

AMENDED IN SENATE SEPTEMBER 10, 2015

AMENDED IN SENATE SEPTEMBER 3, 2015

AMENDED IN ASSEMBLY MAY 20, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

AMENDED IN ASSEMBLY MARCH 2, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 35

**Introduced by Assembly Members Chiu and Atkins
(Principal coauthor: Assembly Member Wilk)
(Coauthors: Assembly Members Chau and Steinorth)**

December 1, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 35, as amended, Chiu. Income taxes: credits: low-income housing: allocation increase.

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 of state insurance, personal income, and corporation income tax credit amounts among low-income housing projects based on federal law. Existing law, in modified conformity to federal income tax law, allows the credit based upon the applicable percentage, as defined, of the qualified basis

of each qualified low-income building. Existing law limits the total annual amount of the credit that the committee may allocate to \$70 million per year, as specified.

This bill, for calendar years ~~beginning in 2016, 2016 through 2021, inclusive,~~ would increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects by ~~\$300,000,000, \$100,000,000,~~ as specified. The bill, under the insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law, would modify the definition of applicable percentage relating to qualified low-income buildings that meet specified criteria. ~~The bill would require the Treasurer to submit a report to the Legislature on or before January 1, 2020, regarding the increase in use, if any, of the credit on and after the effective date of this bill.~~

This bill would incorporate additional changes to Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code proposed by SB 377 that would become operative if this bill and SB 377 are chaptered and this bill is chaptered last.

This bill would take effect immediately as a tax levy.

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

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

- 1 SECTION 1. Section 12206 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 12206. (a) (1) There shall be allowed as a credit against the
- 4 “tax,” as described by Section 12201, a state low-income housing
- 5 tax credit in an amount equal to the amount determined in
- 6 subdivision (c), computed in accordance with Section 42 of the
- 7 Internal Revenue Code except as otherwise provided in this section.
- 8 (2) “Taxpayer,” for purposes of this section, means the sole
- 9 owner in the case of a “C” corporation, the partners in the case of
- 10 a partnership, members in the case of a limited liability company,
- 11 and the shareholders in the case of an “S” corporation.
- 12 (3) “Housing sponsor,” for purposes of this section, means the
- 13 sole owner in the case of a “C” corporation, the partnership in the
- 14 case of a partnership, the limited liability company in the case of
- 15 a limited liability company, and the “S” corporation in the case of
- 16 an “S” corporation.

1 (4) “Extremely low-income” has the same meaning as in Section
2 50053 of the Health and Safety Code.

3 (5) “Very low-income” has the same meaning as in Section
4 50053 of the Health and Safety Code.

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

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

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

20 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
21 Internal Revenue Code.

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

29 (C) (i) For a project that receives a preliminary reservation of
30 the state low-income housing tax credit, allowed pursuant to
31 subdivision (a), on or after January 1, 2009, and before January 1,
32 2016, the credit shall be allocated to the partners of a partnership
33 owning the project in accordance with the partnership agreement,
34 regardless of how the federal low-income housing tax credit with
35 respect to the project is allocated to the partners, or whether the
36 allocation of the credit under the terms of the agreement has
37 substantial economic effect, within the meaning of Section 704(b)
38 of the Internal Revenue Code.

39 (ii) This subparagraph shall not apply to a project that receives
40 a preliminary reservation of state low-income housing tax credits

1 under the set-aside described in subdivision (c) of Section 50199.20
2 of the Health and Safety Code unless the project also receives a
3 preliminary reservation of federal low-income housing tax credits.

4 (iii) This subparagraph shall cease to be operative with respect
5 to any project that receives a preliminary reservation of a credit
6 on or after January 1, 2016.

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

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

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

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

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

21 (F) (i) The California Tax Credit Allocation Committee may
22 allocate a credit under this section in exchange for a credit allocated
23 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in
24 amounts up to 30 percent of the eligible basis of a building if the
25 credits allowed under Section 42 of the Internal Revenue Code are
26 reduced by an equivalent amount.

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

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

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

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

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

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

12 (3) In the case of any qualified low-income building that is (i)
13 an existing building, as defined in Section 42 of the Internal
14 Revenue Code and the regulations promulgated thereunder, (ii)
15 not located in designated difficult development areas (DDAs) or
16 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)
17 of the Internal Revenue Code, and (iii) is federally subsidized, the
18 term applicable percentage means the following:

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

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 The total amount for the four-year credit period of the housing
33 credit dollars allocated in a calendar year to any building shall
34 reduce the aggregate housing credit dollar amount of the California
35 Tax Credit Allocation Committee for the calendar year in which
36 the allocation is made.

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

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

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

(B) ~~An~~ *For calendar years 2016 through 2021, inclusive, an additional three one hundred million dollars (\$300,000,000) (\$100,000,000) for the 2016 calendar year, and, for the 2017 calendar year and each calendar year thereafter, three hundred million dollars (\$300,000,000) 2017 through 2021 calendar years, one hundred million dollars (\$100,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2016 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).*

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

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

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

3 (4) Five hundred thousand dollars (\$500,000) per calendar year
4 for projects to provide farmworker housing, as defined in
5 subdivision (h) of Section 50199.7 of the Health and Safety Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (2) The committee shall adopt a qualified allocation plan, as
38 provided in Section 42(m)(1) of the Internal Revenue Code. In
39 adopting this plan, the committee shall comply with the provisions

1 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
2 Code, respectively.

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

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

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

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

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

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

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

25 (vi) The housing sponsor shall demonstrate that the project
26 development team has the experience and the financial capacity
27 to ensure project completion and operation for the extended use
28 period.

29 (vii) The housing sponsor shall demonstrate the amount of tax
30 credit that is necessary for the financial feasibility of the project
31 and its viability as a qualified low-income housing project
32 throughout the extended use period, taking into account operating
33 expenses, a supportable debt service, reserves, funds set aside for
34 rental subsidies, and required equity, and a development fee that
35 does not exceed a specified percentage of the eligible basis of the
36 project prior to inclusion of the development fee in the eligible
37 basis, as determined by the committee.

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

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

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

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

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

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

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

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

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

20 (Ia) New construction, substantial rehabilitation, moderate
21 rehabilitation, property disposition, and loan management set-aside
22 programs, or any other program providing project-based assistance
23 pursuant to Section 8 of the United States Housing Act of 1937,
24 Section 1437f of Title 42 of the United States Code, as amended.

25 (Ib) The Below-Market-Interest-Rate Program pursuant to
26 Section 221(d)(3) of the National Housing Act, Sections
27 1715l(d)(3) and (5) of Title 12 of the United States Code.

28 (Ic) Section 236 of the National Housing Act, Section 1715z-1
29 of Title 12 of the United States Code.

30 (Id) Programs for rent supplement assistance pursuant to Section
31 18 101 of the Housing and Urban Development Act of 1965,
32 Section 1701s of Title 12 of the United States Code, as amended.

33 (Ie) Programs pursuant to Section 515 of the Housing Act of
34 1949, Section 1485 of Title 42 of the United States Code, as
35 amended.

36 (If) The low-income housing credit program set forth in Section
37 42 of the Internal Revenue Code.

38 (ib) The restrictions on rent and income levels will terminate
39 or the federal insured mortgage on the property is eligible for

1 prepayment any time within five years before or after the date of
2 application to the California Tax Credit Allocation Committee.

3 (ic) The entity acquiring the property enters into a regulatory
4 agreement that requires the property to be operated in accordance
5 with the requirements of this section for a period equal to the
6 greater of 55 years or the life of the property.

7 (id) The property satisfies the requirements of Section 42(e) of
8 the Internal Revenue Code, regarding rehabilitation expenditures
9 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
10 apply.

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

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

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

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

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

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

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

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

35 (o) This section shall remain in effect for as long as Section 42
36 of the Internal Revenue Code, relating to low-income housing
37 credit, remains in effect.

38 SEC. 1.5. Section 12206 of the Revenue and Taxation Code
39 is amended to read:

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

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

11 (3) “Housing sponsor,” for purposes of this section, means the
12 sole owner in the case of a “C” corporation, the partnership in the
13 case of a partnership, the limited liability company in case of a
14 limited liability company, and the “S” corporation in the case of
15 an “S” corporation.

16 (4) “Extremely low-income” has the same meaning as in Section
17 50053 of the Health and Safety Code.

18 (5) “Very low-income” has the same meaning as in Section
19 50053 of the Health and Safety Code.

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

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

31 (i) The project’s housing sponsor has been allocated by the
32 California Tax Credit Allocation Committee a credit for federal
33 income tax purposes under Section 42 of the Internal Revenue
34 Code, relating to low-income housing credit.

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

39 (B) The California Tax Credit Allocation Committee shall not
40 require fees for the credit under this section in addition to those

1 fees required for applications for the tax credit pursuant to Section
2 42 of the Internal Revenue Code, relating to low-income housing
3 credit. The committee may require a fee if the application for the
4 credit under this section is submitted in a calendar year after the
5 year the application is submitted for the federal tax credit.

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

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

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

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

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

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

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

36 (F) (i) The California Tax Credit Allocation Committee may
37 allocate a credit under this section in exchange for a credit allocated
38 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,
39 relating to increase in credit for buildings in high-cost areas, in
40 amounts up to 30 percent of the eligible basis of a building if the

1 credits allowed under Section 42 of the Internal Revenue Code,
2 relating to low-income housing credit, are reduced by an equivalent
3 amount.

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

7 (c) Section 42(b) of the Internal Revenue Code, relating to
8 applicable percentage, shall be modified as follows:

9 (1) In the case of any qualified low-income building that is a
10 new building, as defined in Section 42 of the Internal Revenue
11 Code and the regulations promulgated thereunder, and not federally
12 subsidized, the term “applicable percentage” means the following:

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

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

20 (2) In the case of any qualified low-income building that (i) is
21 a new building, as defined in Section 42 of the Internal Revenue
22 Code and the regulations promulgated thereunder, (ii) not located
23 in designated difficult development areas (DDAs) or qualified
24 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the
25 Internal Revenue Code, and (iii) is federally subsidized, the term
26 “applicable percentage” means for the first three years, 15 percent
27 of the qualified basis of the building, and for the fourth year, 5
28 percent of the qualified basis of the building.

29 (3) In the case of any qualified low-income building that is (i)
30 an existing building, as defined in Section 42 of the Internal
31 Revenue Code and the regulations promulgated thereunder, (ii)
32 not located in designated difficult development areas (DDAs) or
33 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)
34 of the Internal Revenue Code, and (iii) is federally subsidized, the
35 term applicable percentage means the following:

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

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

(4) In the case of any qualified low-income building that is (i) a new or an existing building, (ii) located in designated difficult development areas (DDAs) or qualified census tracts (QCTs) as defined in Section 42(d)(5)(B) of the Internal Revenue Code, and (iii) federally subsidized, the California Tax Credit Allocation Committee shall reduce the amount of California credit to be allocated under paragraph (2) and (3) by taking into account the increased federal credit received due to the basis boost provided under Section 42(d)(5)(B) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (3) Section 42(f)(3) of the Internal Revenue Code, relating to
38 determination of applicable percentage with respect to increases
39 in qualified basis after first year of credit period, is modified to
40 read:

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

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

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

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

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

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

30 (1) (A) Seventy million dollars (\$70,000,000) for the 2001
31 calendar year, and, for the 2002 calendar year and each calendar
32 year thereafter, seventy million dollars (\$70,000,000) increased
33 by the percentage, if any, by which the Consumer Price Index for
34 the preceding calendar year exceeds the Consumer Price Index for
35 the 2001 calendar year. For the purposes of this paragraph, the
36 term "Consumer Price Index" means the last Consumer Price Index
37 for All Urban Consumers published by the federal Department of
38 Labor.

39 (B) ~~An~~ *For calendar years 2016 through 2021, inclusive, an*
40 ~~additional—three one hundred million dollars—(\$300,000,000)~~

1 (~~\$100,000,000~~) for the 2016 calendar year, and, for the ~~2017~~
2 ~~calendar year and each calendar year thereafter, three hundred~~
3 ~~million dollars (\$300,000,000) 2017 through 2021 calendar years,~~
4 ~~one hundred million dollars (\$100,000,000)~~ increased by the
5 percentage, if any, by which the Consumer Price Index for the
6 preceding calendar year exceeds the Consumer Price Index for the
7 2016 calendar year. For the purposes of this paragraph, the term
8 “Consumer Price Index” means the last Consumer Price Index for
9 All Urban Consumers published by the federal Department of
10 Labor. A housing sponsor receiving an allocation under paragraph
11 (1) of subdivision (c) shall not be eligible for receipt of the housing
12 credit allocated from the increased amount under this subparagraph.
13 A housing sponsor receiving an allocation under paragraph (1) of
14 subdivision (c) shall remain eligible for receipt of the housing
15 credit allocated from the credit ceiling amount under subparagraph
16 (A).

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

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

27 (4) Five hundred thousand dollars (\$500,000) per calendar year
28 for projects to provide farmworker housing, as defined in
29 subdivision (h) of Section 50199.7 of the Health and Safety Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (2) The committee shall adopt a qualified allocation plan, as
25 provided in Section 42(m)(1) of the Internal Revenue Code, relating
26 to plans for allocation of credit among projects. In adopting this
27 plan, the committee shall comply with the provisions of Sections
28 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,
29 relating to qualified allocation plan and relating to certain selection
30 criteria must be used, respectively.

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

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

1 (i) The housing sponsor shall demonstrate that there is a need
2 and demand for low-income housing in the community or region
3 for which it is proposed.

4 (ii) The project's proposed financing, including tax credit
5 proceeds, shall be sufficient to complete the project and that the
6 proposed operating income shall be adequate to operate the project
7 for the extended use period.

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

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

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

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

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

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

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

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

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

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

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

1 (iv) Projects for which a public agency provides direct or indirect
2 long-term financial support for at least 15 percent of the total
3 project development costs or projects for which the owner's equity
4 constitutes at least 30 percent of the total project development
5 costs.

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

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

12 (k) Section 42(l) of the Internal Revenue Code, relating to
13 certifications and other reports to the secretary, shall be modified
14 as 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 years if necessary,
20 until the credit has been exhausted.

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

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

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

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

35 (B) The unrelated party or parties purchasing any or all of the
36 credit pursuant to this subdivision is a taxpayer allowed the credit
37 under this section for the taxable year of the purchase or any prior
38 taxable year or is a taxpayer allowed the federal credit under
39 Section 42 of the Internal Revenue Code, relating to low-income
40 housing credit, for the taxable year of the purchase or any prior

1 taxable year in connection with any project located in this state.
2 For purposes of this subparagraph, “taxpayer allowed the credit
3 under this section” means a taxpayer that is allowed the credit
4 under this section without regard to the purchase of a credit
5 pursuant to this subdivision.

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

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

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

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

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

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

37 (5) A taxpayer shall not sell a credit allowed by this section if
38 the taxpayer was allowed the credit on any tax return of the
39 taxpayer.

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

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

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

SEC. 2. Section 17058 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

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

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

5 (i) Except for projects to provide farmworker housing, as defined
6 in subdivision (h) of Section 50199.7 of the Health and Safety
7 Code, that are allocated credits solely under the set-aside described
8 in subdivision (c) of Section 50199.20 of the Health and Safety
9 Code, the project's housing sponsor has been allocated by the
10 California Tax Credit Allocation Committee a credit for federal
11 income tax purposes under Section 42 of the Internal Revenue
12 Code.

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

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

22 (C) (i) For a project that receives a preliminary reservation of
23 the state low-income housing tax credit, allowed pursuant to
24 subdivision (a), on or after January 1, 2009, and before January 1,
25 2016, the credit shall be allocated to the partners of a partnership
26 owning the project in accordance with the partnership agreement,
27 regardless of how the federal low-income housing tax credit with
28 respect to the project is allocated to the partners, or whether the
29 allocation of the credit under the terms of the agreement has
30 substantial economic effect, within the meaning of Section 704(b)
31 of the Internal Revenue Code.

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

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

6 (iv) This subparagraph shall cease to be operative with respect
7 to any project that receives a preliminary reservation of a credit
8 on or after January 1, 2016.

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

12 (B) In the case of a partnership, limited liability company, or
13 an “S” corporation, the housing sponsor shall provide a copy of
14 the California Tax Credit Allocation Committee certification to
15 the taxpayer.

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

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

20 (E) (i) The California Tax Credit Allocation Committee may
21 allocate a credit under this section in exchange for a credit allocated
22 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in
23 amounts up to 30 percent of the eligible basis of a building if the
24 credits allowed under Section 42 of the Internal Revenue Code are
25 reduced by an equivalent amount.

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

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

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

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

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

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

12 (3) In the case of any qualified low-income building that is (i)
13 an existing building, as defined in Section 42 of the Internal
14 Revenue Code and the regulations promulgated thereunder, (ii)
15 not located in designated difficult development areas (DDAs) or
16 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)
17 of the Internal Revenue Code, and (iii) is federally subsidized, the
18 term applicable percentage means the following:

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

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

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

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, adjusted by household size, and a tax credit
8 regulatory agreement is entered into for a period of not less than
9 55 years restricting the average targeted household income to no
10 more than 45 percent of the area median income.

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

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

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

32 The total amount for the four-year credit period of the housing
33 credit dollars allocated in a calendar year to any building shall
34 reduce the aggregate housing credit dollar amount of the California
35 Tax Credit Allocation Committee for the calendar year in which
36 the allocation is made.

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

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

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

(B) ~~An~~ *For calendar years 2016 through 2021, inclusive, an additional three one hundred million dollars (\$300,000,000) (\$100,000,000) for the 2016 calendar year, and, for the 2017 calendar year and each calendar year thereafter, three hundred million dollars (\$300,000,000) 2017 through 2021 calendar years, one hundred million dollars (\$100,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2016 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).*

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

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

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

3 (4) Five hundred thousand dollars (\$500,000) per calendar year
4 for projects to provide farmworker housing, as defined in
5 subdivision (h) of Section 50199.7 of the Health and Safety Code.

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

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

15 (i) Section 42(j) of the Internal Revenue Code shall not be
16 applicable and the following requirements of this section shall be
17 set forth in a regulatory agreement between the California Tax
18 Credit Allocation Committee and the housing sponsor, and the
19 regulatory agreement shall be subordinated, when required, to any
20 lien or encumbrance of any banks or other institutional lenders to
21 the project. The regulatory agreement entered into pursuant to
22 subdivision (f) of Section 50199.14 of the Health and Safety Code
23 shall apply, provided that the agreement includes all of the
24 following provisions:

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

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

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

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

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

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

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

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

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

34 (2) The committee shall adopt a qualified allocation plan, as
35 provided in Section 42(m)(1) of the Internal Revenue Code. In
36 adopting this plan, the committee shall comply with the provisions
37 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
38 Code, respectively.

39 (3) Notwithstanding Section 42(m) of the Internal Revenue
40 Code the California Tax Credit Allocation Committee shall allocate

1 housing credits in accordance with the qualified allocation plan
2 and regulations, which shall include the following provisions:

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

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

10 (ii) The project's proposed financing, including tax credit
11 proceeds, shall be sufficient to complete the project and that the
12 proposed operating income shall be adequate to operate the project
13 for the extended use period.

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

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

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

21 (vi) The housing sponsor shall demonstrate that the project
22 development team has the experience and the financial capacity
23 to ensure project completion and operation for the extended use
24 period.

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

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

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

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

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

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

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

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

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

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

16 (Ia) New construction, substantial rehabilitation, moderate
17 rehabilitation, property disposition, and loan management set-aside
18 programs, or any other program providing project-based assistance
19 pursuant to Section 8 of the United States Housing Act of 1937,
20 Section 1437f of Title 42 of the United States Code, as amended.

21 (Ib) The Below-Market-Interest-Rate Program pursuant to
22 Section 221(d)(3) of the National Housing Act, Sections
23 1715l(d)(3) and (5) of Title 12 of the United States Code.

24 (Ic) Section 236 of the National Housing Act, Section 1715z-1
25 of Title 12 of the United States Code.

26 (Id) Programs for rent supplement assistance pursuant to Section
27 18 101 of the Housing and Urban Development Act of 1965,
28 Section 1701s of Title 12 of the United States Code, as amended.

29 (Ie) Programs pursuant to Section 515 of the Housing Act of
30 1949, Section 1485 of Title 42 of the United States Code, as
31 amended.

32 (If) The low-income housing credit program set forth in Section
33 42 of the Internal Revenue Code.

34 (ib) The restrictions on rent and income levels will terminate
35 or the federal insured mortgage on the property is eligible for
36 prepayment any time within five years before or after the date of
37 application to the California Tax Credit Allocation Committee.

38 (ic) The entity acquiring the property enters into a regulatory
39 agreement that requires the property to be operated in accordance

1 with the requirements of this section for a period equal to the
2 greater of 55 years or the life of the property.

3 (id) The property satisfies the requirements of Section 42(e) of
4 the Internal Revenue Code, regarding rehabilitation expenditures
5 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
6 apply.

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

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

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

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

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

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

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

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

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

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

36 (n) The credit period with respect to an allocation of credit in
37 1989 by the California Tax Credit Allocation Committee of which
38 any amount is attributable to unallocated credit from 1987 or 1988
39 shall not begin until after December 31, 1989.

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

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

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

8 (r) This section shall remain in effect on and after December 1,
9 1990, for as long as Section 42 of the Internal Revenue Code,
10 relating to low-income housing credit, remains in effect.

11 (s) The amendments to this section made by Chapter 1222 of
12 the Statutes of 1993 shall apply only to taxable years beginning
13 on or after January 1, 1994.

14 SEC. 2.5. Section 17058 of the Revenue and Taxation Code
15 is amended to read:

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

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

26 (3) “Housing sponsor, for purposes of this section, means the
27 sole owner in the case of an individual, the partnership in the case
28 of a partnership, the limited liability company in the case of a
29 limited liability company, and the “S” corporation in the case of
30 an “S” corporation.

31 (4) “Extremely low-income” has the same meaning as in Section
32 50053 of the Health and Safety Code.

33 (5) “Very low-income” has the same meaning as in Section
34 50053 of the Health and Safety Code.

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

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

3 (i) Except for projects to provide farmworker housing, as defined
4 in subdivision (h) of Section 50199.7 of the Health and Safety
5 Code, that are allocated credits solely under the set-aside described
6 in subdivision (c) of Section 50199.20 of the Health and Safety
7 Code, the project's housing sponsor has been allocated by the
8 California Tax Credit Allocation Committee a credit for federal
9 income tax purposes under Section 42 of the Internal Revenue
10 Code, relating to low-income housing credit.

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

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

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

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

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

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

9 (B) In the case of a partnership, limited liability company, or
10 an “S” corporation, the housing sponsor shall provide a copy of
11 the California Tax Credit Allocation Committee certification to
12 the taxpayer.

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

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

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

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

29 (c) Section 42(b) of the Internal Revenue Code, relating to
30 applicable percentage, shall be modified as follows:

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

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

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

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

12 (3) In the case of any qualified low-income building that is (i)
13 an existing building, as defined in Section 42 of the Internal
14 Revenue Code and the regulations promulgated thereunder, (ii)
15 not located in designated difficult development areas (DDAs) or
16 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)
17 of the Internal Revenue Code, and (iii) is federally subsidized, the
18 term applicable percentage means the following:

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

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

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

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, adjusted by household size, and a tax credit
8 regulatory agreement is entered into for a period of not less than
9 55 years restricting the average targeted household income to no
10 more than 45 percent of the area median income.

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

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

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

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

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

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

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

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

36 (C) Any amount allowed to be distributed under subparagraph
37 (A) that is not available for distribution during the first five years
38 of the compliance period may be accumulated and distributed any
39 time during the first 15 years of the compliance period but not
40 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 first 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 first 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 taxable year in which the increase in qualified
33 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:

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

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

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

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

(B) ~~An~~ *For calendar years 2016 through 2021, inclusive, an additional—three one hundred million dollars—(\$300,000,000) (\$100,000,000) for the 2016 calendar year, and, for the—2017 calendar year and each calendar year thereafter, three hundred million dollars (\$300,000,000) 2017 through 2021 calendar years, one hundred million dollars (\$100,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2016 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).*

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

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

(4) Five hundred thousand dollars (\$500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

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

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

(i) Section 42(j) of the Internal Revenue Code, relating to recapture of credit, shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, and the regulatory agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, provided that the agreement includes all of the following provisions:

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

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

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

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

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

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

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

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

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

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

4 (2) The committee shall adopt a qualified allocation plan, as
5 provided in Section 42(m)(1) of the Internal Revenue Code, relating
6 to plans for allocation of credit among projects. In adopting this
7 plan, the committee shall comply with the provisions of Sections
8 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,
9 relating to qualified allocation plan and relating to certain selection
10 criteria must be used, respectively.

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

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

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

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

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

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

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

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

38 (vii) The housing sponsor shall demonstrate the amount of tax
39 credit that is necessary for the financial feasibility of the project
40 and its viability as a qualified low-income housing project

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

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

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

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

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

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

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

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

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

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

29 (Ia) New construction, substantial rehabilitation, moderate
30 rehabilitation, property disposition, and loan management set-aside
31 programs, or any other program providing project-based assistance
32 pursuant to Section 8 of the United States Housing Act of 1937,
33 Section 1437f of Title 42 of the United States Code, as amended.

34 (Ib) The Below-Market-Interest-Rate Program pursuant to
35 Section 221(d)(3) of the National Housing Act, Sections
36 1715l(d)(3) and (5) of Title 12 of the United States Code.

37 (Ic) Section 236 of the National Housing Act, Section 1715z-1
38 of Title 12 of the United States Code.

1 (Id) Programs for rent supplement assistance pursuant to Section
2 18 101 of the Housing and Urban Development Act of 1965,
3 Section 1701s of Title 12 of the United States Code, as amended.

4 (Ie) Programs pursuant to Section 515 of the Housing Act of
5 1949, Section 1485 of Title 42 of the United States Code, as
6 amended.

7 (If) The low-income housing credit program set forth in Section
8 42 of the Internal Revenue Code.

9 (ib) The restrictions on rent and income levels will terminate
10 or the federal insured mortgage on the property is eligible for
11 prepayment any time within five years before or after the date of
12 application to the California Tax Credit Allocation Committee.

13 (ic) The entity acquiring the property enters into a regulatory
14 agreement that requires the property to be operated in accordance
15 with the requirements of this section for a period equal to the
16 greater of 55 years or the life of the property.

17 (id) The property satisfies the requirements of Section 42(e) of
18 the Internal Revenue Code, regarding rehabilitation expenditures
19 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
20 apply.

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

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

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

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

34 The term "secretary" shall be replaced by the term "Franchise
35 Tax Board."

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

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

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

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

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

12 (n) The credit period with respect to an allocation of credit in
13 1989 by the California Tax Credit Allocation Committee of which
14 any amount is attributable to unallocated credit from 1987 or 1988
15 shall not begin until after December 31, 1989.

16 (o) 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 1989.

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

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

23 (r) This section shall remain in effect on and after December 1,
24 1990, for as long as Section 42 of the Internal Revenue Code,
25 relating to low-income housing credit, remains in effect.

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

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

35 (B) The unrelated party or parties purchasing any or all of the
36 credit pursuant to this subdivision is a taxpayer allowed the credit
37 under this section for the taxable year of the purchase or any prior
38 taxable year or is a taxpayer allowed the federal credit under
39 Section 42 of the Internal Revenue Code, relating to low-income
40 housing credit, for the taxable year of the purchase or any prior

1 taxable year in connection with any project located in this state.
2 For purposes of this subparagraph, “taxpayer allowed the credit
3 under this section” means a taxpayer that is allowed the credit
4 under this section without regard to the purchase of a credit
5 pursuant to this subdivision.

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

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

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

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

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

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

37 (5) A taxpayer shall not sell a credit allowed by this section if
38 the taxpayer was allowed the credit on any tax return of the
39 taxpayer.

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

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

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

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

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

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

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

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

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

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

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

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

5 (i) Except for projects to provide farmworker housing, as defined
6 in subdivision (h) of Section 50199.7 of the Health and Safety
7 Code, that are allocated credits solely under the set-aside described
8 in subdivision (c) of Section 50199.20 of the Health and Safety
9 Code, the project's housing sponsor has been allocated by the
10 California Tax Credit Allocation Committee a credit for federal
11 income tax purposes under Section 42 of the Internal Revenue
12 Code.

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

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

22 (C) (i) For a project that receives a preliminary reservation of
23 the state low-income housing tax credit, allowed pursuant to
24 subdivision (a), on or after January 1, 2009, and before January 1,
25 2016, the credit shall be allocated to the partners of a partnership
26 owning the project in accordance with the partnership agreement,
27 regardless of how the federal low-income housing tax credit with
28 respect to the project is allocated to the partners, or whether the
29 allocation of the credit under the terms of the agreement has
30 substantial economic effect, within the meaning of Section 704(b)
31 of the Internal Revenue Code.

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

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

6 (iv) This subparagraph shall cease to be operative with respect
7 to any project that receives a preliminary reservation of a credit
8 on or after January 1, 2016.

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

12 (B) In the case of a partnership, limited liability company, or
13 an “S” corporation, the housing sponsor shall provide a copy of
14 the California Tax Credit Allocation Committee certification to
15 the taxpayer.

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

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

20 (E) (i) The California Tax Credit Allocation Committee may
21 allocate a credit under this section in exchange for a credit allocated
22 pursuant to Section 42(d)(5)(B) of the Internal Revenue Code in
23 amounts up to 30 percent of the eligible basis of a building if the
24 credits allowed under Section 42 of the Internal Revenue Code are
25 reduced by an equivalent amount.

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

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

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

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

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

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

12 (3) In the case of any qualified low-income building that is (i)
13 an existing building, as defined in Section 42 of the Internal
14 Revenue Code and the regulations promulgated thereunder, (ii)
15 not located in designated difficult development areas (DDAs) or
16 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)
17 of the Internal Revenue Code, and (iii) is federally subsidized, the
18 term applicable percentage means the following:

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

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

24 (4) In the case of any qualified low-income building that is (i)
25 a new or an existing building, (ii) located in designated difficult
26 development areas (DDAs) or qualified census tracts (QCTs) as
27 defined in Section 42(d)(5)(B) of the Internal Revenue Code, and
28 (iii) federally subsidized, the California Tax Credit Allocation
29 Committee shall determine the amount of credit to be allocated
30 under subparagraph (E) of paragraph (2) of subdivision (b) required
31 to produce an equivalent state tax credit to the taxpayer, as
32 produced in paragraph (2), taking into account the basis boost
33 provided under Section 42(d)(5)(B) of the Internal Revenue Code.

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

40 (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, adjusted by household size, and a tax credit
8 regulatory agreement is entered into for a period of not less than
9 55 years restricting the average targeted household income to no
10 more than 45 percent of the area median income.

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

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

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

32 The total amount for the four-year credit period of the housing
33 credit dollars allocated in a calendar year to any building shall
34 reduce the aggregate housing credit dollar amount of the California
35 Tax Credit Allocation Committee for the calendar year in which
36 the allocation is made.

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

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

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

(B) ~~An~~ *For calendar years 2016 through 2021, inclusive, an additional three one hundred million dollars (\$300,000,000) (\$100,000,000) for the 2016 calendar year, and, for the 2017 calendar year and each calendar year thereafter, three hundred million dollars (\$300,000,000) 2017 through 2021 calendar years, one hundred million dollars (\$100,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2016 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).*

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

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

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

3 (4) Five hundred thousand dollars (\$500,000) per calendar year
4 for projects to provide farmworker housing, as defined in
5 subdivision (h) of Section 50199.7 of the Health and Safety Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (2) The committee shall adopt a qualified allocation plan, as
35 provided in Section 42(m)(1) of the Internal Revenue Code. In
36 adopting this plan, the committee shall comply with the provisions
37 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
38 Code, respectively.

39 (3) Notwithstanding Section 42(m) of the Internal Revenue
40 Code the California Tax Credit Allocation Committee shall allocate

1 housing credits in accordance with the qualified allocation plan
2 and regulations, which shall include the following provisions:

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

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

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

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

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

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

20 (vi) The housing sponsor shall demonstrate that the project
21 development team has the experience and the financial capacity
22 to ensure project completion and operation for the extended use
23 period.

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

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

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

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

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

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

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

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

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

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

16 (Ia) New construction, substantial rehabilitation, moderate
17 rehabilitation, property disposition, and loan management set-aside
18 programs, or any other program providing project-based assistance
19 pursuant to Section 8 of the United States Housing Act of 1937,
20 Section 1437f of Title 42 of the United States Code, as amended.

21 (Ib) The Below-Market-Interest-Rate Program pursuant to
22 Section 221(d)(3) of the National Housing Act, Sections
23 1715l(d)(3) and (5) of Title 12 of the United States Code.

24 (Ic) Section 236 of the National Housing Act, Section 1715z-1
25 of Title 12 of the United States Code.

26 (Id) Programs for rent supplement assistance pursuant to Section
27 18 101 of the Housing and Urban Development Act of 1965,
28 Section 1701s of Title 12 of the United States Code, as amended.

29 (Ie) Programs pursuant to Section 515 of the Housing Act of
30 1949, Section 1485 of Title 42 of the United States Code, as
31 amended.

32 (If) The low-income housing credit program set forth in Section
33 42 of the Internal Revenue Code.

34 (ib) The restrictions on rent and income levels will terminate
35 or the federal insured mortgage on the property is eligible for
36 prepayment any time within five years before or after the date of
37 application to the California Tax Credit Allocation Committee.

38 (ic) The entity acquiring the property enters into a regulatory
39 agreement that requires the property to be operated in accordance

1 with the requirements of this section for a period equal to the
2 greater of 55 years or the life of the property.

3 (id) The property satisfies the requirements of Section 42(e) of
4 the Internal Revenue Code, regarding rehabilitation expenditures
5 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
6 apply.

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

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

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

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

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

29 The term "secretary" shall be replaced by the term "California
30 Franchise Tax Board."

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (r) Any unused credit may continue to be carried forward, as
39 provided in subdivision (l), until the credit has been exhausted.

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

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

SEC. 3.5. Section 23610.5 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

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

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety

1 Code, 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, the credit shall be
19 allocated to the partners of a partnership owning the project in
20 accordance with the partnership agreement, regardless of how the
21 federal low-income housing tax credit with respect to the project
22 is allocated to the partners, or whether the allocation of the credit
23 under the terms of the agreement has substantial economic effect,
24 within the meaning of Section 704(b) of the Internal Revenue
25 Code, relating to determination of distributive share.

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

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

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

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

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

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

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

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

24 (c) Section 42(b) of the Internal Revenue Code, relating to
25 applicable percentage, shall be modified as follows:

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

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

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

37 (2) In the case of any qualified low-income building that (i) is
38 a new building, as defined in Section 42 of the Internal Revenue
39 Code and the regulations promulgated thereunder, (ii) not located
40 in designated difficult development areas (DDAs) or qualified

1 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the
2 Internal Revenue Code, and (iii) is federally subsidized, the term
3 “applicable percentage” means for the first three years, 15 percent
4 of the qualified basis of the building, and for the fourth year, 5
5 percent of the qualified basis of the building.

6 (3) In the case of any qualified low-income building that is (i)
7 an existing building, as defined in Section 42 of the Internal
8 Revenue Code and the regulations promulgated thereunder, (ii)
9 not located in designated difficult development areas (DDAs) or
10 qualified census tracts (QCTs), as defined in Section 42(d)(5)(B)
11 of the Internal Revenue Code, and (iii) is federally subsidized, the
12 term applicable percentage means the following:

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

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

18 (4) In the case of any qualified low-income building that is (i)
19 a new or an existing building, (ii) located in designated difficult
20 development areas (DDAs) or qualified census tracts (QCTs) as
21 defined in Section 42(d)(5)(B) of the Internal Revenue Code, and
22 (iii) federally subsidized, the California Tax Credit Allocation
23 Committee shall determine the amount of credit to be allocated
24 under subparagraph (E) of paragraph (2) of subdivision (b) required
25 to produce an equivalent state tax credit to the taxpayer, as
26 produced in paragraph (2), taking into account the basis boost
27 provided under Section 42(d)(5)(B) of the Internal Revenue Code.

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

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

35 (B) The qualified low-income building is serving households
36 of very low-income or extremely low-income such that the average
37 maximum household income as restricted, pursuant to an existing
38 regulatory agreement with a federal, state, county, local, or other
39 governmental agency, is not more than 45 percent of the area
40 median gross income, as determined under Section 42 of the

1 Internal Revenue Code, adjusted by household size, and a tax credit
2 regulatory agreement is entered into for a period of not less than
3 55 years restricting the average targeted household income to no
4 more than 45 percent of the area median income.

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

8 (D) The qualified low-income building will complete the
9 substantial rehabilitation in connection with the credit allocation
10 herein.

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

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

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

19 (i) The owner equity, which shall include the amount of the
20 capital contributions actually paid to the housing sponsor and shall
21 not include any amounts until they are paid on an investor note.

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

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

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

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

38 (3) The housing sponsor shall apply any cash available for
39 distribution in excess of the amount eligible to be distributed under
40 paragraph (1) to reduce the rent on rent-restricted units or to

1 increase the number of rent-restricted units subject to the tests of
2 Section 42(g)(1) of the Internal Revenue Code, relating to in
3 general.

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

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

11 (2) The special rule for the first taxable year of the credit period
12 under Section 42(f)(2) of the Internal Revenue Code, relating to
13 special rule for first year of credit period, shall not apply to the tax
14 credit under this section.

15 (3) Section 42(f)(3) of the Internal Revenue Code, relating to
16 determination of applicable percentage with respect to increases
17 in qualified basis after first year of credit period, is modified to
18 read:

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

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

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

35 The total amount for the four-year credit period of the housing
36 credit dollars allocated in a calendar year to any building shall
37 reduce the aggregate housing credit dollar amount of the California
38 Tax Credit Allocation Committee for the calendar year in which
39 the allocation is made.

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

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

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

(B) ~~An~~ *For calendar years 2016 through 2021, inclusive, an additional—three one hundred million dollars—(\$300,000,000) (\$100,000,000) for the 2016 calendar year, and, for the 2017 calendar year and each calendar year thereafter, three hundred million dollars (\$300,000,000) 2017 through 2021 calendar years, one hundred million dollars (\$100,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2016 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for All Urban Consumers published by the federal Department of Labor. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall not be eligible for receipt of the housing credit allocated from the increased amount under this subparagraph. A housing sponsor receiving an allocation under paragraph (1) of subdivision (c) shall remain eligible for receipt of the housing credit allocated from the credit ceiling amount under subparagraph (A).*

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

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing

1 credit dollar amount previously allocated to any project that does
2 not become a qualified low-income housing project within the
3 period required by this section or to any project with respect to
4 which an allocation is canceled by mutual consent of the California
5 Tax Credit Allocation Committee and the allocation recipient.

6 (4) Five hundred thousand dollars (\$500,000) per calendar year
7 for projects to provide farmworker housing, as defined in
8 subdivision (h) of Section 50199.7 of the Health and Safety Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (2) The committee shall adopt a qualified allocation plan, as
2 provided in Section 42(m)(1) of the Internal Revenue Code, relating
3 to plans for allocation of credit among projects. In adopting this
4 plan, the committee shall comply with the provisions of Sections
5 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,
6 relating to qualified allocation plan and relating to certain selection
7 criteria must be used, respectively.

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

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

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

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

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

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

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

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

34 (vii) The housing sponsor shall demonstrate the amount of tax
35 credit that is necessary for the financial feasibility of the project
36 and its viability as a qualified low-income housing project
37 throughout the extended use period, taking into account operating
38 expenses, a supportable debt service, reserves, funds set aside for
39 rental subsidies and required equity, and a development fee that
40 does not exceed a specified percentage of the eligible basis of the

1 project prior to inclusion of the development fee in the eligible
2 basis, as determined by the committee.

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

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

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

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

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

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

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

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

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

25 (Ia) New construction, substantial rehabilitation, moderate
26 rehabilitation, property disposition, and loan management set-aside
27 programs, or any other program providing project-based assistance
28 pursuant to Section 8 of the United States Housing Act of 1937,
29 Section 1437f of Title 42 of the United States Code, as amended.

30 (Ib) The Below-Market-Interest-Rate Program pursuant to
31 Section 221(d)(3) of the National Housing Act, Sections
32 1715l(d)(3) and (5) of Title 12 of the United States Code.

33 (Ic) Section 236 of the National Housing Act, Section 1715z-1
34 of Title 12 of the United States Code.

35 (Id) Programs for rent supplement assistance pursuant to Section
36 18 101 of the Housing and Urban Development Act of 1965,
37 Section 1701s of Title 12 of the United States Code, as amended.

38 (Ie) Programs pursuant to Section 515 of the Housing Act of
39 1949, Section 1485 of Title 42 of the United States Code, as
40 amended.

1 (If) The low-income housing credit program set forth in Section
2 42 of the Internal Revenue Code.

3 (ib) The restrictions on rent and income levels will terminate
4 or the federal insured mortgage on the property is eligible for
5 prepayment any time within five years before or after the date of
6 application to the California Tax Credit Allocation Committee.

7 (ic) The entity acquiring the property enters into a regulatory
8 agreement that requires the property to be operated in accordance
9 with the requirements of this section for a period equal to the
10 greater of 55 years or the life of the property.

11 (id) The property satisfies the requirements of Section 42(e) of
12 the Internal Revenue Code, regarding rehabilitation expenditures
13 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
14 apply.

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

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

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

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

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

38 The term "secretary" shall be replaced by the term "Franchise
39 Tax Board."

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (r) Any unused credit may continue to be carried forward, as
8 provided in subdivision (l), until the credit has been exhausted.

9 (s) This section shall remain in effect on and after December 1,
10 1990, for as long as Section 42 of the Internal Revenue Code,
11 relating to low-income housing credit, remains in effect.

12 (t) (1) For a project that receives a preliminary reservation
13 under this section beginning on or after January 1, 2016, a taxpayer
14 may make an irrevocable election in its application to the California
15 Tax Credit Allocation Committee to sell all or any portion of any
16 credit allowed under this section to one or more unrelated parties
17 for each taxable year in which the credit is allowed subject to both
18 of the following conditions:

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

21 (B) (i) The unrelated party or parties purchasing any or all of
22 the credit pursuant to this subdivision is a taxpayer allowed the
23 credit under this section for the taxable year of the purchase or any
24 prior taxable year or is a taxpayer allowed the federal credit under
25 Section 42 of the Internal Revenue Code, relating to low-income
26 housing credit, for the taxable year of the purchase or any prior
27 taxable year in connection with any project located in this state.

28 (ii) For purposes of this subparagraph, "taxpayer allowed the
29 credit under this section" means a taxpayer that is allowed the
30 credit under this section ~~without regard to the purchase of a credit~~
31 ~~pursuant to this subdivision~~ without regard to any of the following:

32 (I) The purchase of a credit under this section pursuant to this
33 subdivision.

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

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

38 (2) (A) The taxpayer that originally received the credit shall
39 report to the California Tax Credit Allocation Committee within
40 10 days of the sale of the credit, in the form and manner specified

1 by the California Tax Credit Allocation Committee, all required
2 information regarding the purchase and sale of the credit, including
3 the social security or other taxpayer identification number of the
4 unrelated party to whom the credit has been sold, the face amount
5 of the credit sold, and the amount of consideration received by the
6 taxpayer for the sale of the credit.

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

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

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

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

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

29 (5) A taxpayer shall not sell a credit allowed by this section if
30 the taxpayer was allowed the credit on any tax return of the
31 taxpayer.

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

38 (u) The California Tax Credit Allocation Committee may
39 prescribe rules, guidelines, or procedures necessary or appropriate
40 to carry out the purposes of this section, including any guidelines

1 regarding the allocation of the credit allowed under this section.
2 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
3 3 of Title 2 of the Government Code shall not apply to any rule,
4 guideline, or procedure prescribed by the California Tax Credit
5 Allocation Committee pursuant to this section.

6 (v) The amendments to this section made by Chapter 1222 of
7 the Statutes of 1993 shall apply only to taxable years beginning
8 on or after January 1, 1994, except that paragraph (1) of subdivision
9 (q), as amended, shall apply to taxable years beginning on or after
10 January 1, 1993.

11 ~~SEC. 4. Notwithstanding Section 10231.5 of the Government~~
12 ~~Code, on or before January 1, 2020, the Treasurer shall issue a~~
13 ~~report to the Legislature describing the increase, if any, of the use~~
14 ~~of the 4 percent low-income housing credit, allocated pursuant to~~
15 ~~paragraphs (2) to (5), inclusive, of subdivision (c) of Sections~~
16 ~~12206, 17058, and 23610.5 of the Revenue and Taxation Code.~~
17 ~~The report shall compare the use of those credits before the~~
18 ~~effective date of this act to the use of those credits after the~~
19 ~~effective date of this act. The report shall be submitted in~~
20 ~~compliance with Section 9795 of the Government Code.~~

21 ~~SEC. 5.~~

22 *SEC. 4.* The California Tax Credit Allocation Committee shall
23 enter into an agreement with the Franchise Tax Board to pay any
24 costs incurred by the Franchise Tax Board in the administration
25 of subdivision (o) of Section 12206, subdivision (s) of Section
26 17058, and subdivision (t) of Section 23610.5 of the Revenue and
27 Taxation Code.

28 ~~SEC. 6.~~

29 *SEC. 5.* (a) Section 1.5 of this bill incorporates amendments
30 to Section 12206 of the Revenue and Taxation Code proposed by
31 both this bill and Senate Bill 377. It shall only become operative
32 if (1) both bills are enacted and become effective on or before
33 January 1, 2016, (2) each bill amends Section 12206 of the
34 Revenue and Taxation Code, and (3) this bill is enacted after Senate
35 Bill 377, in which case Section 1 of this bill shall not become
36 operative.

37 (b) Section 2.5 of this bill incorporates amendments to Section
38 17058 of the Revenue and Taxation Code proposed by both this
39 bill and Senate Bill 377. It shall only become operative if (1) both
40 bills are enacted and become effective on or before January 1,

1 2016, (2) each bill amends Section 17058 of the Revenue and
2 Taxation Code, and (3) this bill is enacted after Senate Bill 377,
3 in which case Section 2 of this bill shall not become operative.

4 (c) Section 3.5 of this bill incorporates amendments to Section
5 23610.5 of the Revenue and Taxation Code proposed by both this
6 bill and Senate Bill 377. It shall only become operative if (1) both
7 bills are enacted and become effective on or before January 1,
8 2016, (2) each bill amends Section 23610.5 of the Revenue and
9 Taxation Code, and (3) this bill is enacted after Senate Bill 377,
10 in which case Section 3 of this bill shall not become operative.

11 (d) Section 5 of this bill, which adds an uncodified provision
12 that requires the California Tax Credit Allocation Committee to
13 enter a specified agreement with the Franchise Tax Board, proposed
14 by both this bill and Senate Bill 377, shall only become operative
15 if (1) both bills are enacted and become effective on or before
16 January 1, 2016, (2) each bill amends Sections 12206, 17058, and
17 23610.5 of the Revenue and Taxation Code, (3) each bill adds the
18 uncodified provision set forth in Section 5, and (4) this bill is
19 enacted after Senate Bill 377.

20 ~~SEC. 7.~~

21 *SEC. 6.* This act provides for a tax levy within the meaning
22 of Article IV of the Constitution and shall go into immediate effect.