

ASSEMBLY BILL

No. 97

Introduced by Assembly Member Torlakson

December 14, 1998

An act to amend Section 50199.18 of the Health and Safety Code, and to amend Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 97, as introduced, Torlakson. Taxation: low-income housing.

Existing insurance tax law and the Personal Income Tax Law and the Bank and Corporation Tax Law authorize, for so long as corresponding provisions of federal law are in effect, a credit against the taxes imposed by those state laws for certain amounts with respect to the provision of specified low-income housing. Those laws generally provide, subject to the addition of certain other amounts, that the maximum aggregate dollar amount of the credits allowed in each calendar year may not exceed \$35,000,000, but increase this limit to \$50,000,000 for the 1998 and 1999 calendar years only. Existing law also provides, until January 1, 2000, for procedures and requirements for the allocation of state tax credit amounts among low-income housing projects.

This bill would, for purposes of existing low-income housing tax credits, instead specify a \$50,000,000 maximum aggregate dollar amount for the 1998 calendar year and each calendar year thereafter. This bill would also specify that procedures

and requirements for the allocation of state tax credit amounts among low-income housing projects are to remain in effect for so long as related provisions of federal law are in effect.

This bill would take effect immediately as a tax levy.

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

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

1 SECTION 1. Section 50199.18 of the Health and
2 Safety Code is amended to read:

3 50199.18. This chapter shall remain in effect only until
4 ~~January 1, 2000, and as of that date is repealed, unless a~~
5 ~~later enacted statute, which is enacted before January 1,~~
6 ~~2000, deletes or extends that date for so long as Section 42~~
7 ~~of the Internal Revenue Code, relating to low-income~~
8 ~~housing credits, remains in effect.~~ However, repeal of this
9 chapter shall not invalidate or in any way affect the
10 duration of any previously allocated low-income tax
11 credits.

12 SEC. 2. Section 12206 of the Revenue and Taxation
13 Code is amended to read:

14 12206. (a) (1) There shall be allowed as a credit
15 against the "tax" (as defined by Section 12201) a state
16 low-income housing tax credit in an amount equal to the
17 amount determined in subdivision (c), computed in
18 accordance with Section 42 of the Internal Revenue
19 Code, except as otherwise provided in this section.

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

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

28 (b) (1) The amount of the credit allocated to any
29 housing sponsor shall be authorized by the California Tax
30 Credit Allocation Committee, or any successor thereof,
31 based on a project's need for the credit for economic



1 feasibility in accordance with the requirements of this
2 section.

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

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

10 (ii) It shall qualify for a credit under Section
11 42(h)(4)(B) of the Internal Revenue Code.

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

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

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

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

31 (D) In the case of a failure to attach a copy of the
32 certification for the year to the return in which a tax
33 credit is claimed under this section, no credit under this
34 section shall be allowed for that year until a copy of that
35 certification is provided.

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

39 (F) No credit shall be allocated under this section to
40 buildings located in a difficult development area or a



1 qualified census tract as defined in Section 42 of the
2 Internal Revenue Code for which the eligible basis of a
3 new building or the rehabilitation expenditure of an
4 existing building is 130 percent of that amount pursuant
5 to Section 42(d)(5)(C) of the Internal Revenue Code,
6 unless the committee reduces the amount of federal
7 credit, with the approval of the applicant, so that the
8 combined amount of federal and state credit shall not
9 exceed the total credit allowable pursuant to this section
10 and Section 42(b) of the Internal Revenue Code,
11 computed without regard to Section 42(d)(5)(C) of the
12 Internal Revenue Code.

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

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

19 (A) For each of the first three years, the percentage
20 prescribed by the Secretary of the Treasury for new
21 buildings that are not federally subsidized for the taxable
22 year, determined in accordance with the requirements of
23 Section 42(b)(2) of the Internal Revenue Code, in lieu of
24 the percentage prescribed in Section 42(b)(1)(A) of the
25 Internal Revenue Code.

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

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

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

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



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

4 (A) The building is presently owned by a housing
5 sponsor other than a qualified nonprofit organization.

6 (B) The building is a federally assisted building for
7 which the low-income use restrictions will terminate or
8 the mortgage on the building is eligible for incentives
9 under Subtitle 13 of the Emergency Low Income Housing
10 Assistance Act of 1987 or under Section 502(c) of the
11 Housing Act of 1949, anytime in the two calendar years
12 after the year of application to the California Tax Credit
13 Allocation Committee, and the purchaser has received
14 preliminary approval from the applicable federal agency
15 for a maximum level of incentives through a plan of
16 action.

17 (C) The person acquiring the building enters into a
18 regulatory agreement that requires the building to be
19 operated in accordance with the requirements of this
20 section for a period equal to the greater of 55 years or the
21 life of the building.

22 (D) The building satisfies the requirements of Section
23 42(e) of the Internal Revenue Code regarding
24 rehabilitation expenditures, except that the provisions of
25 Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

34 (i) The owner equity which shall include the amount
35 of the capital contributions actually paid to the housing
36 sponsor and shall not include any amounts until they are
37 paid on an investor note;~~or~~

38 (ii) Twenty percent of the adjusted basis of the
39 building as of the close of the first income year of the
40 credit period;~~or~~



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

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

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

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

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

24 (1) The term “credit period” as defined in Section
25 42(f)(1) of the Internal Revenue Code is modified by
26 substituting “four income years” for “10 taxable years.”

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

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

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



1 beginning with the later of the income years in which the
2 increase in qualified basis occurs.

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

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

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

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

17 (g) The aggregate housing credit dollar amount that
18 may be allocated annually by the California Tax Credit
19 Allocation Committee pursuant to this section, Section
20 17058, and Section 23610.5 shall be an amount equal to the
21 sum of the following:

22 (1) ~~(A) Except as provided in subparagraph (B),~~
23 ~~thirty-five million dollars (\$35,000,000) for the 1997~~
24 ~~calendar year, and each calendar year thereafter~~

25 ~~(B) Fifty million dollars (\$50,000,000) for each of the~~
26 ~~calendar years 1998 and 1999~~ *Fifty million dollars*
27 *(\$50,000,000) for the 1998 calendar year and each*
28 *calendar year thereafter.*

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

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



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

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

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

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

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

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

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

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

38 (F) A requirement that the housing sponsor notify the
39 California Tax Credit Allocation Committee or its
40 designee and the local agency that can enforce the



1 regulatory agreement if there is a determination by the
2 Internal Revenue Service that the project is not in
3 compliance with Section 42(g) of the Internal Revenue
4 Code.

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

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

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

39 (2) The committee shall adopt a qualified allocation
40 plan, as provided in Section 42(m)(1) of the Internal



1 Revenue Code. In adopting this plan, the committee shall
2 comply with the provisions of Sections 42(m)(1)(B) and
3 42(m)(1)(C) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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



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

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

8 (i) The project serves the lowest income tenants at
9 rents affordable to those tenants; ~~and~~.

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

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

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

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

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

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

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

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

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

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



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

6 (m) The provisions of Section 11407(a) of Public Law
7 101-508, relating to the effective date of the extension of
8 the low-income housing credit, shall apply to calendar
9 years after 1993.

10 (n) The provisions of Section 11407(c) of Public Law
11 101-508, relating to election to accelerate credit, shall not
12 apply.

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

16 SEC. 3. Section 17058 of the Revenue and Taxation
17 Code is amended to read:

18 17058. (a) (1) There shall be allowed as a credit
19 against the amount of net tax (as defined in Section
20 17039) a state low-income housing credit in an amount
21 equal to the amount determined in subdivision (c),
22 computed in accordance with the provisions of Section 42
23 of the Internal Revenue Code, except as otherwise
24 provided in this section.

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

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

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



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

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

8 (ii) It shall qualify for a credit under Section
9 42(h)(4)(B) of the Internal Revenue Code.

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

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

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

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

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

31 (E) For buildings located in designated difficult
32 development areas or qualified census tracts as defined in
33 Section 42(d)(5)(C) of the Internal Revenue Code,
34 credits may be allocated under this section in the amounts
35 prescribed in subdivision (c), provided that the amount
36 of credit allocated under Section 42 of the Internal
37 Revenue Code is computed on 100 percent of the
38 qualified basis of the building.

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



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

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

11 (A) For each of the first three years, the percentage
12 prescribed by the Secretary of the Treasury for new
13 buildings that are not federally subsidized for the taxable
14 year, determined in accordance with the requirements of
15 Section 42(b)(2) of the Internal Revenue Code, in lieu of
16 the percentage prescribed in Section 42(b)(1)(A) of the
17 Internal Revenue Code.

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

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

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

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

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

36 (A) The building is presently owned by a housing
37 sponsor other than a qualified nonprofit organization.

38 (B) The building is a federally assisted building for
39 which the low-income use restrictions will terminate or
40 the building is eligible for incentives under Subtitle 13 of



1 the Emergency Low Income Housing Preservation Act of
2 1987 or under Section 502(c) of the Housing Act of 1949,
3 anytime in the two calendar years after the year of
4 application to the California Tax Credit Allocation
5 Committee, and the purchaser has received preliminary
6 approval from the applicable federal agency for a
7 maximum level of incentives through a plan of action.

8 (C) The person acquiring the building enters into a
9 regulatory agreement that requires the building to be
10 operated in accordance with the requirements of this
11 section for a period equal to the greater of 55 years or the
12 life of the building.

13 (D) The building satisfies the requirements of Section
14 42(e) of the Internal Revenue Code regarding
15 rehabilitation expenditures, except that the provisions of
16 Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

25 (i) The owner equity that shall include the amount of
26 the capital contributions actually paid to the housing
27 sponsor and shall not include any amounts until they are
28 paid on an investor note;~~or~~

29 (ii) Twenty percent of the adjusted basis of the
30 building as of the close of the first taxable year of the
31 credit period;~~or~~

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

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

1 be accumulated and distributed any time during the first
2 15 years of the compliance period but not thereafter.

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

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

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

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

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

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

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

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

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

39 The total amount for the four-year period of the
40 housing credit dollars allocated in a calendar year to any



1 building shall reduce the aggregate housing credit dollar
2 amount of the California Tax Credit Allocation
3 Committee for the calendar year in which the allocation
4 is made.

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

9 (g) The aggregate housing credit dollar amount which
10 may be allocated annually by the California Tax Credit
11 Allocation Committee pursuant to this section, Section
12 12206, and Section 23610.5 shall be an amount equal to the
13 sum of the following:

14 (1) ~~(A) Except as provided in subparagraph (B),~~
15 ~~thirty five million dollars (\$35,000,000) for the 1997~~
16 ~~calendar year, and each calendar year thereafter.~~

17 ~~(B) Fifty million dollars (\$50,000,000) for each of the~~
18 ~~calendar years 1998 and 1999~~ *Fifty million dollars*
19 *(\$50,000,000) for the 1998 calendar year and each*
20 *calendar year thereafter.*

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

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

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

38 (i) Section 42(j) of the Internal Revenue Code shall
39 not be applicable and the following requirements of this
40 section shall be set forth in a regulatory agreement



1 between the California Tax Credit Allocation Committee
2 and the housing sponsor, which agreement shall be
3 subordinated, when required, to any lien or
4 encumbrance of any banks or other institutional lenders
5 to the project. The regulatory agreement entered into
6 pursuant to subdivision (f) of Section 50199.14 of the
7 Health and Safety Code shall apply, providing the
8 agreement includes all of the following provisions:

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

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

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

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

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

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

32 (7) A requirement that the housing sponsor, as
33 security for the performance of the housing sponsor's
34 obligations under the regulatory agreement, assign the
35 housing sponsor's interest in rents that it receives from
36 the project, provided that until there is a default under
37 the regulatory agreement, the housing sponsor is entitled
38 to collect and retain the rents.

39 (8) The remedies available in the event of a default
40 under the regulatory agreement that is not cured within



1 a reasonable cure period, include, but are not limited to,
2 allowing any of the parties designated to enforce the
3 regulatory agreement to collect all rents with respect to
4 the project; taking possession of the project and operating
5 the project in accordance with the regulatory agreement
6 until the enforcer determines the housing sponsor is in a
7 position to operate the project in accordance with the
8 regulatory agreement; applying to any court for specific
9 performance; securing the appointment of a receiver to
10 operate the project; or any other relief as may be
11 appropriate.

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

26 (2) The committee shall adopt a qualified allocation
27 plan, as provided in Section 42(m)(1) of the Internal
28 Revenue Code. In adopting this plan, the committee shall
29 comply with the provisions of Sections 42(m)(1)(B) and
30 42(m)(1)(C) of the Internal Revenue Code.

31 (3) Notwithstanding Section 42(m) of the Internal
32 Revenue Code, the California Tax Credit Allocation
33 Committee shall allocate housing credits in accordance
34 with the qualified allocation plan and regulations, which
35 shall include the following provisions:

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



- 1 (i) The housing sponsor shall demonstrate there is a
2 need and demand for low-income housing in the
3 community or region for which it is proposed.
- 4 (ii) The project's proposed financing, including tax
5 credit proceeds, shall be sufficient to complete the
6 project and that the proposed operating income shall be
7 adequate to operate the project for the extended use
8 period.
- 9 (iii) The project shall have enforceable financing
10 commitments, either construction or permanent
11 financing, for at least 50 percent of the total estimated
12 financing of the project.
- 13 (iv) The housing sponsor shall have and maintain
14 control of the site for the project.
- 15 (v) The housing sponsor shall demonstrate that the
16 project complies with all applicable local land use and
17 zoning ordinances.
- 18 (vi) The housing sponsor shall demonstrate that the
19 project development team has the experience and the
20 financial capacity to ensure project completion and
21 operation for the extended use period.
- 22 (vii) The housing sponsor shall demonstrate the
23 amount of tax credit that is necessary for the financial
24 feasibility of the project and its viability as a qualified
25 low-income housing project throughout the extended use
26 period, taking into account operating expenses, a
27 supportable debt service, reserves, funds set aside for
28 rental subsidies, and required equity, and a development
29 fee that does not exceed a specified percentage of the
30 eligible basis of the project prior to inclusion of the
31 development fee in the eligible basis, as determined by
32 the committee.
- 33 (B) The committee shall give a preference to those
34 projects satisfying all of the threshold requirements of
35 subparagraph (A) if *both of the following apply*:
- 36 (i) The project serves the lowest income tenants at
37 rents affordable to those tenants; ~~and~~.
- 38 (ii) The project is obligated to serve qualified tenants
39 for the longest period.



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

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

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

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

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

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

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

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

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

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

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

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

38 (2) To the extent the amendments made to this section
39 by the Statutes of 1990 conflict with any provisions



1 existing in this section prior to those amendments, the
2 prior provisions of law shall prevail.

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

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

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

16 (p) The provisions of Section 11407(c) of Public Law
17 101-508, relating to election to accelerate credit, shall not
18 apply.

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

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

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

29 SEC. 4. Section 23610.5 of the Revenue and Taxation
30 Code is amended to read:

31 23610.5. (a) (1) There shall be allowed as a credit
32 against the "tax" (as defined by Section 23036) a state
33 low-income housing tax credit in an amount equal to the
34 amount determined in subdivision (c), computed in
35 accordance with Section 42 of the Internal Revenue Code
36 of 1986, except as otherwise provided in this section.

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



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

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

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

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

18 (ii) It shall qualify for a credit under Section
19 42(h)(4)(B) of the Internal Revenue Code.

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

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

32 (B) In the case of a partnership or an S corporation, the
33 housing sponsor shall provide a copy of the California Tax
34 Credit Allocation Committee certification to the
35 taxpayer.

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

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



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

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

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

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

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

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

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

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



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

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

7 (A) The building is presently owned by a housing
8 sponsor other than a qualified nonprofit organization.

9 (B) The building is a federally assisted building for
10 which the low-income use restrictions will terminate or
11 the building is eligible for prepayment under Subtitle 13
12 of the Emergency Low Income Housing Assistance Act of
13 1987 or under Section 502(c) of the Housing Act of 1949,
14 anytime in the two calendar years after the year of
15 application to the California Tax Credit Allocation
16 Committee, and the purchaser has received preliminary
17 approval from the applicable federal agency for a
18 maximum level of incentives through a plan of action.

19 (C) The person acquiring the building enters into a
20 regulatory agreement that requires the building to be
21 operated in accordance with the requirements of this
22 section for a period equal to the greater of 55 years or the
23 life of the building.

24 (D) The building satisfies the requirements of Section
25 42(e) of the Internal Revenue Code regarding
26 rehabilitation expenditures, except that the provisions of
27 Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

36 (i) The owner equity that shall include the amount of
37 the capital contributions actually paid to the housing
38 sponsor and shall not include any amounts until they are
39 paid on an investor note;~~or~~



1 (ii) Twenty percent of the adjusted basis of the
2 building as of the close of the first income year of the
3 credit period;~~or~~

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

10 (C) Any amount allowed to be distributed under
11 subparagraph (A) that is not available for distribution
12 during the first five years of the compliance period may
13 accumulate and be distributed any time during the first
14 15 years of the compliance period but not thereafter.

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

19 (3) The housing sponsor shall apply any cash available
20 for distribution in excess of the amount eligible to be
21 distributed under paragraph (1) to reduce the rent on
22 rent-restricted units or to increase the number of
23 rent-restricted units subject to the tests of Section
24 42(g)(1) of the Internal Revenue Code.

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

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

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

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

36 If, as of the close of any income year in the compliance
37 period, after the first year of the credit period, the
38 qualified basis of any building exceeds the qualified basis
39 of that building as of the close of the first year of the credit
40 period, the housing sponsor, to the extent of its tax credit



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

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

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

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

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

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

25 (1) ~~(A) Except as provided in subparagraph (B),~~
26 ~~thirty-five million dollars (\$35,000,000) for the 1997~~
27 ~~calendar year, and each calendar year thereafter.~~

28 ~~(B) Fifty million dollars (\$50,000,000) for each of the~~
29 ~~calendar years 1998 and 1999~~ *Fifty million dollars*
30 *(\$50,000,000) for the 1998 calendar year and each*
31 *calendar year thereafter.*

32 (2) The unused housing credit ceiling, if any, for the
33 preceding calendar years; ~~and.~~

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



1 which an allocation is canceled by mutual consent of the
2 California Tax Credit Allocation Committee and the
3 allocation recipient.

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

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

13 ~~(1) The~~

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

23 ~~(A)–~~

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

25 ~~(B)–~~

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

29 ~~(C)–~~

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

34 ~~(D)–~~

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



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

3 ~~(E)~~

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

7 ~~(F)~~

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

13 ~~(G)~~

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

21 ~~(H)~~

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

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



1 that may be allocated by the committee in that period,
2 and the approximate date on which allocations shall be
3 made. If the enactment of federal or state law, the
4 adoption of rules or regulations, or other similar events
5 prevent the use of two allocation periods, the committee
6 may reduce the number of periods and adjust the filing
7 deadlines, maximum percentage of credit allocated, and
8 the allocation dates.

9 (2) The committee shall adopt a qualified allocation
10 plan, as provided in Section 42(m)(1) of the Internal
11 Revenue Code. In adopting this plan, the committee shall
12 comply with the provisions of Sections 42(m)(1)(B) and
13 42(m)(1)(C) of the Internal Revenue Code.

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

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

23 (i) The housing sponsor shall demonstrate there is a
24 need for low-income housing in the community or region
25 for which it is proposed.

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

30 (iii) The project shall have enforceable financing
31 commitments, either construction or permanent
32 financing, for at least 50 percent of the total estimated
33 financing of the project.

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

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

39 (vi) The housing sponsor shall demonstrate that the
40 project development team has the experience and the



1 financial capacity to ensure project completion and
2 operation for the extended use period.

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

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

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

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

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

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

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

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

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

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



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

6 (5) Not less than 20 percent of the low-income housing
7 tax credits available annually under this section, Section
8 12206, and Section 17058 shall be set aside for allocation
9 to rural areas as defined in Section 50199.21 of the Health
10 and Safety Code. Any amount of credit set aside for rural
11 areas remaining on or after October 31 of any calendar
12 year shall be available for allocation to any eligible
13 project. No amount of credit set aside for rural areas shall
14 be considered available for any eligible project so long as
15 there are eligible rural applications pending on October
16 31.

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

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

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

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

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

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

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

39 (n) The credit period with respect to an allocation of
40 credit in 1989 by the California Tax Credit Allocation



1 Committee of which any amount is attributable to
2 unallocated credit from 1987 or 1988 shall not begin until
3 after December 31, 1989.

4 (o) The provisions of Section 11407(a) of Public Law
5 101-508, relating to the effective date of the extension of
6 the low-income housing credit, shall apply to calendar
7 years after 1989.

8 (p) The provisions of Section 11407(c) of Public Law
9 101-508, relating to election to accelerate credit, shall not
10 apply.

11 (q) (1) A corporation may elect to assign any portion
12 of any credit allowed under this section to one or more
13 affiliated corporations for each income year in which the
14 credit is allowed. For purposes of this subdivision,
15 “affiliated corporation” has the meaning provided in
16 subdivision (b) of Section 25110, as that section was
17 amended by Chapter 881 of the Statutes of 1993, as of the
18 last day of the income year in which the credit is allowed,
19 except that “100 percent” is substituted for “more than 50
20 percent” wherever it appears in the section, as that
21 section was amended by Chapter 881 of the Statutes of
22 1993, and “voting common stock” is substituted for
23 “voting stock” wherever it appears in the section, as that
24 section was amended by Chapter 881 of the Statutes of
25 1993.

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

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

29 (B) Shall be irrevocable for the income year the credit
30 is allowed, once made.

31 (C) May be changed for any subsequent income year
32 if the election to make the assignment is expressly shown
33 on each of the returns of the affiliated corporations that
34 assign and receive the credits.

35 (r) Any unused credit may continue to be carried
36 forward, as provided in subdivision (k), until the credit
37 has been exhausted.

38 This section shall remain in effect on or after December
39 1, 1990, for as long as Section 42 of the Internal Revenue



1 Code, ~~pertainig~~ *relating* to low-income housing credits,
2 remains in effect.

3 (s) The amendments to this section made by the act
4 adding this subdivision shall apply only to income years
5 beginning on or after January 1, 1994, except that
6 paragraph (1) of subdivision (q), as amended, shall apply
7 to income years beginning on or after January 1, 1993.

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

