

AMENDED IN ASSEMBLY APRIL 16, 1998

AMENDED IN ASSEMBLY MARCH 9, 1998

AMENDED IN SENATE JANUARY 13, 1998

AMENDED IN SENATE APRIL 10, 1997

SENATE BILL

No. 302

**Introduced by Senator Costa
(Coauthor: Senator McPherson)**

February 7, 1997

An act to amend Sections 50199.50, 50199.52, 50199.53, and 50199.55 of the Health and Safety Code, and to amend Sections 17053.14, 23608.2, and 23608.3 of the Revenue and Taxation Code, relating to farmworker housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 302, as amended, Costa. Farmworker housing.

(1) The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws, including for taxable or income years beginning on or after January 1, 1997, specified credits relating to qualified amounts paid or incurred by a taxpayer to construct or rehabilitate farmworker housing to meet the requirements of the Employee Housing Act. Existing law establishing a farmworker housing assistance program prescribes requirements for claiming those tax credits, including, if applicable, providing a copy of a current Employee Housing Act permit to operate, and requiring the claim to be based on expenditures for costs paid or incurred

to bring the housing into compliance with the existing Employee Housing Act and other general improvements.

This bill would delete those provisions subjecting farmworker housing tax credits to compliance with the Employee Housing Act, and would require those tax credit claims to be based on eligible costs, which are defined as specified costs paid or incurred to construct or rehabilitate the housing, including costs to ensure compliance with laws relating to disability access and reducing utility expenses. The bill would revise the Personal Income Tax Law and the Bank and Corporation Tax Law by deleting references to qualified amounts and substituting provisions that base those tax credits on eligible costs.

(2) Existing law requires the owner of farmworker housing, in order to be eligible for *tax credit* assistance, to agree to provisions defining how affordable rents will be established and maintained.

This bill would require the agreement to define how rents will be established and maintained so that they are affordable to the intended population of farmworkers.

(3) Existing law *prescribing criteria for applications for farmworker housing tax credits* requires the California Tax Credit Allocation Committee to require that certain development fees and costs not exceed a ~~certain~~ percentage of the eligible basis of a farmworker housing project, *as determined by the committee*.

This bill would revise that provision so that it limits *only* development fees, to a percentage of the ~~eligible cost of the total project cost~~, *as determined by the committee*.

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

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

- 1 SECTION 1. Section 50199.50 of the Health and
- 2 Safety Code is amended to read:
- 3 50199.50. For the purposes of this chapter:
- 4 (a) “Agricultural worker” or “farmworker” shall have
- 5 the same meaning as specified in subdivision (b) of
- 6 Section 1140.4 of the Labor Code.



1 (b) “Compliance period” means, with respect to any
2 farmworker housing, the period of 30 consecutive taxable
3 or income years, beginning with the taxable or income
4 year in which the credit is allowable.

5 (c) “Eligible costs” means the total finance costs,
6 construction costs, excavation costs, installation costs, and
7 permit costs paid or incurred to construct or rehabilitate
8 farmworker housing. “Eligible costs” include, but are not
9 limited to, improvements to ensure compliance with laws
10 governing access for persons with disabilities and costs
11 related to reducing utility expenses. Noneligible costs
12 include land and those costs financed by grants and
13 below-market financing.

14 (d) “Farmworker housing” means housing for
15 agricultural workers and may include, but need not be
16 limited to, conventionally constructed units and
17 manufactured housing.

18 (e) “Farmworker housing tax credits” means the tax
19 credits authorized by Sections 17053.14, 23608.2, and
20 23608.3 of the Revenue and Taxation Code.

21 (f) “Household” has the same meaning as defined in
22 Section 7602 of Title 25 of the California Code of
23 Regulations.

24 (g) “Committee” means the California Tax Credit
25 Allocation Committee as defined in Section 50199.7.

26 SEC. 2. Section 50199.52 of the Health and Safety
27 Code is amended to read:

28 50199.52. All housing assisted pursuant to this chapter
29 shall comply with the following requirements:

30 (a) (1) The recipient of a tax credit pursuant to
31 Section 17053.14, 23608.2, or 23608.3 of the Revenue and
32 Taxation Code, or the owner of the farmworker housing
33 assisted pursuant to Section 17053.14 or 23608.2 of the
34 Revenue and Taxation Code, shall enter into those
35 agreements required by the committee to further the
36 purposes of this chapter and the applicable farmworker
37 housing tax credit sections.

38 (2) The owner shall agree that the farmworker
39 housing units assisted with the farmworker housing tax
40 credits shall be utilized, maintained, and operated



1 pursuant to this chapter for the compliance term
2 specified by the applicable farmworker housing tax credit
3 statute.

4 (b) (1) The farmworker housing assisted pursuant to
5 this chapter shall be available to, and occupied by, only
6 farmworkers and their households. However, in the
7 event of a natural disaster or other critical occurrence, as
8 determined by the committee, the housing may be
9 utilized at the discretion of the owner for households
10 needing shelter for up to 60 days if there are no
11 farmworkers who have submitted an application to
12 reside, or to continue to reside, in the housing. The
13 occupants of the housing need not be limited to
14 farmworkers employed by the property owner.

15 (2) In addition, where the housing is designed and
16 operated as a dormitory, the owner and operator may
17 restrict occupancy by sex. However, in awarding credits
18 pursuant to this chapter, the committee shall give
19 preference to proposed farmworker housing that is
20 designed and operated for families rather than for single
21 sex dormitories.

22 (c) The expenditures upon which the amount of the
23 farmworker housing tax credit is based shall be eligible
24 costs.

25 SEC. 3. Section 50199.53 of the Health and Safety
26 Code is amended to read:

27 50199.53. The committee shall enter into an
28 agreement with the owner of the farmworker housing to
29 ensure compliance with the terms and conditions of the
30 program. The agreement shall be subordinated, when
31 required, to a lien or encumbrance of any bank or other
32 institutional lender to the project. The provisions in the
33 agreement shall include, but not be limited to, all of the
34 following:

35 (a) Provisions establishing the location and number of
36 units or sleeping areas and their rents.

37 (b) The requirement of an annual report, including
38 occupancy, income, and maintenance information.

39 (c) Provisions allowing and governing state approval
40 of the assignment, transfer, and assumption of the



1 housing, to ensure that the requirements of this program
2 are binding on successors.

3 (d) Provisions ensuring a term of use at least equal to
4 the compliance period.

5 (e) A requirement that the agreement be recorded in
6 the official records of the county in which the qualified
7 farmworker housing project is located.

8 (f) A provision stating that the agreement is
9 enforceable by the committee, and by the city or county
10 in which the farmworker housing is located, and by the
11 tenants as third-party beneficiaries.

12 (g) Provisions defining how the rents will be
13 established and maintained so that they are affordable to
14 the intended population of farmworkers.

15 SEC. 4. Section 50199.55 of the Health and Safety
16 Code is amended to read:

17 50199.55. (a) The committee shall allocate
18 farmworker housing *tax* credits on a regular basis in each
19 calendar year during which applications may be filed and
20 considered. The committee shall establish application
21 forms and instructions, application filing deadlines, and
22 the approximate date on which allocations shall be made.
23 As a condition of submitting an application, or as a
24 condition of receiving an allocation or reservation of tax
25 credits, the committee may charge a fee to a tax credit
26 applicant to defray the committee's costs in
27 administering this chapter. In review of applications, the
28 committee shall require the following criteria in order to
29 ensure compliance with all provisions of this chapter:

30 (1) The project's proposed financing, including tax
31 credit proceeds, shall be sufficient to complete the
32 project.

33 (2) The proposed operating budget shall be adequate
34 to operate the project for the compliance period.

35 (3) The recipient or owner shall have sufficient
36 expertise and the financial capacity to ensure project
37 completion and operation for the compliance period.

38 (4) The project shall have enforceable financing
39 commitments, either construction or permanent



1 financing, for at least 50 percent of the total estimated
 2 financing of the project.

3 ~~(5) Any development fee shall not exceed a~~
 4 ~~percentage of the eligible costs of the project prior to the~~
 5 ~~inclusion of the fee in the basis, as determined by the~~

6 *(5) Development fees included in subdivision (c) of*
 7 *Section 50199.52 shall not exceed a percentage of the total*
 8 *project cost, excluding land costs, prior to the inclusion of*
 9 *the fees in the total project cost, as determined by the*
 10 *committee.*

11 (b) Following approval, the committee shall issue a
 12 certificate to the taxpayer that states the total amount of
 13 the allocated tax credit to which the taxpayer is entitled
 14 for each income or taxable year.

15 SEC. 5. Section 17053.14 of the Revenue and Taxation
 16 Code is amended to read:

17 17053.14. (a) (1) For taxable years beginning on or
 18 after January 1, 1997, there shall be allowed as a credit
 19 against the “net tax,” as defined in Section 17039, an
 20 amount equal to the lesser of 50 percent of the eligible
 21 costs, as determined under subdivision (b), or the amount
 22 allocated under paragraph (2) of subdivision (e).

23 (2) Notwithstanding paragraph (1), no credit shall be
 24 allowed until the qualified year, as defined in paragraph
 25 (3).

26 (3) For purposes of this section, the “qualified year” is
 27 the first taxable year during which the construction or
 28 rehabilitation of the qualified farmworker housing is
 29 completed and there is occupancy of the qualified
 30 farmworker housing by eligible farmworkers.

31 (b) (1) For purposes of this section, the “eligible
 32 costs” shall be equal to the total finance costs,
 33 construction costs, excavation costs, installation costs, and
 34 permit costs paid or incurred to construct or rehabilitate
 35 farmworker housing. “Eligible costs” include, but are not
 36 limited to, improvements to ensure compliance with laws
 37 governing access for persons with disabilities and costs
 38 related to reducing utility expenses. Noneligible costs
 39 include land and those costs financed by grants and
 40 below-market financing.



1 (2) For purposes of paragraph (1), construction or
2 rehabilitation of the farmworker housing shall have
3 commenced on or after January 1, 1997.

4 (3) Notwithstanding any other provision of this part,
5 eligible costs shall not include any costs paid or incurred
6 prior to January 1, 1997.

7 (c) Notwithstanding any other provision of this part,
8 no credit shall be allowed under this section unless the
9 taxpayer first obtains a certification from the committee
10 that the amounts described in subdivision (b) qualify for
11 the credit under this section and the total amount of the
12 credit allocated to the taxpayer pursuant to the
13 Farmworker Housing Assistance Program.

14 (d) The taxpayer shall do all of the following:

15 (1) Apply to the committee for credit certification
16 prior to the payment or incurrence of costs described in
17 paragraph (1) of subdivision (b).

18 (2) Retain a copy of the certification.

19 (3) Make the certification available to the Franchise
20 Tax Board upon request.

21 (e) The committee shall do all of the following:

22 (1) Provide forms and instructions for applications for
23 credit certification, as specified pursuant to the
24 Farmworker Housing Assistance Program.

25 (2) Accept applications and issue a certificate to the
26 taxpayer that includes a certification as to the eligible
27 costs described in subdivision (b) that qualify for the
28 credit and the total amount of the credit to which the
29 taxpayer is entitled for the taxable year. Credit in excess
30 of the amount necessary to make the project feasible shall
31 not be allocated. Credits shall be allocated through a
32 minimum of one competitive funding round per year.

33 (3) Obtain the taxpayer's taxpayer identification
34 number, or each partner's taxpayer identification
35 number in the case of a partnership, for tax
36 administration purposes.

37 (4) Provide an annual listing to the Franchise Tax
38 Board, in the form and manner agreed upon by the
39 Franchise Tax Board and the committee, containing the
40 names, taxpayer identification numbers pursuant to



1 paragraph (3), eligible costs, and total amount of credit
2 certified to each taxpayer.

3 (f) For purposes of this section:

4 (1) “Compliance period” means, with respect to any
5 farmworker housing, the period of 30 consecutive taxable
6 years, beginning with the taxable year in which the credit
7 is allowable.

8 (2) “Construct or rehabilitate” includes
9 reconstruction, but does not include any costs related to
10 acquisition or refinancing of property or structures
11 thereon.

12 (3) “Farmworker Housing Assistance Program”
13 means Chapter 3.7 (commencing with Section 50199.50)
14 of Part 1 of Division 31 of the Health and Safety Code.

15 (4) “Qualified farmworker housing” means housing
16 located within this state which satisfies the requirements
17 of the Farmworker Housing Assistance Program. The
18 housing may be vacant or occupied.

19 (5) “Committee” means the California Tax Credit
20 Allocation Committee as defined in Section 50199.7 of the
21 Health and Safety Code.

22 (6) “Qualified accountant” means an accountant
23 licensed or certified in this state who is neither an
24 employee of the taxpayer nor related to the taxpayer,
25 within the meaning of Section 267 of the Internal
26 Revenue Code.

27 (g) No deduction or other credit shall be allowed
28 under this part or Part 11 (commencing with Section
29 23001) to the extent of any eligible costs, as defined in
30 subdivision (b), that are taken into account in computing
31 the credit allowed under this section.

32 (h) The farmworker housing tax credit shall not be
33 allowed unless the taxpayer:

34 (1) Constructs or rehabilitates the property subject to
35 the covenants, conditions, and restrictions imposed by
36 this section and pursuant to the Farmworker Housing
37 Assistance Program, which shall include, but not
38 necessarily be limited to, a requirement that the taxpayer
39 obtain, for approval by the committee, a construction cost



1 audit and certification of eligible costs from a qualified
2 accountant.

3 (2) Subsequent to construction or rehabilitation of the
4 farmworker housing, owns or operates the farmworker
5 housing pursuant to the requirements of this section, or
6 ensures the ownership and operation of the farmworker
7 housing pursuant to the requirements of this section.

8 (i) The requirements of this section shall be set forth
9 in a written agreement between the committee and the
10 taxpayer. The agreement shall include, but not
11 necessarily be limited to, the requirements set forth in the
12 Farmworker Housing Assistance Program.

13 (j) In the case where the credit allowed by this section
14 exceeds the “net tax,” the excess may be carried over to
15 reduce the “net tax” in the following year, and
16 succeeding years if necessary, until the credit has been
17 exhausted.

18 (k) (1) In the case of any disqualifying event, as
19 defined in paragraph (2), there shall be added to the “net
20 tax,” as defined in Section 17039, for the taxable year in
21 which the disqualifying event occurs, the recapture
22 amount computed under paragraph (3) and the interest
23 amount computed under paragraph (4).

24 (2) For purposes of this subdivision, “disqualifying
25 event” shall mean:

26 (A) The committee determines that the certification
27 provided under subdivision (e) was obtained by fraud or
28 misrepresentation.

29 (B) The taxpayer fails to comply with the
30 requirements of the Farmworker Housing Assistance
31 Program, or any other requirement imposed under this
32 section.

33 (3) For purposes of this subdivision, “recapture
34 amount” means:

35 (A) In the case of any disqualifying event described in
36 subparagraph (A) of paragraph (2), the entire amount of
37 any credit previously allowed under this section.

38 (B) In the case of any disqualifying event described in
39 subparagraph (B) of paragraph (2), an amount
40 determined by multiplying the entire amount of the



1 credit previously allowed under this section by a fraction,
2 the numerator of which is the number of years remaining
3 in the compliance period and the denominator of which
4 is 30.

5 (4) For purposes of this subdivision, “interest amount”
6 means:

7 (A) In the case of any disqualifying event described in
8 subparagraph (A) of paragraph (2), the amount of
9 interest computed using the adjusted annual rate
10 established in Section 19521 from the due date of the
11 return for each taxable year in which the credit was
12 claimed to the date of the payment of the additional tax
13 resulting from the application of this subdivision.

14 (B) In the case of any disqualifying event described in
15 subparagraph (B) of paragraph (2), zero.

16 (I) The annual amount of credit granted pursuant to
17 this section and Sections 23608.2 and 23608.3 shall not
18 exceed five hundred thousand dollars (\$500,000),
19 provided that the aggregate amount of the credit granted
20 pursuant to this section and Sections 23608.2 and 23608.3
21 for the 1998 calendar year and thereafter may exceed five
22 hundred thousand dollars (\$500,000) per calendar year by
23 an amount equal to any unallocated credits under this
24 section and Sections 23608.2 and 23608.3 for the preceding
25 calendar year or years.

26 SEC. 6. Section 23608.2 of the Revenue and Taxation
27 Code is amended to read:

28 23608.2. (a) (1) For income years beginning on or
29 after January 1, 1997, there shall be allowed as a credit
30 against the “tax,” as defined by Section 23036, an amount
31 equal to the lesser of 50 percent of the eligible costs, as
32 determined under subdivision (b), or the amount
33 allocated under paragraph (2) of subdivision (e).

34 (2) Notwithstanding paragraph (1), no credit shall be
35 allowed until the qualified year, as defined in paragraph
36 (3).

37 (3) For purposes of this section, the “qualified year” is
38 the first income year during which the construction or
39 rehabilitation of the qualified farmworker housing is



1 completed and there is occupancy of the qualified
2 farmworker housing by eligible farmworkers.

3 (b) (1) For purposes of this section, the “eligible
4 costs” shall be equal to the total finance costs,
5 construction costs, excavation costs, installation costs, and
6 permit costs paid or incurred to construct or rehabilitate
7 farmworker housing. “Eligible costs” include, but are not
8 limited to, improvements to ensure compliance with laws
9 governing access for persons with disabilities and costs
10 related to reducing utility expenses. Noneligible costs
11 include land and those costs financed by grants and
12 below-market financing.

13 (2) For purposes of paragraph (1), construction or
14 rehabilitation of the farmworker housing shall have
15 commenced on or after January 1, 1997.

16 (3) Notwithstanding any provision of this part, eligible
17 costs shall not include any costs paid or incurred prior to
18 January 1, 1997.

19 (c) Notwithstanding any other provision of this part,
20 no credit shall be allowed under this section unless the
21 taxpayer first obtains a certification from the committee
22 that the amounts described in subdivision (b) qualify for
23 the credit under this section and the total amount of the
24 credit allocated to the taxpayer pursuant to the
25 Farmworker Housing Assistance Program.

26 (d) The taxpayer shall do all of the following:

27 (1) Apply to the committee for credit certification
28 prior to the payment or incurrence of costs described in
29 paragraph (1) of subdivision (b).

30 (2) Retain a copy of the certification.

31 (3) Make the certification available to the Franchise
32 Tax Board upon request.

33 (e) The committee shall do all of the following:

34 (1) Provide forms and instructions for applications for
35 credit certification, as specified pursuant to the
36 Farmworker Housing Assistance Program.

37 (2) Accept applications and issue a certificate to the
38 taxpayer that includes a certification as to the eligible
39 costs described in subdivision (b) that qualify for the
40 credit and the total amount of the credit to which the



1 taxpayer is entitled for the income year. Credit in excess
2 of the amount necessary to make the project feasible shall
3 not be allocated. Credits shall be allocated through a
4 minimum of one competitive funding round per year.

5 (3) Obtain the taxpayer's taxpayer identification
6 number, or each shareholder's taxpayer identification
7 number in the case of an S corporation, for tax
8 administration purposes.

9 (4) Provide an annual listing to the Franchise Tax
10 Board, in the form and manner agreed upon by the
11 Franchise Tax Board and the committee, containing the
12 names, taxpayer identification numbers pursuant to
13 paragraph (3), eligible costs, and total amount of credit
14 certified to each taxpayer.

15 (f) For purposes of this section:

16 (1) "Compliance period" means, with respect to any
17 farmworker housing, the period of 30 consecutive income
18 years, beginning with the income year in which the credit
19 is allowable.

20 (2) "Construct or rehabilitate" includes
21 reconstruction, but does not include any costs related to
22 acquisition or refinancing of property or structures
23 thereon.

24 (3) "Farmworker Housing Assistance Program"
25 means Chapter 3.7 (commencing with Section 50199.50)
26 of Part 1 of Division 31 of the Health and Safety Code.

27 (4) "Qualified farmworker housing" means housing
28 located within this state which satisfies the requirements
29 of the Farmworker Housing Assistance Program. The
30 housing may be vacant or occupied, and it need not be
31 licensed pursuant to the Employee Housing Act at the
32 time of the initiation of construction or rehabilitation.

33 (5) "Committee" means the California Tax Credit
34 Allocation Committee as defined in Section 50199.7 of the
35 Health and Safety Code.

36 (6) "Qualified accountant" means an accountant
37 licensed or certified in this state who is neither an
38 employee of the taxpayer, nor related to the taxpayer
39 within the meaning of Section 267 of the Internal
40 Revenue Code.



1 (g) No deduction or other credit shall be allowed
2 under this part or Part 10 (commencing with Section
3 17001) to the extent of any eligible costs, as defined in
4 subdivision (b), that are taken into account in computing
5 the credit allowed under this section.

6 (h) The farmworker housing tax credit shall not be
7 allowed unless the taxpayer:

8 (1) Constructs or rehabilitates the property subject to
9 the covenants, conditions, and restrictions imposed by
10 this section and pursuant to the Farmworker Housing
11 Assistance Program, which shall include, but not
12 necessarily be limited to, a requirement that the taxpayer
13 obtain, for approval by the committee, a construction cost
14 audit and certification of eligible costs from a qualified
15 accountant.

16 (2) Subsequent to construction or rehabilitation of the
17 farmworker housing, owns or operates the farmworker
18 housing pursuant to the requirements of this section, or
19 ensures the ownership and operation of the farmworker
20 housing pursuant to the requirements of this section.

21 (i) The requirements of this section shall be set forth
22 in a written agreement between the committee and the
23 taxpayer. The agreement shall include, but not
24 necessarily be limited to, the requirements set forth in the
25 Farmworker Housing Assistance Program.

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

30 (k) (1) In the case of any disqualifying event, as
31 defined in paragraph (2), there shall be added to the
32 “tax,” as defined in Section 23036, for the income year in
33 which the disqualifying event occurs, the recapture
34 amount computed under paragraph (3) and the interest
35 amount computed under paragraph (4).

36 (2) For purposes of this subdivision, “disqualifying
37 event” shall mean:

38 (A) The committee determines that the certification
39 provided under subdivision (e) was obtained by fraud or
40 misrepresentation.



1 (B) The taxpayer fails to comply with the
2 requirements of the Farmworker Housing Assistance
3 Program, or any other requirement imposed under this
4 section.

5 (3) For purposes of this subdivision, “recapture
6 amount” means:

7 (A) In the case of any disqualifying event described in
8 subparagraph (A) of paragraph (2), the entire amount of
9 any credit previously allowed under this section.

10 (B) In the case of any disqualifying event described in
11 subparagraph (B) of paragraph (2), an amount
12 determined by multiplying the entire amount of the
13 credit previously allowed under this section by a fraction,
14 the numerator of which is the number of years remaining
15 in the compliance period and the denominator of which
16 is 30.

17 (4) For purposes of this subdivision, “interest amount”
18 means:

19 (A) In the case of any disqualifying event described in
20 subparagraph (A) of paragraph (2), the amount of
21 interest computed using the adjusted annual rate
22 established in Section 19521 from the due date of the
23 return for each income year in which the credit was
24 claimed to the date of payment of the additional tax
25 resulting from the application of this subdivision.

26 (B) In the case of any disqualifying event described in
27 subparagraph (B) of paragraph (2), zero.

28 (l) The annual amount of credit granted pursuant to
29 this section and Sections 17053.14 and 23608.3 shall not
30 exceed five hundred thousand dollars (\$500,000),
31 provided that the aggregate amount of the credit granted
32 pursuant to this section and Sections 17053.14 and 23608.3
33 for the calendar year 1998 and thereafter may exceed five
34 hundred thousand dollars (\$500,000) per calendar year by
35 an amount equal to any unallocated credits under this
36 section and Sections 17053.14 and 23608.3 for the
37 preceding calendar year or years.

38 SEC. 7. Section 23608.3 of the Revenue and Taxation
39 Code is amended to read:



1 23608.3. (a) For income years beginning on or after
2 January 1, 1997, there shall be allowed as a credit against
3 the “tax,” as defined in Section 23036, for a bank or
4 financial corporation as determined in subdivision (b).

5 (b) (1) For purposes of this section, the credit shall be
6 equal to 50 percent of the difference between the amount
7 of interest income which could have been collected by
8 the bank or financial corporation had the loan rate been
9 one point above prime, or any other index used by the
10 lender, and the lesser amount of interest income actually
11 due for the term of the loan by the bank or financial
12 corporation on those portions of loans used to finance only
13 eligible costs actually paid or incurred to rehabilitate or
14 construct qualified farmworker housing.

15 (2) The credit allowed under this section shall be
16 taken in equal installments over a period equal to the
17 lesser of 10 years or the term of the loan beginning in the
18 taxpayer’s income year during which the qualified
19 farmworker housing is completed and there is initial
20 occupancy by eligible farmworkers. In the case where the
21 credit allowed by this section exceeds the “tax” for any
22 income year, the excess may not be carried over to reduce
23 the “tax” in any succeeding year.

24 (3) The credit shall not apply to loans with a term of
25 less than three years or to loans funded prior to January
26 1, 1997. The credit shall apply only to interest income
27 from the loan and shall not apply to any other loan fees
28 or other charges collected by the bank or financial
29 corporation with respect to the loan.

30 (c) The taxpayer shall qualify for the credit by
31 application to and certification by the committee that the
32 expenses qualify for the credit under this section.

33 (d) The taxpayer shall do all of the following:

34 (1) Apply to the committee for credit certification
35 prior to the funding of the loan.

36 (2) Retain a copy of the certification.

37 (3) Make the certification available to the Franchise
38 Tax Board upon request.

39 (e) The committee shall do all of the following:



1 (1) Provide forms and instructions for applications for
2 credit certification, as specified pursuant to the
3 Farmworker Housing Assistance Program.

4 (2) Accept applications and issue a certificate to the
5 taxpayer that includes the credit amount to which the
6 taxpayer is entitled for the income year.

7 (3) Obtain the taxpayer's taxpayer identification
8 number, and each shareholder's taxpayer identification
9 number in the case of an S corporation, for tax
10 administration purposes.

11 (4) Provide an annual listing to the Franchise Tax
12 Board, and in a form and manner agreed upon by the
13 Franchise Tax Board and the committee, containing the
14 names, taxpayer identification numbers pursuant to
15 paragraph (3), qualified amounts, and total amount of
16 credit certified to each taxpayer.

17 (f) For the purposes of this section:

18 (1) "Construct or rehabilitate" includes
19 reconstruction, but does not include any costs related to
20 acquisition or refinancing of property or structures
21 thereon.

22 (2) "Farmworker Housing Assistance Program"
23 means Chapter 3.7 (commencing with Section 50199.50)
24 of Part 1 of Division 31 of the Health and Safety Code.

25 (3) "Eligible costs" means those expenditures
26 certified by the committee to meet the requirements of
27 Sections 17053.14 and 23608.2.

28 (4) "Qualified farmworker housing" means housing
29 within the state that meets the requirements of the
30 Farmworker Housing Assistance Program.

31 (g) (1) In the event that the committee determines
32 that the certification provided under subdivision (e) was
33 obtained by fraud or misrepresentation of the taxpayer,
34 there shall be added to the "tax," as defined in Section
35 23036 for the income year in which the disqualifying
36 event occurs, the recapture amount computed under
37 paragraph (2) and the interest amount computed under
38 paragraph (3).



1 (2) For purposes of this subdivision, “recapture
2 amount” means the entire amount of any credit
3 previously allowed under this section.

4 (3) For purposes of this subdivision, “interest amount”
5 means the amount of interest computed using the
6 adjusted annual rate established in Section 19521 from the
7 due date of the return for the taxable year in which the
8 credit was claimed to the date of payment of the
9 additional tax resulting from the application of this
10 subdivision.

11 (h) (1) Except as provided in paragraph (2), if the
12 bank or financial corporation sells the loan to another
13 bank or financial corporation, the balance of the credit,
14 if any, shall be transferred to the assignee or transferee of
15 the loan, subject to the same conditions and limitations as
16 set forth in this section.

17 (2) A bank or financial corporation may assign, sell, or
18 otherwise transfer the loan to another person or entity
19 and retain the right to claim the credit granted under this
20 section if the bank or financial corporation also retains
21 responsibility for servicing the loan.

22 (i) The annual amount of credit granted pursuant to
23 this section and Sections 17053.14 and 23608.2 shall not
24 exceed five hundred thousand dollars (\$500,000),
25 provided that the aggregate amount of the credit granted
26 pursuant to this section and Sections 17053.14 and 23608.2
27 for the 1998 calendar year and thereafter may exceed five
28 hundred thousand dollars (\$500,000) per calendar year by
29 an amount equal to any unallocated credits under this
30 section and Sections 17053.14 and 23608.2 for the
31 preceding calendar year or years.

