributable to unallocated credit from 1987 or 1988  
4 shall not begin until after December 31, 1989.

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

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

10 (q) (1) A corporation may elect to assign any portion of any  
11 credit allowed under this section to one or more affiliated  
12 corporations for each taxable year in which the credit is allowed.  
13 For purposes of this subdivision, “affiliated corporation” has the  
14 meaning provided in subdivision (b) of Section 25110, as that  
15 section was amended by Chapter 881 of the Statutes of 1993, as  
16 of the last day of the taxable year in which the credit is allowed,  
17 except that “100 percent” is substituted for “more than 50 percent”  
18 wherever it appears in the section, as that section was amended by  
19 Chapter 881 of the Statutes of 1993, and “voting common stock”  
20 is substituted for “voting stock” wherever it appears in the section,  
21 as that section was amended by Chapter 881 of the Statutes of  
22 1993.

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

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

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

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

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

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

37 (s) (1) For a project that receives a preliminary reservation  
38 under this section beginning on or after January 1, 2016, a taxpayer  
39 may make an irrevocable election in its application to the California  
40 Tax Credit Allocation Committee to sell all or any portion of any

1 credit allowed under this section to one or more unrelated parties  
2 for each taxable year in which the credit is allowed for  
3 consideration that is not less than 80 percent of the amount of the  
4 credit.

5 (2) (A) The taxpayer that originally received the credit shall  
6 report to the California Tax Credit Allocation Committee within  
7 10 days of the sale of the credit, in the form and manner specified  
8 by the California Tax Credit Allocation Committee, all required  
9 information regarding the purchase and sale of the credit, including  
10 the social security or other taxpayer identification number of the  
11 unrelated party to whom the credit has been sold, the face amount  
12 of the credit sold, and the amount of consideration received by the  
13 taxpayer for the sale of the credit.

14 (B) The California Tax Credit Allocation Committee shall  
15 provide an annual listing to the Franchise Tax Board, in a form  
16 and manner agreed upon by the California Tax Credit Allocation  
17 Committee and the Franchise Tax Board, of the taxpayers that  
18 have sold or purchased a credit pursuant to this subdivision.

19 (3) A credit may be sold pursuant to this subdivision to more  
20 than one unrelated party and shall not be resold by the unrelated  
21 party to another taxpayer or other party.

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

31 (5) A taxpayer shall not sell a credit allowed by this section if  
32 the taxpayer was allowed the credit on any tax return of the  
33 taxpayer.

34 (6) Notwithstanding paragraph (1), the taxpayer, with the  
35 approval of the Executive Director of the California Tax Credit  
36 Allocation Committee, may rescind the election to sell all or any  
37 portion of the credit allowed under this section if the consideration  
38 for the credit falls below 80 percent of the amount of the credit  
39 after the California Tax Credit Allocation Committee reservation.

1 (t) The Franchise Tax Board may prescribe rules, guidelines,  
2 or procedures necessary or appropriate to carry out the purposes  
3 of this section, including any guidelines regarding the allocation  
4 of the credit allowed under this section. Chapter 3.5 (commencing  
5 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
6 Government Code shall not apply to any rule, guideline, or  
7 procedure prescribed by the Franchise Tax Board pursuant to this  
8 section.

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

14 *SEC. 4. The Tax Allocation Committee shall enter into an*  
15 *agreement with the Franchise Tax Board to pay any costs incurred*  
16 *by the Franchise Tax board in the administration of subdivision*  
17 *(o) of Section 12206, subdivision (r) of Section 17058, and*  
18 *subdivision (s) of Section 23610.5 of the Revenue and Taxation*  
19 *Code.*

20 ~~SEC. 4.~~

21 *SEC. 5.* This act provides for a tax levy within the meaning of  
22 Article IV of the Constitution and shall go into immediate effect.