

AMENDED IN ASSEMBLY MAY 30, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1811

Introduced by Assembly Member Reyes
(Coauthors: Assembly Members Keeley and Wiggins)
(Principal coauthor: Senator Costa)
(Coauthor: Senator McPherson)

February 3, 2000

~~An act to amend Sections 50199.50, 50199.52, and 50199.54 of the Health and Safety Code, and to amend Sections 12206, 17058, and 23610.5 of, and to repeal Sections 17053.14, 23608.2, and 23608.3 of, the Revenue and Taxation Code, relating to An act to amend Section 50199.17 of the Health and Safety Code, and to amend Sections 17053.14 and 23608.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1811, as amended, Reyes. Taxation: credit: qualified farmworker housing.

~~Existing insurance tax law, the Personal Income Tax Law, and the Bank and Corporation Tax Law allow, in modified conformity to federal income tax laws, taxpayers a credit against the taxes imposed by those laws for providing low-income housing, and require the California Tax Credit Allocation Committee to allocate the credit in accordance with specified criteria.~~

The Personal Income Tax Law and the Bank and Corporation Tax Law ~~also~~ allow a credit against the taxes imposed by those laws in an amount equal to 50% of the eligible costs of constructing or rehabilitating farmworker housing. The credit is allocated pursuant to the Farmworker Housing Assistance Program by the California Tax Credit Allocation Committee in an amount not to exceed \$500,000 per calendar year.

~~This bill would revise and recast the credit for farmworker housing under the provisions providing for the credit for low-income housing, thereby, among other things, allowing a credit for the entire amount of eligible costs for constructing or rehabilitating farmworker housing. However, the \$500,000 aggregate limitation would continue to apply.~~

This bill would apply limitations and allocation requirements set forth in specified provisions of federal law to the amount of the farmworker housing credit allowed to a taxpayer. This bill would make conforming changes to existing authority and exemptions with respect to the adoption of regulations for the implementation of these credits.

This bill would take effect immediately as a tax levy.

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

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

- 1 ~~SECTION 1. — Section 50199.50 of the Health and~~
- 2 *SECTION 1. Section 50199.17 of the Health and*
- 3 *Safety Code is amended to read:*
- 4 50199.17. (a) The committee may adopt, amend, or
- 5 repeal rules and regulations for the allocation of housing
- 6 credits pursuant to this chapter and Sections 12206,
- 7 17053.14, 17058, 23608.2, 23608.3, and 23610.5 of the
- 8 Revenue and Taxation Code without complying with the
- 9 procedural requirements of Chapter 3.5 (commencing
- 10 with Section 11340) of Part 1 of Division 3 of Title 2 of the
- 11 Government Code, except as described in subdivision
- 12 (b).
- 13 (b) The committee shall provide a notice of proposed
- 14 action as described in Section 11346.5 of the Government



1 Code. The notice of proposed action shall be provided to
2 the public at least 21 days before the close of the public
3 comment period, and the committee shall schedule at
4 least one public hearing as described in Section 11346.8 of
5 the Government Code before the close of the public
6 comment period. The committee shall maintain a
7 rulemaking file as described in Section 11347.3 of the
8 Government Code. The final version of the regulations
9 shall be accompanied by a final statement of reasons as
10 described in subdivision (a) of Section 11346.9 of the
11 Government Code.

12 (c) These rules and regulations shall be effective
13 immediately upon adoption by the committee.

14 (d) The committee may also adopt, amend, or repeal
15 emergency rules and regulations pursuant to this chapter
16 and pursuant to Sections ~~17057.5~~ 12206, 17053.14, 17058,
17 ~~23610.4~~, 23608.2, 23608.3, and 23610.5 of the Revenue and
18 Taxation Code. The adoption, amendment, or repeal of
19 these regulations shall be conclusively presumed to be
20 necessary for the immediate preservation of the public
21 peace, health, safety, or general welfare within the
22 meaning or purposes of Section 11346.1 of the
23 Government Code.

24 *SEC. 2. Section 17053.14 of the Revenue and Taxation*
25 *Code is amended to read:*

26 17053.14. (a) ~~(1)~~ For taxable years beginning on or
27 after January 1, 1997, there shall be allowed as a credit
28 against the “net tax,” as defined in Section 17039, an
29 amount, *subject to the limitation set forth in Section*
30 *42(h)(1) of the Internal Revenue Code, that is otherwise*
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 taxable 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 other provision of this part,
17 eligible costs shall not include any costs paid or incurred
18 prior to 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)~~

31 (1) Retain a copy of the certification.

32 ~~(3)~~

33 (2) Make the certification available to the Franchise
34 Tax Board upon request.

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

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

39 (2) Accept applications and issue a certificate to the
40 taxpayer that includes a certification as to the eligible



1 costs described in subdivision (b) that qualify for the
2 credit and the total amount of the credit to which the
3 taxpayer is entitled for the taxable year. Credit in excess
4 of the amount necessary to make the project feasible shall
5 not be allocated. Credits shall be allocated through a
6 minimum of one competitive funding round per year.

7 (3) Obtain the taxpayer's taxpayer identification
8 number, and each partner's taxpayer identification
9 number in the case of a partnership, for tax
10 administration purposes.

11 (4) Provide an annual listing to the Franchise Tax
12 Board, in the 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), eligible costs, and total amount of credit
16 certified to each taxpayer.

17 (f) For purposes of this section:

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

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

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

29 (4) "Qualified farmworker housing" means housing
30 located within this state which satisfies the requirements
31 of the Farmworker Housing Assistance Program. The
32 housing may be vacant or occupied.

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 11 (commencing with Section
3 23001) 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 “net tax,” the excess may be carried over to
28 reduce the “net tax” in the following year, and
29 succeeding years if necessary, until the credit has been
30 exhausted.

31 (k) (1) In the case of any disqualifying event, as
32 defined in paragraph (2), there shall be added to the “net
33 tax,” as defined in Section 17039, for the taxable year in
34 which the disqualifying event occurs, the recapture
35 amount computed under paragraph (3) and the interest
36 amount computed under paragraph (4).

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



1 (A) The committee determines that the certification
2 provided under subdivision (e) was obtained by fraud or
3 misrepresentation.

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

8 (3) For purposes of this subdivision, “recapture
9 amount” means:

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

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

20 (4) For purposes of this subdivision, “interest amount”
21 means:

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

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

31 (l) The annual amount of credit granted pursuant to
32 this section and Sections 23608.2 and 23608.3 shall not
33 exceed five hundred thousand dollars (\$500,000),
34 provided that the aggregate amount of the credit granted
35 pursuant to this section and Sections 23608.2 and 23608.3
36 for the 1998 calendar year and thereafter may exceed five
37 hundred thousand dollars (\$500,000) per calendar year by
38 an amount equal to any unallocated credits under this
39 section and Sections 23608.2 and 23608.3 for the preceding
40 calendar year or years.



1 SEC. 3. Section 23608.2 of the Revenue and Taxation
2 Code is amended to read:

3 23608.2. (a) ~~(1)~~ For income years beginning on or
4 after January 1, 1997, there shall be allowed as a credit
5 against the “tax,” as defined by Section 23036, an amount,
6 *subject to the limitation set forth in Section 42(h)(1) of*
7 *the Internal Revenue Code, that is otherwise* equal to the
8 lesser of 50 percent of the eligible costs, as determined
9 under subdivision (b), or the amount allocated under
10 paragraph (2) of subdivision (e).

11 ~~(2) Notwithstanding paragraph (1), no credit shall be~~
12 ~~allowed until the qualified year, as defined in paragraph~~
13 ~~(3).~~

14 ~~(3) For purposes of this section, the “qualified year” is~~
15 ~~the first income year during which the construction or~~
16 ~~rehabilitation of the qualified farmworker housing is~~
17 ~~completed and there is occupancy of the qualified~~
18 ~~farmworker housing by eligible farmworkers.~~

19 (b) (1) For purposes of this section, the “eligible
20 costs” shall be equal to the total finance costs,
21 construction costs, excavation costs, installation costs, and
22 permit costs paid or incurred to construct or rehabilitate
23 farmworker housing. “Eligible costs” include, but are not
24 limited to, improvements to ensure compliance with laws
25 governing access for persons with disabilities and costs
26 related to reducing utility expenses. Noneligible costs
27 include land and those costs financed by grants and
28 below-market financing.

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

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

35 (c) Notwithstanding any other provision of this part,
36 no credit shall be allowed under this section unless the
37 taxpayer first obtains a certification from the committee
38 that the amounts described in subdivision (b) qualify for
39 the credit under this section and the total amount of the



1 credit allocated to the taxpayer pursuant to the
2 Farmworker Housing Assistance Program.

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

4 ~~(1) Apply to the committee for credit certification~~
5 ~~prior to the payment or incurrence of costs described in~~
6 ~~paragraph (1) of subdivision (b).~~

7 ~~(2)~~

8 (1) Retain a copy of the certification.

9 ~~(3)~~

10 (2) Make the certification available to the Franchise
11 Tax Board upon request.

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

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

16 (2) Accept applications and issue a certificate to the
17 taxpayer that includes a certification as to the eligible
18 costs described in subdivision (b) that qualify for the
19 credit and the total amount of the credit to which the
20 taxpayer is entitled for the income year. Credit in excess
21 of the amount necessary to make the project feasible shall
22 not be allocated. Credits shall be allocated through a
23 minimum of one competitive funding round per year.

24 (3) Obtain the taxpayer's taxpayer identification
25 number, or each shareholder's taxpayer identification
26 number in the case of an S corporation, for tax
27 administration purposes.

28 (4) Provide an annual listing to the Franchise Tax
29 Board, in the form and manner agreed upon by the
30 Franchise Tax Board and the committee, containing the
31 names, taxpayer identification numbers pursuant to
32 paragraph (3), eligible costs, and total amount of credit
33 certified to each taxpayer.

34 (f) For purposes of this section:

35 (1) "Compliance period" means, with respect to any
36 farmworker housing, the period of 30 consecutive income
37 years, beginning with the income year in which the credit
38 is allowable.

39 (2) "Construct or rehabilitate" includes
40 reconstruction, but does not include any costs related to



1 acquisition or refinancing of property or structures
2 thereon.

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

6 (4) “Qualified farmworker housing” means housing
7 located within this state which satisfies the requirements
8 of the Farmworker Housing Assistance Program. The
9 housing may be vacant or occupied, and it need not be
10 licensed pursuant to the Employee Housing Act at the
11 time of the initiation of construction or rehabilitation.

12 (5) “Committee” means the California Tax Credit
13 Allocation Committee as defined in Section 50199.7 of the
14 Health and Safety Code.

15 (6) “Qualified accountant” means an accountant
16 licensed or certified in this state who is neither an
17 employee of the taxpayer, nor related to the taxpayer
18 within the meaning of Section 267 of the Internal
19 Revenue Code.

20 (g) No deduction or other credit shall be allowed
21 under this part or Part 10 (commencing with Section
22 17001) to the extent of any eligible costs, as defined in
23 subdivision (b), that are taken into account in computing
24 the credit allowed under this section.

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

27 (1) Constructs or rehabilitates the property subject to
28 the covenants, conditions, and restrictions imposed by
29 this section and pursuant to the Farmworker Housing
30 Assistance Program, which shall include, but not
31 necessarily be limited to, a requirement that the taxpayer
32 obtain, for approval by the committee, a construction cost
33 audit and certification of eligible costs from a qualified
34 accountant.

35 (2) Subsequent to construction or rehabilitation of the
36 farmworker housing, owns or operates the farmworker
37 housing pursuant to the requirements of this section, or
38 ensures the ownership and operation of the farmworker
39 housing pursuant to the requirements of this section.



1 (i) The requirements of this section shall be set forth
2 in a written agreement between the committee and the
3 taxpayer. The agreement shall include, but not
4 necessarily be limited to, the requirements set forth in the
5 Farmworker Housing Assistance Program.

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

10 (k) (1) In the case of any disqualifying event, as
11 defined in paragraph (2), there shall be added to the
12 “tax,” as defined in Section 23036, for the income year in
13 which the disqualifying event occurs, the recapture
14 amount computed under paragraph (3) and the interest
15 amount computed under paragraph (4).

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

18 (A) The committee determines that the certification
19 provided under subdivision (e) was obtained by fraud or
20 misrepresentation.

21 (B) The taxpayer fails to comply with the
22 requirements of the Farmworker Housing Assistance
23 Program, or any other requirement imposed under this
24 section.

25 (3) For purposes of this subdivision, “recapture
26 amount” means:

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

30 (B) In the case of any disqualifying event described in
31 subparagraph (B) of paragraph (2), an amount
32 determined by multiplying the entire amount of the
33 credit previously allowed under this section by a fraction,
34 the numerator of which is the number of years remaining
35 in the compliance period and the denominator of which
36 is 30.

37 (4) For purposes of this subdivision, “interest amount”
38 means:

39 (A) In the case of any disqualifying event described in
40 subparagraph (A) of paragraph (2), the amount of



1 interest computed using the adjusted annual rate
2 established in Section 19521 from the due date of the
3 return for each income year in which the credit was
4 claimed to the date of payment of the additional tax
5 resulting from the application of this subdivision.

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

8 (I) The annual amount of credit granted pursuant to
9 this section and Sections 17053.14 and 23608.3 shall not
10 exceed five hundred thousand dollars (\$500,000),
11 provided that the aggregate amount of the credit granted
12 pursuant to this section and Sections 17053.14 and 23608.3
13 for the calendar year 1998 and thereafter may exceed five
14 hundred thousand dollars (\$500,000) per calendar year by
15 an amount equal to any unallocated credits under this
16 section and Sections 17053.14 and 23608.3 for the
17 preceding calendar year or years.

18 *SEC. 4. This act provides for a tax levy within the*
19 *meaning of Article IV of the Constitution and shall go into*
20 *immediate effect.*

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**All matter omitted in this version of the
bill appears in the bill as introduced in the
Assembly, February 3, 2000 (JR 11)**

