

AMENDED IN ASSEMBLY FEBRUARY 25, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 97

Introduced by Assembly Member Torlakson
*(Coauthors: Assembly Members Calderon, Honda, Kuehl,
Leach, Romero, Steinberg, Wayne, and Wildman)*
(Coauthors: Senators Alpert, Costa, and Figueroa)

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 amended, 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~~ as 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 for~~
4 ~~so~~ as long as Section 42 of the Internal Revenue Code,
5 relating to low-income housing credits, remains in effect.
6 However, repeal of this chapter shall not invalidate or in
7 any way affect the duration of any previously allocated
8 low-income tax credits.

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

11 12206. (a) (1) There shall be allowed as a credit
12 against the "tax" (as defined by Section 12201) a state
13 low-income housing tax credit in an amount equal to the
14 amount determined in subdivision (c), computed in
15 accordance with Section 42 of the Internal Revenue
16 Code, except as otherwise provided in this section.

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

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



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

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

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

14 (ii) It shall qualify for a credit under Section
15 42(h)(4)(B) of the Internal Revenue Code.

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

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

28 (B) In the case of a partnership or an S corporation, the
29 housing sponsor shall provide a copy of the California Tax
30 Credit Allocation Committee certification to the
31 taxpayer.

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

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



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

4 (F) No credit shall be allocated under this section to
5 buildings located in a difficult development area or a
6 qualified census tract as defined in Section 42 of the
7 Internal Revenue Code for which the eligible basis of a
8 new building or the rehabilitation expenditure of an
9 existing building is 130 percent of that amount pursuant
10 to Section 42(d)(5)(C) of the Internal Revenue Code,
11 unless the committee reduces the amount of federal
12 credit, with the approval of the applicant, so that the
13 combined amount of federal and state credit shall not
14 exceed the total credit allowable pursuant to this section
15 and Section 42(b) of the Internal Revenue Code,
16 computed without regard to Section 42(d)(5)(C) of the
17 Internal Revenue Code.

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

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

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

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

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

39 (A) For each of the first three years, the percentage
40 prescribed by the Secretary of the Treasury for new



1 buildings that are federally subsidized for the taxable
2 year.

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

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

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

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

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

27 (D) The building satisfies the requirements of Section
28 42(e) of the Internal Revenue Code regarding
29 rehabilitation expenditures, except that the provisions of
30 Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

39 (i) The owner equity which shall include the amount
40 of the capital contributions actually paid to the housing



1 sponsor and shall not include any amounts until they are
2 paid on an investor note.

3 (ii) Twenty percent of the adjusted basis of the
4 building as of the close of the first income year of the
5 credit period.

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

12 (C) Any amount allowed to be distributed under
13 subparagraph (A) that is not available for distribution
14 during the first five years of the compliance period may
15 accumulate and be distributed any time during the first
16 15 years of the compliance period but not thereafter.

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

21 (3) The housing sponsor shall apply any cash available
22 for distribution in excess of the amount eligible to be
23 distributed under paragraph (1) to reduce the rent on
24 rent-restricted units or to increase the number of
25 rent-restricted units subject to the tests of Section
26 42(g)(1) of the Internal Revenue Code.

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

29 (1) The term “credit period” as defined in Section
30 42(f)(1) of the Internal Revenue Code is modified by
31 substituting “four income years” for “10 taxable years.”

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

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

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



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

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

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

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

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

22 (g) The aggregate housing credit dollar amount that
23 may be allocated annually by the California Tax Credit
24 Allocation Committee pursuant to this section, Section
25 17058, and Section 23610.5 shall be an amount equal to the
26 sum of the following:

27 (1) Fifty million dollars (\$50,000,000) for the 1998
28 calendar year and each 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.

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.

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.

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) Fifty million dollars (\$50,000,000) for the 1998
15 calendar year and each calendar year thereafter.

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

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

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

33 (i) Section 42(j) of the Internal Revenue Code shall
34 not be applicable and the following requirements of this
35 section shall be set forth in a regulatory agreement
36 between the California Tax Credit Allocation Committee
37 and the housing sponsor, which agreement shall be
38 subordinated, when required, to any lien or
39 encumbrance of any banks or other institutional lenders
40 to the project. The regulatory agreement entered into



1 pursuant to subdivision (f) of Section 50199.14 of the
2 Health and Safety Code shall apply, providing the
3 agreement includes all of the following provisions:

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

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

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

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

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

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

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

34 (8) The remedies available in the event of a default
35 under the regulatory agreement that is not cured within
36 a reasonable cure period, include, but are not limited to,
37 allowing any of the parties designated to enforce the
38 regulatory agreement to collect all rents with respect to
39 the project; taking possession of the project and operating
40 the project in accordance with the regulatory agreement



1 until the enforcer determines the housing sponsor is in a
2 position to operate the project in accordance with the
3 regulatory agreement; applying to any court for specific
4 performance; securing the appointment of a receiver to
5 operate the project; or any other relief as may be
6 appropriate.

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

21 (2) The committee shall adopt a qualified allocation
22 plan, as provided in Section 42(m)(1) of the Internal
23 Revenue Code. In adopting this plan, the committee shall
24 comply with the provisions of Sections 42(m)(1)(B) and
25 42(m)(1)(C) of the Internal Revenue Code.

26 (3) Notwithstanding Section 42(m) of the Internal
27 Revenue Code, the California Tax Credit Allocation
28 Committee shall allocate housing credits in accordance
29 with the qualified allocation plan and regulations, which
30 shall include the following provisions:

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

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

38 (ii) The project's proposed financing, including tax
39 credit proceeds, shall be sufficient to complete the
40 project and that the proposed operating income shall be



1 adequate to operate the project for the extended use
2 period.

3 (iii) The project shall have enforceable financing
4 commitments, either construction or permanent
5 financing, for at least 50 percent of the total estimated
6 financing of the project.

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

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

12 (vi) The housing sponsor shall demonstrate that the
13 project development team has the experience and the
14 financial capacity to ensure project completion and
15 operation for the extended use period.

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

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

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

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

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

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



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

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

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

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

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

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 credit allowed under this
22 section exceeds the net tax, the excess credit may be
23 carried over to reduce the net tax in the following year,
24 and succeeding taxable years, if necessary, until the credit
25 has been 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) Any unused credit may continue to be carried
12 forward, as provided in subdivision (l), until the credit
13 has been exhausted.

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

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

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

23 23610.5. (a) (1) There shall be allowed as a credit
24 against the "tax" (as defined by Section 23036) a state
25 low-income housing tax credit in an amount equal to the
26 amount determined in subdivision (c), computed in
27 accordance with Section 42 of the Internal Revenue Code
28 of 1986, except as otherwise provided in this section.

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

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

37 (b) (1) The amount of the credit allocated to any
38 housing sponsor shall be authorized by the California Tax
39 Credit Allocation Committee, or any successor thereof,
40 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, upon request, provide a copy
29 of the certification to the Franchise Tax Board.

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

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



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

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

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

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

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

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

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

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

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

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

39 (B) The building is a federally assisted building for
40 which the low-income use restrictions will terminate or



1 the building is eligible for prepayment under Subtitle 13
2 of the Emergency Low Income Housing Assistance Act of
3 1987 or under Section 502(c) of the Housing Act of 1949,
4 anytime in the two calendar years after the year of
5 application to the California Tax Credit Allocation
6 Committee, and the purchaser has received preliminary
7 approval from the applicable federal agency for a
8 maximum level of incentives through a plan of action.

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

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

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

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

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

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

30 (ii) Twenty percent of the adjusted basis of the
31 building as of the close of the first income year of the
32 credit period.

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

39 (C) Any amount allowed to be distributed under
40 subparagraph (A) that is not available for distribution



1 during the first five years of the compliance period may
2 accumulate and be distributed any time during the first
3 15 years of the compliance period but not thereafter.

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

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

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

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

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

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

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

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

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



1 The total amount for the four-year credit period of the
2 housing credit dollars allocated in a calendar year to any
3 building shall reduce the aggregate housing credit dollar
4 amount of the California Tax Credit Allocation
5 Committee for the calendar year in which the allocation
6 is made.

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

10 (g) The aggregate housing credit dollar amount which
11 may be allocated annually by the California Tax Credit
12 Allocation Committee pursuant to this section, Section
13 12206, and Section 17058 shall be an amount equal to the
14 sum of the following:

15 (1) Fifty million dollars (\$50,000,000) for the 1998
16 calendar year and each calendar year thereafter.

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

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

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

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

38 The requirements of this section shall be set forth in a
39 regulatory agreement between the California Tax Credit
40 Allocation Committee and the housing sponsor, and this



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

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

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

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

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

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

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

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

37 (8) The remedies available in the event of a default
38 under the regulatory agreement that is not cured within
39 a reasonable cure period, include, but are not limited to,
40 allowing any of the parties designated to enforce the



1 regulatory agreement to collect all rents with respect to
2 the project; taking possession of the project and operating
3 the project in accordance with the regulatory agreement
4 until the enforcer determines the housing sponsor is in a
5 position to operate the project in accordance with the
6 regulatory agreement; applying to any court for specific
7 performance; securing the appointment of a receiver to
8 operate the project; or any other relief as may be
9 appropriate.

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

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

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

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

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



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

5 (iii) The project shall have enforceable financing
6 commitments, either construction or permanent
7 financing, for at least 50 percent of the total estimated
8 financing of the project.

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

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

14 (vi) The housing sponsor shall demonstrate that the
15 project development team has the experience and the
16 financial capacity to ensure project completion and
17 operation for the extended use period.

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

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

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

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

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

39 (i) Projects serving large families in which a
40 substantial number, as defined by the committee of all



1 residential units is comprised of low-income units with
2 three and more bedrooms.

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

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

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

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

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

20 (5) Not less than 20 percent of the low-income housing
21 tax credits available annually under this section, Section
22 12206, and Section 17058 shall be set aside for allocation
23 to rural areas as defined in Section 50199.21 of the Health
24 and Safety Code. Any amount of credit set aside for rural
25 areas remaining on or after October 31 of any calendar
26 year shall be available for allocation to any eligible
27 project. No amount of credit set aside for rural areas shall
28 be considered available for any eligible project so long as
29 there are eligible rural applications pending on October
30 31.

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

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

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



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

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

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

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

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

19 (o) The provisions of Section 11407(a) of Public Law
20 101-508, relating to the effective date of the extension of
21 the low-income housing credit, shall apply to calendar
22 years after 1989.

23 (p) The provisions of Section 11407(c) of Public Law
24 101-508, relating to election to accelerate credit, shall not
25 apply.

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



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

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

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

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

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

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

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

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

