

AMENDED IN SENATE AUGUST 18, 2000

AMENDED IN ASSEMBLY MAY 30, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1811

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

February 3, 2000

An act to amend Section 50199.17 of the Health and Safety Code, and to amend Sections 17053.14 and 23608.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

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

The Personal Income Tax Law and the Bank and Corporation Tax Law 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 apply limitations and allocation ~~requirements—provisions~~ set forth in specified provisions of

federal law to the amount of the farmworker housing credit allowed to a taxpayer. This bill would make conforming changes to existing authority and exemptions with respect to the adoption of regulations for the implementation of these credits.

This bill would take effect immediately as a tax levy.

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

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

1 SECTION 1. Section 50199.17 of the Health and
2 Safety Code is amended to read:
3 50199.17. (a) The committee may adopt, amend, or
4 repeal rules and regulations for the allocation of housing
5 credits pursuant to this chapter and Sections 12206,
6 17053.14, 17058, 23608.2, 23608.3, and 23610.5 of the
7 Revenue and Taxation Code without complying with the
8 procedural requirements of Chapter 3.5 (commencing
9 with Section 11340) of Part 1 of Division 3 of Title 2 of the
10 Government Code, except as described in subdivision
11 (b).
12 (b) The committee shall provide a notice of proposed
13 action as described in Section 11346.5 of the Government
14 Code. The notice of proposed action shall be provided to
15 the public at least 21 days before the close of the public
16 comment period, and the committee shall schedule at
17 least one public hearing as described in Section 11346.8 of
18 the Government Code before the close of the public
19 comment period. The committee shall maintain a
20 rulemaking file as described in Section 11347.3 of the
21 Government Code. The final version of the regulations
22 shall be accompanied by a final statement of reasons as
23 described in subdivision (a) of Section 11346.9 of the
24 Government Code.
25 (c) These rules and regulations shall be effective
26 immediately upon adoption by the committee.
27 (d) The committee may also adopt, amend, or repeal
28 emergency rules and regulations pursuant to this chapter
29 and pursuant to Sections 12206, 17053.14, 17058, 23608.2,

1 23608.3, and 23610.5 of the Revenue and Taxation Code.
2 The adoption, amendment, or repeal of these regulations
3 shall be conclusively presumed to be necessary for the
4 immediate preservation of the public peace, health,
5 safety, or general welfare within the meaning or purposes
6 of Section 11346.1 of the Government Code.

7 SEC. 2. Section 17053.14 of the Revenue and Taxation
8 Code is amended to read:

9 17053.14. (a) For taxable years beginning on or after
10 January 1, 1997, there shall be allowed as a credit against
11 the “net tax,” as defined in Section 17039, an amount,
12 subject to ~~the limitation set forth in~~ Section 42(h)(1) of
13 the Internal Revenue Code, that is otherwise equal to the
14 lesser of 50 percent of the eligible costs, as determined
15 under subdivision (b), or the amount allocated under
16 paragraph (2) of subdivision (e).

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

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

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

13 (g) No deduction or other credit shall be allowed
14 under this part or Part 11 (commencing with Section
15 23001) to the extent of any eligible costs, as defined in
16 subdivision (b), that are taken into account in computing
17 the credit allowed under this section.

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

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

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

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

38 (j) In the case where the credit allowed by this section
39 exceeds the “net tax,” the excess may be carried over to
40 reduce the “net tax” in the following year, and

1 succeeding years if necessary, until the credit has been
2 exhausted.

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

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

11 (A) The committee determines that the certification
12 provided under subdivision (e) was obtained by fraud or
13 misrepresentation.

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

18 (3) For purposes of this subdivision, “recapture
19 amount” means:

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

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

30 (4) For purposes of this subdivision, “interest amount”
31 means:

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

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

1 (I) The annual amount of credit granted pursuant to
 2 this section and Sections 23608.2 and 23608.3 shall not
 3 exceed five hundred thousand dollars (\$500,000),
 4 provided that the aggregate amount of the credit granted
 5 pursuant to this section and Sections 23608.2 and 23608.3
 6 for the 1998 calendar year and thereafter may exceed five
 7 hundred thousand dollars (\$500,000) per calendar year by
 8 an amount equal to any unallocated credits under this
 9 section and Sections 23608.2 and 23608.3 for the preceding
 10 calendar year or years.

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

13 23608.2. (a) For income years beginning on or after
 14 January 1, 1997, there shall be allowed as a credit against
 15 the “tax,” as defined by Section 23036, an amount, subject
 16 to ~~the limitation set forth in~~ Section 42(h)(1) of the
 17 Internal Revenue Code, that is otherwise equal to the
 18 lesser of 50 percent of the eligible costs, as determined
 19 under subdivision (b), or the amount allocated under
 20 paragraph (2) of subdivision (e).

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

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

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

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

1 the credit under this section and the total amount of the
2 credit allocated to the taxpayer pursuant to the
3 Farmworker Housing Assistance Program.

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

5 (1) *Apply to the committee for credit certification.*

6 (2) Retain a copy of the certification.

7 ~~(2)~~

8 (3) Make the certification available to the Franchise
9 Tax Board upon request.

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

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

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

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

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

32 (f) For purposes of this section:

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

37 (2) "Construct or rehabilitate" includes
38 reconstruction, but does not include any costs related to
39 acquisition or refinancing of property or structures
40 thereon.

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

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

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

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

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

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

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

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

38 (i) The requirements of this section shall be set forth
39 in a written agreement between the committee and the
40 taxpayer. The agreement shall include, but not

1 necessarily be limited to, the requirements set forth in the
2 Farmworker Housing Assistance Program.

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

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

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

15 (A) The committee determines that the certification
16 provided under subdivision (e) was obtained by fraud or
17 misrepresentation.

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

22 (3) For purposes of this subdivision, “recapture
23 amount” means:

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

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

34 (4) For purposes of this subdivision, “interest amount”
35 means:

36 (A) In the case of any disqualifying event described in
37 subparagraph (A) of paragraph (2), the amount of
38 interest computed using the adjusted annual rate
39 established in Section 19521 from the due date of the
40 return for each income year in which the credit was

1 claimed to the date of payment of the additional tax
2 resulting from the application of this subdivision.

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

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

15 SEC. 4. This act provides for a tax levy within the
16 meaning of Article IV of the Constitution and shall go into
17 immediate effect.

