

**Introduced by Senator Beall**January 14, 2016

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

## LEGISLATIVE COUNSEL'S DIGEST

SB 873, as introduced, 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, as described, for each taxable year in which the credit is allowed for not less than 80% of the amount of the credit to be sold, and would provide for the one-time resale of that credit, as provided. The bill would require the California Tax Credit 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 *“tax,”* described by Section ~~12201~~) 12201, a state  
5 low-income housing tax credit in an amount equal to the amount  
6 determined in subdivision (c), computed in accordance with Section  
7 42 of the Internal Revenue Code, *relating to low-income housing*  
8 *credit*, except as otherwise provided in this section.

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

13 (3) “Housing sponsor,” for purposes of this section, means the  
14 sole owner in the case of a “C” corporation, the partnership in the  
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  
26 Safety Code, the low-income housing project shall be located in  
27 California and shall meet either of the following requirements:

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

32 (ii) It ~~shall qualify~~ *qualifies* for a credit under Section  
33 42(h)(4)(B) of the Internal Revenue ~~Code. Code, relating to special~~

1 rule where 50 percent or more of building is financed with  
2 tax-exempt bonds subject volume cap.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (vi) The low-income housing credit program set forth in Section  
 2 42 of the Internal Revenue ~~Code~~. *Code, relating to low-income*  
 3 *housing credit*.

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

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

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

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

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

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

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

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

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

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

1 *and* distributed any time during the first 15 years of the compliance  
2 period but not thereafter.

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

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

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

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

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

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

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

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

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

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

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

16 (g) The aggregate housing credit dollar amount that may be  
17 allocated annually by the California Tax Credit Allocation  
18 Committee pursuant to this section, Section 17058, and Section  
19 23610.5 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 *relating to plans for allocation of credit among projects. In*  
2 *adopting this plan, the committee shall comply with the provisions*  
3 *of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue*  
4 ~~*Code. Code, relating to qualified allocation plan and relating to*~~  
5 *certain selection criteria must be used, respectively.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (k) Section 42(l) of the Internal Revenue ~~Code Code~~, *relating*  
32 *to certifications and other reports to secretary*, shall be modified  
33 as follows:

34 The term “secretary” shall be replaced by the term ~~“California~~  
35 ~~Franchise~~ “*Franchise Tax Board*.”

36 (l) In the case ~~where the state~~ *in which the* credit allowed under  
37 this section exceeds the “tax,” the excess may be carried over to  
38 reduce the “tax” in the following year, and succeeding years if  
39 necessary, until the credit has been exhausted.

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

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

6 (o) (1) *For a project that receives a preliminary reservation*  
7 *under this section beginning on or after January 1, 2016, a*  
8 *taxpayer may make an irrevocable election in its application to*  
9 *the California Tax Credit Allocation Committee to sell all or any*  
10 *portion of any credit allowed under this section to one or more*  
11 *unrelated parties for each taxable year in which the credit is*  
12 *allowed subject to both of the following conditions:*

13 (A) *The credit is sold for consideration that is not less than 80*  
14 *percent of the amount of the credit.*

15 (B) *The unrelated party or parties purchasing any or all of the*  
16 *credit pursuant to this subdivision is a taxpayer allowed the credit*  
17 *under this section for the taxable year of the purchase or any prior*  
18 *taxable year or is a taxpayer allowed the federal credit under*  
19 *Section 42 of the Internal Revenue Code, relating to low-income*  
20 *housing credit, for the taxable year of the purchase or any prior*  
21 *taxable year in connection with any project located in this state.*  
22 *For purposes of this subparagraph, “taxpayer allowed the credit*  
23 *under this section” means a taxpayer that is allowed the credit*  
24 *under this section without regard to the purchase of a credit*  
25 *pursuant to this subdivision.*

26 (2) (A) *The taxpayer that originally received the credit shall*  
27 *report to the California Tax Credit Allocation Committee within*  
28 *10 days of the sale of the credit, in the form and manner specified*  
29 *by the California Tax Credit Allocation Committee, all required*  
30 *information regarding the purchase and sale of the credit,*  
31 *including the social security or other taxpayer identification*  
32 *number of the unrelated party to whom the credit has been sold,*  
33 *the face amount of the credit sold, and the amount of consideration*  
34 *received by the taxpayer for the sale of the credit.*

35 (B) *The California Tax Credit Allocation Committee shall*  
36 *provide an annual listing to the Franchise Tax Board, in a form*  
37 *and manner agreed upon by the California Tax Credit Allocation*  
38 *Committee and the Franchise Tax Board, of the taxpayers that*  
39 *have sold or purchased a credit pursuant to this subdivision.*

1 (3) (A) A credit may be sold pursuant to this subdivision to  
2 more than one unrelated party.

3 (B) (i) Except as provided in clause (ii), a credit shall not be  
4 resold by the unrelated party to another taxpayer or other party.

5 (ii) All or any portion of any credit allowed under this section  
6 may be resold once by an original purchaser to one or more  
7 unrelated parties, subject to all of the requirements of this  
8 subdivision.

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

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

21 (6) Notwithstanding paragraph (1), the taxpayer, with the  
22 approval of the Executive Director of the California Tax Credit  
23 Allocation Committee, may rescind the election to sell all or any  
24 portion of the credit allowed under this section if the consideration  
25 for the credit falls below 80 percent of the amount of the credit  
26 after the California Tax Credit Allocation Committee reservation.

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

35 (o)

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

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

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

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

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

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

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

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

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

35 (B) The California Tax Credit Allocation Committee shall not  
36 require fees for the credit under this section in addition to those  
37 fees required for applications for the tax credit pursuant to Section  
38 42 of the Internal Revenue ~~Code~~. *Code, relating to low-income*  
39 *housing credit.* The committee may require a fee if the application

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

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

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

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

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

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

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

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

1 (D) All elections made by the taxpayer pursuant to Section 42  
2 of the Internal Revenue ~~Code~~ *Code, relating to low-income housing*  
3 *credit*, apply to this section.

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

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

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

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

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

36 (1) In the case of any qualified low-income building placed in  
37 service by the housing sponsor during 1987, the term “applicable  
38 percentage” means 9 percent for each of the first three years and  
39 3 percent for the fourth year for new buildings (whether or not the  
40 building is federally subsidized) and for existing buildings.

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

4 (A) For each of the first three years, the percentage prescribed  
5 by the Secretary of the Treasury for new buildings that are not  
6 federally subsidized for the taxable year, determined in accordance  
7 with the requirements of Section 42(b)(2) 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)(B)~~ 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 (3) 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 (4) 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: *Code, relating to low-income*  
6 *housing credit.*

7 (B) The restrictions on rent and income levels will terminate or  
8 the ~~federal~~ *federally* insured mortgage on the property is eligible  
9 for prepayment any time within five years before or after the date  
10 of 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 ~~regarding rehabilitation expenditures,~~  
17 *Code, relating to rehabilitation expenditures treated as a separate*  
18 *new building,* except that the provisions of Section  
19 42(e)(3)(A)(ii)(I) ~~do~~ *shall* not apply.

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

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

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

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

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

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

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

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

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

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

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

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

26 (3) Section 42(f)(3) of the Internal Revenue-~~Code~~ *Code, relating*  
27 *to determination of applicable percentage with respect to increases*  
28 *in qualified basis after first year of credit period, is modified to*  
29 *read:*

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

39 (f) The provisions of Section 42(h) of the Internal Revenue  
40 ~~Code~~ *Code, relating to limitation on aggregate credit allowable*

1 *with respect to projects located in a state*, shall be modified as  
2 follows:

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

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

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

16 (g) The aggregate housing credit dollar amount that may be  
17 allocated annually by the California Tax Credit Allocation  
18 Committee pursuant to this section, Section 12206, and Section  
19 23610.5 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (vii) The housing sponsor shall demonstrate the amount of tax  
31 credit that is necessary for the financial feasibility of the project  
32 and its viability as a qualified low-income housing project  
33 throughout the extended use period, taking into account operating  
34 expenses, a supportable debt service, reserves, funds set aside for  
35 rental subsidies and required equity, and a development fee that  
36 does not exceed a specified percentage of the eligible basis of the  
37 project prior to inclusion of the development fee in the eligible  
38 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 ~~is comprised~~  
13 ~~of~~ *are* low-income 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~~ *Code, relating*  
29 *to certifications and other reports to secretary*, shall be modified  
30 as follows:

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

33 (l) In the case in which the credit allowed under this section  
34 exceeds the net tax, the excess ~~credit~~ may be carried over to reduce  
35 the net tax in the following year, and succeeding ~~taxable~~ years, if  
36 necessary, 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 is subject to the requirements of  
7 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, 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, do not apply.

17 (q) (1) *For a project that receives a preliminary reservation*  
18 *under this section beginning on or after January 1, 2016, a*  
19 *taxpayer may make an irrevocable election in its application to*  
20 *the California Tax Credit Allocation Committee to sell all or any*  
21 *portion of any credit allowed under this section to one or more*  
22 *unrelated parties for each taxable year in which the credit is*  
23 *allowed subject to both of the following conditions:*

24 (A) *The credit is sold for consideration that is not less than 80*  
25 *percent of the amount of the credit.*

26 (B) *The unrelated party or parties purchasing any or all of the*  
27 *credit pursuant to this subdivision is a taxpayer allowed the credit*  
28 *under this section for the taxable year of the purchase or any prior*  
29 *taxable year or is a taxpayer allowed the federal credit under*  
30 *Section 42 of the Internal Revenue Code, relating to low-income*  
31 *housing credit, for the taxable year of the purchase or any prior*  
32 *taxable year in connection with any project located in this state.*  
33 *For purposes of this subparagraph, “taxpayer allowed the credit*  
34 *under this section” means a taxpayer that is allowed the credit*  
35 *under this section without regard to the purchase of a credit*  
36 *pursuant to this subdivision.*

37 (2) (A) *The taxpayer that originally received the credit shall*  
38 *report to the California Tax Credit Allocation Committee within*  
39 *10 days of the sale of the credit, in the form and manner specified*  
40 *by the California Tax Credit Allocation Committee, all required*

1 *information regarding the purchase and sale of the credit,*  
2 *including the social security or other taxpayer identification*  
3 *number of the unrelated party to whom the credit has been sold,*  
4 *the face amount of the credit sold, and the amount of consideration*  
5 *received by the taxpayer for the sale of the credit.*

6 *(B) The California Tax Credit Allocation Committee shall*  
7 *provide an annual listing to the Franchise Tax Board, in a form*  
8 *and manner agreed upon by the California Tax Credit Allocation*  
9 *Committee and the Franchise Tax Board, of the taxpayers that*  
10 *have sold or purchased a credit pursuant to this subdivision.*

11 *(3) (A) A credit may be sold pursuant to this subdivision to*  
12 *more than one unrelated party.*

13 *(B) (i) Except as provided in clause (ii), a credit shall not be*  
14 *resold by the unrelated party to another taxpayer or other party.*

15 *(ii) All or any portion of any credit allowed under this section*  
16 *may be resold once by an original purchaser to one or more*  
17 *unrelated parties, subject to all of the requirements of this*  
18 *subdivision.*

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

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

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

37 *(r) The California Tax Credit Allocation Committee may*  
38 *prescribe rules, guidelines, or procedures necessary or appropriate*  
39 *to carry out the purposes of this section, including any guidelines*  
40 *regarding the allocation of the credit allowed under this section.*

1 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
 2 3 of Title 2 of the Government Code shall not apply to any rule,  
 3 guideline, or procedure prescribed by the California Tax Credit  
 4 Allocation Committee pursuant to this section.

5 (q)

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

9 (r)

10 (t) This section shall remain in effect on and after December 1,  
 11 1990, for as long as Section 42 of the Internal Revenue Code,  
 12 relating to low-income housing ~~credits~~, *credit*, remains in effect.  
 13 Any unused credit may continue to be carried forward, as provided  
 14 in subdivision (l), until the credit has been exhausted.

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

17 23610.5. (a) (1) There shall be allowed as a credit against the  
 18 ~~“tax” (as “tax,” defined by Section 23036)~~ 23036, a state  
 19 low-income housing tax credit in an amount equal to the amount  
 20 determined in subdivision (c), computed in accordance with Section  
 21 42 of the Internal Revenue ~~Code of 1986~~, *Code, relating to*  
 22 *low-income housing credit*, except as otherwise provided in this  
 23 section.

24 (2) “Taxpayer,” for purposes of this section, means the sole  
 25 owner in the case of a “C” corporation, the partners in the case of  
 26 a partnership, and the shareholders in the case of an “S”  
 27 corporation.

28 (3) “Housing sponsor,” for purposes of this section, means the  
 29 sole owner in the case of a “C” corporation, the partnership in the  
 30 case of a partnership, and the “S” corporation in the case of an “S”  
 31 corporation.

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

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

39 (i) Except for projects to provide farmworker housing, as defined  
 40 in subdivision (h) of Section 50199.7 of the Health and Safety

1 Code, that are allocated credits solely under the set-aside described  
2 in subdivision (c) of Section 50199.20 of the Health and Safety  
3 Code, 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~~. *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~~. *Code, relating to special rule where 50*  
9 *percent or more of building is financed with tax-exempt bonds*  
10 *subject to 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~~. *Code, relating to low-income*  
15 *housing credit.* The committee may require a fee if the application  
16 for the credit under this section is submitted in a calendar year  
17 after the 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, ~~and before January 1,~~  
21 ~~2016,~~ the credit shall be allocated to the partners of a partnership  
22 owning the project in accordance with the partnership agreement,  
23 regardless of how the federal low-income housing tax credit with  
24 respect to the project is allocated to the partners, or whether the  
25 allocation of the credit under the terms of the agreement has  
26 substantial economic effect, within the meaning of Section 704(b)  
27 of the Internal Revenue~~Code~~. *Code, relating to determination of*  
28 *distributive share.*

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

38 (iii) This subparagraph does not apply to a project that receives  
39 a preliminary reservation of state low-income housing tax credits  
40 under the set-aside described in subdivision (c) of Section 50199.20

1 of the Health and Safety Code unless the project also receives a  
2 preliminary reservation of federal low-income housing tax credits.

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

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

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

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

14 (D) All elections made by the taxpayer pursuant to Section 42  
15 of the Internal Revenue ~~Code~~ *Code, relating to low-income housing*  
16 *credit*, apply to this section.

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

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

36 (F) (i) The California Tax Credit Allocation Committee may  
37 allocate a credit under this section in exchange for a credit allocated  
38 pursuant to Section 42(d)(5)(B), *relating to increase in credit for*  
39 *buildings in high cost areas*, of the Internal Revenue Code in  
40 amounts up to 30 percent of the eligible basis of a building if the

1 credits allowed under Section 42 of the Internal Revenue Code,  
2 *relating to low-income housing credits*, are reduced by an  
3 equivalent amount.

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

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

9 (1) In the case of any qualified low-income building placed in  
10 service by the housing sponsor during 1987, the term “applicable  
11 percentage” means 9 percent for each of the first three years and  
12 3 percent for the fourth year for new buildings (whether or not the  
13 building is federally subsidized) and for existing buildings.

14 (2) In the case of any qualified low-income building that receives  
15 an allocation after 1989 and is a new building not federally  
16 subsidized, 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 not  
19 federally subsidized for the taxable year, determined in accordance  
20 with the requirements of Section 42(b)(2) of the Internal Revenue  
21 Code, *relating to temporary minimum credit rate for nonfederally*  
22 *subsidized new buildings*, in lieu of the percentage prescribed in  
23 Section 42(b)(1)(A) of the Internal Revenue Code.

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

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

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

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

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

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

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

6 (ii) The Below-Market-Interest-Rate Program pursuant to  
 7 Section 221(d)(3) of the National Housing Act, Sections  
 8 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

11 (iv) Programs for rent supplement assistance pursuant to Section  
 12 101 of the Housing and Urban Development Act of 1965, Section  
 13 1701s of Title 12 of the United States Code, as amended.

14 (v) Programs pursuant to Section 515 of the Housing Act of  
 15 1949, Section 1485 of Title 42 of the United States Code, as  
 16 amended.

17 (vi) The low-income housing credit program set forth in Section  
 18 42 of the Internal Revenue-Code: *Code, relating to low-income*  
 19 *housing credit.*

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

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

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

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

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

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

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

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

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

12 (C) Any amount allowed to be distributed under subparagraph  
13 (A) that is not available for distribution during the first five years  
14 of the compliance period may be accumulated and distributed any  
15 time during the first 15 years of the compliance period but not  
16 thereafter.

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

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

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

29 (1) The term “credit period” as defined in Section 42(f)(1) of  
30 the Internal Revenue ~~Code~~ *Code, relating to credit period defined*,  
31 is modified by substituting “four taxable years” for “10 taxable  
32 years.”

33 (2) The special rule for the first taxable year of the credit period  
34 under Section 42(f)(2) of the Internal Revenue ~~Code~~ *Code, relating*  
35 *to special rule for first year of credit period*, shall not apply to the  
36 tax credit under this section.

37 (3) Section 42(f)(3) of the Internal Revenue ~~Code~~ *Code, relating*  
38 *to determination of applicable percentage with respect to increases*  
39 *in qualified basis after first year of credit period*, is modified to  
40 read:

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

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

14 (1) Section 42(h)(2) of the Internal Revenue~~Code Code~~, relating  
15 to allocated credit amount to apply to all taxable years ending  
16 during or after credit allocation year, does not apply and instead  
17 the following provisions apply:

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

23 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),  
24 (7), and (8) of Section 42(h) of the Internal Revenue~~Code Code~~,  
25 relating to limitation on aggregate credit allowable with respect  
26 to projects located in a state, do not apply to this section.

27 (g) The aggregate housing credit dollar amount that may be  
28 allocated annually by the California Tax Credit Allocation  
29 Committee pursuant to this section, Section 12206, and Section  
30 17058 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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

24 (i) Section 42(j) of the Internal Revenue ~~Code~~ *Code, relating*  
25 *to recapture of credit*, does not apply and the following shall be  
26 substituted in its place:

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

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

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

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

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

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

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

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

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

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

1 the approximate date on which allocations shall be made. If the  
2 enactment of federal or state law, the adoption of rules or  
3 regulations, or other similar events prevent the use of two allocation  
4 periods, the committee may reduce the number of periods and  
5 adjust the filing deadlines, maximum percentage of credit allocated,  
6 and *the* allocation dates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (5) Not less than 20 percent of the low-income housing tax  
39 credits available annually under this section, Section 12206, and  
40 Section 17058 shall be set aside for allocation to rural areas as

1 defined in Section 50199.21 of the Health and Safety Code. Any  
2 amount of credit set aside for rural areas remaining on or after  
3 October 31 of any calendar year shall be available for allocation  
4 to any eligible project. No amount of credit set aside for rural areas  
5 shall be considered available for any eligible project so long as  
6 there are eligible rural applications pending on October 31.

7 (k) Section 42(l) of the Internal Revenue ~~Code~~ *Code*, relating  
8 to certifications and other reports to secretary, shall be modified  
9 as follows:

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

12 (l) In the case in which the ~~state~~ credit allowed under this section  
13 exceeds the “tax,” the excess may be carried over to reduce the  
14 “tax” in the following year, and succeeding years if necessary,  
15 until the credit has been exhausted.

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

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

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

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

27 (n) The credit period with respect to an allocation of credit in  
28 1989 by the California Tax Credit Allocation Committee of which  
29 any amount is attributable to unallocated credit from 1987 or 1988  
30 shall not begin until after December 31, 1989.

31 (o) 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, apply to calendar years after 1989.

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

36 (q) (1) A corporation may elect to assign any portion of any  
37 credit allowed under this section to one or more affiliated  
38 corporations for each taxable year in which the credit is allowed.  
39 For purposes of this subdivision, “affiliated corporation” has the  
40 meaning provided in subdivision (b) of Section 25110, as that

1 section was amended by Chapter 881 of the Statutes of 1993, as  
2 of the last day of the taxable year in which the credit is allowed,  
3 except that “100 percent” is substituted for “more than 50 percent”  
4 wherever it appears in the section, as that section was amended by  
5 Chapter 881 of the Statutes of 1993, and “voting common stock”  
6 is substituted for “voting stock” wherever it appears in the section,  
7 as that section was amended by Chapter 881 of the Statutes of  
8 1993.

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

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

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

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

18 *(r) (1) For a project that receives a preliminary reservation*  
19 *under this section beginning on or after January 1, 2016, a*  
20 *taxpayer may make an irrevocable election in its application to*  
21 *the California Tax Credit Allocation Committee to sell all or any*  
22 *portion of any credit allowed under this section to one or more*  
23 *unrelated parties for each taxable year in which the credit is*  
24 *allowed subject to both of the following conditions:*

25 *(A) The credit is sold for consideration that is not less than 80*  
26 *percent of the amount of the credit.*

27 *(B) (i) The unrelated party or parties purchasing any or all of*  
28 *the credit pursuant to this subdivision is a taxpayer allowed the*  
29 *credit under this section for the taxable year of the purchase or*  
30 *any prior taxable year or is a taxpayer allowed the federal credit*  
31 *under Section 42 of the Internal Revenue Code, relating to*  
32 *low-income housing credit, for the taxable year of the purchase*  
33 *or any prior taxable year in connection with any project located*  
34 *in this state.*

35 *(ii) For purposes of this subparagraph, “taxpayer allowed the*  
36 *credit under this section” means a taxpayer that is allowed the*  
37 *credit under this section without regard to the purchase of a credit*  
38 *pursuant to this subdivision without regard to any of the following:*

39 *(I) The purchase of a credit under this section pursuant to this*  
40 *subdivision.*

1     ~~(II) The assignment of a credit under this section pursuant to~~  
2     ~~subdivision (q).~~

3     ~~(III) The assignment of a credit under this section pursuant to~~  
4     ~~Section 23363.~~

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,~~  
10    ~~including the social security or other taxpayer identification~~  
11    ~~number of the unrelated party to whom the credit has been sold,~~  
12    ~~the face amount of the credit sold, and the amount of consideration~~  
13    ~~received by the 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) A credit may be sold pursuant to this subdivision to~~  
20    ~~more than one unrelated party.~~

21    ~~(B) (i) Except as provided in clause (ii), a credit shall not be~~  
22    ~~resold by the unrelated party to another taxpayer or other party.~~

23    ~~(ii) All or any portion of any credit allowed under this section~~  
24    ~~may be resold once by an original purchaser to one or more~~  
25    ~~unrelated parties, subject to all of the requirements of this~~  
26    ~~subdivision.~~

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

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

39    ~~(6) Notwithstanding paragraph (1), the taxpayer, with the~~  
40    ~~approval of the Executive Director of the California Tax Credit~~

1 Allocation Committee, may rescind the election to sell all or any  
 2 portion of the credit allowed under this section if the consideration  
 3 for the credit falls below 80 percent of the amount of the credit  
 4 after the California Tax Credit Allocation Committee reservation.

5 (s) The California Tax Credit Allocation Committee may  
 6 prescribe rules, guidelines, or procedures necessary or appropriate  
 7 to carry out the purposes of this section, including any guidelines  
 8 regarding the allocation of the credit allowed under this section.  
 9 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
 10 3 of Title 2 of the Government Code shall not apply to any rule,  
 11 guideline, or procedure prescribed by the California Tax Credit  
 12 Allocation Committee pursuant to this section.

13 (†)

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

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

19 (s)

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

25 SEC. 4. The California Tax Credit Allocation Committee shall  
 26 enter into an agreement with the Franchise Tax Board to pay any  
 27 costs incurred by the Franchise Tax Board in the administration  
 28 of subdivision (o) of Section 12206, subdivision (q) of Section  
 29 17058, and subdivision (r) of Section 23610.5 of the Revenue and  
 30 Taxation Code.

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