

AMENDED IN ASSEMBLY JUNE 27, 2016

AMENDED IN SENATE APRIL 5, 2016

SENATE BILL

No. 873

Introduced by Senator Beall

January 14, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 873, as amended, Beall. Income taxes: insurance taxes: credits: low-income housing: sale of credit.

Existing law establishes a low-income housing tax credit program pursuant to which the California Tax Credit Allocation Committee provides procedures and requirements for the allocation of state insurance, income, and corporation tax credit amounts among low-income housing projects based on federal law.

This bill, beginning on or after January 1, ~~2016~~, 2017, and before January 1, 2020, 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~~ extend the January 1, 2016, ~~date~~: date to January 1, 2020.

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

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

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

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

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

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

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

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

16 (C) (i) For a project that receives a preliminary reservation of
17 the state low-income housing tax credit, allowed pursuant to
18 subdivision (a), on or after January 1, 2009, *and before January*
19 *1, 2020, including preliminary reservations received in 2016*, the
20 credit shall be allocated to the partners of a partnership owning
21 the project in accordance with the partnership agreement, regardless
22 of how the federal low-income housing tax credit with respect to
23 the project is allocated to the partners, or whether the allocation
24 of the credit under the terms of the agreement has substantial
25 economic effect, within the meaning of Section 704(b) of the
26 Internal Revenue Code, relating to determination of distributive
27 share.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 or after credit allocation year, does not apply and instead the
2 following provisions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (o) (1) For a project that receives a preliminary reservation
37 under this section beginning on or after January 1, ~~2016~~, 2017,
38 *and before January 1, 2020*, a taxpayer may make an irrevocable
39 election in its application to the California Tax Credit Allocation
40 Committee to sell all or any portion of any credit allowed under

1 this section to one or more unrelated parties for each taxable year
2 in which the credit is allowed subject to both of the following
3 conditions:

4 (A) The credit is sold for consideration that is not less than 80
5 percent of the amount of the credit.

6 (B) The unrelated party or parties purchasing any or all of the
7 credit pursuant to this subdivision is a taxpayer allowed the credit
8 under this section for the taxable year of the purchase or any prior
9 taxable year or is a taxpayer allowed the federal credit under
10 Section 42 of the Internal Revenue Code, relating to low-income
11 housing credit, for the taxable year of the purchase or any prior
12 taxable year in connection with any project located in this state.
13 For purposes of this subparagraph, “taxpayer allowed the credit
14 under this section” means a taxpayer that is allowed the credit
15 under this section without regard to the purchase of a credit
16 pursuant to this subdivision.

17 (2) (A) The taxpayer that originally received the credit shall
18 report to the California Tax Credit Allocation Committee within
19 10 days of the sale of the credit, in the form and manner specified
20 by the California Tax Credit Allocation Committee, all required
21 information regarding the purchase and sale of the credit, including
22 the social security or other taxpayer identification number of the
23 unrelated party or parties to whom the credit has been sold, the
24 face amount of the credit sold, and the amount of consideration
25 received by the taxpayer for the sale of the credit.

26 (B) The California Tax Credit Allocation Committee shall
27 provide an annual listing to the Franchise Tax Board, in a form
28 and manner agreed upon by the California Tax Credit Allocation
29 Committee and the Franchise Tax Board, of the taxpayers that
30 have sold or purchased a credit pursuant to this subdivision.

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

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

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

39 (4) Notwithstanding any other provision of law, the taxpayer
40 that originally received the credit that is sold pursuant to paragraph

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

8 (5) A taxpayer shall not sell a credit allowed by this section if
9 the taxpayer was allowed the credit on any tax return of the
10 taxpayer.

11 (6) Notwithstanding paragraph (1), the taxpayer, with the
12 approval of the Executive Director of the California Tax Credit
13 Allocation Committee, may rescind the election to sell all or any
14 portion of the credit allowed under this section if the consideration
15 for the credit falls below 80 percent of the amount of the credit
16 after the California Tax Credit Allocation Committee reservation.

17 (p) The California Tax Credit Allocation Committee may
18 prescribe rules, guidelines, or procedures necessary or appropriate
19 to carry out the purposes of this section, including any guidelines
20 regarding the allocation of the credit allowed under this section.
21 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
22 3 of Title 2 of the Government Code shall not apply to any rule,
23 guideline, or procedure prescribed by the California Tax Credit
24 Allocation Committee pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

29 (C) (i) For a project that receives a preliminary reservation of
30 the state low-income housing tax credit, allowed pursuant to
31 subdivision (a), on or after January 1, 2009, *and before January*
32 *1, 2020, including preliminary reservations received in 2016*, the
33 credit shall be allocated to the partners of a partnership owning
34 the project in accordance with the partnership agreement, regardless
35 of how the federal low-income housing tax credit with respect to
36 the project is allocated to the partners, or whether the allocation
37 of the credit under the terms of the agreement has substantial
38 economic effect, within the meaning of Section 704(b) of the
39 Internal Revenue Code, relating to determination of distributive
40 share.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (i) Section 42(j) of the Internal Revenue Code, relating to
34 recapture of credit, does not apply and the following requirements
35 of this section shall be set forth in a regulatory agreement between
36 the California Tax Credit Allocation Committee and the housing
37 sponsor, and this agreement shall be subordinated, when required,
38 to any lien or encumbrance of any banks or other institutional
39 lenders to the project. The regulatory agreement entered into
40 pursuant to subdivision (f) of Section 50199.14 of the Health and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (v) The housing sponsor shall demonstrate that the project
2 complies with all applicable local land use and zoning ordinances.
- 3 (vi) The housing sponsor shall demonstrate that the project
4 development team has the experience and the financial capacity
5 to ensure project completion and operation for the extended use
6 period.
- 7 (vii) The housing sponsor shall demonstrate the amount of tax
8 credit that is necessary for the financial feasibility of the project
9 and its viability as a qualified low-income housing project
10 throughout the extended use period, taking into account operating
11 expenses, a supportable debt service, reserves, funds set aside for
12 rental subsidies and required equity, and a development fee that
13 does not exceed a specified percentage of the eligible basis of the
14 project prior to inclusion of the development fee in the eligible
15 basis, as determined by the committee.
- 16 (B) The committee shall give a preference to those projects
17 satisfying all of the threshold requirements of subparagraph (A)
18 if both of the following apply:
- 19 (i) The project serves the lowest income tenants at rents
20 affordable to those tenants.
- 21 (ii) The project is obligated to serve qualified tenants for the
22 longest period.
- 23 (C) In addition to the provisions of subparagraphs (A) and (B),
24 the committee shall use the following criteria in allocating housing
25 credits:
- 26 (i) Projects serving large families in which a substantial number,
27 as defined by the committee, of all residential units are low-income
28 units with three and more bedrooms.
- 29 (ii) Projects providing single-room occupancy units serving
30 very low income tenants.
- 31 (iii) Existing projects that are “at risk of conversion,” as defined
32 by paragraph (4) of subdivision (c).
- 33 (iv) Projects for which a public agency provides direct or indirect
34 long-term financial support for at least 15 percent of the total
35 project development costs or projects for which the owner’s equity
36 constitutes at least 30 percent of the total project development
37 costs.
- 38 (v) Projects that provide tenant amenities not generally available
39 to residents of low-income housing projects.

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

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

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

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

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

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

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

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

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

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

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

33 (q) (1) For a project that receives a preliminary reservation
34 under this section beginning on or after January 1, ~~2016~~, 2017,
35 *and before January 1, 2020*, a taxpayer may make an irrevocable
36 election in its application to the California Tax Credit Allocation
37 Committee to sell all or any portion of any credit allowed under
38 this section to one or more unrelated parties for each taxable year
39 in which the credit is allowed subject to both of the following
40 conditions:

1 (A) The credit is sold for consideration that is not less than 80
2 percent of the amount of the credit.

3 (B) The unrelated party or parties purchasing any or all of the
4 credit pursuant to this subdivision is a taxpayer allowed the credit
5 under this section for the taxable year of the purchase or any prior
6 taxable year or is a taxpayer allowed the federal credit under
7 Section 42 of the Internal Revenue Code, relating to low-income
8 housing credit, for the taxable year of the purchase or any prior
9 taxable year in connection with any project located in this state.
10 For purposes of this subparagraph, “taxpayer allowed the credit
11 under this section” means a taxpayer that is allowed the credit
12 under this section without regard to the purchase of a credit
13 pursuant to this subdivision.

14 (2) (A) The taxpayer that originally received the credit shall
15 report to the California Tax Credit Allocation Committee within
16 10 days of the sale of the credit, in the form and manner specified
17 by the California Tax Credit Allocation Committee, all required
18 information regarding the purchase and sale of the credit, including
19 the social security or other taxpayer identification number of the
20 unrelated party or parties to whom the credit has been sold, the
21 face amount of the credit sold, and the amount of consideration
22 received by the taxpayer for the sale of the credit.

23 (B) The California Tax Credit Allocation Committee shall
24 provide an annual listing to the Franchise Tax Board, in a form
25 and manner agreed upon by the California Tax Credit Allocation
26 Committee and the Franchise Tax Board, of the taxpayers that
27 have sold or purchased a credit pursuant to this subdivision.

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

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

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

36 (4) Notwithstanding any other provision of law, the taxpayer
37 that originally received the credit that is sold pursuant to paragraph
38 (1) shall remain solely liable for all obligations and liabilities
39 imposed on the taxpayer by this section with respect to the credit,
40 none of which shall apply to any party to whom the credit has been

1 sold or subsequently transferred. Parties who purchase credits
2 pursuant to paragraph (1) shall be entitled to utilize the purchased
3 credits in the same manner in which the taxpayer that originally
4 received the credit could utilize them.

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

8 (6) Notwithstanding paragraph (1), the taxpayer, with the
9 approval of the Executive Director of the California Tax Credit
10 Allocation Committee, may rescind the election to sell all or any
11 portion of the credit allowed under this section if the consideration
12 for the credit falls below 80 percent of the amount of the credit
13 after the California Tax Credit Allocation Committee reservation.

14 (r) The California Tax Credit Allocation Committee may
15 prescribe rules, guidelines, or procedures necessary or appropriate
16 to carry out the purposes of this section, including any guidelines
17 regarding the allocation of the credit allowed under this section.
18 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
19 3 of Title 2 of the Government Code shall not apply to any rule,
20 guideline, or procedure prescribed by the California Tax Credit
21 Allocation Committee pursuant to this section.

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

25 (t) This section shall remain in effect on and after December 1,
26 1990, for as long as Section 42 of the Internal Revenue Code,
27 relating to low-income housing credit, remains in effect. Any
28 unused credit may continue to be carried forward, as provided in
29 subdivision (l), until the credit has been exhausted.

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

32 23610.5. (a) (1) There shall be allowed as a credit against the
33 “tax,” defined by Section 23036, a state low-income housing tax
34 credit in an amount equal to the amount determined in subdivision
35 (c), computed in accordance with Section 42 of the Internal
36 Revenue Code, relating to low-income housing credit, except as
37 otherwise provided in this section.

38 (2) “Taxpayer,” for purposes of this section, means the sole
39 owner in the case of a “C” corporation, the partners in the case of

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

3 (3) “Housing sponsor,” for purposes of this section, means the
4 sole owner in the case of a “C” corporation, the partnership in the
5 case of a partnership, and the “S” corporation in the case of an “S”
6 corporation.

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

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

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

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

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

33 (C) (i) For a project that receives a preliminary reservation of
34 the state low-income housing tax credit, allowed pursuant to
35 subdivision (a), on or after January 1, 2009, *and before January*
36 *1, 2020, including preliminary reservations received in 2016*, the
37 credit shall be allocated to the partners of a partnership owning
38 the project in accordance with the partnership agreement, regardless
39 of how the federal low-income housing tax credit with respect to
40 the project is allocated to the partners, or whether the allocation

1 of the credit under the terms of the agreement has substantial
2 economic effect, within the meaning of Section 704(b) of the
3 Internal Revenue Code, relating to determination of distributive
4 share.

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

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

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

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

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

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

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

39 (ii) Notwithstanding clause (i), the California Tax Credit
40 Allocation Committee may allocate the credit for buildings located

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

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

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

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

22 (1) In the case of any qualified low-income building placed in
23 service by the housing sponsor during 1987, the term “applicable
24 percentage” means 9 percent for each of the first three years and
25 3 percent for the fourth year for new buildings (whether or not the
26 building is federally subsidized) and for existing buildings.

27 (2) In the case of any qualified low-income building that receives
28 an allocation after 1989 and is a new building not federally
29 subsidized, 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 not
32 federally subsidized for the taxable year, determined in accordance
33 with the requirements of Section 42(b)(2) of the Internal Revenue
34 Code, relating to temporary minimum credit rate for nonfederally
35 subsidized new buildings, in lieu of the percentage prescribed in
36 Section 42(b)(1)(A) of the Internal Revenue Code.

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

39 (3) In the case of any qualified low-income building that receives
40 an allocation after 1989 and that is a new building that is federally

1 subsidized or that is an existing building that is “at risk of
2 conversion,” the term “applicable percentage” means the following:

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

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

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

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

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

19 (ii) The Below-Market-Interest-Rate Program pursuant to
20 Section 221(d)(3) of the National Housing Act, Sections
21 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

24 (iv) Programs for rent supplement assistance pursuant to Section
25 101 of the Housing and Urban Development Act of 1965, Section
26 1701s of Title 12 of the United States Code, as amended.

27 (v) Programs pursuant to Section 515 of the Housing Act of
28 1949, Section 1485 of Title 42 of the United States Code, as
29 amended.

30 (vi) The low-income housing credit program set forth in Section
31 42 of the Internal Revenue Code, relating to low-income housing
32 credit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (g) The aggregate housing credit dollar amount that may be
39 allocated annually by the California Tax Credit Allocation

1 Committee pursuant to this section, Section 12206, and Section
2 17058 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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

35 (i) Section 42(j) of the Internal Revenue Code, relating to
36 recapture of credit, does not apply and the following shall be
37 substituted in its place:

38 The requirements of this section shall be set forth in a regulatory
39 agreement between the California Tax Credit Allocation Committee
40 and the housing sponsor, and this agreement shall be subordinated,

1 when required, to any lien or encumbrance of any banks or other
2 institutional lenders to the project. The regulatory agreement
3 entered into pursuant to subdivision (f) of Section 50199.14 of the
4 Health and Safety Code shall apply, provided that the agreement
5 includes all of the following provisions:

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

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

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

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

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

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

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

33 (8) A provision that the remedies available in the event of a
34 default under the regulatory agreement that is not cured within a
35 reasonable cure period include, but are not limited to, allowing
36 any of the parties designated to enforce the regulatory agreement
37 to collect all rents with respect to the project; taking possession of
38 the project and operating the project in accordance with the
39 regulatory agreement until the enforcer determines the housing
40 sponsor is in a position to operate the project in accordance with

1 the regulatory agreement; applying to any court for specific
2 performance; securing the appointment of a receiver to operate
3 the project; or any other relief as may be appropriate.

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

16 (2) The committee shall adopt a qualified allocation plan, as
17 provided in Section 42(m)(1) of the Internal Revenue Code, relating
18 to plans for allocation of credit among projects. In adopting this
19 plan, the committee shall comply with the provisions of Sections
20 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,
21 relating to qualified allocation plan and relating to certain selection
22 criteria must be used, respectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (k) Section 42(l) of the Internal Revenue Code, relating to
17 certifications and other reports to secretary, shall be modified as
18 follows:

19 The term “secretary” shall be replaced by the term “Franchise
20 Tax Board.”

21 (l) In the case in which the credit allowed under this section
22 exceeds the “tax,” the excess may be carried over to reduce the
23 “tax” in the following year, and succeeding years if necessary,
24 until the credit has been exhausted.

25 (m) A project that received an allocation of a 1989 federal
26 housing credit dollar amount shall be eligible to receive an
27 allocation of a 1990 state housing credit dollar amount, subject to
28 all of the following conditions:

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

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

33 (3) Notwithstanding paragraph (2), a project applying for an
34 allocation under this subdivision is subject to the requirements of
35 paragraph (3) of subdivision (j).

36 (n) The credit period with respect to an allocation of credit in
37 1989 by the California Tax Credit Allocation Committee of which
38 any amount is attributable to unallocated credit from 1987 or 1988
39 shall not begin until after December 31, 1989.

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

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

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

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

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

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

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

28 (r) (1) For a project that receives a preliminary reservation
29 under this section beginning on or after January 1, ~~2016~~, 2017,
30 *and before January 1, 2020*, a taxpayer may make an irrevocable
31 election in its application to the California Tax Credit Allocation
32 Committee to sell all or any portion of any credit allowed under
33 this section to one or more unrelated parties for each taxable year
34 in which the credit is allowed subject to both of the following
35 conditions:

36 (A) The credit is sold for consideration that is not less than 80
37 percent of the amount of the credit.

38 (B) (i) The unrelated party or parties purchasing any or all of
39 the credit pursuant to this subdivision is a taxpayer allowed the
40 credit under this section for the taxable year of the purchase or any

1 prior taxable year or is a taxpayer allowed the federal credit under
2 Section 42 of the Internal Revenue Code, relating to low-income
3 housing credit, for the taxable year of the purchase or any prior
4 taxable year in connection with any project located in this state.

5 (ii) For purposes of this subparagraph, “taxpayer allowed the
6 credit under this section” means a taxpayer that is allowed the
7 credit under this section without regard to the purchase of a credit
8 pursuant to this subdivision without regard to any of the following:

9 (I) The purchase of a credit under this section pursuant to this
10 subdivision.

11 (II) The assignment of a credit under this section pursuant to
12 subdivision (q).

13 (III) The assignment of a credit under this section pursuant to
14 Section 23363.

15 (2) (A) The taxpayer that originally received the credit shall
16 report to the California Tax Credit Allocation Committee within
17 10 days of the sale of the credit, in the form and manner specified
18 by the California Tax Credit Allocation Committee, all required
19 information regarding the purchase and sale of the credit, including
20 the social security or other taxpayer identification number of the
21 unrelated party or parties to whom the credit has been sold, the
22 face amount of the credit sold, and the amount of consideration
23 received by the taxpayer for the sale of the credit.

24 (B) The California Tax Credit Allocation Committee shall
25 provide an annual listing to the Franchise Tax Board, in a form
26 and manner agreed upon by the California Tax Credit Allocation
27 Committee and the Franchise Tax Board, of the taxpayers that
28 have sold or purchased a credit pursuant to this subdivision.

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

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

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

37 (4) Notwithstanding any other provision of law, the taxpayer
38 that originally received the credit that is sold pursuant to paragraph
39 (1) shall remain solely liable for all obligations and liabilities
40 imposed on the taxpayer by this section with respect to the credit,

1 none of which shall apply to any party to whom the credit has been
2 sold or subsequently transferred. Parties who purchase credits
3 pursuant to paragraph (1) shall be entitled to utilize the purchased
4 credits in the same manner in which the taxpayer that originally
5 received the credit could utilize them.

6 (5) A taxpayer shall not sell a credit allowed by this section if
7 the taxpayer was allowed the credit on any tax return of the
8 taxpayer.

9 (6) Notwithstanding paragraph (1), the taxpayer, with the
10 approval of the Executive Director of the California Tax Credit
11 Allocation Committee, may rescind the election to sell all or any
12 portion of the credit allowed under this section if the consideration
13 for the credit falls below 80 percent of the amount of the credit
14 after the California Tax Credit Allocation Committee reservation.

15 (s) The California Tax Credit Allocation Committee may
16 prescribe rules, guidelines, or procedures necessary or appropriate
17 to carry out the purposes of this section, including any guidelines
18 regarding the allocation of the credit allowed under this section.
19 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
20 3 of Title 2 of the Government Code shall not apply to any rule,
21 guideline, or procedure prescribed by the California Tax Credit
22 Allocation Committee pursuant to this section.

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

25 (u) This section shall remain in effect on and after December
26 1, 1990, for as long as Section 42 of the Internal Revenue Code,
27 relating to low-income housing credit, remains in effect.

28 (v) The amendments to this section made by Chapter 1222 of
29 the Statutes of 1993 shall apply only to taxable years beginning
30 on or after January 1, 1994, except that paragraph (1) of subdivision
31 (q), as amended, shall apply to taxable years beginning on or after
32 January 1, 1993.

33 SEC. 4. The California Tax Credit Allocation Committee shall
34 enter into an agreement with the Franchise Tax Board to pay any
35 costs incurred by the Franchise Tax Board in the administration
36 of subdivision (o) of Section 12206, subdivision (q) of Section
37 17058, and subdivision (r) of Section 23610.5 of the Revenue and
38 Taxation Code.

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

O