

AMENDED IN ASSEMBLY MARCH 2, 2017
 CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 71

**Introduced by Assembly Members Chiu, Bonta, and Kalra
 (Coauthors: Assembly Members ~~Mullin, Ting, and McCarty~~
McCarty, Mullin, and Ting)**

December 16, 2016

An act to amend Sections 12206, 17058, 17225, and 23610.5 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 71, as amended, Chiu. ~~Taxes: Income taxes: credits: low-income housing: allocation increase: farmworker housing.~~

~~Existing~~

(1) ~~Existing~~ law establishes a low-income housing tax credit program pursuant to which the California Tax Credit Allocation Committee provides procedures and requirements for the ~~allocation~~ *allocation, in modified conformity with federal law*, of state insurance, personal income, and corporation tax credit amounts ~~among~~ *to* qualified low-income housing projects ~~in modified conformity to federal law~~ that have been allocated, or qualify for, a federal low-income housing tax credit, and ~~for~~ farmworker housing. Existing law limits the total annual amount of the state low-income housing credit for which a federal low-income housing credit is required to the sum of \$70,000,000, as increased by any percentage increase in the Consumer Price Index for the preceding calendar year, any unused credit for the preceding calendar years, and the amount of housing credit ceiling returned in the calendar year. Existing law additionally allows a state credit, which is not

dependent on receiving a federal low-income housing credit; the aggregate of which is credit, of \$500,000 per calendar year for projects to provide farmworker housing. *For purposes of determining the credit amount, existing law defines the term “applicable percentage” depending on, among other things, whether the qualified low-income building is a new building that is not federally subsidized, a new building that is federally subsidized, or is an existing building that is “at risk of conversion.” Except for specified special needs applications for projects within a difficult development area (DDA) or qualified census tract (QCT), existing law authorizes all credit ceiling applications to request state credits provided that the applicant is not requesting a 130% basis adjustment for purposes of calculating the federal credit award amount.*

This bill, under the ~~Insurance Taxation Law~~, law governing the taxation of insurers, the Personal Income Tax Law, and the Corporation Tax Law, for calendar years beginning in 2018, would increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects to \$300,000,000, as specified, and would allocate to farmworker housing projects ~~\$500,000~~ \$25,000,000 per year of that amount. *The bill would delete that special needs exception and authorization to request state credits provided the applicant is not requesting a 130% basis adjustment for purposes of the federal credit amount.* The bill, under the ~~insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law~~, those laws, would modify the definition of applicable percentage relating to qualified low-income buildings ~~that meet specified criteria: to depend on whether the building is a new or existing building not located in a DDA or QCT and federally subsidized, a new or existing building located in a DDA or QCT and federally subsidized, or a building that is, among other things, at least 15 years old, serving households of very low income or extremely low income, and will complete substantial rehabilitation, as specified.~~

~~The~~

(2) *The Personal Income Tax Law* allows various deductions in computing the income that is subject to the taxes imposed by that law, including allowing a deduction for a limited amount of interest paid or accrued on mortgages for a taxpayer’s 2nd residence, in modified conformity with federal income tax laws.

This bill would disallow that deduction.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

1 **SECTION 1.** *This act shall be known and may be cited as the*
 2 *Bring California Home Act.*

3 ~~**SECTION 1.**~~

4 **SEC. 2.** Section 12206 of the Revenue and Taxation Code is
 5 amended to read:

6 12206. (a) (1) There shall be allowed as a credit against the
 7 “tax,” as described by Section 12201, a state low-income housing
 8 tax credit in an amount equal to the amount determined in
 9 subdivision (c), computed in accordance with Section 42 of the
 10 Internal Revenue Code, relating to low-income housing credit,
 11 except as otherwise provided in this section.

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

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

21 (4) “Extremely low income households” has the same meaning
 22 as in Section 50053 of the Health and Safety Code.

23 (5) “Very low income households” has the same meaning as in
 24 Section 50053 of the Health and Safety Code.

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

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

1 (i) The project's housing sponsor has been allocated by the
2 California Tax Credit Allocation Committee a credit for federal
3 income tax purposes under Section 42 of the Internal Revenue
4 Code, relating to low-income housing credit.

5 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
6 Internal Revenue Code, relating to special rule where 50 percent
7 or more of building is financed with tax-exempt bonds subject to
8 volume cap.

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

16 (C) (i) For a project that receives a preliminary reservation of
17 the state low-income housing tax credit, allowed pursuant to
18 subdivision (a), on or after January 1, 2009, and before January 1,
19 2020, the credit shall be allocated to the partners of a partnership
20 owning the project in accordance with the partnership agreement,
21 regardless of how the federal low-income housing tax credit with
22 respect to the project is allocated to the partners, or whether the
23 allocation of the credit under the terms of the agreement has
24 substantial economic effect, within the meaning of Section 704(b)
25 of the Internal Revenue Code, relating to determination of
26 distributive share.

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

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

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

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

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

5 (E) All elections made by the taxpayer pursuant to Section 42
6 of the Internal Revenue Code, relating to low-income housing
7 credit, shall apply to this section.

8 (F) (i) The California Tax Credit Allocation Committee may
9 allocate a credit under this section in exchange for a credit allocated
10 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,
11 relating to increase in credit for buildings in high-cost areas, in
12 amounts up to 30 percent of the eligible basis of a building if the
13 credits allowed under Section 42 of the Internal Revenue Code,
14 relating to low-income housing credit, are reduced by an equivalent
15 amount.

16 (ii) An equivalent amount shall be determined by the California
17 Tax Credit Allocation Committee based upon the relative amount
18 required to produce an equivalent state tax credit to the taxpayer.

19 (c) Section 42(b) of the Internal Revenue Code, relating to
20 applicable percentage: 70 percent present value credit for certain
21 new buildings; 30 percent present value credit for certain other
22 buildings, shall be modified as follows:

23 (1) In the case of any qualified low-income building that is a
24 new building, as defined in Section 42 of the Internal Revenue
25 Code, relating to low-income housing credit, and the regulations
26 promulgated thereunder, and not federally subsidized, the term
27 “applicable percentage” means the following:

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

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

35 (2) In the case of any qualified low-income building that (A) is
36 a new building, as defined in Section 42 of the Internal Revenue
37 Code, relating to low-income housing credit, and the regulations
38 promulgated thereunder, (B) not located in designated difficult
39 development areas (DDAs) or qualified census tracts (QCTs), as
40 defined in Section 42(d)(5)(B) of the Internal Revenue Code,

1 relating to increase in credit for buildings in high cost areas, and
2 (C) is federally subsidized, the term “applicable percentage” means
3 for the first three years, 15 percent of the qualified basis of the
4 building, and for the fourth year, 5 percent of the qualified basis
5 of the building.

6 (3) In the case of any qualified low-income building that is (A)
7 an existing building, as defined in Section 42 of the Internal
8 Revenue Code, relating to low-income housing credit, and the
9 regulations promulgated thereunder, (B) not located in designated
10 difficult development areas (DDAs) or qualified census tracts
11 (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue
12 Code, relating to increase in credit for buildings in high cost areas,
13 and (C) is federally subsidized, the term applicable percentage
14 means the following:

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

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

20 (4) In the case of any qualified low-income building that is (A)
21 a new or an existing building, (B) located in designated difficult
22 development areas (DDAs) or qualified census tracts (QCTs) as
23 defined in Section ~~42(d)(5)(B)~~, *42(d)(5)(B) of the Internal Revenue*
24 *Code*, relating to increase in credit for buildings in high cost areas,
25 of the Internal Revenue Code, and (C) federally subsidized, the
26 California Tax Credit Allocation Committee shall reduce the
27 amount of California credit to be allocated under paragraphs (2)
28 and (3) by taking into account the increased federal credit received
29 due to the basis boost provided under Section ~~42(d)(5)(B)~~,
30 *42(d)(5)(B) of the Internal Revenue Code*, relating to increase in
31 credit for buildings in high cost ~~areas, of the Internal Revenue~~
32 ~~Code.~~ *areas.*

33 (5) In the case of any qualified low-income building that meets
34 all of the requirements of subparagraphs (A) through (D), inclusive,
35 the term “applicable percentage” means 30 percent for each of the
36 first three years and 5 percent for the fourth year. A qualified
37 low-income building receiving an allocation under this paragraph
38 is ineligible to also receive an allocation under paragraph (3).

39 (A) The qualified low-income building is at least 15 years old.

1 (B) The qualified low-income building is serving households
2 of very low income or extremely low income such that the average
3 maximum household income as restricted, pursuant to an existing
4 regulatory agreement with a federal, state, county, local, or other
5 governmental agency, is not more than 45 percent of the area
6 median gross income, as determined under Section 42 of the
7 Internal Revenue Code, relating to low-income housing credit,
8 adjusted by household size, and a tax credit regulatory agreement
9 is entered into for a period of not less than 55 years restricting the
10 average targeted household income to no more than 45 percent of
11 the area median income.

12 (C) The qualified low-income building would have insufficient
13 credits under paragraphs (2) and (3) to complete substantial
14 rehabilitation due to a low appraised value.

15 (D) The qualified low-income building will complete the
16 substantial rehabilitation in connection with the credit allocation
17 herein.

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

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

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

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

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

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

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

1 time during the first 15 years of the compliance period but not
2 thereafter.

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

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

12 (e) The provisions of Section 42(f) of the Internal Revenue
13 Code, relating to definition and special rules relating to credit
14 period, shall be modified as follows:

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

19 (2) The special rule for the first taxable year of the credit period
20 under Section 42(f)(2) of the Internal Revenue Code, relating to
21 special rule for 1st year of credit period, shall not apply to the tax
22 credit under this section.

23 (3) Section 42(f)(3) of the Internal Revenue Code, relating to
24 determination of applicable percentage with respect to increases
25 in qualified basis after 1st year of credit period, is modified to
26 read:

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

36 (f) The provisions of Section 42(h) of the Internal Revenue
37 Code, relating to limitation on aggregate credit allowable with
38 respect to projects located in a state, shall be modified as follows:

39 (1) Section 42(h)(2) of the Internal Revenue Code, relating to
40 allocated credit amount to apply to all taxable years ending during

1 or after credit allocation year, Code shall not be applicable and
2 instead the following provisions shall be applicable:

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

8 (2) Paragraphs (3), (4), (5), (6)(E)(I)(II), (6)(F), (6)(G), (6)(I),
9 (7), and (8) of Section 42(h) of the Internal Revenue Code, relating
10 to limitation on aggregate credit allowable with respect to projects
11 located in a state, shall not be applicable.

12 (g) The aggregate housing credit dollar amount that may be
13 allocated annually by the California Tax Credit Allocation
14 Committee pursuant to this section, Section 17058, and Section
15 23610.5 shall be an amount equal to the sum of all the following:

16 (1) (A) Seventy million dollars (\$70,000,000) for the 2001
17 calendar year, and, for the 2002 calendar year and each calendar
18 year thereafter, seventy million dollars (\$70,000,000) increased
19 by the percentage, if any, by which the Consumer Price Index for
20 the preceding calendar year exceeds the Consumer Price Index for
21 the 2001 calendar year. For the purposes of this paragraph, the
22 term “Consumer Price Index” means the last Consumer Price Index
23 for All Urban Consumers published by the federal Department of
24 Labor.

25 (B) Three hundred million dollars (\$300,000,000) for the 2018
26 calendar year, and, for the 2019 calendar year and each calendar
27 year thereafter, three hundred million dollars (\$300,000,000)
28 increased by the percentage, if any, by which the Consumer Price
29 Index for the preceding calendar year exceeds the Consumer Price
30 Index for the 2018 calendar year. For the purposes of this
31 paragraph, the term “Consumer Price Index” means the last
32 Consumer Price Index for All Urban Consumers published by the
33 federal Department of Labor. A housing sponsor receiving an
34 allocation under paragraph (1) of subdivision (c) shall not be
35 eligible for receipt of the housing credit allocated from the
36 increased amount under this subparagraph. A housing sponsor
37 receiving an allocation under paragraph (1) of subdivision (c) shall
38 remain eligible for receipt of the housing credit allocated from the
39 credit ceiling amount under subparagraph (A).

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

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

11 (4) (A) ~~Five hundred thousand dollars (\$500,000)~~ *Of the amount*
12 *allocated pursuant to subparagraph (B) of paragraph (1),*
13 *twenty-five million dollars (\$25,000,000) per calendar year for*
14 *projects to provide farmworker housing, as defined in subdivision*
15 *(h) of Section 50199.7 of the Health and Safety Code.*

16 ~~(B) Five hundred thousand dollars (\$500,000) of the amount~~
17 ~~allocated pursuant to subparagraph (B) of paragraph (1) per~~
18 ~~calendar year for projects to provide farmworker housing, as~~
19 ~~defined in subdivision (h) of Section 50199.7 of the Health and~~
20 ~~Safety Code.~~

21 *(B) The amount of any unallocated or returned credits pursuant*
22 *to this paragraph per calendar year shall be added to the*
23 *aggregate amount of credits allocated pursuant to subparagraph*
24 *(B) of paragraph (1).*

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

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

35 (i) (1) Section 42(j) of the Internal Revenue Code, relating to
36 recapture of credit, shall not be applicable and the provisions in
37 paragraph (2) shall be substituted in its place.

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

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

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

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

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

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

20 (E) A provision incorporating the requirements of Section 42
21 of the Internal Revenue Code, relating to low-income housing
22 credit, as modified by this section.

23 (F) A requirement that the housing sponsor notify the California
24 Tax Credit Allocation Committee or its designee and the local
25 agency that can enforce the regulatory agreement if there is a
26 determination by the Internal Revenue Service that the project is
27 not in compliance with Section 42(g) of the Internal Revenue Code,
28 relating to qualified low-income housing project.

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

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

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

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

18 (2) The committee shall adopt a qualified allocation plan, as
19 provided in Section 42(m)(1) of the Internal Revenue Code, relating
20 to plans for allocation of credit among projects. In adopting this
21 plan, the committee shall comply with the provisions of Sections
22 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,
23 relating to qualified allocation plan and relating to certain selection
24 criteria must be used, respectively.

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

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

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

37 (ii) The project's proposed financing, including tax credit
38 proceeds, shall be sufficient to complete the project and that the
39 proposed operating income shall be adequate to operate the project
40 for the extended use period.

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

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

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

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

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

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

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

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

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

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

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

36 (iii) (I) Existing projects that are “at risk of conversion.”

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

- 1 (ia) The property is a multifamily rental housing development
2 in which at least 50 percent of the units receive governmental
3 assistance pursuant to any of the following:
- 4 (Ia) New construction, substantial rehabilitation, moderate
5 rehabilitation, property disposition, and loan management set-aside
6 programs, or any other program providing project-based assistance
7 pursuant to Section 8 of the United States Housing Act of 1937,
8 Section 1437f of Title 42 of the United States Code, as amended.
- 9 (Ib) The Below-Market-Interest-Rate Program pursuant to
10 Section 221(d)(3) of the National Housing Act, Sections
11 1715l(d)(3) and (5) of Title 12 of the United States Code.
- 12 (Ic) Section 236 of the National Housing Act, Section 1715z-1
13 of Title 12 of the United States Code.
- 14 (Id) Programs for rent supplement assistance pursuant to Section
15 18 101 of the Housing and Urban Development Act of 1965,
16 Section 1701s of Title 12 of the United States Code, as amended.
- 17 (Ie) Programs pursuant to Section 515 of the Housing Act of
18 1949, Section 1485 of Title 42 of the United States Code, as
19 amended.
- 20 (If) The low-income housing credit program set forth in Section
21 42 of the Internal Revenue Code, relating to low-income housing
22 credits.
- 23 (ib) The restrictions on rent and income levels will terminate
24 or the federal insured mortgage on the property is eligible for
25 prepayment any time within five years before or after the date of
26 application to the California Tax Credit Allocation Committee.
- 27 (ic) The entity acquiring the property enters into a regulatory
28 agreement that requires the property to be operated in accordance
29 with the requirements of this section for a period equal to the
30 greater of 55 years or the life of the property.
- 31 (id) The property satisfies the requirements of Section 42(e) of
32 the Internal Revenue Code, regarding rehabilitation expenditures,
33 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
34 apply.
- 35 (iv) Projects for which a public agency provides direct or indirect
36 long-term financial support for at least 15 percent of the total
37 project development costs or projects for which the owner's equity
38 constitutes at least 30 percent of the total project development
39 costs.

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

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

7 (k) Section 42(l) of the Internal Revenue Code, relating to
8 certifications and other reports to secretary, shall be modified as
9 follows:

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

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

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

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

21 (o) (1) For a project that receives a preliminary reservation
22 under this section beginning on or after January 1, 2016, and before
23 January 1, 2020, a taxpayer may make an irrevocable election in
24 its application to the California Tax Credit Allocation Committee
25 to sell all or any portion of any credit allowed under this section
26 to one or more unrelated parties for each taxable year in which the
27 credit is allowed subject to both of the following conditions:

28 (A) The credit is sold for consideration that is not less than 80
29 percent of the amount of the credit.

30 (B) The unrelated party or parties purchasing any or all of the
31 credit pursuant to this subdivision is a taxpayer allowed the credit
32 under this section for the taxable year of the purchase or any prior
33 taxable year or is a taxpayer allowed the federal credit under
34 Section 42 of the Internal Revenue Code, relating to low-income
35 housing credit, for the taxable year of the purchase or any prior
36 taxable year in connection with any project located in this state.
37 For purposes of this subparagraph, “taxpayer allowed the credit
38 under this section” means a taxpayer that is allowed the credit
39 under this section without regard to the purchase of a credit
40 pursuant to this subdivision.

1 (2) (A) The taxpayer that originally received the credit shall
2 report to the California Tax Credit Allocation Committee within
3 10 days of the sale of the credit, in the form and manner specified
4 by the California Tax Credit Allocation Committee, all required
5 information regarding the purchase and sale of the credit, including
6 the social security or other taxpayer identification number of the
7 unrelated party or parties to whom the credit has been sold, the
8 face amount of the credit sold, and the amount of consideration
9 received by the taxpayer for the sale of the credit.

10 (B) The California Tax Credit Allocation Committee shall
11 provide an annual listing to the Franchise Tax Board, in a form
12 and manner agreed upon by the California Tax Credit Allocation
13 Committee and the Franchise Tax Board, of the taxpayers that
14 have sold or purchased a credit pursuant to this subdivision.

15 (3) (A) A credit may be sold pursuant to this subdivision to
16 more than one unrelated party.

17 (B) (i) Except as provided in clause (ii), a credit shall not be
18 resold by the unrelated party to another taxpayer or other party.

19 (ii) All or any portion of any credit allowed under this section
20 may be resold once by an original purchaser to one or more
21 unrelated parties, subject to all of the requirements of this
22 subdivision.

23 (4) Notwithstanding any other law, the taxpayer that originally
24 received the credit that is sold pursuant to paragraph (1) shall
25 remain solely liable for all obligations and liabilities imposed on
26 the taxpayer by this section with respect to the credit, none of
27 which shall apply to a party to whom the credit has been sold or
28 subsequently transferred. Parties that purchase credits pursuant to
29 paragraph (1) shall be entitled to utilize the purchased credits in
30 the same manner in which the taxpayer that originally received
31 the credit could utilize them.

32 (5) A taxpayer shall not sell a credit allowed by this section if
33 the taxpayer was allowed the credit on any tax return of the
34 taxpayer.

35 (6) Notwithstanding paragraph (1), the taxpayer, with the
36 approval of the Executive Director of the California Tax Credit
37 Allocation Committee, may rescind the election to sell all or any
38 portion of the credit allowed under this section if the consideration
39 for the credit falls below 80 percent of the amount of the credit
40 after the California Tax Credit Allocation Committee reservation.

1 (p) The California Tax Credit Allocation Committee may
2 prescribe rules, guidelines, or procedures necessary or appropriate
3 to carry out the purposes of this section, including any guidelines
4 regarding the allocation of the credit allowed under this section.
5 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
6 3 of Title 2 of the Government Code shall not apply to any rule,
7 guideline, or procedure prescribed by the California Tax Credit
8 Allocation Committee pursuant to this section.

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

12 ~~SEC. 2.~~

13 *SEC. 3.* Section 17058 of the Revenue and Taxation Code is
14 amended to read:

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

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

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

28 (4) “Extremely low income households” has the same meaning
29 as in Section 50053 of the Health and Safety Code.

30 (5) “Very low income households” has the same meaning as in
31 Section 50053 of the Health and Safety Code.

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

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

39 (i) Except for projects to provide farmworker housing, as defined
40 in subdivision (h) of Section 50199.7 of the Health and Safety

1 Code, that are allocated credits solely under the set-aside described
2 in subdivision (c) of Section 50199.20 of the Health and Safety
3 Code, the project's housing sponsor has been allocated by the
4 California Tax Credit Allocation Committee a credit for federal
5 income tax purposes under Section 42 of the Internal Revenue
6 Code, relating to low-income housing credit.

7 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
8 Internal Revenue Code, relating to special rule where 50 percent
9 or more of building is financed with tax-exempt bonds subject to
10 volume cap.

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

18 (C) (i) For a project that receives a preliminary reservation of
19 the state low-income housing tax credit, allowed pursuant to
20 subdivision (a), on or after January 1, 2009, and before January 1,
21 2020, the credit shall be allocated to the partners of a partnership
22 owning the project in accordance with the partnership agreement,
23 regardless of how the federal low-income housing tax credit with
24 respect to the project is allocated to the partners, or whether the
25 allocation of the credit under the terms of the agreement has
26 substantial economic effect, within the meaning of Section 704(b)
27 of the Internal Revenue Code, relating to determination of
28 distributive share.

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

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

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

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

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

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

11 (D) All elections made by the taxpayer pursuant to Section 42
12 of the Internal Revenue Code, relating to low-income housing
13 credit, shall apply to this section.

14 (E) (i) The California Tax Credit Allocation Committee may
15 allocate a credit under this section in exchange for a credit allocated
16 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,
17 relating to increase in credit for buildings in high-cost areas, in
18 amounts up to 30 percent of the eligible basis of a building if the
19 credits allowed under Section 42 of the Internal Revenue Code,
20 relating to low-income housing credit, are reduced by an equivalent
21 amount.

22 (ii) An equivalent amount shall be determined by the California
23 Tax Credit Allocation Committee based upon the relative amount
24 required to produce an equivalent state tax credit to the taxpayer.

25 (c) Section 42(b) of the Internal Revenue Code, relating to
26 applicable percentage: 70 percent present value credit for certain
27 new buildings; 30 percent present value credit for certain other
28 buildings, shall be modified as follows:

29 (1) In the case of any qualified low-income building that is a
30 new building, as defined in Section 42 of the Internal Revenue
31 Code, relating to low-income housing credit, and the regulations
32 promulgated thereunder, and not federally subsidized, the term
33 “applicable percentage” means the following:

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

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

1 (2) In the case of any qualified low-income building that (A) is
2 a new building, as defined in Section 42 of the Internal Revenue
3 Code, relating to low-income housing credit, and the regulations
4 promulgated thereunder, (B) not located in designated difficult
5 development areas (DDAs) or qualified census tracts (QCTs), as
6 defined in Section 42(d)(5)(B) of the Internal Revenue Code,
7 relating to increase in credit for buildings in high cost areas, and
8 (C) is federally subsidized, the term “applicable percentage” means
9 for the first three years, 15 percent of the qualified basis of the
10 building, and for the fourth year, 5 percent of the qualified basis
11 of the building.

12 (3) In the case of any qualified low-income building that is (A)
13 an existing building, as defined in Section 42 of the Internal
14 Revenue Code, relating to low-income housing credit, and the
15 regulations promulgated thereunder, (B) not located in designated
16 difficult development areas (DDAs) or qualified census tracts
17 (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue
18 Code, relating to an increase in credit for buildings in high-cost
19 areas, and (C) is federally subsidized, the term applicable
20 percentage means the following:

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

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

26 (4) In the case of any qualified low-income building that is (A)
27 a new or an existing building, (B) located in designated difficult
28 development areas (DDAs) or qualified census tracts (QCTs) as
29 defined in Section 42(d)(5)(B) of the Internal Revenue Code,
30 relating to increase in credit for buildings in high cost areas, and
31 (C) federally subsidized, the California Tax Credit Allocation
32 Committee shall reduce the amount of California credit to be
33 allocated under paragraphs (2) and (3) by taking into account the
34 increased federal credit received due to the basis boost provided
35 under Section 42(d)(5)(B) of the Internal Revenue Code, relating
36 to increase in credit for buildings in high cost areas.

37 (5) In the case of any qualified low-income building that meets
38 all of the requirements of subparagraphs (A) through (D), inclusive,
39 the term “applicable percentage” means 30 percent for each of the
40 first three years and 5 percent for the fourth year. A qualified

1 low-income building receiving an allocation under this paragraph
2 is ineligible to also receive an allocation under paragraph (3).

3 (A) The qualified low-income building is at least 15 years old.

4 (B) The qualified low-income building is serving households
5 of very low-income or extremely low-income such that the average
6 maximum household income as restricted, pursuant to an existing
7 regulatory agreement with a federal, state, county, local, or other
8 governmental agency, is not more than 45 percent of the area
9 median gross income, as determined under Section 42 of the
10 Internal Revenue Code, relating to low-income housing credit,
11 adjusted by household size, and a tax credit regulatory agreement
12 is entered into for a period of not less than 55 years restricting the
13 average targeted household income to no more than 45 percent of
14 the area median income.

15 (C) The qualified low-income building would have insufficient
16 credits under paragraphs (2) and (3) to complete substantial
17 rehabilitation due to a low appraised value.

18 (D) The qualified low-income building will complete the
19 substantial rehabilitation in connection with the credit allocation
20 herein.

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

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

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

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

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

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

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

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

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

15 (e) The provisions of Section 42(f) of the Internal Revenue
16 Code, relating to definition and special rules relating to credit
17 period, shall be modified as follows:

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

22 (2) The special rule for the first taxable year of the credit period
23 under Section 42(f)(2) of the Internal Revenue Code, relating to
24 special rules for 1st year of credit period, shall not apply to the tax
25 credit under this section.

26 (3) Section 42(f)(3) of the Internal Revenue Code, relating to
27 determination of applicable percentage with respect to increases
28 in qualified basis after 1st year of credit period, is modified to
29 read:

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

1 (f) The provisions of Section 42(h) of the Internal Revenue
2 Code, relating to limitation on aggregate credit allowable with
3 respect to projects located in a state, shall be modified as follows:

4 (1) Section 42(h)(2) of the Internal Revenue Code, relating to
5 allocated credit amount to apply to all taxable years ending during
6 or after credit allocation year, shall not be applicable and instead
7 the following provisions shall be applicable.

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

13 (2) Paragraphs (3), (4), (5), (6)(E)(I)(II), (6)(F), (6)(G), (6)(I),
14 (7), and (8) of Section 42(h) of the Internal Revenue Code, relating
15 to limitation on aggregate credit allowable with respect to projects
16 located in a state, do not apply to this section.

17 (g) The aggregate housing credit dollar amount that may be
18 allocated annually by the California Tax Credit Allocation
19 Committee pursuant to this section, Section 12206, and Section
20 23610.5 shall be an amount equal to the sum of all the following:

21 (1) (A) Seventy million dollars (\$70,000,000) for the 2001
22 calendar year, and, for the 2002 calendar year and each calendar
23 year thereafter, seventy million dollars (\$70,000,000) increased
24 by the percentage, if any, by which the Consumer Price Index for
25 the preceding calendar year exceeds the Consumer Price Index for
26 the 2001 calendar year. For the purposes of this paragraph, the
27 term “Consumer Price Index” means the last Consumer Price Index
28 for All Urban Consumers published by the federal Department of
29 Labor.

30 (B) Three hundred million dollars (\$300,000,000) for the 2018
31 calendar year, and, for the 2019 calendar year and each calendar
32 year thereafter, three hundred million dollars (\$300,000,000)
33 increased by the percentage, if any, by which the Consumer Price
34 Index for the preceding calendar year exceeds the Consumer Price
35 Index for the 2018 calendar year. For the purposes of this
36 paragraph, the term “Consumer Price Index” means the last
37 Consumer Price Index for All Urban Consumers published by the
38 federal Department of Labor. A housing sponsor receiving an
39 allocation under paragraph (1) of subdivision (c) shall not be
40 eligible for receipt of the housing credit allocated from the

1 increased amount under this subparagraph. A housing sponsor
2 receiving an allocation under paragraph (1) of subdivision (c) shall
3 remain eligible for receipt of the housing credit allocated from the
4 credit ceiling amount under subparagraph (A).

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

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

15 (4) (A) ~~Five hundred thousand dollars (\$500,000)~~ *Of the amount*
16 *allocated pursuant to subparagraph (B) of paragraph (1),*
17 *twenty-five million dollars (\$25,000,000)* per calendar year for
18 projects to provide farmworker housing, as defined in subdivision
19 (h) of Section 50199.7 of the Health and Safety Code.

20 ~~(B) Five hundred thousand dollars (\$500,000) of the amount~~
21 ~~allocated pursuant to subparagraph (B) of paragraph (1) per~~
22 ~~calendar year for projects to provide farmworker housing, as~~
23 ~~defined in subdivision (h) of Section 50199.7 of the Health and~~
24 ~~Safety Code.~~

25 *(B) The amount of any unallocated or returned credits pursuant*
26 *to this paragraph per calendar year shall be added to the*
27 *aggregate amount of credits allocated pursuant to subparagraph*
28 *(B) of paragraph (1).*

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

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

39 (i) Section 42(j) of the Internal Revenue Code, relating to
40 recapture of credit, shall not be applicable and the following

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

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

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

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

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

22 (5) A provision incorporating the requirements of Section 42
23 of the Internal Revenue Code, relating to low-income housing
24 credit, as modified by this section.

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

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

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

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

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

19 (2) The committee shall adopt a qualified allocation plan, as
20 provided in Section 42(m)(1) of the Internal Revenue Code, relating
21 to plans for allocation of credit among projects. In adopting this
22 plan, the committee shall comply with the provisions of Sections
23 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,
24 relating to qualified allocation plan and relating to certain selection
25 criteria must be used, respectively.

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

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

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

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

1 proposed operating income shall be adequate to operate the project
2 for the extended use period.

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

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

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

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

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

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

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

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

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

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

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

38 (iii) (I) Existing projects that are “at risk of conversion.”

- 1 (II) For purposes of this section, the term “at risk of conversion,”
2 with respect to an existing property means a property that satisfies
3 all of the following criteria:
- 4 (ia) The property is a multifamily rental housing development
5 in which at least 50 percent of the units receive governmental
6 assistance pursuant to any of the following:
- 7 (Ia) New construction, substantial rehabilitation, moderate
8 rehabilitation, property disposition, and loan management set-aside
9 programs, or any other program providing project-based assistance
10 pursuant to Section 8 of the United States Housing Act of 1937,
11 Section 1437f of Title 42 of the United States Code, as amended.
- 12 (Ib) The Below-Market-Interest-Rate Program pursuant to
13 Section 221(d)(3) of the National Housing Act, Sections
14 1715l(d)(3) and (5) of Title 12 of the United States Code.
- 15 (Ic) Section 236 of the National Housing Act, Section 1715z-1
16 of Title 12 of the United States Code.
- 17 (Id) Programs for rent supplement assistance pursuant to Section
18 18 101 of the Housing and Urban Development Act of 1965,
19 Section 1701s of Title 12 of the United States Code, as amended.
- 20 (Ie) Programs pursuant to Section 515 of the Housing Act of
21 1949, Section 1485 of Title 42 of the United States Code, as
22 amended.
- 23 (If) The low-income housing credit program set forth in Section
24 42 of the Internal Revenue Code.
- 25 (ib) The restrictions on rent and income levels will terminate
26 or the federal insured mortgage on the property is eligible for
27 prepayment any time within five years before or after the date of
28 application to the California Tax Credit Allocation Committee.
- 29 (ic) The entity acquiring the property enters into a regulatory
30 agreement that requires the property to be operated in accordance
31 with the requirements of this section for a period equal to the
32 greater of 55 years or the life of the property.
- 33 (id) The property satisfies the requirements of Section 42(e) of
34 the Internal Revenue Code, regarding rehabilitation expenditures
35 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
36 apply.
- 37 (iv) Projects for which a public agency provides direct or indirect
38 long-term financial support for at least 15 percent of the total
39 project development costs or projects for which the owner’s equity

1 constitutes at least 30 percent of the total project development
2 costs.

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

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

8 (k) Section 42(l) of the Internal Revenue Code, relating to
9 certifications and other reports to secretary, shall be modified as
10 follows:

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

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

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

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

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

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

28 (n) The credit period with respect to an allocation of credit in
29 1989 by the California Tax Credit Allocation Committee of which
30 any amount is attributable to unallocated credit from 1987 or 1988
31 shall not begin until after December 31, 1989.

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

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

37 (q) (1) For a project that receives a preliminary reservation
38 under this section beginning on or after January 1, 2016, and before
39 January 1, 2020, a taxpayer may make an irrevocable election in
40 its application to the California Tax Credit Allocation Committee

1 to sell all or any portion of any credit allowed under this section
2 to one or more unrelated parties for each taxable year in which the
3 credit is allowed subject to both of the following conditions:

4 (A) The credit is sold for consideration that is not less than 80
5 percent of the amount of the credit.

6 (B) The unrelated party or parties purchasing any or all of the
7 credit pursuant to this subdivision is a taxpayer allowed the credit
8 under this section for the taxable year of the purchase or any prior
9 taxable year or is a taxpayer allowed the federal credit under
10 Section 42 of the Internal Revenue Code, relating to low-income
11 housing credit, for the taxable year of the purchase or any prior
12 taxable year in connection with any project located in this state.
13 For purposes of this subparagraph, “taxpayer allowed the credit
14 under this section” means a taxpayer that is allowed the credit
15 under this section without regard to the purchase of a credit
16 pursuant to this subdivision.

17 (2) (A) The taxpayer that originally received the credit shall
18 report to the California Tax Credit Allocation Committee within
19 10 days of the sale of the credit, in the form and manner specified
20 by the California Tax Credit Allocation Committee, all required
21 information regarding the purchase and sale of the credit, including
22 the social security or other taxpayer identification number of the
23 unrelated party or parties to whom the credit has been sold, the
24 face amount of the credit sold, and the amount of consideration
25 received by the taxpayer for the sale of the credit.

26 (B) The California Tax Credit Allocation Committee shall
27 provide an annual listing to the Franchise Tax Board, in a form
28 and manner agreed upon by the California Tax Credit Allocation
29 Committee and the Franchise Tax Board, of the taxpayers that
30 have sold or purchased a credit pursuant to this subdivision.

31 (3) (A) A credit may be sold pursuant to this subdivision to
32 more than one unrelated party.

33 (B) (i) Except as provided in clause (ii), a credit shall not be
34 resold by the unrelated party to another taxpayer or other party.

35 (ii) All or any portion of any credit allowed under this section
36 may be resold once by an original purchaser to one or more
37 unrelated parties, subject to all of the requirements of this
38 subdivision.

39 (4) Notwithstanding any other law, the taxpayer that originally
40 received the credit that is sold pursuant to paragraph (1) shall

1 remain solely liable for all obligations and liabilities imposed on
2 the taxpayer by this section with respect to the credit, none of
3 which shall apply to a party to whom the credit has been sold or
4 subsequently transferred. Parties that purchase credits pursuant to
5 paragraph (1) shall be entitled to utilize the purchased credits in
6 the same manner in which the taxpayer that originally received
7 the credit could utilize them.

8 (5) A taxpayer shall not sell a credit allowed by this section if
9 the taxpayer was allowed the credit on any tax return of the
10 taxpayer.

11 (6) Notwithstanding paragraph (1), the taxpayer, with the
12 approval of the Executive Director of the California Tax Credit
13 Allocation Committee, may rescind the election to sell all or any
14 portion of the credit allowed under this section if the consideration
15 for the credit falls below 80 percent of the amount of the credit
16 after the California Tax Credit Allocation Committee reservation.

17 (r) The California Tax Credit Allocation Committee may
18 prescribe rules, guidelines, or procedures necessary or appropriate
19 to carry out the purposes of this section, including any guidelines
20 regarding the allocation of the credit allowed under this section.
21 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
22 3 of Title 2 of the Government Code shall not apply to any rule,
23 guideline, or procedure prescribed by the California Tax Credit
24 Allocation Committee pursuant to this section.

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

27 (t) This section shall remain in effect on and after December 1,
28 1990, for as long as Section 42 of the Internal Revenue Code,
29 relating to low-income housing credit, remains in effect.

30 (u) The amendments to this section made by Chapter 1222 of
31 the Statutes of 1993 shall apply only to taxable years beginning
32 on or after January 1, 1994.

33 ~~SEC. 3.~~

34 *SEC. 4.* Section 17225 of the Revenue and Taxation Code is
35 amended to read:

36 17225. (a) Section 163(h)(3)(E) of the Internal Revenue Code,
37 relating to mortgage insurance premiums treated as interest, shall
38 not apply.

39 (b) Sections—~~163(h)(4)(A)(I)(II)~~ *163(h)(4)(A)(i)(II)* and
40 *163(h)(4)(A)(ii)(II)* of the Internal Revenue Code shall not apply.

1 ~~SEC. 4.~~

2 *SEC. 5.* Section 23610.5 of the Revenue and Taxation Code is
3 amended to read:

4 23610.5. (a) (1) There shall be allowed as a credit against the
5 “tax,” defined by Section 23036, a state low-income housing tax
6 credit in an amount equal to the amount determined in subdivision
7 (c), computed in accordance with Section 42 of the Internal
8 Revenue Code, relating to low-income housing credit, except as
9 otherwise provided in this section.

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

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

18 (4) “Extremely low income households” has the same meaning
19 as in Section 50053 of the Health and Safety Code.

20 (5) “Very low income households” has the same meaning as in
21 Section 50053 of the Health and Safety Code.

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

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

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

37 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
38 Internal Revenue Code, relating to special rule where 50 percent
39 or more of building is financed with tax-exempt bonds subject to
40 volume cap.

1 (B) The California Tax Credit Allocation Committee shall not
2 require fees for the credit under this section in addition to those
3 fees required for applications for the tax credit pursuant to Section
4 42 of the Internal Revenue Code, relating to low-income housing
5 credit. The committee may require a fee if the application for the
6 credit under this section is submitted in a calendar year after the
7 year the application is submitted for the federal tax credit.

8 (C) (i) For a project that receives a preliminary reservation of
9 the state low-income housing tax credit, allowed pursuant to
10 subdivision (a), on or after January 1, 2009, and before January 1,
11 2020, the credit shall be allocated to the partners of a partnership
12 owning the project in accordance with the partnership agreement,
13 regardless of how the federal low-income housing tax credit with
14 respect to the project is allocated to the partners, or whether the
15 allocation of the credit under the terms of the agreement has
16 substantial economic effect, within the meaning of Section 704(b)
17 of the Internal Revenue Code, relating to determination of
18 distributive share.

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

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

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

36 (B) In the case of a partnership, or an "S" corporation, the
37 housing sponsor shall provide a copy of the California Tax Credit
38 Allocation Committee certification to the taxpayer.

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

1 (D) All elections made by the taxpayer pursuant to Section 42
2 of the Internal Revenue Code, relating to low-income housing
3 credit, shall apply to this section.

4 (E) (i) The California Tax Credit Allocation Committee may
5 allocate a credit under this section in exchange for a credit allocated
6 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,
7 relating to increase in credit for buildings in high-cost areas, in
8 amounts up to 30 percent of the eligible basis of a building if the
9 credits allowed under Section 42 of the Internal Revenue Code,
10 relating to low-income housing credit, are reduced by an equivalent
11 amount.

12 (ii) An equivalent amount shall be determined by the California
13 Tax Credit Allocation Committee based upon the relative amount
14 required to produce an equivalent state tax credit to the taxpayer.

15 (c) Section 42(b) of the Internal Revenue Code, relating to
16 applicable percentage: 70 percent present value credit for certain
17 new buildings; 30 percent present value credit for certain other
18 buildings, shall be modified as follows:

19 (1) In the case of any qualified low-income building that is a
20 new building, as defined in Section 42 of the Internal Revenue
21 Code, relating to low-income housing credit, and the regulations
22 promulgated thereunder, and not federally subsidized, the term
23 “applicable percentage” means the following:

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

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

31 (2) In the case of any qualified low-income building that (A) is
32 a new building, as defined in Section 42 of the Internal Revenue
33 Code, relating to low-income housing credit, and the regulations
34 promulgated thereunder, (B) not located in designated difficult
35 development areas (DDAs) or qualified census tracts (QCTs), as
36 defined in Section 42(d)(5)(B) of the Internal Revenue Code,
37 relating to increase in credit for buildings in high cost areas, and
38 (C) is federally subsidized, the term “applicable percentage” means
39 for the first three years, 15 percent of the qualified basis of the

1 building, and for the fourth year, 5 percent of the qualified basis
2 of the building.

3 (3) In the case of any qualified low-income building that is (A)
4 an existing building, as defined in Section 42 of the Internal
5 Revenue Code, relating to low-income housing credit, and the
6 regulations promulgated thereunder, (B) not located in designated
7 difficult development areas (DDAs) or qualified census tracts
8 (QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue
9 Code, relating to increase in credit for buildings in high cost areas,
10 and (C) is federally subsidized, the term applicable percentage
11 means the following:

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

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

17 (4) In the case of any qualified low-income building that is (A)
18 a new or an existing building, (B) located in designated difficult
19 development areas (DDAs) or qualified census tracts (QCTs) as
20 defined in Section 42(d)(5)(B) of the Internal Revenue Code,
21 relating to increase in credit for buildings in high cost areas, and
22 (C) federally subsidized, the California Tax Credit Allocation
23 Committee shall ~~determine~~ *reduce* the amount of *California* credit
24 to be allocated under ~~subparagraph (E) of paragraph (2) of~~
25 ~~subdivision (b) required to produce an equivalent state tax credit~~
26 ~~to the taxpayer, as produced in paragraph (2); paragraphs (2) and~~
27 ~~(3) by taking into account the increased federal credit received~~
28 ~~due to the~~ basis boost provided under Section 42(d)(5)(B) of the
29 Internal Revenue Code, relating to increase in credit for buildings
30 in high cost areas.

31 (5) In the case of any qualified low-income building that meets
32 all of the requirements of subparagraphs (A) through (D), inclusive,
33 the term “applicable percentage” means 30 percent for each of the
34 first three years and 5 percent for the fourth year. A qualified
35 low-income building receiving an allocation under this paragraph
36 is ineligible to also receive an allocation under paragraph (3).

37 (A) The qualified low-income building is at least 15 years old.

38 (B) The qualified low-income building is serving households
39 of very low income or extremely low income such that the average
40 maximum household income as restricted, pursuant to an existing

1 regulatory agreement with a federal, state, county, local, or other
2 governmental agency, is not more than 45 percent of the area
3 median gross income, as determined under Section 42 of the
4 Internal Revenue Code, relating to low-income housing credit,
5 adjusted by household size, and a tax credit regulatory agreement
6 is entered into for a period of not less than 55 years restricting the
7 average targeted household income to no more than 45 percent of
8 the area median income.

9 (C) The qualified low-income building would have insufficient
10 credits under paragraphs (2) and (3) to complete substantial
11 rehabilitation due to a low appraised value.

12 (D) The qualified low-income building will complete the
13 substantial rehabilitation in connection with the credit allocation
14 herein.

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

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

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

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

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

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

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

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

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

10 (e) The provisions of Section 42(f) of the Internal Revenue
11 Code, relating to definition and special rules relating to credit
12 period, shall be modified as follows:

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

17 (2) The special rule for the first taxable year of the credit period
18 under Section 42(f)(2) of the Internal Revenue Code, relating to
19 special rule for 1st year of credit period, shall not apply to the tax
20 credit under this section.

21 (3) Section 42(f)(3) of the Internal Revenue Code, relating to
22 determination of applicable percentage with respect to increases
23 in qualified basis after 1st year of credit period, is modified to
24 read:

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

34 (f) The provisions of Section 42(h) of the Internal Revenue
35 Code, relating to limitation on aggregate credit allowable with
36 respect to projects located in a state, shall be modified as follows:

37 (1) Section 42(h)(2) of the Internal Revenue Code, relating to
38 allocated credit amount to apply to all taxable years ending during
39 or after credit allocation year, shall not be applicable and instead
40 the following provisions shall be applicable:

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

6 (2) Paragraphs (3), (4), (5), (6)(E)(I)(II), (6)(F), (6)(G), (6)(I),
7 (7), and (8) of Section 42(h) of the Internal Revenue Code, relating
8 to limitation on aggregate credit allowable with respect to projects
9 located in a state, shall not be applicable.

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

14 (1) (A) Seventy million dollars (\$70,000,000) for the 2001
15 calendar year, and, for the 2002 calendar year and each calendar
16 year thereafter, seventy million dollars (\$70,000,000) increased
17 by the percentage, if any, by which the Consumer Price Index for
18 the preceding calendar year exceeds the Consumer Price Index for
19 the 2001 calendar year. For the purposes of this paragraph, the
20 term “Consumer Price Index” means the last Consumer Price Index
21 for All Urban Consumers published by the federal Department of
22 Labor.

23 (B) Three hundred million dollars (\$300,000,000) for the 2018
24 calendar year, and, for the 2019 calendar year and each calendar
25 year thereafter, three hundred million dollars (\$300,000,000)
26 increased by the percentage, if any, by which the Consumer Price
27 Index for the preceding calendar year exceeds the Consumer Price
28 Index for the 2018 calendar year. For the purposes of this
29 paragraph, the term “Consumer Price Index” means the last
30 Consumer Price Index for All Urban Consumers published by the
31 federal Department of Labor. A housing sponsor receiving an
32 allocation under paragraph (1) of subdivision (c) shall not be
33 eligible for receipt of the housing credit allocated from the
34 increased amount under this subparagraph. A housing sponsor
35 receiving an allocation under paragraph (1) of subdivision (c) shall
36 remain eligible for receipt of the housing credit allocated from the
37 credit ceiling amount under subparagraph (A).

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

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

9 (4) (A) ~~Five hundred thousand dollars (\$500,000)~~ *Of the amount*
10 *allocated pursuant to subparagraph (B) of paragraph (1),*
11 *twenty-five million dollars (\$25,000,000) per calendar year for*
12 *projects to provide farmworker housing, as defined in subdivision*
13 *(h) of Section 50199.7 of the Health and Safety Code.*

14 ~~(B) Five hundred thousand dollars (\$500,000) of the amount~~
15 ~~allocated pursuant to subparagraph (B) of paragraph (1) per~~
16 ~~calendar year for projects to provide farmworker housing, as~~
17 ~~defined in subdivision (h) of Section 50199.7 of the Health and~~
18 ~~Safety Code.~~

19 *(B) The amount of any unallocated or returned credits pursuant*
20 *to this paragraph per calendar year shall be added to the*
21 *aggregate amount of credits allocated pursuant to subparagraph*
22 *(B) of paragraph (1).*

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

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

33 (i) Section 42(j) of the Internal Revenue Code, relating to
34 recapture of credit, shall not be applicable and the following shall
35 be substituted in its place:

36 The requirements of this section shall be set forth in a regulatory
37 agreement between the California Tax Credit Allocation Committee
38 and the housing sponsor, and the regulatory agreement shall be
39 subordinated, when required, to any lien or encumbrance of any
40 banks or other institutional lenders to the project. The regulatory

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

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

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

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

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

17 (5) A provision incorporating the requirements of Section 42
18 of the Internal Revenue Code, relating to low-income housing
19 credit, as modified by this section.

20 (6) A requirement that the housing sponsor notify the California
21 Tax Credit Allocation Committee or its designee if there is a
22 determination by the Internal Revenue Service that the project is
23 not in compliance with Section 42(g) of the Internal Revenue Code,
24 relating to qualified low-income housing project.

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

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

1 appointment of a receiver to operate the project; or any other relief
2 as may be appropriate.

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

15 (2) The committee shall adopt a qualified allocation plan, as
16 provided in Section 42(m)(1) of the Internal Revenue Code, relating
17 to plans for allocation of credit among projects. In adopting this
18 plan, the committee shall comply with the provisions of Sections
19 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,
20 relating to qualified allocation plan and relating to certain selection
21 criteria must be used, respectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (i) Projects serving large families in which a substantial number,
29 as defined by the committee, of all residential units are low-income
30 units with three or more bedrooms.

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

33 (iii) (I) Existing projects that are “at risk of conversion.”

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

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

- 1 (Ia) New construction, substantial rehabilitation, moderate
2 rehabilitation, property disposition, and loan management set-aside
3 programs, or any other program providing project-based assistance
4 pursuant to Section 8 of the United States Housing Act of 1937,
5 Section 1437f of Title 42 of the United States Code, as amended.
- 6 (Ib) The Below-Market-Interest-Rate Program pursuant to
7 Section 221(d)(3) of the National Housing Act, Sections
8 1715l(d)(3) and (5) of Title 12 of the United States Code.
- 9 (Ic) Section 236 of the National Housing Act, Section 1715z-1
10 of Title 12 of the United States Code.
- 11 (Id) Programs for rent supplement assistance pursuant to Section
12 18 101 of the Housing and Urban Development Act of 1965,
13 Section 1701s of Title 12 of the United States Code, as amended.
- 14 (Ie) Programs pursuant to Section 515 of the Housing Act of
15 1949, Section 1485 of Title 42 of the United States Code, as
16 amended.
- 17 (If) The low-income housing credit program set forth in Section
18 42 of the Internal Revenue Code.
- 19 (ib) The restrictions on rent and income levels will terminate
20 or the federal insured mortgage on the property is eligible for
21 prepayment any time within five years before or after the date of
22 application to the California Tax Credit Allocation Committee.
- 23 (ic) The entity acquiring the property enters into a regulatory
24 agreement that requires the property to be operated in accordance
25 with the requirements of this section for a period equal to the
26 greater of 55 years or the life of the property.
- 27 (id) The property satisfies the requirements of Section 42(e) of
28 the Internal Revenue Code, regarding rehabilitation expenditures
29 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
30 apply.
- 31 (iv) Projects for which a public agency provides direct or indirect
32 long-term financial support for at least 15 percent of the total
33 project development costs or projects for which the owner's equity
34 constitutes at least 30 percent of the total project development
35 costs.
- 36 (v) Projects that provide tenant amenities not generally available
37 to residents of low-income housing projects.
- 38 (4) For purposes of allocating credits pursuant to this section,
39 the committee shall not give preference to any project by virtue

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

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

12 (k) Section 42(l) of the Internal Revenue Code, relating to
13 certifications and other reports to secretary, shall be modified as
14 follows:

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

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

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

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

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

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

32 (n) The credit period with respect to an allocation of credit in
33 1989 by the California Tax Credit Allocation Committee of which
34 any amount is attributable to unallocated credit from 1987 or 1988
35 shall not begin until after December 31, 1989.

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

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

1 (q) (1) A corporation may elect to assign any portion of any
2 credit allowed under this section to one or more affiliated
3 corporations for each taxable year in which the credit is allowed.
4 For purposes of this subdivision, “affiliated corporation” has the
5 meaning provided in subdivision (b) of Section 25110, as that
6 section was amended by Chapter 881 of the Statutes of 1993, as
7 of the last day of the taxable year in which the credit is allowed,
8 except that “100 percent” is substituted for “more than 50 percent”
9 wherever it appears in the section, as that section was amended by
10 Chapter 881 of the Statutes of 1993, and “voting common stock”
11 is substituted for “voting stock” wherever it appears in the section,
12 as that section was amended by Chapter 881 of the Statutes of
13 1993.

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

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

17 (B) Shall be irrevocable for the taxable year the credit is allowed,
18 once made.

19 (C) May be changed for any subsequent taxable year if the
20 election to make the assignment is expressly shown on each of the
21 returns of the affiliated corporations that assign and receive the
22 credits.

23 (r) (1) For a project that receives a preliminary reservation
24 under this section beginning on or after January 1, 2016, and before
25 January 1, 2020, a taxpayer may make an irrevocable election in
26 its application to the California Tax Credit Allocation Committee
27 to sell all or any portion of any credit allowed under this section
28 to one or more unrelated parties for each taxable year in which the
29 credit is allowed subject to both of the following conditions:

30 (A) The credit is sold for consideration that is not less than 80
31 percent of the amount of the credit.

32 (B) (i) The unrelated party or parties purchasing any or all of
33 the credit pursuant to this subdivision is a taxpayer allowed the
34 credit under this section for the taxable year of the purchase or any
35 prior taxable year or is a taxpayer allowed the federal credit under
36 Section 42 of the Internal Revenue Code, relating to low-income
37 housing credit, for the taxable year of the purchase or any prior
38 taxable year in connection with any project located in this state.

39 (ii) For purposes of this subparagraph, “taxpayer allowed the
40 credit under this section” means a taxpayer that is allowed the

1 credit under this section without regard to the purchase of a credit
2 pursuant to this subdivision without regard to any of the following:

3 (I) The purchase of a credit under this section pursuant to this
4 subdivision.

5 (II) The assignment of a credit under this section pursuant to
6 subdivision (q).

7 (III) The assignment of a credit under this section pursuant to
8 Section 23363.

9 (2) (A) The taxpayer that originally received the credit shall
10 report to the California Tax Credit Allocation Committee within
11 10 days of the sale of the credit, in the form and manner specified
12 by the California Tax Credit Allocation Committee, all required
13 information regarding the purchase and sale of the credit, including
14 the social security or other taxpayer identification number of the
15 unrelated party or parties to whom the credit has been sold, the
16 face amount of the credit sold, and the amount of consideration
17 received by the taxpayer for the sale of the credit.

18 (B) The California Tax Credit Allocation Committee shall
19 provide an annual listing to the Franchise Tax Board, in a form
20 and manner agreed upon by the California Tax Credit Allocation
21 Committee and the Franchise Tax Board, of the taxpayers that
22 have sold or purchased a credit pursuant to this subdivision.

23 (3) (A) A credit may be sold pursuant to this subdivision to
24 more than one unrelated party.

25 (B) (i) Except as provided in clause (ii), a credit shall not be
26 resold by the unrelated party to another taxpayer or other party.

27 (ii) All or any portion of any credit allowed under this section
28 may be resold once by an original purchaser to one or more
29 unrelated parties, subject to all of the requirements of this
30 subdivision.

31 (4) Notwithstanding any other law, the taxpayer that originally
32 received the credit that is sold pursuant to paragraph (1) shall
33 remain solely liable for all obligations and liabilities imposed on
34 the taxpayer by this section with respect to the credit, none of
35 which shall apply to a party to whom the credit has been sold or
36 subsequently transferred. Parties that purchase credits pursuant to
37 paragraph (1) shall be entitled to utilize the purchased credits in
38 the same manner in which the taxpayer that originally received
39 the credit could utilize them.

1 (5) A taxpayer shall not sell a credit allowed by this section if
2 the taxpayer was allowed the credit on any tax return of the
3 taxpayer.

4 (6) Notwithstanding paragraph (1), the taxpayer, with the
5 approval of the Executive Director of the California Tax Credit
6 Allocation Committee, may rescind the election to sell all or any
7 portion of the credit allowed under this section if the consideration
8 for the credit falls below 80 percent of the amount of the credit
9 after the California Tax Credit Allocation Committee reservation.

10 (s) The California Tax Credit Allocation Committee may
11 prescribe rules, guidelines, or procedures necessary or appropriate
12 to carry out the purposes of this section, including any guidelines
13 regarding the allocation of the credit allowed under this section.
14 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
15 3 of Title 2 of the Government Code shall not apply to any rule,
16 guideline, or procedure prescribed by the California Tax Credit
17 Allocation Committee pursuant to this section.

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

20 (u) This section shall remain in effect on and after December
21 1, 1990, for as long as Section 42 of the Internal Revenue Code,
22 relating to low-income housing credit, remains in effect.

23 (v) The amendments to this section made by Chapter 1222 of
24 the Statutes of 1993 shall apply only to taxable years beginning
25 on or after January 1, 1994, except that paragraph (1) of subdivision
26 (q), as amended, shall apply to taxable years beginning on or after
27 January 1, 1993.

28 ~~SEC. 5.~~

29 *SEC. 6.* This act is an urgency statute necessary for the
30 immediate preservation of the public peace, health, or safety within
31 the meaning of Article IV of the California Constitution and shall
32 go into immediate effect. The facts constituting the necessity are:

33 In order to provide affordable housing opportunities at the earliest
34 possible time, it is necessary for this act to take effect immediately.