

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY JUNE 27, 2016

AMENDED IN SENATE APRIL 5, 2016

SENATE BILL

No. 873

Introduced by Senator Beall

(Principal coauthor: Assembly Member Calderon)

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.~~ *An act to amend Section 881 of the Probate Code, as added by Assembly Bill 691 of the 2015–16 Regular Session, relating to estates.*

LEGISLATIVE COUNSEL'S DIGEST

SB 873, as amended, Beall. ~~Income taxes: insurance taxes: credits: low-income housing: sale of credit.~~ *Revised Uniform Fiduciary Access to Digital Assets Act.*

Existing law provides for the disposition of a testator's property by will. Existing law also provides for the disposition of that portion of a decedent's estate not disposed of by will. Existing law provides that the decedent's property, including property devised by a will, is generally subject to probate administration, except as specified.

AB 691 of the 2015–16 Regular Session would enact the Revised Uniform Fiduciary Access to Digital Assets Act, which would authorize a decedent's personal representative or trustee to access and manage digital assets and electronic communications, as specified. Among other provisions, AB 691 would provide that a custodian of digital assets, and its officers, employees, and agents, are immune from liability for an act or omission done in good faith and in compliance with the act.

This bill would specify that this immunity does not apply in a case of gross negligence or willful or wanton misconduct. The bill would become operative only if AB 691 is enacted prior to the enactment of this bill.

~~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, 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 extend the January 1, 2016, date to January 1, 2020.~~

~~This bill would take effect immediately as a tax levy.~~

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

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

- 1 *SECTION 1. Section 881 of the Probate Code, as added by*
- 2 *Assembly Bill 691 of the 2015–16 Regular Session, is amended to*
- 3 *read:*
- 4 881. (a) Not later than 60 days after receipt of the information
- 5 required under Sections 876 to 879, inclusive, a custodian shall
- 6 comply with a request under this part from a fiduciary or designated
- 7 recipient to disclose digital assets or terminate an account. If the

1 custodian fails to comply with a request, the fiduciary or designated
2 recipient may apply to the court for an order directing compliance.

3 (b) An order under subdivision (a) directing compliance shall
4 contain a finding that compliance is not in violation of Section
5 2702 of Title 18 of the United States Code.

6 (c) A custodian may notify a user that a request for disclosure
7 of digital assets or to terminate an account was made pursuant to
8 this part.

9 (d) A custodian may deny a request under this part from a
10 fiduciary or designated recipient for disclosure of digital assets or
11 to terminate an account if the custodian is aware of any lawful
12 access to the account following the date of death of the user.

13 (e) This part does not limit a custodian’s ability to obtain or to
14 require a fiduciary or designated recipient requesting disclosure
15 or account termination under this part to obtain a court order that
16 makes all of the following findings:

17 (1) The account belongs to the decedent, principal, or trustee.

18 (2) There is sufficient consent from the decedent, principal, or
19 settlor to support the requested disclosure.

20 (3) Any specific factual finding required by any other applicable
21 law in effect at that time, including, but not limited to, a finding
22 that disclosure is not in violation of Section 2702 of Title 18 of
23 the United States Code.

24 (f) (1) A custodian and its officers, employees, and agents are
25 immune from liability for an act or omission done in good faith in
26 compliance with this part.

27 (2) *The protections specified in paragraph (1) shall not apply*
28 *in a case of gross negligence or willful or wanton misconduct of*
29 *the custodian or its officers, employees, or agents under this part.*

30 *SEC. 2. This act shall become operative only if Assembly Bill*
31 *691 is also enacted and this act is enacted after Assembly Bill 691.*

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

34 ~~12206. (a) (1) There shall be allowed as a credit against the~~
35 ~~“tax,” described by Section 12201, a state low-income housing~~
36 ~~tax credit in an amount equal to the amount determined in~~
37 ~~subdivision (c), computed in accordance with Section 42 of the~~
38 ~~Internal Revenue Code, relating to low-income housing credit,~~
39 ~~except as otherwise provided in this section.~~

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

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

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

14 ~~(A) Except for projects to provide farmworker housing, as~~
15 ~~defined in subdivision (h) of Section 50199.7 of the Health and~~
16 ~~Safety Code, that are allocated credits solely under the set-aside~~
17 ~~described in subdivision (e) of Section 50199.20 of the Health and~~
18 ~~Safety Code, the low-income housing project shall be located in~~
19 ~~California and shall meet either of the following requirements:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~(3) For purposes of this section, the term “at risk of conversion,”~~
2 ~~with respect to an existing property means a property that satisfies~~
3 ~~all of the following criteria:~~
4 ~~(A) The property is a multifamily rental housing development~~
5 ~~in which at least 50 percent of the units receive governmental~~
6 ~~assistance pursuant to any of the following:~~
7 ~~(i) New construction, substantial rehabilitation, moderate~~
8 ~~rehabilitation, property disposition, and loan management set-aside~~
9 ~~programs, or any other program providing project-based assistance~~
10 ~~pursuant to Section 8 of the United States Housing Act of 1937,~~
11 ~~Section 1437f of Title 42 of the United States Code, as amended.~~
12 ~~(ii) The Below-Market-Interest-Rate Program pursuant to~~
13 ~~Section 221(d)(3) of the National Housing Act, Sections~~
14 ~~1715l(d)(3) and (5) of Title 12 of the United States Code.~~
15 ~~(iii) Section 236 of the National Housing Act, Section 1715z-1~~
16 ~~of Title 12 of the United States Code.~~
17 ~~(iv) Programs for rent supplement assistance pursuant to Section~~
18 ~~101 of the Housing and Urban Development Act of 1965, Section~~
19 ~~1701s of Title 12 of the United States Code, as amended.~~
20 ~~(v) Programs pursuant to Section 515 of the Housing Act of~~
21 ~~1949, Section 1485 of Title 42 of the United States Code, as~~
22 ~~amended.~~
23 ~~(vi) The low-income housing credit program set forth in Section~~
24 ~~42 of the Internal Revenue Code, relating to low-income housing~~
25 ~~credit.~~
26 ~~(B) The restrictions on rent and income levels will terminate or~~
27 ~~the federally insured mortgage on the property is eligible for~~
28 ~~prepayment any time within five years before or after the date of~~
29 ~~application to the California Tax Credit Allocation Committee.~~
30 ~~(C) The entity acquiring the property enters into a regulatory~~
31 ~~agreement that requires the property to be operated in accordance~~
32 ~~with the requirements of this section for a period equal to the~~
33 ~~greater of 55 years or the life of the property.~~
34 ~~(D) The property satisfies the requirements of Section 42(e) of~~
35 ~~the Internal Revenue Code, relating to rehabilitation expenditures~~
36 ~~treated as a separate new building, except that the provisions of~~
37 ~~Section 42(e)(3)(A)(ii)(I) shall not apply.~~
38 ~~(d) The term “qualified low-income housing project” as defined~~
39 ~~in Section 42(e)(2) of the Internal Revenue Code, relating to~~

1 qualified low-income building, is modified by adding the following
2 requirements:

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

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

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

10 ~~(ii) Twenty percent of the adjusted basis of the building as of~~
11 ~~the close of the first taxable year of the credit period.~~

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

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

23 ~~(2) The limitation on return applies in the aggregate to the~~
24 ~~partners if the housing sponsor is a partnership and in the aggregate~~
25 ~~to the shareholders if the housing sponsor is an “S” corporation.~~

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

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

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

39 ~~(2) The special rule for the first taxable year of the credit period~~
40 ~~under Section 42(f)(2) of the Internal Revenue Code, relating to~~

1 special rule for first year of credit period, shall not apply to the tax
2 credit under this section.

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

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

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

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

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

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

32 ~~(g) The aggregate housing credit dollar amount that may be~~
33 ~~allocated annually by the California Tax Credit Allocation~~
34 ~~Committee pursuant to this section, Section 17058, and Section~~
35 ~~23610.5 shall be an amount equal to the sum of all the following:~~

36 ~~(1) Seventy million dollars (\$70,000,000) for the 2001 calendar~~
37 ~~year, and, for the 2002 calendar year and each calendar year~~
38 ~~thereafter, seventy million dollars (\$70,000,000) increased by the~~
39 ~~percentage, if any, by which the Consumer Price Index for the~~
40 ~~preceding calendar year exceeds the Consumer Price Index for the~~

1 2001 calendar year. For the purposes of this paragraph, the term
2 “Consumer Price Index” means the last Consumer Price Index for
3 All Urban Consumers published by the federal Department of
4 Labor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~(o) (1) For a project that receives a preliminary reservation~~
18 ~~under this section beginning on or after January 1, 2017, and before~~
19 ~~January 1, 2020, a taxpayer may make an irrevocable election in~~
20 ~~its application to the California Tax Credit Allocation Committee~~
21 ~~to sell all or any portion of any credit allowed under this section~~
22 ~~to one or more unrelated parties for each taxable year in which the~~
23 ~~credit is allowed subject to both of the following conditions:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 17058. (a) (1) There shall be allowed as a credit against the
 11 “net “tax,” defined in Section 17039, a state low-income housing
 12 tax credit in an amount equal to the amount determined in
 13 subdivision (c), computed in accordance with Section 42 of the
 14 Internal Revenue Code, relating to low-income housing credit,
 15 except as otherwise provided in this section.

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

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

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

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

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

38 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
 39 Internal Revenue Code, relating to special rule where 50 percent

1 or more of building is financed with tax-exempt bonds subject to
2 volume cap.

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

10 ~~(C) (i) For a project that receives a preliminary reservation of~~
11 ~~the state low-income housing tax credit, allowed pursuant to~~
12 ~~subdivision (a), on or after January 1, 2009, and before January 1,~~
13 ~~2020, including preliminary reservations received in 2016, the~~
14 ~~credit shall be allocated to the partners of a partnership owning~~
15 ~~the project in accordance with the partnership agreement, regardless~~
16 ~~of how the federal low-income housing tax credit with respect to~~
17 ~~the project is allocated to the partners, or whether the allocation~~
18 ~~of the credit under the terms of the agreement has substantial~~
19 ~~economic effect, within the meaning of Section 704(b) of the~~
20 ~~Internal Revenue Code, relating to determination of distributive~~
21 ~~share.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 ~~(iii) Section 236 of the National Housing Act, Section 1715z-1~~
2 ~~of Title 12 of the United States Code.~~
- 3 ~~(iv) Programs for rent supplement assistance pursuant to Section~~
4 ~~101 of the Housing and Urban Development Act of 1965, Section~~
5 ~~1701s of Title 12 of the United States Code, as amended.~~
- 6 ~~(v) Programs pursuant to Section 515 of the Housing Act of~~
7 ~~1949, Section 1485 of Title 42 of the United States Code, as~~
8 ~~amended.~~
- 9 ~~(vi) The low-income housing credit program set forth in Section~~
10 ~~42 of the Internal Revenue Code, relating to low-income housing~~
11 ~~credit.~~
- 12 ~~(B) The restrictions on rent and income levels will terminate or~~
13 ~~the federally insured mortgage on the property is eligible for~~
14 ~~prepayment any time within five years before or after the date of~~
15 ~~application to the California Tax Credit Allocation Committee.~~
- 16 ~~(C) The entity acquiring the property enters into a regulatory~~
17 ~~agreement that requires the property to be operated in accordance~~
18 ~~with the requirements of this section for a period equal to the~~
19 ~~greater of 55 years or the life of the property.~~
- 20 ~~(D) The property satisfies the requirements of Section 42(e) of~~
21 ~~the Internal Revenue Code, relating to rehabilitation expenditures~~
22 ~~treated as a separate new building, except that the provisions of~~
23 ~~Section 42(e)(3)(A)(ii)(I) shall not apply.~~
- 24 ~~(d) The term “qualified low-income housing project” as defined~~
25 ~~in Section 42(e)(2) of the Internal Revenue Code, relating to~~
26 ~~qualified low-income building, is modified by adding the following~~
27 ~~requirements:~~
- 28 ~~(1) The taxpayer shall be entitled to receive a cash distribution~~
29 ~~from the operations of the project, after funding required reserves,~~
30 ~~that, at the election of the taxpayer, is equal to:~~
- 31 ~~(A) An amount not to exceed 8 percent of the lesser of:~~
- 32 ~~(i) The owner equity, which shall include the amount of the~~
33 ~~capital contributions actually paid to the housing sponsor and shall~~
34 ~~not include any amounts until they are paid on an investor note.~~
- 35 ~~(ii) Twenty percent of the adjusted basis of the building as of~~
36 ~~the close of the first taxable year of the credit period.~~
- 37 ~~(B) The amount of the cashflow from those units in the building~~
38 ~~that are not low-income units. For purposes of computing cashflow~~
39 ~~under this subparagraph, operating costs shall be allocated to the~~
40 ~~low-income units using the “floor space fraction,” as defined in~~

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~(g) The aggregate housing credit dollar amount that may be~~
18 ~~allocated annually by the California Tax Credit Allocation~~
19 ~~Committee pursuant to this section, Section 12206, and Section~~
20 ~~23610.5 shall be an amount equal to the sum of all the following:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 ~~(B) The committee shall give a preference to those projects~~
2 ~~satisfying all of the threshold requirements of subparagraph (A)~~
3 ~~if both of the following apply:~~
- 4 ~~(i) The project serves the lowest income tenants at rents~~
5 ~~affordable to those tenants.~~
- 6 ~~(ii) The project is obligated to serve qualified tenants for the~~
7 ~~longest period.~~
- 8 ~~(C) In addition to the provisions of subparagraphs (A) and (B),~~
9 ~~the committee shall use the following criteria in allocating housing~~
10 ~~credits:~~
- 11 ~~(i) Projects serving large families in which a substantial number,~~
12 ~~as defined by the committee, of all residential units are low-income~~
13 ~~units with three and more bedrooms.~~
- 14 ~~(ii) Projects providing single-room occupancy units serving~~
15 ~~very low income tenants.~~
- 16 ~~(iii) Existing projects that are “at risk of conversion,” as defined~~
17 ~~by paragraph (4) of subdivision (c).~~
- 18 ~~(iv) Projects for which a public agency provides direct or indirect~~
19 ~~long-term financial support for at least 15 percent of the total~~
20 ~~project development costs or projects for which the owner’s equity~~
21 ~~constitutes at least 30 percent of the total project development~~
22 ~~costs.~~
- 23 ~~(v) Projects that provide tenant amenities not generally available~~
24 ~~to residents of low-income housing projects.~~
- 25 ~~(4) For purposes of allocating credits pursuant to this section,~~
26 ~~the committee shall not give preference to any project by virtue~~
27 ~~of the date of submission of its application.~~
- 28 ~~(k) Section 42(l) of the Internal Revenue Code, relating to~~
29 ~~certifications and other reports to secretary, shall be modified as~~
30 ~~follows:~~
- 31 ~~The term “secretary” shall be replaced by the term “Franchise~~
32 ~~Tax Board.”~~
- 33 ~~(l) In the case in which the credit allowed under this section~~
34 ~~exceeds the net tax, the excess may be carried over to reduce the~~
35 ~~net tax in the following year, and succeeding years, if necessary,~~
36 ~~until the credit has been exhausted.~~
- 37 ~~(m) A project that received an allocation of a 1989 federal~~
38 ~~housing credit dollar amount shall be eligible to receive an~~
39 ~~allocation of a 1990 state housing credit dollar amount, subject to~~
40 ~~all of the following conditions:~~

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

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

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

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

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

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

17 ~~(q) (1) For a project that receives a preliminary reservation~~
18 ~~under this section beginning on or after January 1, 2017, and before~~
19 ~~January 1, 2020, a taxpayer may make an irrevocable election in~~
20 ~~its application to the California Tax Credit Allocation Committee~~
21 ~~to sell all or any portion of any credit allowed under this section~~
22 ~~to one or more unrelated parties for each taxable year in which the~~
23 ~~credit is allowed subject to both of the following conditions:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (t) This section shall remain in effect on and after December 1,
9 1990, for as long as Section 42 of the Internal Revenue Code,
10 relating to low-income housing credit, remains in effect. Any
11 unused credit may continue to be carried forward, as provided in
12 subdivision (l), until the credit has been exhausted.

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

15 23610.5. (a) (1) There shall be allowed as a credit against the
16 "tax," defined by Section 23036, a state low-income housing tax
17 credit in an amount equal to the amount determined in subdivision
18 (e), computed in accordance with Section 42 of the Internal
19 Revenue Code, relating to low-income housing credit, except as
20 otherwise provided in this section.

21 (2) "Taxpayer," for purposes of this section, means the sole
22 owner in the case of a "C" corporation, the partners in the case of
23 a partnership, and the shareholders in the case of an "S"
24 corporation.

25 (3) "Housing sponsor," for purposes of this section, means the
26 sole owner in the case of a "C" corporation, the partnership in the
27 case of a partnership, and the "S" corporation in the case of an "S"
28 corporation.

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

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

36 (i) Except for projects to provide farmworker housing, as defined
37 in subdivision (h) of Section 50199.7 of the Health and Safety
38 Code, that are allocated credits solely under the set-aside described
39 in subdivision (e) of Section 50199.20 of the Health and Safety
40 Code, the project's housing sponsor has been allocated by the

~~1 California Tax Credit Allocation Committee a credit for federal
2 income tax purposes under Section 42 of the Internal Revenue
3 Code, relating to low-income housing credit.~~

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

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

~~15 (C) (i) For a project that receives a preliminary reservation of
16 the state low-income housing tax credit, allowed pursuant to
17 subdivision (a), on or after January 1, 2009, and before January 1,
18 2020, including preliminary reservations received in 2016, the
19 credit shall be allocated to the partners of a partnership owning
20 the project in accordance with the partnership agreement, regardless
21 of how the federal low-income housing tax credit with respect to
22 the project is allocated to the partners, or whether the allocation
23 of the credit under the terms of the agreement has substantial
24 economic effect, within the meaning of Section 704(b) of the
25 Internal Revenue Code, relating to determination of distributive
26 share.~~

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

~~36 (iii) This subparagraph does not apply to a project that receives
37 a preliminary reservation of state low-income housing tax credits
38 under the set-aside described in subdivision (c) of Section 50199.20
39 of the Health and Safety Code unless the project also receives a
40 preliminary reservation of federal low-income housing tax credits.~~

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

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

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

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

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

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

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

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

4 ~~(e) Section 42(b) of the Internal Revenue Code, relating to~~
5 ~~applicable percentage, shall be modified as follows:~~

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

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

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

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

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

27 ~~(A) For each of the first three years, the percentage prescribed~~
28 ~~by the Secretary of the Treasury for new buildings that are federally~~
29 ~~subsidized for the taxable year.~~

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

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

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

38 ~~(i) New construction, substantial rehabilitation, moderate~~
39 ~~rehabilitation, property disposition, and loan management set-aside~~
40 ~~programs, or any other program providing project-based assistance~~

- 1 pursuant to Section 8 of the United States Housing Act of 1937,
2 Section 1437f of Title 42 of the United States Code, as amended.
- 3 (ii) ~~The Below-Market-Interest-Rate Program pursuant to~~
4 ~~Section 221(d)(3) of the National Housing Act, Sections~~
5 ~~1715l(d)(3) and (5) of Title 12 of the United States Code.~~
- 6 (iii) ~~Section 236 of the National Housing Act, Section 1715z-1~~
7 ~~of Title 12 of the United States Code.~~
- 8 (iv) ~~Programs for rent supplement assistance pursuant to Section~~
9 ~~101 of the Housing and Urban Development Act of 1965, Section~~
10 ~~1701s of Title 12 of the United States Code, as amended.~~
- 11 (v) ~~Programs pursuant to Section 515 of the Housing Act of~~
12 ~~1949, Section 1485 of Title 42 of the United States Code, as~~
13 ~~amended.~~
- 14 (vi) ~~The low-income housing credit program set forth in Section~~
15 ~~42 of the Internal Revenue Code, relating to low-income housing~~
16 ~~credit.~~
- 17 (B) ~~The restrictions on rent and income levels will terminate or~~
18 ~~the federally insured mortgage on the property is eligible for~~
19 ~~prepayment any time within five years before or after the date of~~
20 ~~application to the California Tax Credit Allocation Committee.~~
- 21 (C) ~~The entity acquiring the property enters into a regulatory~~
22 ~~agreement that requires the property to be operated in accordance~~
23 ~~with the requirements of this section for a period equal to the~~
24 ~~greater of 55 years or the life of the property.~~
- 25 (D) ~~The property satisfies the requirements of Section 42(e) of~~
26 ~~the Internal Revenue Code, relating to rehabilitation expenditures~~
27 ~~treated as a separate new building, except that the provisions of~~
28 ~~Section 42(e)(3)(A)(ii)(I) shall not apply.~~
- 29 (d) ~~The term “qualified low-income housing project” as defined~~
30 ~~in Section 42(e)(2) of the Internal Revenue Code, relating to~~
31 ~~qualified low-income building, is modified by adding the following~~
32 ~~requirements:~~
- 33 (1) ~~The taxpayer shall be entitled to receive a cash distribution~~
34 ~~from the operations of the project, after funding required reserves,~~
35 ~~that, at the election of the taxpayer, is equal to:~~
- 36 (A) ~~An amount not to exceed 8 percent of the lesser of:~~
- 37 (i) ~~The owner equity, which shall include the amount of the~~
38 ~~capital contributions actually paid to the housing sponsor and shall~~
39 ~~not include any amounts until they are paid on an investor note.~~

1 ~~(ii) Twenty percent of the adjusted basis of the building as of~~
2 ~~the close of the first taxable year of the credit period.~~

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

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

14 ~~(2) The limitation on return applies in the aggregate to the~~
15 ~~partners if the housing sponsor is a partnership and in the aggregate~~
16 ~~to the shareholders if the housing sponsor is an “S” corporation.~~

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

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

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

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

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

38 ~~If, as of the close of any taxable year in the compliance period,~~
39 ~~after the first year of the credit period, the qualified basis of any~~
40 ~~building exceeds the qualified basis of that building as of the close~~

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

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

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

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

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

23 (g) The aggregate housing credit dollar amount that may be
24 allocated annually by the California Tax Credit Allocation
25 Committee pursuant to this section, Section 12206, and Section
26 17058 shall be an amount equal to the sum of all the following:

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

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

38 (3) The amount of housing credit ceiling returned in the calendar
39 year. For purposes of this paragraph, the amount of housing credit
40 dollar amount returned in the calendar year equals the housing

1 credit dollar amount previously allocated to any project that does
2 not become a qualified low-income housing project within the
3 period required by this section or to any project with respect to
4 which an allocation is canceled by mutual consent of the California
5 Tax Credit Allocation Committee and the allocation recipient.

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

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

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

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

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

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

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

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

37 ~~(4) A provision that the regulatory agreement shall be deemed~~
38 ~~a contract enforceable by tenants as third-party beneficiaries thereto~~
39 ~~and that allows individuals, whether prospective, present, or former~~
40 ~~occupants of the building, who meet the income limitation~~

1 applicable to the building, the right to enforce the regulatory
2 agreement in any state court.

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

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

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

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

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

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

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

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

17 ~~(i) The housing sponsor shall demonstrate that there is a need~~
18 ~~for low-income housing in the community or region for which it~~
19 ~~is proposed.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (iii) Existing projects that are “at risk of conversion,” as defined
19 by paragraph (4) of subdivision (e).

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

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

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

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

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

4 ~~The term “secretary” shall be replaced by the term “Franchise~~
5 ~~Tax Board.”~~

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

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

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

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

18 ~~(3) Notwithstanding paragraph (2), a project applying for an~~
19 ~~allocation under this subdivision is subject to the requirements of~~
20 ~~paragraph (3) of subdivision (j).~~

21 ~~(n) The credit period with respect to an allocation of credit in~~
22 ~~1989 by the California Tax Credit Allocation Committee of which~~
23 ~~any amount is attributable to unallocated credit from 1987 or 1988~~
24 ~~shall not begin until after December 31, 1989.~~

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

28 ~~(p) The provisions of Section 11407(e) of Public Law 101-508,~~
29 ~~relating to election to accelerate credit, do not apply.~~

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

1 as that section was amended by Chapter 881 of the Statutes of
2 1993.

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

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

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

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

12 (r) (1) For a project that receives a preliminary reservation
13 under this section beginning on or after January 1, 2017, and before
14 January 1, 2020, a taxpayer may make an irrevocable election in
15 its application to the California Tax Credit Allocation Committee
16 to sell all or any portion of any credit allowed under this section
17 to one or more unrelated parties for each taxable year in which the
18 credit is allowed subject to both of the following conditions:

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

21 (B) (i) The unrelated party or parties purchasing any or all of
22 the credit pursuant to this subdivision is a taxpayer allowed the
23 credit under this section for the taxable year of the purchase or any
24 prior taxable year or is a taxpayer allowed the federal credit under
25 Section 42 of the Internal Revenue Code, relating to low-income
26 housing credit, for the taxable year of the purchase or any prior
27 taxable year in connection with any project located in this state.

28 (ii) For purposes of this subparagraph, “taxpayer allowed the
29 credit under this section” means a taxpayer that is allowed the
30 credit under this section without regard to the purchase of a credit
31 pursuant to this subdivision without regard to any of the following:

32 (I) The purchase of a credit under this section pursuant to this
33 subdivision.

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

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

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

1 by the California Tax Credit Allocation Committee, all required
2 information regarding the purchase and sale of the credit, including
3 the social security or other taxpayer identification number of the
4 unrelated party or parties to whom the credit has been sold, the
5 face amount of the credit sold, and the amount of consideration
6 received by the taxpayer for the sale of the credit.

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

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

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

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

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

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

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

38 (s) The California Tax Credit Allocation Committee may
39 prescribe rules, guidelines, or procedures necessary or appropriate
40 to carry out the purposes of this section, including any guidelines

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

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

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

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

16 SEC. 4. ~~The California Tax Credit Allocation Committee shall~~
17 ~~enter into an agreement with the Franchise Tax Board to pay any~~
18 ~~costs incurred by the Franchise Tax Board in the administration~~
19 ~~of subdivision (o) of Section 12206, subdivision (q) of Section~~
20 ~~17058, and subdivisions (r) of Section 23610.5 of the Revenue and~~
21 ~~Taxation Code.~~

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