

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 251

Introduced by Committee on Transportation and Housing (Senators Lowenthal (Chair), Ashburn, DeSaulnier, Harman, Hollingsworth, Huff, Kehoe, Oropeza, Pavley, Simitian, and Wolk)

February 24, 2009

~~An act to amend Section 66412 of, and to repeal Section 65584.6 of, An act to amend Sections 65584.05 and 66412 of the Government Code, to amend Section 18031.7 Sections 18031.7 and 53545.9 of the Health and Safety Code, and to amend Sections 3692.4, 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to housing.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 251, as amended, Committee on Transportation and Housing. Housing and Community Development: housing omnibus bill.

(1) Existing law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. The assessment includes the locality's share of the regional housing need. That share is determined by the appropriate council of governments, subject to revision by the Department of Housing and Community Development. The council of governments is also required to issue a proposed final allocation plan and to hold a public hearing to adopt a final allocation plan.

This bill would require the council of governments to submit its final allocation plan to the department immediately upon adoption. The bill

would specify that the department determine whether the plan is consistent with the existing and projected housing need for the region within 60 days from the date of its receipt of the final allocation plan adopted by the council of governments.

(1)

(2) Existing law exempts from the requirements of the Subdivision Map Act specified types of property, including the conversion of a community apartment project, and the conversion of a stock cooperative, unless a parcel or final map was approved by the legislative body of a local agency, if specified requirements are met.

This bill would modify the requirements for an exemption relating to the conversion of a community apartment project and stock cooperative.

(2)

(3) Existing law requires all fuel-gas-burning water heater appliances in new manufactured homes or new multifamily manufactured homes installed in the state to be seismically braced, anchored, or strapped. In the event of a sale of a home, the homeowner or contractor responsible for the installation of the home is required to ensure all fuel-gas-burning water heater appliances are seismically braced, anchored, or strapped, consistent with existing law. The requirement is satisfied when the homeowner or responsible contractor both completes that work and signs a declaration stating each fuel-gas-burning water heater is secured.

This bill would instead provide that the requirement is satisfied when the homeowner or responsible contractor ~~both determines that work is complete and~~ signs the declaration.

(4) Existing law establishes the Affordable Housing Revolving Development and Acquisition Program under the administration of the Department of Housing and Community Development. Existing law requires that funds in the Affordable Housing Innovation Fund be allocated in the amount of \$35,000,000 for a local housing trust fund matching grant program established under a specified provision of existing law. Existing law prescribes various funding preferences and set aside requirements upon the department with respect to these allocated funds.

This bill would, notwithstanding specified provisions of existing law, impose new requirements regarding the availability of funds for encumbrance, for newly established housing trust funds the disbursements in liquidation of the encumbrance, and the reversion of funds not encumbered, as specified.

(3)

(5) This bill would ~~delete obsolete provisions~~, correct erroneous cross-references, and make various other, technical changes in existing law relating to housing.

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

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

1 ~~SECTION 1. Section 65584.6 of the Government Code is~~
2 ~~repealed.~~

3 *SECTION 1. Section 65584.05 of the Government Code is*
4 *amended to read:*

5 65584.05. (a) At least one and one-half years prior to the
6 scheduled revision required by Section 65588, each council of
7 governments and delegate subregion, as applicable, shall distribute
8 a draft allocation of regional housing needs to each local
9 government in the region or subregion, where applicable, based
10 on the methodology adopted pursuant to Section 65584.04. The
11 draft allocation shall include the underlying data and methodology
12 on which the allocation is based. It is the intent of the Legislature
13 that the draft allocation should be distributed prior to the
14 completion of the update of the applicable regional transportation
15 plan. The draft allocation shall distribute to localities and
16 subregions, if any, within the region the entire regional housing
17 need determined pursuant to Section 65584.01 or within
18 subregions, as applicable, the subregion's entire share of the
19 regional housing need determined pursuant to Section 65584.03.

20 (b) Within 60 days following receipt of the draft allocation, a
21 local government may request from the council of governments
22 or the delegate subregion, as applicable, a revision of its share of
23 the regional housing need in accordance with the factors described
24 in paragraphs (1) to (9), inclusive, of subdivision (d) of Section
25 65584.04, including any information submitted by the local
26 government to the council of governments pursuant to subdivision
27 (b) of that section. The request for a revised share shall be based
28 upon comparable data available for all affected jurisdictions and
29 accepted planning methodology, and supported by adequate
30 documentation.

1 (c) Within 60 days after the request submitted pursuant to
2 subdivision (b), the council of governments or delegate subregion,
3 as applicable, shall accept the proposed revision, modify its earlier
4 determination, or indicate, based upon the information and
5 methodology described in Section 65584.04, why the proposed
6 revision is inconsistent with the regional housing need.

7 (d) If the council of governments or delegate subregion, as
8 applicable, does not accept the proposed revised share or modify
9 the revised share to the satisfaction of the requesting party, the
10 local government may appeal its draft allocation based upon either
11 or both of the following criteria:

12 (1) The council of governments or delegate subregion, as
13 applicable, failed to adequately consider the information submitted
14 pursuant to subdivision (b) of Section 65584.04, or a significant
15 and unforeseen change in circumstances has occurred in the local
16 jurisdiction that merits a revision of the information submitted
17 pursuant to that subdivision.

18 (2) The council of governments or delegate subregion, as
19 applicable, failed to determine its share of the regional housing
20 need in accordance with the information described in, and the
21 methodology established pursuant to Section 65584.04.

22 (e) The council of governments or delegate subregion, as
23 applicable, shall conduct public hearings to hear all appeals within
24 60 days after the date established to file appeals. The local
25 government shall be notified within 10 days by certified mail,
26 return receipt requested, of at least one public hearing on its appeal.
27 The date of the hearing shall be at least 30 days and not more than
28 35 days after the date of the notification. Before taking action on
29 an appeal, the council of governments or delegate subregion, as
30 applicable, shall consider all comments, recommendations, and
31 available data based on accepted planning methodologies submitted
32 by the appellant. The final action of the council of governments
33 or delegate subregion, as applicable, on an appeal shall be in
34 writing and shall include information and other evidence explaining
35 how its action is consistent with this article. The final action on
36 an appeal may require the council of governments or delegate
37 subregion, as applicable, to adjust the allocation of a local
38 government that is not the subject of an appeal.

39 (f) The council of governments or delegate subregion, as
40 applicable, shall issue a proposed final allocation within 45 days

1 after the completion of the 60-day period for hearing appeals. The
2 proposed final allocation plan shall include responses to all
3 comments received on the proposed draft allocation and reasons
4 for any significant revisions included in the final allocation.

5 (g) In the proposed final allocation plan, the council of
6 governments or delegate subregion, as applicable, shall adjust
7 allocations to local governments based upon the results of the
8 revision request process and the appeals process specified in this
9 section. If the adjustments total 7 percent or less of the regional
10 housing need determined pursuant to Section 65584.01, or, as
11 applicable, total 7 percent or less of the subregion's share of the
12 regional housing need as determined pursuant to Section 65584.03,
13 then the council of governments or delegate subregion, as
14 applicable, shall distribute the adjustments proportionally to all
15 local governments. If the adjustments total more than 7 percent of
16 the regional housing need, then the council of governments or
17 delegate subregion, as applicable, shall develop a methodology to
18 distribute the amount greater than the 7 percent to local
19 governments. In no event shall the total distribution of housing
20 need equal less than the regional housing need, as determined
21 pursuant to Section 65584.01, nor shall the subregional distribution
22 of housing need equal less than its share of the regional housing
23 need as determined pursuant to Section 65584.03. Two or more
24 local governments may agree to an alternate distribution of
25 appealed housing allocations between the affected local
26 governments. If two or more local governments agree to an
27 alternative distribution of appealed housing allocations that
28 maintains the total housing need originally assigned to these
29 communities, then the council of governments shall include the
30 alternative distribution in the final allocation plan.

31 (h) Within 45 days after the issuance of the proposed final
32 allocation plan by the council of governments and each delegate
33 subregion, as applicable, the council of governments shall hold a
34 public hearing to adopt a final allocation plan. To the extent that
35 the final allocation plan fully allocates the regional share of
36 statewide housing need, as determined pursuant to Section
37 65584.01, the council of governments shall have final authority
38 to determine the distribution of the region's existing and projected
39 housing need as determined pursuant to Section 65584.01. *The*
40 *council of governments shall submit its final allocation plan to the*

1 *department immediately upon adoption.* Within 60 days after
2 ~~adoption~~ *the department's receipt of the final allocation plan*
3 *adopted* by the council of governments, the department shall
4 determine whether or not the final allocation plan is consistent
5 with the existing and projected housing need for the region, as
6 determined pursuant to Section 65584.01. The department may
7 revise the determination of the council of governments if necessary
8 to obtain this consistency.

9 (i) Any authority of the council of governments to review and
10 revise the share of a city or county of the regional housing need
11 under this section shall not constitute authority to revise, approve,
12 or disapprove the manner in which the share of the city or county
13 of the regional housing need is implemented through its housing
14 program.

15 SEC. 2. Section 66412 of the Government Code is amended
16 to read:

17 66412. This division shall be inapplicable to any of the
18 following:

19 (a) The financing or leasing of apartments, offices, stores, or
20 similar space within apartment buildings, industrial buildings,
21 commercial buildings, mobilehome parks, or trailer parks.

22 (b) Mineral, oil, or gas leases.

23 (c) Land dedicated for cemetery purposes under the Health and
24 Safety Code.

25 (d) A lot line adjustment between four or fewer existing
26 adjoining parcels, where the land taken from one parcel is added
27 to an adjoining parcel, and where a greater number of parcels than
28 originally existed is not thereby created, if the lot line adjustment
29 is approved by the local agency, or advisory agency. A local agency
30 or advisory agency shall limit its review and approval to a
31 determination of whether or not the parcels resulting from the lot
32 line adjustment will conform to the local general plan, any
33 applicable specific plan, any applicable coastal plan, and zoning
34 and building ordinances. An advisory agency or local agency shall
35 not impose conditions or exactions on its approval of a lot line
36 adjustment except to conform to the local general plan, any
37 applicable specific plan, any applicable coastal plan, and zoning
38 and building ordinances, to require the prepayment of real property
39 taxes prior to the approval of the lot line adjustment, or to facilitate
40 the relocation of existing utilities, infrastructure, or easements. No

1 tentative map, parcel map, or final map shall be required as a
2 condition to the approval of a lot line adjustment. The lot line
3 adjustment shall be reflected in a deed, which shall be recorded.
4 No record of survey shall be required for a lot line adjustment
5 unless required by Section 8762 of the Business and Professions
6 Code.

7 (e) Boundary line or exchange agreements to which the State
8 Lands Commission or a local agency holding a trust grant of tide
9 and submerged lands is a party.

10 (f) Any separate assessment under Section 2188.7 of the
11 Revenue and Taxation Code.

12 (g) The conversion of a community apartment project, as defined
13 in Section 1351 of the Civil Code, to a condominium, as defined
14 in Section 783 of the Civil Code, but only if all of the following
15 requirements are met:

16 (1) The property was subdivided before January 1, 1982, as
17 evidenced by a recorded deed creating the community apartment
18 project.

19 (2) Subject to compliance with subdivision (e) of Section 1351
20 of the Civil Code, all conveyances and other documents necessary
21 to effectuate the conversion shall be executed by the required
22 number of owners in the project as specified in the bylaws or other
23 organizational documents. If the bylaws or other organizational
24 documents do not expressly specify the number of owners
25 necessary to execute the conveyances and other documents, a
26 majority of owners in the project shall be required to execute the
27 conveyances or other documents. Conveyances and other
28 documents executed under the foregoing provisions shall be
29 binding upon and affect the interests of all parties in the project.

30 (3) If subdivision, as defined in Section 66424, of the property
31 occurred after January 1, 1964, both of the following requirements
32 are met:

33 (A) A final or parcel map of that subdivision was approved by
34 the local agency and recorded, with all of the conditions of that
35 map remaining in effect after the conversion.

36 (B) No more than 49 percent of the units in the project were
37 owned by any one person as defined in Section 17, including an
38 incorporator or director of the community apartment project, on
39 January 1, 1982.

1 (4) The local agency certifies that the above requirements were
2 satisfied if the local agency, by ordinance, provides for that
3 certification.

4 (h) The conversion of a stock cooperative, as defined in Section
5 1351 of the Civil Code, to a condominium, as defined in Section
6 783 of the Civil Code, but only if all of the following requirements
7 are met:

8 (1) The property was subdivided before January 1, 1982, as
9 evidenced by a recorded deed creating the stock cooperative, an
10 assignment of lease, or issuance of shares to a stockholder.

11 (2) A person renting a unit in a cooperative shall be entitled at
12 the time of conversion to all tenant rights in state or local law,
13 including, but not limited to, rights respecting first refusal, notice,
14 and displacement and relocation benefits.

15 (3) Subject to compliance with subdivision (e) of Section 1351
16 of the Civil Code, all conveyances and other documents necessary
17 to effectuate the conversion shall be executed by the required
18 number of owners in the cooperative as specified in the bylaws or
19 other organizational documents. If the bylaws or other
20 organizational documents do not expressly specify the number of
21 owners necessary to execute the conveyances and other documents,
22 a majority of owners in the cooperative shall be required to execute
23 the conveyances or other documents. Conveyances and other
24 documents executed under the foregoing provisions shall be
25 binding upon and affect the interests of all parties in the
26 cooperative.

27 (4) If subdivision, as defined in Section 66424, of the property
28 occurred after January 1, 1964, both of the following requirements
29 are met:

30 (A) A final or parcel map of that subdivision was approved by
31 the local agency and recorded, with all of the conditions of that
32 map remaining in effect after the conversion.

33 (B) No more than 49 percent of the units in the project were
34 owned by any one person as defined in Section 17, including an
35 incorporator or director of the community apartment project, on
36 January 1, 1982.

37 (5) The local agency certifies that the above requirements were
38 satisfied if the local agency, by ordinance, provides for that
39 certification.

1 (i) The leasing of, or the granting of an easement to, a parcel of
2 land, or any portion or portions thereof, in conjunction with the
3 financing, erection, and sale or lease of a windpowered electrical
4 generation device on the land, if the project is subject to
5 discretionary action by the advisory agency or legislative body.

6 (j) The leasing or licensing of a portion of a parcel, or the
7 granting of an easement, use permit, or similar right on a portion
8 of a parcel, to a telephone corporation as defined in Section 234
9 of the Public Utilities Code, exclusively for the placement and
10 operation of cellular radio transmission facilities, including, but
11 not limited to, antennae support structures, microwave dishes,
12 structures to house cellular communications transmission
13 equipment, power sources, and other equipment incidental to the
14 transmission of cellular communications, if the project is subject
15 to discretionary action by the advisory agency or legislative body.

16 (k) Leases of agricultural land for agricultural purposes. As used
17 in this subdivision, “agricultural purposes” means the cultivation
18 of food or fiber, or the grazing or pasturing of livestock.

19 (l) The leasing of, or the granting of an easement to, a parcel of
20 land, or any portion or portions thereof, in conjunction with the
21 financing, erection, and sale or lease of a solar electrical generation
22 device on the land, if the project is subject to review under other
23 local agency ordinances regulating design and improvement or, if
24 the project is subject to other discretionary action by the advisory
25 agency or legislative body.

26 SEC. 3. Section 18031.7 of the Health and Safety Code is
27 amended to read:

28 18031.7. (a) Nothing in this part shall prohibit the replacement
29 of water heaters in manufactured homes or mobilehomes with
30 fuel-gas-burning water heaters not specifically listed for use in a
31 manufactured home or mobilehome or from having hot water
32 supplied from an approved source within the manufactured home
33 or mobilehome, or in the garage, in accordance with this part or
34 Part 2.1 (commencing with Section 18200).

35 (b) Nothing in this part shall prohibit the replacement of
36 appliances for comfort heating in manufactured homes,
37 mobilehomes, or multifamily manufactured homes with fuel-gas
38 appliances for comfort heating not specifically listed for use in a
39 manufactured home or mobilehome within the manufactured home,
40 mobilehome, or multifamily manufactured home in accordance

1 with this part, Part 2.1 (commencing with Section 18200), or Part
2 2.3 (commencing with Section 18860).

3 (c) Replacement fuel-gas-burning water heaters shall be listed
4 for residential use and installed within the specifications of that
5 listing to include tiedown or bracing to prevent overturning.

6 (d) Replacement fuel-gas-burning water heaters installed in
7 accordance with subdivision (c) shall bear a label permanently
8 affixed in a visible location adjacent to the fuel gas inlet which
9 reads, as applicable:

10
11
12 WARNING

13
14 This appliance is approved only for use with natural gas (NG).
15

16
17 OR

18
19
20 WARNING

21
22 This appliance is approved only for use with liquefied petroleum
23 gas (LPG).
24
25

26 Lettering on the label shall be black on a red background and
27 not less than $\frac{1}{4}$ inch in height except for the word "WARNING"
28 which shall be not less than $\frac{1}{2}$ inch in height.

29 (e) (1) All fuel-gas-burning water heater appliances in new
30 manufactured homes or new multifamily manufactured homes
31 installed in the state shall be seismically braced, anchored, or
32 strapped pursuant to paragraph (3) and shall be completed before
33 or at the time of installation of the homes.

34 (2) Any replacement fuel-gas-burning water heater appliances
35 installed in existing mobilehomes, existing manufactured homes,
36 or existing multifamily manufactured homes that are offered for
37 sale, rent, or lease shall be seismically braced, anchored, or
38 strapped pursuant to paragraph (3).

39 (3) On or before July 1, 2009, the department shall promulgate
40 rules and regulations that include standards for water heater seismic

bracing, anchoring, or strapping. These standards shall be substantially in accordance with either the guidelines developed pursuant to Section 19215 or the California Plumbing Code (Part 5 of Title 24 of the California Code of Regulations), and shall be applicable statewide.

(4) The dealer, or manufacturer acting as a dealer, responsible, as part of the purchase contract, for both the sale and installation of any home subject to this subdivision shall ensure all water heaters are seismically braced, anchored, or strapped in compliance with this subdivision prior to completion of installation.

(5) In the event of a sale of a home, pursuant to either paragraph (1) of subdivision (e) of Section 18035 or Section 18035.26, the homeowner or contractor responsible for the installation of the home shall ensure all fuel-gas-burning water heater appliances are seismically braced, anchored, or strapped consistent with the requirements of paragraph (3). This requirement shall be satisfied when the homeowner or responsible contractor ~~both determines that work is complete and~~ signs a declaration stating each fuel-gas-burning water heater is secured as required by this section on the date the declaration is signed.

(f) All used mobilehomes, used manufactured homes, and used multifamily manufactured homes that are sold shall, on or before the date of transfer of title, have the fuel-gas-burning water heater appliance or appliances seismically braced, anchored, or strapped consistent with the requirements of paragraph (3) of subdivision (e). This requirement shall be satisfied if, within 45 days prior to the transfer of title, the transferor signs a declaration stating that each water heater appliance in the used mobilehome, used manufactured home, or used multifamily manufactured home is secured pursuant to paragraph (3) of subdivision (e) on the date the declaration is signed.

(g) For sales of manufactured homes or mobilehomes installed on real property pursuant to subdivision (a) of Section 18551, as to real estate agents licensed pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, the real estate licensee duty provisions of Section 8897.5 of the Government Code shall apply to this section.

SEC. 3.5. Section 53545.9 of the Health and Safety Code is amended to read:

1 53545.9. Of the one hundred million dollars (\$100,000,000)
2 transferred to the Affordable Housing Innovation Fund established
3 in the State Treasury under subparagraph (F) of paragraph (1) of
4 subdivision (a) of Section 53545, the following amounts shall be
5 allocated as follows:

6 (a) (1) The department shall make available the amount of fifty
7 million dollars (\$50,000,000) for the Affordable Housing
8 Revolving Development and Acquisition Program.

9 (2) Of the amount made available for the program, twenty-five
10 million dollars (\$25,000,000) shall be made available for the Loan
11 Fund and twenty-five million dollars (\$25,000,000) shall be made
12 available for the Practitioner Fund.

13 (b) The department shall make available the amount of five
14 million dollars (\$5,000,000) for the Construction Liability
15 Insurance Reform Pilot Program, which is hereby established in
16 the Department of Housing and Community Development. The
17 purpose of the program is to promote best practices for residential
18 construction quality control in housing programs sponsored by the
19 department or the California Housing Finance Agency, as a means
20 of reducing insurance rates for condominium developers in this
21 state. Funds shall be made available in the form of grants for
22 predevelopment costs of condominium projects funded by the
23 department or the California Housing Finance Agency that utilize
24 enhanced construction oversight and monitoring programs and
25 processes including, but not limited to, video recording of the
26 construction process, use of quality control manuals, and increased
27 quality control inspections.

28 (c) The department shall make available the amount of
29 thirty-five million dollars (\$35,000,000) for the local housing trust
30 fund matching grant program established under Section 50843.5.
31 The department shall make available 50 percent of this amount
32 exclusively for newly established housing trust funds.

33 (1) When awarding grants from the funds allocated under this
34 subdivision to existing trust funds, the department shall grant
35 preference to a housing trust fund that agrees to expend more than
36 65 percent of state funds for the purpose of downpayment
37 assistance to first-time homebuyers.

38 (2) When awarding grants from the funds allocated under this
39 subdivision to newly established housing trust funds, the
40 department shall set aside funding for a period of 36 months from

1 the date funds are first made available for newly established
2 housing trust funds that are in a county with a population of less
3 than 425,000 persons.

4 (3) (A) *Notwithstanding any other provision of law, funds set*
5 *aside for newly established housing trust funds shall be available*
6 *for encumbrance for 42 months after the date the funds are first*
7 *made available and disbursements in liquidation of the*
8 *encumbrance shall be made before or during 48 months after the*
9 *date funds are first made available.*

10 (B) *Notwithstanding subparagraph (F) of paragraph (1) of*
11 *subdivision (a) of Section 53545, any funds not encumbered for*
12 *newly established housing trust funds within 42 months after the*
13 *date the funds are first made available shall revert to the Self-Help*
14 *Housing Fund created by Section 50697.1 and shall be available*
15 *for the purposes described in subparagraph (D) of paragraph (1)*
16 *of subdivision (a) of Section 53545.*

17 (d) The department shall make available the amount of ten
18 million dollars (\$10,000,000) for the Innovative Homeownership
19 Program, which the department shall develop and implement as
20 follows:

21 (1) The program shall be designed to increase or maintain
22 affordable homeownership opportunities for Californians with
23 lower incomes.

24 (2) The department shall adopt guidelines for the program that,
25 among other things, shall maximize the number of units assisted,
26 limit the expenditure of funds for administrative costs, and
27 maximize the leverage of public and private financing sources.

28 (3) The guidelines adopted by the department shall provide for
29 the issuance of a notice of funding availability soliciting
30 competitive proposals for the use of funds consistent with those
31 guidelines and with subparagraph (F) of paragraph (1) of
32 subdivision (a) of Section 53545.

33 (4) The guidelines adopted by the department shall not be subject
34 to the requirements of Chapter 6.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

36 (5) The department shall include within the annual report
37 required under Section 50408 a detailed summary and description
38 of the manner in which funds made available under this subdivision
39 were expended during the previous year and a statement regarding
40 the manner in which those expenditures meet the intent of the

1 Legislature and the voters that funds from the Innovative Housing
2 Fund be expended in support of innovative, cost-saving approaches
3 to creating or preserving affordable housing.

4 SEC. 4. Section 3692.4 of the Revenue and Taxation Code is
5 amended to read:

6 3692.4. (a) Notwithstanding any other provision of law, any
7 county, city, city and county, or any nonprofit organization as
8 defined in Section 3772.5, may request the tax collector to bring
9 to the next scheduled public auction any residential real property
10 that meets all of the following requirements:

11 (1) The property taxes have been delinquent for at least three
12 years.

13 (2) The real property will serve the public benefit of providing
14 housing directly related to low-income persons.

15 (3) The real property is not occupied by the owner as his or her
16 principal place of residence.

17 (b) Every request submitted to the tax collector shall include
18 the following:

19 (1) A formal resolution of the governing board of the county,
20 city, city and county, or nonprofit organization, requesting the
21 accelerated auction of the real property and stating the public
22 benefit.

23 (2) A written plan for the development, rehabilitation, or
24 proposed use of the real property and how low-income persons
25 will be served.

26 (c) Upon receiving a request as provided by this section, the tax
27 collector shall include the real property in the next scheduled public
28 auction.

29 (d) (1) If the real property is acquired by a nonprofit
30 organization at auction, a deed restriction shall be placed on the
31 real property, requiring the real property to be used for low-income
32 housing for a period of at least 30 years.

33 (2) (A) In lieu of the 30-year restriction required by paragraph
34 (1), the deed may provide for equity sharing upon resale, if the
35 real property is a single-family home that will be sold by the
36 nonprofit organization to a low-income owner-occupant.

37 (B) To the extent not in conflict with another public funding
38 source or law, all of the following shall apply to an equity-sharing
39 agreement provided for by the deed:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and his or her proportionate share of appreciation. The nonprofit organization shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used for the purpose of providing financial assistance to low-income homebuyers.

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the low-income owner-occupant minus the initial sale price to the low-income owner-occupant, plus the amount of any downpayment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the nonprofit organization's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

(e) This section may not be construed to preclude the application, to the real property or the current owners of that property, of any other provision of law not in conflict with this section.

SEC. 5. Section 12206 of the Revenue and Taxation Code is amended to read:

12206. (a) (1) There shall be allowed as a credit against the "tax" (as defined by Section 12201) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

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

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

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

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

(i) The project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

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

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

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

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

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

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

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

16 (E) All elections made by the taxpayer pursuant to Section 42
17 of the Internal Revenue Code shall apply to this section.

18 (F) No credit shall be allocated under this section to buildings
19 located in a difficult development area or a qualified census tract
20 as defined in Section 42 of the Internal Revenue Code for which
21 the eligible basis of a new building or the rehabilitation expenditure
22 of an existing building is 130 percent of that amount pursuant to
23 Section 42(d)(5)(C) of the Internal Revenue Code, unless the
24 committee reduces the amount of federal credit, with the approval
25 of the applicant, so that the combined amount of federal and state
26 credit shall not exceed the total credit allowable pursuant to this
27 section and Section 42(b) of the Internal Revenue Code, computed
28 without regard to Section 42(d)(5)(C) of the Internal Revenue
29 Code.

30 (c) Section 42(b) of the Internal Revenue Code shall be modified
31 as follows:

32 (1) In the case of any qualified low-income building that receives
33 an allocation after 1989 and is a new building not federally
34 subsidized, 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 not
37 federally subsidized for the taxable year, determined in accordance
38 with the requirements of Section 42(b)(2) of the Internal Revenue
39 Code, in lieu of the percentage prescribed in Section 42(b)(1)(A)
40 of the Internal Revenue Code.

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

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

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

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

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

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

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

23 (ii) The Below-Market-Interest-Rate Program pursuant to
24 Section 221(d)(3) of the National Housing Act, Sections
25 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

28 (iv) Programs for rent supplement assistance pursuant to Section
29 101 of the Housing and Urban Development Act of 1965, Section
30 1701s of Title 12 of the United States Code, as amended.

31 (v) Programs pursuant to Section 515 of the Housing Act of
32 1949, Section 1485 of Title 42 of the United States Code, as
33 amended.

34 (vi) The low-income housing credit program set forth in Section
35 42 of the Internal Revenue Code.

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

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

5 (D) The property satisfies the requirements of Section 42(e) of
6 the Internal Revenue Code regarding rehabilitation expenditures,
7 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
8 apply.

9 (d) The term “qualified low-income housing project” as defined
10 in Section 42(c)(2) of the Internal Revenue Code is modified by
11 adding the following requirements:

12 (1) The taxpayer shall be entitled to receive a cash distribution
13 from the operations of the project, after funding required reserves,
14 which, at the election of the taxpayer, is equal to:

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

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

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

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

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

31 (2) The limitation on return shall apply in the aggregate to the
32 partners if the housing sponsor is a partnership and in the aggregate
33 to the shareholders if the housing sponsor is an “S” corporation.

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

39 (e) The provisions of Section 42(f) of the Internal Revenue Code
40 shall be modified as follows:

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

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

7 (3) Section 42(f)(3) of the Internal Revenue Code is modified
8 to read:

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

18 (f) The provisions of Section 42(h) of the Internal Revenue
19 Code shall be modified as follows:

20 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
21 applicable and instead the following provisions shall be applicable:

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

27 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
28 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
29 not be applicable.

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

34 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
35 year, and, for the 2002 calendar year and each calendar year
36 thereafter, seventy million dollars (\$70,000,000) increased by the
37 percentage, if any, by which the Consumer Price Index for the
38 preceding calendar year exceeds the Consumer Price Index for the
39 2001 calendar year. For the purposes of this paragraph, the term

“Consumer Price Index” means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

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

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

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

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

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

(i) (1) Section 42(j) of the Internal Revenue Code shall not be applicable and the provisions in paragraph (2) shall be substituted in its place.

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

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

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

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

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

10 (E) A provision incorporating the requirements of Section 42
11 of the Internal Revenue Code as modified by this section.

12 (F) A requirement that the housing sponsor notify the California
13 Tax Credit Allocation Committee or its designee and the local
14 agency that can enforce the regulatory agreement if there is a
15 determination by the Internal Revenue Service that the project is
16 not in compliance with Section 42(g) of the Internal Revenue Code.

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

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

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

1 the enactment of federal or state law, the adoption of rules or
2 regulations, or other similar events prevent the use of two allocation
3 periods, the committee may reduce the number of periods and
4 adjust the filing deadlines, maximum percentage of credit allocated,
5 and the allocation dates.

6 (2) The committee shall adopt a qualified allocation plan, as
7 provided in Section 42(m)(1) of the Internal Revenue Code. In
8 adopting this plan, the committee shall comply with the provisions
9 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
10 Code.

11 (3) Notwithstanding Section 42(m) of the Internal Revenue
12 Code, the California Tax Credit Allocation Committee shall
13 allocate housing credits in accordance with the qualified allocation
14 plan and regulations, which shall include the following provisions:

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

19 (i) The housing sponsor shall demonstrate there is a need and
20 demand for low-income housing in the community or region for
21 which it is proposed.

22 (ii) The project's proposed financing, including tax credit
23 proceeds, shall be sufficient to complete the project and that the
24 proposed operating income shall be adequate to operate the project
25 for the extended use period.

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

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

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

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

37 (vii) The housing sponsor shall demonstrate the amount of tax
38 credit that is necessary for the financial feasibility of the project
39 and its viability as a qualified low-income housing project
40 throughout the extended use period, taking into account operating

1 expenses, a supportable debt service, reserves, funds set aside for
2 rental subsidies, and required equity, and a development fee that
3 does not exceed a specified percentage of the eligible basis of the
4 project prior to inclusion of the development fee in the eligible
5 basis, as determined by the committee.

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

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

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

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

16 (i) Projects serving large families in which a substantial number,
17 as defined by the committee, of all residential units is comprised
18 of low-income units with three and more bedrooms.

19 (ii) Projects providing single room occupancy units serving very
20 low income tenants.

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

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

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

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

34 (k) Section 42(l) of the Internal Revenue Code shall be modified
35 as follows:

36 The term “secretary” shall be replaced by the term “California
37 Franchise Tax Board.”

38 (l) In the case where the state credit allowed under this section
39 exceeds the “tax,” the excess may be carried over to reduce the

1 “tax” in the following year, and succeeding years if necessary,
2 until the credit has been exhausted.

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

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

8 (o) This section shall remain in effect for as long as Section 42
9 of the Internal Revenue Code, relating to low-income housing
10 credits, remains in effect.

11 SEC. 6. Section 17058 of the Revenue and Taxation Code is
12 amended to read:

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

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

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

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

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

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

1 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the
2 Internal Revenue Code.

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. The committee may require a
7 fee if the application for the credit under this section is submitted
8 in a calendar year after the year the application is submitted for
9 the federal tax credit.

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

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

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

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

37 (2) (A) The California Tax Credit Allocation Committee shall
38 certify to the housing sponsor the amount of tax credit under this
39 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 shall apply to this section.

8 (E) For buildings located in designated difficult development
9 areas or qualified census tracts as defined in Section 42(d)(5)(C)
10 of the Internal Revenue Code, credits may be allocated under this
11 section in the amounts prescribed in subdivision (c), provided that
12 the amount of credit allocated under Section 42 of the Internal
13 Revenue Code is computed on 100 percent of the qualified basis
14 of the building.

15 (c) Section 42(b) of the Internal Revenue Code shall be modified
16 as follows:

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

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

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

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

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

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

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

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

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

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

14 (ii) The Below-Market-Interest-Rate Program pursuant to
15 Section 221(d)(3) of the National Housing Act, Sections
16 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

19 (iv) Programs for rent supplement assistance pursuant to Section
20 101 of the Housing and Urban Development Act of 1965, Section
21 1701s of Title 12 of the United States Code, as amended.

22 (v) Programs pursuant to Section 515 of the Housing Act of
23 1949, Section 1485 of Title 42 of the United States Code, as
24 amended.

25 (vi) The low-income housing credit program set forth in Section
26 42 of the Internal Revenue Code.

27 (B) The restrictions on rent and income levels will terminate or
28 the federal insured mortgage on the property is eligible for
29 prepayment any time within five years before or after the date of
30 application to the California Tax Credit Allocation Committee.

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

35 (D) The property satisfies the requirements of Section 42(e) of
36 the Internal Revenue Code regarding rehabilitation expenditures,
37 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
38 apply.

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

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

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

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

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

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

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

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

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

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

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

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

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

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

10 (f) The provisions of Section 42(h) of the Internal Revenue
11 Code shall be modified as follows:

12 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
13 applicable and instead the following provisions shall be applicable:

14 The total amount for the four-year period of the housing credit
15 dollars allocated in a calendar year to any building shall reduce
16 the aggregate housing credit dollar amount of the California Tax
17 Credit Allocation Committee for the calendar year in which the
18 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 shall
21 not be applicable to this section.

22 (g) The aggregate housing credit dollar amount which may be
23 allocated annually by the California Tax Credit Allocation
24 Committee pursuant to this section, Section 12206, and Section
25 23610.5 shall be an amount equal to the sum of all the following:

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

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

36 (3) The amount of housing credit ceiling returned in the calendar
37 year. For purposes of this paragraph, the amount of housing credit
38 dollar amount returned in the calendar year equals the housing
39 credit dollar amount previously allocated to any project that does
40 not become a qualified low-income housing project within the

1 period required by this section or to any project with respect to
2 which an allocation is canceled by mutual consent of the California
3 Tax Credit Allocation Committee and the allocation recipient.

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

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

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

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

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

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

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

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

39 (5) A provision incorporating the requirements of Section 42
40 of the Internal Revenue Code 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 (7) A requirement that the housing sponsor, as security for the
6 performance of the housing sponsor's obligations under the
7 regulatory agreement, assign the housing sponsor's interest in rents
8 that it receives from the project, provided that until there is a
9 default under the regulatory agreement, the housing sponsor is
10 entitled to collect and retain the rents.

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

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

34 (2) The committee shall adopt a qualified allocation plan, as
35 provided in Section 42(m)(1) of the Internal Revenue Code. In
36 adopting this plan, the committee shall comply with the provisions
37 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
38 Code.

39 (3) Notwithstanding Section 42(m) of the Internal Revenue
40 Code, the California Tax Credit Allocation Committee shall

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) Section 42(l) of the Internal Revenue Code shall be modified as follows:

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

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

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

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

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

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

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

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

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

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

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

(r) The amendments to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994.

SEC. 7. Section 23610.5 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

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

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

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

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

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

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

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

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

14 (D) All elections made by the taxpayer pursuant to Section 42
15 of the Internal Revenue Code shall apply to this section.

16 (E) For buildings located in designated difficult development
17 areas or qualified census tracts as defined in Section 42(d)(5)(C)
18 of the Internal Revenue Code, credits may be allocated under this
19 section in the amounts prescribed in subdivision (c), provided that
20 the amount of credit allocated under Section 42 of the Internal
21 Revenue Code is computed on 100 percent of the qualified basis
22 of the building.

23 (c) Section 42(b) of the Internal Revenue Code shall be modified
24 as follows:

25 (1) In the case of any qualified low-income building placed in
26 service by the housing sponsor during 1987, the term “applicable
27 percentage” means 9 percent for each of the first three years and
28 3 percent for the fourth year for new buildings (whether or not the
29 building is federally subsidized) and for existing buildings.

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

33 (A) For each of the first three years, the percentage prescribed
34 by the Secretary of the Treasury for new buildings that are not
35 federally subsidized for the taxable year, determined in accordance
36 with the requirements of Section 42(b)(2) of the Internal Revenue
37 Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

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

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

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

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

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

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

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

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

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

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

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

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

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

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance

1 with the requirements of this section for a period equal to the
2 greater of 55 years or the life of the property.

3 (D) The property satisfies the requirements of Section 42(e) of
4 the Internal Revenue Code regarding rehabilitation expenditures,
5 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
6 apply.

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

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

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

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

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

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

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

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

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

37 (e) The provisions of Section 42(f) of the Internal Revenue Code
38 shall be modified as follows:

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

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

7 (3) Section 42(f)(3) of the Internal Revenue Code is modified
8 to read:

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

18 (f) The provisions of Section 42(h) of the Internal Revenue
19 Code shall be modified as follows:

20 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
21 applicable and instead the following provisions shall be applicable:

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

27 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
28 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
29 not be applicable.

30 (g) The aggregate housing credit dollar amount that may be
31 allocated annually by the California Tax Credit Allocation
32 Committee pursuant to this section, Section 12206, and Section
33 17058 shall be an amount equal to the sum of all the following:

34 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
35 year, and, for the 2002 calendar year and each calendar year
36 thereafter, seventy million dollars (\$70,000,000) increased by the
37 percentage, if any, by which the Consumer Price Index for the
38 preceding calendar year exceeds the Consumer Price Index for the
39 2001 calendar year. For the purposes of this paragraph, the term

“Consumer Price Index” means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

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

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

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

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

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

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following shall be substituted in its place:

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

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

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

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

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

10 (5) A provision incorporating the requirements of Section 42
11 of the Internal Revenue Code as modified by this section.

12 (6) A requirement that the housing sponsor notify the California
13 Tax Credit Allocation Committee or its designee if there is a
14 determination by the Internal Revenue Service that the project is
15 not in compliance with Section 42(g) of the Internal Revenue Code.

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

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

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

1 regulations, or other similar events prevent the use of two allocation
2 periods, the committee may reduce the number of periods and
3 adjust the filing deadlines, maximum percentage of credit allocated,
4 and allocation dates.

5 (2) The committee shall adopt a qualified allocation plan, as
6 provided in Section 42(m)(1) of the Internal Revenue Code. In
7 adopting this plan, the committee shall comply with the provisions
8 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
9 Code.

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

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

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

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

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

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

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

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

35 (vii) The housing sponsor shall demonstrate the amount of tax
36 credit that is necessary for the financial feasibility of the project
37 and its viability as a qualified low-income housing project
38 throughout the extended use period, taking into account operating
39 expenses, a supportable debt service, reserves, funds set aside for
40 rental subsidies, and required equity, and a development fee that

1 does not exceed a specified percentage of the eligible basis of the
2 project prior to inclusion of the development fee in the eligible
3 basis, as determined by the committee.

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

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

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

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

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

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

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

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

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

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

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

1 (k) Section 42(l) of the Internal Revenue Code shall be modified
2 as follows:

3 The term “secretary” shall be replaced by the term “California
4 Franchise Tax Board.”

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

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

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

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

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

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

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

27 (p) The provisions of Section 11407(c) of Public Law 101-508,
28 relating to election to accelerate credit, shall not apply.

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

14 This section shall remain in effect on or after December 1, 1990,
15 for as long as Section 42 of the Internal Revenue Code, relating
16 to low-income housing credits, remains in effect.

17 (s) The amendments to this section made by the act adding this
18 subdivision shall apply only to taxable years beginning on or after
19 January 1, 1994, except that paragraph (1) of subdivision (q), as
20 amended, shall apply to taxable years beginning on or after January
21 1, 1993.