

**ASSEMBLY BILL**

**No. 1811**

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

February 3, 2000

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

The Personal Income Tax Law and the Bank and Corporation Tax Law also allow a credit against the taxes imposed by those laws in an amount equal to 50% of the eligible costs of constructing or rehabilitating farmworker housing. The credit is allocated pursuant to the Farmworker Housing Assistance Program by the California Tax Credit

Allocation Committee in an amount not to exceed \$500,000 per calendar year.

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

This bill would take effect immediately as a tax levy.

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

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

1 SECTION 1. Section 50199.50 of the Health and  
2 Safety Code is amended to read:  
3 50199.50. For the purposes of this chapter:  
4 (a) "Agricultural worker" or "farmworker" shall have  
5 the same meaning as specified in subdivision (b) of  
6 Section 1140.4 of the Labor Code.  
7 (b) "Compliance period" means, with respect to any  
8 farmworker housing, the period of 30 consecutive taxable  
9 or income years, beginning with the taxable or income  
10 year in which the credit is allowable.  
11 (c) "Eligible costs" means the total finance costs,  
12 construction costs, excavation costs, installation costs, and  
13 permit costs paid or incurred to construct or rehabilitate  
14 farmworker housing. "Eligible costs" include, but are not  
15 limited to, improvements to ensure compliance with laws  
16 governing access for persons with disabilities and costs  
17 related to reducing utility expenses. Noneligible costs  
18 include land and those costs financed by grants and  
19 below-market financing.  
20 (d) "Farmworker housing" means housing for  
21 agricultural workers and may include, but need not be  
22 limited to, conventionally constructed units and  
23 manufactured housing.  
24 (e) "Farmworker housing tax credits" means the tax  
25 credits authorized by Sections ~~17053.14, 23608.2, and~~



1 ~~23608.3~~ 12206, 17058, and 23610.5 of the Revenue and  
2 Taxation Code.

3 (f) “Household” has the same meaning as defined in  
4 Section 7602 of Title 25 of the California Code of  
5 Regulations.

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

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

10 50199.52. All housing assisted pursuant to this chapter  
11 shall comply with the following requirements:

12 (a) (1) The recipient of a tax credit pursuant to  
13 Section ~~17053.14, 23608.2, or 23608.3~~ 12206, 17058, or  
14 23610.5 of the Revenue and Taxation Code, or the owner  
15 of the farmworker housing assisted pursuant to Section  
16 ~~17053.14 or 23608.2~~ 12206, 17058, or 23610.5 of the Revenue  
17 and Taxation Code, shall enter into those agreements  
18 required by the committee to further the purposes of this  
19 chapter and the applicable farmworker housing tax  
20 credit sections.

21 (2) The owner shall agree that the farmworker  
22 housing units assisted with the farmworker housing tax  
23 credits shall be utilized, maintained, and operated  
24 pursuant to this chapter for the compliance term  
25 specified by the applicable farmworker housing tax credit  
26 statute.

27 (b) (1) The farmworker housing assisted pursuant to  
28 this chapter shall be available to, and occupied by, only  
29 farmworkers and their households. However, in the  
30 event of a natural disaster or other critical occurrence, as  
31 determined by the committee, the housing may be  
32 utilized at the discretion of the owner for households  
33 needing shelter for up to 60 days if there are no  
34 farmworkers who have submitted an application to  
35 reside, or to continue to reside, in the housing. The  
36 occupants of the housing need not be limited to  
37 farmworkers employed by the property owner.

38 (2) In addition, where the housing is designed and  
39 operated as a dormitory, the owner and operator may  
40 restrict occupancy by sex. However, in awarding credits



1 pursuant to this chapter, the committee shall give  
2 preference to proposed farmworker housing that is  
3 designed and operated for families rather than for single  
4 sex dormitories.

5 (c) The expenditures upon which the amount of the  
6 farmworker housing tax credit is based shall be eligible  
7 costs.

8 SEC. 3. Section 50199.54 of the Health and Safety  
9 Code is amended to read:

10 50199.54. (a) In the event that the owner who  
11 receives a credit pursuant to Section ~~17053.14~~ ~~or~~ ~~23608.2~~  
12 *12206, 17058, or 23610.5* of the Revenue and Taxation  
13 Code demonstrates, to the committee's satisfaction, that  
14 there is no further need for farmworker housing or that  
15 it is no longer economically feasible to operate the  
16 farmworker housing, the owner shall pay to the Franchise  
17 Tax Board a pro rata portion of the credit previously  
18 allowed equal to the amount of any tax credit previously  
19 allowed, multiplied by the ratio of the number of years  
20 not elapsed in the compliance period divided by 30.

21 (b) In the event that the farmworker housing is  
22 damaged or destroyed by a casualty not caused by the  
23 owner, the compliance period has not expired, and the  
24 owner commences reasonable action to repair or replace  
25 the farmworker housing, the taxpayer may continue to  
26 claim the credit as if no destruction had taken place.

27 SEC. 4. Section 12206 of the Revenue and Taxation  
28 Code is amended to read:

29 12206. (a) (1) There shall be allowed as a credit  
30 against the "tax" (as defined by Section 12201) a state  
31 low-income housing tax credit in an amount equal to the  
32 amount determined in subdivision (c), computed in  
33 accordance with Section 42 of the Internal Revenue  
34 Code, except as otherwise provided in this section.

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

39 (3) "Housing sponsor," for purposes of this section,  
40 means the sole owner in the case of a C corporation, the



1 partnership in the case of a partnership, and the S  
2 corporation in the case of an S corporation.

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

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

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

16 (ii) It shall qualify for a credit under Section  
17 42(h)(4)(B) of the Internal Revenue Code.

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

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

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

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

37 (D) In the case of a failure to attach a copy of the  
38 certification for the year to the return in which a tax  
39 credit is claimed under this section, no credit under this



1 section shall be allowed for that year until a copy of that  
2 certification is provided.

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

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

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

22 (1) In the case of any qualified low-income building  
23 that receives an allocation after 1989 and is a new building  
24 not federally subsidized, the term “applicable  
25 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 not federally subsidized for the taxable  
29 year, determined in accordance with the requirements of  
30 Section 42(b)(2) of the Internal Revenue Code, in lieu of  
31 the percentage prescribed in Section 42(b)(1)(A) of the  
32 Internal Revenue Code.

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

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



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

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

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

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

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

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

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

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

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

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



1 (i) The owner equity which shall include the amount  
2 of the capital contributions actually paid to the housing  
3 sponsor and shall not include any amounts until they are  
4 paid on an investor note; or

5 (ii) Twenty percent of the adjusted basis of the  
6 building as of the close of the first income year of the  
7 credit period; or

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

14 (C) Any amount allowed to be distributed under  
15 subparagraph (A) that is not available for distribution  
16 during the first five years of the compliance period may  
17 accumulate and be distributed any time during the first  
18 15 years of the compliance period but not thereafter.

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

23 (3) The housing sponsor shall apply any cash available  
24 for distribution in excess of the amount eligible to be  
25 distributed under paragraph (1) to reduce the rent on  
26 rent-restricted units or to increase the number of  
27 rent-restricted units subject to the tests of Section  
28 42(g)(1) of the Internal Revenue Code.

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

31 (1) The term “credit period” as defined in Section  
32 42(f)(1) of the Internal Revenue Code is modified by  
33 substituting “four income years” for “10 taxable years.”

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

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



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

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

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

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

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

25 (g) The aggregate housing credit dollar amount that  
 26 may be allocated annually by the California Tax Credit  
 27 Allocation Committee pursuant to this section, Section  
 28 17058, and Section 23610.5 shall be an amount equal to the  
 29 sum of the following:

30  
 31 (1) ~~(A) Except as provided in subparagraph (B),~~  
 32 ~~thirty-five million dollars (\$35,000,000) for the~~  
 33 ~~housing projects, including farmworker housing:~~

34 ~~(A) Thirty-five million dollars (\$35,000,000) for the~~  
 35 ~~1997 calendar year, and each calendar year thereafter.~~

36 ~~(B) Fifty million dollars (\$50,000,000) for each of the~~  
 37 ~~calendar years 1998 and 1999.~~

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

40 ~~(3)~~



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

11 (2) *To be specifically designated for the construction*  
12 *or rehabilitation of qualified farmworker housing, all of*  
13 *the following:*

14 (A) *Five hundred thousand dollars (\$500,000).*

15 (B) *The unused qualified farmworker housing credits,*  
16 *if any, for the preceding calendar year or years.*

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

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

33 *The farmworker housing tax credit shall not be allowed*  
34 *unless the taxpayer constructs or rehabilitates the*  
35 *property subject to the covenants, conditions, and*  
36 *restrictions imposed by this section and pursuant to the*  
37 *Farmworker Housing Assistance Program, which shall*  
38 *include, but not necessarily be limited to, a requirement*  
39 *that the taxpayer obtain, for approval by the committee,*  
40 *a construction cost audit and certification of eligible costs*



1 *from a qualified accountant; and, subsequent to the*  
2 *construction or rehabilitation of the farmworker housing,*  
3 *owns or operates the farmworker housing pursuant to the*  
4 *requirements of this section, or ensures the ownership*  
5 *and operation of the farmworker housing pursuant to the*  
6 *requirements of this section.*

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

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

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

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

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

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



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

4 (F) A requirement that the housing sponsor notify the  
5 California Tax Credit Allocation Committee or its  
6 designee and the local agency that can enforce the  
7 regulatory agreement if there is a determination by the  
8 Internal Revenue Service that the project is not in  
9 compliance with Section 42(g) of the Internal Revenue  
10 Code.

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

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

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



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

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

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

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

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

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

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

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

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

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



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

12 (B) The committee shall give a preference to those  
13 projects satisfying all of the threshold requirements of  
14 subparagraph (A) if:

15 (i) The project serves the lowest income tenants at  
16 rents affordable to those tenants; and

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

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

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

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

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

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

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

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



1 application except to break a tie when two or more of the  
2 projects have an equal rating.

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

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

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

12 (m) 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 1993.

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

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

22 SEC. 5. Section 17053.14 of the Revenue and Taxation  
23 Code is repealed.

24 ~~17053.14. (a) (1) For taxable years beginning on or~~  
25 ~~after January 1, 1997, there shall be allowed as a credit~~  
26 ~~against the “net tax,” as defined in Section 17039, an~~  
27 ~~amount equal to the lesser of 50 percent of the eligible~~  
28 ~~costs, as determined under subdivision (b), or the amount~~  
29 ~~allocated under paragraph (2) of subdivision (e).~~

30 ~~(2) Notwithstanding paragraph (1), no credit shall be~~  
31 ~~allowed until the qualified year, as defined in paragraph~~  
32 ~~(3).~~

33 ~~(3) For purposes of this section, the “qualified year” is~~  
34 ~~the first taxable year during which the construction or~~  
35 ~~rehabilitation of the qualified farmworker housing is~~  
36 ~~completed and there is occupancy of the qualified~~  
37 ~~farmworker housing by eligible farmworkers.~~

38 ~~(b) (1) For purposes of this section, the “eligible~~  
39 ~~costs” shall be equal to the total finance costs,~~  
40 ~~construction costs, excavation costs, installation costs, and~~



1 ~~permit costs paid or incurred to construct or rehabilitate~~  
2 ~~farmworker housing. “Eligible costs” include, but are not~~  
3 ~~limited to, improvements to ensure compliance with laws~~  
4 ~~governing access for persons with disabilities and costs~~  
5 ~~related to reducing utility expenses. Noneligible costs~~  
6 ~~include land and those costs financed by grants and~~  
7 ~~below-market financing.~~

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

11 ~~(3) Notwithstanding any other provision of this part,~~  
12 ~~eligible costs shall not include any costs paid or incurred~~  
13 ~~prior to January 1, 1997.~~

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

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

22 ~~(1) Apply to the committee for credit certification~~  
23 ~~prior to the payment or incurrence of costs described in~~  
24 ~~paragraph (1) of subdivision (b).~~

25 ~~(2) Retain a copy of the certification.~~

26 ~~(3) Make the certification available to the Franchise~~  
27 ~~Tax Board upon request.~~

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

29 ~~(1) Provide forms and instructions for applications for~~  
30 ~~credit certification, as specified pursuant to the~~  
31 ~~Farmworker Housing Assistance Program.~~

32 ~~(2) Accept applications and issue a certificate to the~~  
33 ~~taxpayer that includes a certification as to the eligible~~  
34 ~~costs described in subdivision (b) that qualify for the~~  
35 ~~credit and the total amount of the credit to which the~~  
36 ~~taxpayer is entitled for the taxable year. Credit in excess~~  
37 ~~of the amount necessary to make the project feasible shall~~  
38 ~~not be allocated. Credits shall be allocated through a~~  
39 ~~minimum of one competitive funding round per year.~~



1 ~~(3) Obtain the taxpayer's taxpayer identification~~  
2 ~~number, and each partner's taxpayer identification~~  
3 ~~number in the case of a partnership, for tax~~  
4 ~~administration purposes.~~

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

11 ~~(f) For purposes of this section:~~

12 ~~(1) "Compliance period" means, with respect to any~~  
13 ~~farmworker housing, the period of 30 consecutive taxable~~  
14 ~~years, beginning with the taxable year in which the credit~~  
15 ~~is allowable.~~

16 ~~(2) "Construct or rehabilitate" includes~~  
17 ~~reconstruction, but does not include any costs related to~~  
18 ~~acquisition or refinancing of property or structures~~  
19 ~~thereon.~~

20 ~~(3) "Farmworker Housing Assistance Program"~~  
21 ~~means Chapter 3.7 (commencing with Section 50199.50)~~  
22 ~~of Part 1 of Division 31 of the Health and Safety Code.~~

23 ~~(4) "Qualified farmworker housing" means housing~~  
24 ~~located within this state which satisfies the requirements~~  
25 ~~of the Farmworker Housing Assistance Program. The~~  
26 ~~housing may be vacant or occupied.~~

27 ~~(5) "Committee" means the California Tax Credit~~  
28 ~~Allocation Committee as defined in Section 50199.7 of the~~  
29 ~~Health and Safety Code.~~

30 ~~(6) "Qualified accountant" means an accountant~~  
31 ~~licensed or certified in this state who is neither an~~  
32 ~~employee of the taxpayer nor related to the taxpayer,~~  
33 ~~within the meaning of Section 267 of the Internal~~  
34 ~~Revenue Code.~~

35 ~~(g) No deduction or other credit shall be allowed~~  
36 ~~under this part or Part 11 (commencing with Section~~  
37 ~~23001) to the extent of any eligible costs, as defined in~~  
38 ~~subdivision (b), that are taken into account in computing~~  
39 ~~the credit allowed under this section.~~



1 ~~(h) The farmworker housing tax credit shall not be~~  
2 ~~allowed unless the taxpayer:~~

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

11 ~~(2) Subsequent to construction or rehabilitation of the~~  
12 ~~farmworker housing, owns or operates the farmworker~~  
13 ~~housing pursuant to the requirements of this section, or~~  
14 ~~ensures the ownership and operation of the farmworker~~  
15 ~~housing pursuant to the requirements of this section.~~

16 ~~(i) The requirements of this section shall be set forth~~  
17 ~~in a written agreement between the committee and the~~  
18 ~~taxpayer. The agreement shall include, but not~~  
19 ~~necessarily be limited to, the requirements set forth in the~~  
20 ~~Farmworker Housing Assistance Program.~~

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

26 ~~(k) (1) In the case of any disqualifying event, as~~  
27 ~~defined in paragraph (2), there shall be added to the “net~~  
28 ~~tax,” as defined in Section 17039, for the taxable year in~~  
29 ~~which the disqualifying event occurs, the recapture~~  
30 ~~amount computed under paragraph (3) and the interest~~  
31 ~~amount computed under paragraph (4).~~

32 ~~(2) For purposes of this subdivision, “disqualifying~~  
33 ~~event” shall mean:~~

34 ~~(A) The committee determines that the certification~~  
35 ~~provided under subdivision (e) was obtained by fraud or~~  
36 ~~misrepresentation.~~

37 ~~(B) The taxpayer fails to comply with the~~  
38 ~~requirements of the Farmworker Housing Assistance~~  
39 ~~Program, or any other requirement imposed under this~~  
40 ~~section.~~



1 ~~(3) For purposes of this subdivision, “recapture~~  
2 ~~amount” means:~~

3 ~~(A) In the case of any disqualifying event described in~~  
4 ~~subparagraph (A) of paragraph (2), the entire amount of~~  
5 ~~any credit previously allowed under this section.~~

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

13 ~~(4) For purposes of this subdivision, “interest amount”~~  
14 ~~means:~~

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

22 ~~(B) In the case of any disqualifying event described in~~  
23 ~~subparagraph (B) of paragraph (2), zero.~~

24 ~~(f) The annual amount of credit granted pursuant to~~  
25 ~~this section and Sections 23608.2 and 23608.3 shall not~~  
26 ~~exceed five hundred thousand dollars (\$500,000),~~  
27 ~~provided that the aggregate amount of the credit granted~~  
28 ~~pursuant to this section and Sections 23608.2 and 23608.3~~  
29 ~~for the 1998 calendar year and thereafter may exceed five~~  
30 ~~hundred thousand dollars (\$500,000) per calendar year by~~  
31 ~~an amount equal to any unallocated credits under this~~  
32 ~~section and Sections 23608.2 and 23608.3 for the preceding~~  
33 ~~calendar year or years.~~

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

36 17058. (a) (1) There shall be allowed as a credit  
37 against the amount of net tax (as defined in Section  
38 17039) a state low-income housing credit in an amount  
39 equal to the amount determined in subdivision (c),  
40 computed in accordance with the provisions of Section 42



1 of the Internal Revenue Code, except as otherwise  
2 provided in this section.

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

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

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

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

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

24 (ii) It shall qualify for a credit under Section  
25 42(h)(4)(B) of the Internal Revenue Code.

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

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

38 (B) In the case of a partnership or an S corporation, the  
39 housing sponsor shall provide a copy of the California Tax



1 Credit Allocation Committee certification to the  
2 taxpayer.

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

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

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

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

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

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

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

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

38 (3) In the case of any qualified low-income building  
39 that receives an allocation after 1989 and that is a new  
40 building that is federally subsidized or that is an existing



1 building that is “at risk of conversion,” the term  
2 “applicable percentage” means the following:

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

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

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

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

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

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

30 (D) The building satisfies the requirements of Section  
31 42(e) of the Internal Revenue Code regarding  
32 rehabilitation expenditures, except that the provisions of  
33 Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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



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

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

6 (ii) Twenty percent of the adjusted basis of the  
7 building as of the close of the first taxable year of the  
8 credit period; or

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

15 (C) Any amount allowed to be distributed under  
16 subparagraph (A) that is not available for distribution  
17 during the first five years of the compliance period may  
18 be accumulated and distributed any time during the first  
19 15 years of the compliance period but not thereafter.

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

24 (3) The housing sponsor shall apply any cash available  
25 for distribution in excess of the amount eligible to be  
26 distributed under paragraph (1) to reduce the rent on  
27 rent-restricted units or to increase the number of  
28 rent-restricted units subject to the tests of Section  
29 42(g)(1) of the Internal Revenue Code.

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

32 (1) The term “credit period” as defined in Section  
33 42(f)(1) of the Internal Revenue Code is modified by  
34 substituting “four taxable years” for “10 taxable years.”

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

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



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

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

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

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

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

26 (g) The aggregate housing credit dollar amount which  
27 may be allocated annually by the California Tax Credit  
28 Allocation Committee pursuant to this section, Section  
29 12206, and Section 23610.5 shall be an amount equal to the  
30 sum of the following:

31 (1) ~~(A) Except as provided in subparagraph (B),~~  
32 ~~thirty-five million dollars (\$35,000,000) for the~~  
33 ~~housing projects, including farmworker housing:~~

34 ~~(A) Thirty-five million dollars (\$35,000,000) for the~~  
35 ~~1997 calendar year, and each calendar year thereafter.~~

36 ~~(B) Fifty million dollars (\$50,000,000) for each of the~~  
37 ~~calendar years 1998 and 1999.~~

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

40 ~~(3)~~



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

11 (2) *To be specifically designated for the construction*  
12 *or rehabilitation of qualified farmworker housing, all of*  
13 *the following:*

14 (A) *Five hundred thousand dollars (\$500,000).*

15 (B) *The unused qualified farmworker housing credits,*  
16 *if any, for the preceding calendar year or years.*

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

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

33 *The farmworker housing tax credit shall not be allowed*  
34 *unless the taxpayer constructs or rehabilitates the*  
35 *property subject to the covenants, conditions, and*  
36 *restrictions imposed by this section and pursuant to the*  
37 *Farmworker Housing Assistance Program, which shall*  
38 *include, but not necessarily be limited to, a requirement*  
39 *that the taxpayer obtain, for approval by the committee,*  
40 *a construction cost audit and certification of eligible costs*

1 *from a qualified accountant; and, subsequent to the*  
2 *construction or rehabilitation of the farmworker housing,*  
3 *owns or operates the farmworker housing pursuant to the*  
4 *requirements of this section, or ensures the ownership*  
5 *and operation of the farmworker housing pursuant to the*  
6 *requirements of this section.*

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

12 (i) Section 42(j) of the Internal Revenue Code shall  
13 not be applicable and the following requirements of this  
14 section shall be set forth in a regulatory agreement  
15 between the California Tax Credit Allocation Committee  
16 and the housing sponsor, which agreement shall be  
17 subordinated, when required, to any lien or  
18 encumbrance of any banks or other institutional lenders  
19 to the project. The regulatory agreement entered into  
20 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 (1) A term not less than the compliance period.

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

10 (i) The project serves the lowest income tenants at  
11 rents affordable to those tenants; and

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

28 (p) The provisions of Section 11407(c) of Public Law  
29 101-508, relating to election to accelerate credit, shall not  
30 apply.

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

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

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



1 SEC. 7. Section 23608.2 of the Revenue and Taxation  
2 Code is repealed.

3 ~~23608.2. (a) (1) For income years beginning on or~~  
4 ~~after January 1, 1997, there shall be allowed as a credit~~  
5 ~~against the “tax,” as defined by Section 23036, an amount~~  
6 ~~equal to the lesser of 50 percent of the eligible costs, as~~  
7 ~~determined under subdivision (b), or the amount~~  
8 ~~allocated under paragraph (2) of subdivision (c).~~

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

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

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

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

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

33 ~~(c) Notwithstanding any other provision of this part,~~  
34 ~~no credit shall be allowed under this section unless the~~  
35 ~~taxpayer first obtains a certification from the committee~~  
36 ~~that the amounts described in subdivision (b) qualify for~~  
37 ~~the credit under this section and the total amount of the~~  
38 ~~credit allocated to the taxpayer pursuant to the~~  
39 ~~Farmworker Housing Assistance Program.~~

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



- 1 ~~(1) Apply to the committee for credit certification~~  
2 ~~prior to the payment or incurrence of costs described in~~  
3 ~~paragraph (1) of subdivision (b).~~  
4 ~~(2) Retain a copy of the certification.~~  
5 ~~(3) Make the certification available to the Franchise~~  
6 ~~Tax Board upon request.~~  
7 ~~(e) The committee shall do all of the following:~~  
8 ~~(1) Provide forms and instructions for applications for~~  
9 ~~credit certification, as specified pursuant to the~~  
10 ~~Farmworker Housing Assistance Program.~~  
11 ~~(2) Accept applications and issue a certificate to the~~  
12 ~~taxpayer that includes a certification as to the eligible~~  
13 ~~costs described in subdivision (b) that qualify for the~~  
14 ~~credit and the total amount of the credit to which the~~  
15 ~~taxpayer is entitled for the income year. Credit in excess~~  
16 ~~of the amount necessary to make the project feasible shall~~  
17 ~~not be allocated. Credits shall be allocated through a~~  
18 ~~minimum of one competitive funding round per year.~~  
19 ~~(3) Obtain the taxpayer's taxpayer identification~~  
20 ~~number, or each shareholder's taxpayer identification~~  
21 ~~number in the case of an S corporation, for tax~~  
22 ~~administration purposes.~~  
23 ~~(4) Provide an annual listing to the Franchise Tax~~  
24 ~~Board, in the form and manner agreed upon by the~~  
25 ~~Franchise Tax Board and the committee, containing the~~  
26 ~~names, taxpayer identification numbers pursuant to~~  
27 ~~paragraph (3), eligible costs, and total amount of credit~~  
28 ~~certified to each taxpayer.~~  
29 ~~(f) For purposes of this section:~~  
30 ~~(1) "Compliance period" means, with respect to any~~  
31 ~~farmworker housing, the period of 30 consecutive income~~  
32 ~~years, beginning with the income year in which the credit~~  
33 ~~is allowable.~~  
34 ~~(2) "Construct or rehabilitate" includes~~  
35 ~~reconstruction, but does not include any costs related to~~  
36 ~~acquisition or refinancing of property or structures~~  
37 ~~thereon.~~  
38 ~~(3) "Farmworker Housing Assistance Program"~~  
39 ~~means Chapter 3.7 (commencing with Section 50199.50)~~  
40 ~~of Part 1 of Division 31 of the Health and Safety Code.~~



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

7 ~~(5) “Committee” means the California Tax Credit~~  
8 ~~Allocation Committee as defined in Section 50199.7 of the~~  
9 ~~Health and Safety Code.~~

10 ~~(6) “Qualified accountant” means an accountant~~  
11 ~~licensed or certified in this state who is neither an~~  
12 ~~employee of the taxpayer, nor related to the taxpayer~~  
13 ~~within the meaning of Section 267 of the Internal~~  
14 ~~Revenue Code.~~

15 ~~(g) No deduction or other credit shall be allowed~~  
16 ~~under this part or Part 10 (commencing with Section~~  
17 ~~17001) to the extent of any eligible costs, as defined in~~  
18 ~~subdivision (b), that are taken into account in computing~~  
19 ~~the credit allowed under this section.~~

20 ~~(h) The farmworker housing tax credit shall not be~~  
21 ~~allowed unless the taxpayer:~~

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

30 ~~(2) Subsequent to construction or rehabilitation of the~~  
31 ~~farmworker housing, owns or operates the farmworker~~  
32 ~~housing pursuant to the requirements of this section, or~~  
33 ~~ensures the ownership and operation of the farmworker~~  
34 ~~housing pursuant to the requirements of this section.~~

35 ~~(i) The requirements of this section shall be set forth~~  
36 ~~in a written agreement between the committee and the~~  
37 ~~taxpayer. The agreement shall include, but not~~  
38 ~~necessarily be limited to, the requirements set forth in the~~  
39 ~~Farmworker Housing Assistance Program.~~



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

5 ~~(k) (1) In the case of any disqualifying event, as~~  
6 ~~defined in paragraph (2), there shall be added to the~~  
7 ~~“tax,” as defined in Section 23036, for the income year in~~  
8 ~~which the disqualifying event occurs, the recapture~~  
9 ~~amount computed under paragraph (3) and the interest~~  
10 ~~amount computed under paragraph (4).~~

11 ~~(2) For purposes of this subdivision, “disqualifying~~  
12 ~~event” shall mean:~~

13 ~~(A) The committee determines that the certification~~  
14 ~~provided under subdivision (c) was obtained by fraud or~~  
15 ~~misrepresentation.~~

16 ~~(B) The taxpayer fails to comply with the~~  
17 ~~requirements of the Farmworker Housing Assistance~~  
18 ~~Program, or any other requirement imposed under this~~  
19 ~~section.~~

20 ~~(3) For purposes of this subdivision, “recapture~~  
21 ~~amount” means:~~

22 ~~(A) In the case of any disqualifying event described in~~  
23 ~~subparagraph (A) of paragraph (2), the entire amount of~~  
24 ~~any credit previously allowed under this section.~~

25 ~~(B) In the case of any disqualifying event described in~~  
26 ~~subparagraph (B) of paragraph (2), an amount~~  
27 ~~determined by multiplying the entire amount of the~~  
28 ~~credit previously allowed under this section by a fraction,~~  
29 ~~the numerator of which is the number of years remaining~~  
30 ~~in the compliance period and the denominator of which~~  
31 ~~is 30.~~

32 ~~(4) For purposes of this subdivision, “interest amount”~~  
33 ~~means:~~

34 ~~(A) In the case of any disqualifying event described in~~  
35 ~~subparagraph (A) of paragraph (2), the amount of~~  
36 ~~interest computed using the adjusted annual rate~~  
37 ~~established in Section 19521 from the due date of the~~  
38 ~~return for each income year in which the credit was~~  
39 ~~claimed to the date of payment of the additional tax~~  
40 ~~resulting from the application of this subdivision.~~



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

3 ~~(f) The annual amount of credit granted pursuant to~~  
4 ~~this section and Sections 17053.14 and 23608.3 shall not~~  
5 ~~exceed five hundred thousand dollars (\$500,000);~~  
6 ~~provided that the aggregate amount of the credit granted~~  
7 ~~pursuant to this section and Sections 17053.14 and 23608.3~~  
8 ~~for the calendar year 1998 and thereafter may exceed five~~  
9 ~~hundred thousand dollars (\$500,000) per calendar year by~~  
10 ~~an amount equal to any unallocated credits under this~~  
11 ~~section and Sections 17053.14 and 23608.3 for the~~  
12 ~~preceding calendar year or years.~~

13 SEC. 8. Section 23608.3 of the Revenue and Taxation  
14 Code is repealed.

15 ~~23608.3. (a) For income years beginning on or after~~  
16 ~~January 1, 1997, there shall be allowed as a credit against~~  
17 ~~the "tax," as defined in Section 23036, for a bank or~~  
18 ~~financial corporation as determined in subdivision (b):~~

19 ~~(b) (1) For purposes of this section, the credit shall be~~  
20 ~~equal to 50 percent of the difference between the amount~~  
21 ~~of interest income which could have been collected by~~  
22 ~~the bank or financial corporation had the loan rate been~~  
23 ~~one point above prime, or any other index used by the~~  
24 ~~lender, and the lesser amount of interest income actually~~  
25 ~~due for the term of the loan by the bank or financial~~  
26 ~~corporation on those portions of loans used to finance only~~  
27 ~~eligible costs actually paid or incurred to rehabilitate or~~  
28 ~~construct qualified farmworker housing.~~

29 ~~(2) The credit allowed under this section shall be~~  
30 ~~taken in equal installments over a period equal to the~~  
31 ~~lesser of 10 years or the term of the loan beginning in the~~  
32 ~~taxpayer's income year during which the qualified~~  
33 ~~farmworker housing is completed and there is initial~~  
34 ~~occupancy by eligible farmworkers. In the case where the~~  
35 ~~credit allowed by this section exceeds the "tax" for any~~  
36 ~~income year, the excess may not be carried over to reduce~~  
37 ~~the "tax" in any succeeding year.~~

38 ~~(3) The credit shall not apply to loans with a term of~~  
39 ~~less than three years or to loans funded prior to January~~  
40 ~~1, 1997. The credit shall apply only to interest income~~



1 from the loan and shall not apply to any other loan fees  
2 or other charges collected by the bank or financial  
3 corporation with respect to the loan.

4 (e) The taxpayer shall qualify for the credit by  
5 application to and certification by the committee that the  
6 expenses qualify for the credit under this section.

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

8 (1) Apply to the committee for credit certification  
9 prior to the funding of the loan.

10 (2) Retain a copy of the certification.

11 (3) Make the certification available to the Franchise  
12 Tax Board upon request.

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

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

17 (2) Accept applications and issue a certificate to the  
18 taxpayer that includes the credit amount to which the  
19 taxpayer is entitled for the income year.

20 (3) Obtain the taxpayer's taxpayer identification  
21 number, and each shareholder's taxpayer identification  
22 number in the case of an S corporation, for tax  
23 administration purposes.

24 (4) Provide an annual listing to the Franchise Tax  
25 Board, and in a form and manner agreed upon by the  
26 Franchise Tax Board and the committee, containing the  
27 names, taxpayer identification numbers pursuant to  
28 paragraph (3), qualified amounts, and total amount of  
29 credit certified to each taxpayer.

30 (f) For the purposes of this section:

31 (1) "Construct or rehabilitate" includes  
32 reconstruction, but does not include any costs related to  
33 acquisition or refinancing of property or structures  
34 thereon.

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

38 (3) "Eligible costs" means those expenditures  
39 certified by the committee to meet the requirements of  
40 Sections 17053.14 and 23608.2.



1 ~~(4) “Qualified farmworker housing” means housing~~  
2 ~~within the state that meets the requirements of the~~  
3 ~~Farmworker Housing Assistance Program.~~

4 ~~(g) (1) In the event that the committee determines~~  
5 ~~that the certification provided under subdivision (e) was~~  
6 ~~obtained by fraud or misrepresentation of the taxpayer,~~  
7 ~~there shall be added to the “tax,” as defined in Section~~  
8 ~~23036 for the income year in which the disqualifying~~  
9 ~~event occurs, the recapture amount computed under~~  
10 ~~paragraph (2) and the interest amount computed under~~  
11 ~~paragraph (3).~~

12 ~~(2) For purposes of this subdivision, “recapture~~  
13 ~~amount” means the entire amount of any credit~~  
14 ~~previously allowed under this section.~~

15 ~~(3) For purposes of this subdivision, “interest amount”~~  
16 ~~means the amount of interest computed using the~~  
17 ~~adjusted annual rate established in Section 19521 from the~~  
18 ~~due date of the return for the taxable year in which the~~  
19 ~~credit was claimed to the date of payment of the~~  
20 ~~additional tax resulting from the application of this~~  
21 ~~subdivision.~~

22 ~~(h) (1) Except as provided in paragraph (2), if the~~  
23 ~~bank or financial corporation sells the loan to another~~  
24 ~~bank or financial corporation, the balance of the credit,~~  
25 ~~if any, shall be transferred to the assignee or transferee of~~  
26 ~~the loan, subject to the same conditions and limitations as~~  
27 ~~set forth in this section.~~

28 ~~(2) A bank or financial corporation may assign, sell, or~~  
29 ~~otherwise transfer the loan to another person or entity~~  
30 ~~and retain the right to claim the credit granted under this~~  
31 ~~section if the bank or financial corporation also retains~~  
32 ~~responsibility for servicing the loan.~~

33 ~~(i) The annual amount of credit granted pursuant to~~  
34 ~~this section and Sections 17053.14 and 23608.2 shall not~~  
35 ~~exceed five hundred thousand dollars (\$500,000),~~  
36 ~~provided that the aggregate amount of the credit granted~~  
37 ~~pursuant to this section and Sections 17053.14 and 23608.2~~  
38 ~~for the 1998 calendar year and thereafter may exceed five~~  
39 ~~hundred thousand dollars (\$500,000) per calendar year by~~  
40 ~~an amount equal to any unallocated credits under this~~



1 ~~section and Sections 17053.14 and 23608.2 for the~~  
2 ~~preceding calendar year or years.~~

3 SEC. 9. Section 23610.5 of the Revenue and Taxation  
4 Code is amended to read:

5 23610.5. (a) (1) There shall be allowed as a credit  
6 against the “tax” (as defined by Section 23036) a state  
7 low-income housing tax credit in an amount equal to the  
8 amount determined in subdivision (c), computed in  
9 accordance with Section 42 of the Internal Revenue Code  
10 of 1986, except as otherwise provided in this section.

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

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

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

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

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

32 (ii) It shall qualify for a credit under Section  
33 42(h)(4)(B) of the Internal Revenue Code.

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



1 year after the year the application is submitted for the  
2 federal tax credit.

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

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

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

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

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

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

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

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

36 (A) For each of the first three years, the percentage  
37 prescribed by the Secretary of the Treasury for new  
38 buildings that are not federally subsidized for the taxable  
39 year, determined in accordance with the requirements of



1 Section 42(b)(2) of the Internal Revenue Code, in lieu of  
2 the percentage prescribed in Section 42(b)(1)(A).

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

6 (3) In the case of any qualified low-income building  
7 that receives an allocation after 1989 and that is a new  
8 building that is federally subsidized or that is an existing  
9 building that is “at risk of conversion,” the term  
10 “applicable 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 federally subsidized for the taxable  
14 year.

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

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

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

23 (B) The building is a federally assisted building for  
24 which the low-income use restrictions will terminate or  
25 the building is eligible for prepayment under Subtitle 13  
26 of the Emergency Low Income Housing Assistance Act of  
27 1987 or under Section 502(c) of the Housing Act of 1949,  
28 anytime in the two calendar years after the year of  
29 application to the California Tax Credit Allocation  
30 Committee, and the purchaser has received preliminary  
31 approval from the applicable federal agency for a  
32 maximum level of incentives through a plan of action.

33 (C) The person acquiring the building enters into a  
34 regulatory agreement that requires the building to be  
35 operated in accordance with the requirements of this  
36 section for a period equal to the greater of 55 years or the  
37 life of the building.

38 (D) The building satisfies the requirements of Section  
39 42(e) of the Internal Revenue Code regarding



1 rehabilitation expenditures, except that the provisions of  
2 Section 42(e)(3)(A)(ii)(I) shall not apply.

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

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

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

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

15 (ii) Twenty percent of the adjusted basis of the  
16 building as of the close of the first income year of the  
17 credit period; or

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

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

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

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

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



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

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

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

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

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

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

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

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

34 (g) The aggregate housing credit dollar amount which  
35 may be allocated annually by the California Tax Credit  
36 Allocation Committee pursuant to this section, Section  
37 12206, and Section 17058 shall be an amount equal to the  
38 sum of the following:



1 (1) ~~(A) Except as provided in subparagraph (B),~~  
2 ~~thirty-five~~ *To be allocated for qualified low-income*  
3 *housing projects, including farmworker housing:*

4 (A) *Thirty-five million dollars (\$35,000,000) for the*  
5 *1997 calendar year, and each calendar year thereafter.*

6 (B) *Fifty million dollars (\$50,000,000) for each of the*  
7 *calendar years 1998 and 1999.*

8 ~~(2)~~ *The unused housing credit ceiling, if any, for the*  
9 *preceding calendar years; and*

10 ~~(3)~~

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

21 (2) *To be specifically designated for the construction*  
22 *or rehabilitation of qualified farmworker housing, all of*  
23 *the following:*

24 (A) *Five hundred thousand dollars (\$500,000).*

25 (B) *The unused qualified farmworker housing credits,*  
26 *if any, for the preceding calendar year or years.*

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

37 *“Qualified farmworker housing” means housing*  
38 *located within this state which satisfies the requirements*  
39 *of the Farmworker Housing Assistance Program. The*  
40 *housing may be vacant or occupied, and it need not be*



1 licensed pursuant to the Employee Housing Act at the  
2 time of the initiation of construction or rehabilitation.

3 The farmworker housing tax credit shall not be allowed  
4 unless the taxpayer constructs or rehabilitates the  
5 property subject to the covenants, conditions, and  
6 restrictions imposed by this section and pursuant to the  
7 Farmworker Housing Assistance Program, which shall  
8 include, but not necessarily be limited to, a requirement  
9 that the taxpayer obtain, for approval by the committee,  
10 a construction cost audit and certification of eligible costs  
11 from a qualified accountant; and, subsequent to the  
12 construction or rehabilitation of the farmworker housing,  
13 owns or operates the farmworker housing pursuant to the  
14 requirements of this section, or ensures the ownership  
15 and operation of the farmworker housing pursuant to the  
16 requirements of this section.

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

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

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

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

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



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

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

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

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

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

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



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

15 (2) The committee shall adopt a qualified allocation  
16 plan, as provided in Section 42(m)(1) of the Internal  
17 Revenue Code. In adopting this plan, the committee shall  
18 comply with the provisions of Sections 42(m)(1)(B) and  
19 42(m)(1)(C) of the Internal Revenue Code.

20 (3) Notwithstanding Section 42(m) of the Internal  
21 Revenue Code, the California Tax Credit Allocation  
22 Committee shall allocate housing credits in accordance  
23 with the qualified allocation plan and regulations, which  
24 shall include the following provisions:

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

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

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

36 (iii) The project shall have enforceable financing  
37 commitments, either construction or permanent  
38 financing, for at least 50 percent of the total estimated  
39 financing of the project.



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

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

6 (vi) The housing sponsor shall demonstrate that the  
7 project development team has the experience and the  
8 financial capacity to ensure project completion and  
9 operation for the extended use period.

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

21 (B) The committee shall give a preference to those  
22 projects satisfying all of the threshold requirements of  
23 subparagraph (A) if:

24 (i) The project serves the lowest income tenants at  
25 rents affordable to those tenants; and

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

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

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

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

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

39 (iv) Projects for which a public agency provides direct  
40 or indirect long-term financial support for at least 15



1 percent of the total project development costs or projects  
2 for which the owner's equity constitutes at least 30  
3 percent of the total project development costs.

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

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

12 (5) Not less than 20 percent of the low-income housing  
13 tax credits available annually under this section, Section  
14 12206, and Section 17058 shall be set aside for allocation  
15 to rural areas as defined in Section 50199.21 of the Health  
16 and Safety Code. Any amount of credit set aside for rural  
17 areas remaining on or after October 31 of any calendar  
18 year shall be available for allocation to any eligible  
19 project. No amount of credit set aside for rural areas shall  
20 be considered available for any eligible project so long as  
21 there are eligible rural applications pending on October  
22 31.

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

25 The term "secretary" shall be replaced by the term  
26 "California Franchise Tax Board."

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

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

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

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



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

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

10 (o) The provisions of Section 11407(a) of Public Law  
11 101-508, relating to the effective date of the extension of  
12 the low-income housing credit, shall apply to calendar  
13 years after 1989.

14 (p) The provisions of Section 11407(c) of Public Law  
15 101-508, relating to election to accelerate credit, shall not  
16 apply.

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

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

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

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

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



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

4 This section shall remain in effect on or after December  
5 1, 1990, for as long as Section 42 of the Internal Revenue  
6 Code, pertaining to low-income housing credits, remains  
7 in effect.

8 (s) The amendments to this section made by the act  
9 adding this subdivision shall apply only to income years  
10 beginning on or after January 1, 1994, except that  
11 paragraph (1) of subdivision (q), as amended, shall apply  
12 to income years beginning on or after January 1, 1993.

13 SEC. 10. This act provides for a tax levy within the  
14 meaning of Article IV of the Constitution and shall go into  
15 immediate effect.

