

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2842

Introduced by Assembly Member Thurmond

February 19, 2016

An act to amend ~~Sections 12206, 17058, and 23610.5~~ *Section 214* of, and to add Sections 12206.1, 17058.1, and 23610.7 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2842, as amended, Thurmond. Workforce Housing Tax Credit ~~Act~~: *Pilot: property taxes: income taxes: insurance taxes: credits: low-income housing: sale of credit.*

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, income, and corporation tax credit amounts among low-income housing projects in modified conformity to federal law that have been allocated, or qualify for, a federal low-income housing tax credit and for farmworker housing.

~~This bill, beginning on or after January 1, 2016, would allow a taxpayer that is allowed a low-income housing tax credit to elect to sell all or a portion of that credit to one or more unrelated parties, as described, for each taxable year in which the credit is allowed for not less than 80% of the amount of the credit to be sold, and would provide for the one-time resale of that credit, as provided.~~

This bill, beginning on or after January 1, 2017, would additionally allow a credit to a taxpayer with a qualified low-income building that is eligible for a federal low-income housing tax credit, in an amount ~~determined pursuant to federal law, equal to 20% of the projects unadjusted unallocated basis, not to exceed \$50,000 per unit, for housing projects that meet specified criteria.~~ The bill would limit the aggregate amount of credits allocated by the California Tax Credit Allocation Committee, on a first-come-first-served basis, to ~~\$100,000,000 per fiscal year plus any unallocated credit amount from the preceding fiscal year.~~ \$100,000,000, and would provide for the one-time resale of that credit, as provided.

Existing property tax law establishes a partial welfare exemption for property used exclusively for rental housing and related facilities, as defined, that are owned and operated by either of any certain types of nonprofit entities or veterans' organizations that meet specified exemption requirements, including that the owner of the property is eligible for and receives a federal income tax credit related to low-income housing.

This bill would include, as a qualifying criterion for the partial welfare exemption, that the owner of the property is allowed one of the income tax credits described above.

By imposing new duties upon local tax officials with respect to the welfare exemption, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 Workforce Housing Tax Credit Act. *Pilot.*

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

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

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

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

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

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

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

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

5 (B) ~~The California Tax Credit Allocation Committee shall not~~
 6 ~~require fees for the credit under this section in addition to those~~
 7 ~~fees required for applications for the tax credit pursuant to Section~~
 8 ~~42 of the Internal Revenue Code, relating to low-income housing~~
 9 ~~credit. The committee may require a fee if the application for the~~
 10 ~~credit under this section is submitted in a calendar year after the~~
 11 ~~year the application is submitted for the federal tax credit.~~

12 (C) (i) ~~For a project that receives a preliminary reservation of~~
 13 ~~the state low-income housing tax credit, allowed pursuant to~~
 14 ~~subdivision (a), on or after January 1, 2009, and before January 1,~~
 15 ~~2016, the credit shall be allocated to the partners of a partnership~~
 16 ~~owning the project in accordance with the partnership agreement,~~
 17 ~~regardless of how the federal low-income housing tax credit with~~
 18 ~~respect to the project is allocated to the partners, or whether the~~
 19 ~~allocation of the credit under the terms of the agreement has~~
 20 ~~substantial economic effect, within the meaning of Section 704(b)~~
 21 ~~of the Internal Revenue Code, relating to determination of~~
 22 ~~distributive share.~~

23 (ii) ~~This subparagraph does not apply to a project that receives~~
 24 ~~a preliminary reservation of state low-income housing tax credits~~
 25 ~~under the set-aside described in subdivision (c) of Section 50199.20~~
 26 ~~of the Health and Safety Code unless the project also receives a~~
 27 ~~preliminary reservation of federal low-income housing tax credits.~~

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

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

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

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

39 (D) ~~In the case of a failure to attach a copy of the certification~~
 40 ~~for the year to the return in which a tax credit is claimed under this~~

1 section, no credit under this section shall be allowed for that year
2 until a copy of that certification is provided.

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

6 ~~(F) (i) Except as described in clause (ii), for buildings located~~
7 ~~in designated difficult development areas (DDAs) or qualified~~
8 ~~census tracts (QCTs), as defined in Section 42(d)(5)(B) of the~~
9 ~~Internal Revenue Code, relating to increase in credit for buildings~~
10 ~~in high-cost areas, credits may be allocated under this section in~~
11 ~~the amounts prescribed in subdivision (c), provided that the amount~~
12 ~~of credit allocated under Section 42 of the Internal Revenue Code,~~
13 ~~relating to low-income housing credit, is computed on 100 percent~~
14 ~~of the qualified basis of the building.~~

15 ~~(ii) Notwithstanding clause (i), the California Tax Credit~~
16 ~~Allocation Committee may allocate the credit for buildings located~~
17 ~~in DDAs or QCTs that are restricted to having 50 percent of its~~
18 ~~occupants be special needs households, as defined in the California~~
19 ~~Code of Regulations by the California Tax Credit Allocation~~
20 ~~Committee, even if the taxpayer receives federal credits pursuant~~
21 ~~to Section 42(d)(5)(B) of the Internal Revenue Code, relating to~~
22 ~~increase in credit for buildings in high-cost areas, provided that~~
23 ~~the credit allowed under this section shall not exceed 30 percent~~
24 ~~of the eligible basis of the building.~~

25 ~~(G) (i) The California Tax Credit Allocation Committee may~~
26 ~~allocate a credit under this section in exchange for a credit allocated~~
27 ~~pursuant to Section 42(d)(5)(B) of the Internal Revenue Code,~~
28 ~~relating to increase in credit for buildings in high-cost areas, in~~
29 ~~amounts up to 30 percent of the eligible basis of a building if the~~
30 ~~credits allowed under Section 42 of the Internal Revenue Code,~~
31 ~~relating to low-income housing credit, are reduced by an equivalent~~
32 ~~amount.~~

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

36 ~~(e) Section 42(b) of the Internal Revenue Code, relating to~~
37 ~~applicable percentage, shall be modified as follows:~~

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

1 (A) For each of the first three years, the percentage prescribed
2 by the Secretary of the Treasury for new buildings that are not
3 federally subsidized for the taxable year, determined in accordance
4 with the requirements of Section 42(b)(2) of the Internal Revenue
5 Code, relating to temporary minimum credit rate for nonfederally
6 subsidized new buildings, in lieu of the percentage prescribed in
7 Section 42(b)(1)(A) of the Internal Revenue Code.

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

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

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

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

19 (3) 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 (A) 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 (i) 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 (ii) 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 (iii) Section 236 of the National Housing Act, Section 1715z-1
34 of Title 12 of the United States Code.

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

38 (v) 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 ~~(vi) The low-income housing credit program set forth in Section~~
2 ~~42 of the Internal Revenue Code, relating to low-income housing~~
3 ~~credit.~~

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

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

12 ~~(D) The property satisfies the requirements of Section 42(e) of~~
13 ~~the Internal Revenue Code, relating to rehabilitation expenditures~~
14 ~~treated as a separate new building, except that the provisions of~~
15 ~~Section 42(e)(3)(A)(ii)(I) shall not apply.~~

16 ~~(d) The term “qualified low-income housing project” as defined~~
17 ~~in Section 42(e)(2) of the Internal Revenue Code, relating to~~
18 ~~qualified low-income building, is modified by adding the following~~
19 ~~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, which shall include the amount of the~~
25 ~~capital contributions actually paid to the housing sponsor and shall~~
26 ~~not 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, relating to low-income~~
34 ~~housing credit.~~

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

1 ~~(2) The limitation on return applies 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 later of the taxable years in which the increase~~
33 ~~in qualified basis occurs.~~

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

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

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

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

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

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

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

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

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

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

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

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

9 ~~(2) The requirements of this section shall be set forth in a~~
10 ~~regulatory agreement between the California Tax Credit Allocation~~
11 ~~Committee and the housing sponsor, and this agreement shall be~~
12 ~~subordinated, when required, to any lien or encumbrance of any~~
13 ~~banks or other institutional lenders to the project. The regulatory~~
14 ~~agreement entered into pursuant to subdivision (f) of Section~~
15 ~~50199.14 of the Health and Safety Code, shall apply, provided that~~
16 ~~the agreement includes all of the following provisions:~~

17 ~~(A) A term not less than the compliance period.~~

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

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

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

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

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

39 ~~(G) A requirement that the housing sponsor, as security for the~~
40 ~~performance of the housing sponsor’s obligations under the~~

1 regulatory agreement, assign the housing sponsor's interest in rents
2 that it receives from the project, provided that until there is a
3 default under the regulatory agreement, the housing sponsor is
4 entitled to collect and retain the rents.

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

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

28 (2) The committee shall adopt a qualified allocation plan, as
29 provided in Section 42(m)(1) of the Internal Revenue Code, relating
30 to plans for allocation of credit among projects. In adopting this
31 plan, the committee shall comply with the provisions of Sections
32 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,
33 relating to qualified allocation plan and relating to certain selection
34 criteria must be used, respectively.

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

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

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

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

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

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

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

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

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

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

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

37 ~~(ii) The project is obligated to serve qualified tenants for the~~
38 ~~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 and more bedrooms.~~

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

9 ~~(iii) Existing projects that are “at risk of conversion,” as defined~~
10 ~~by paragraph (3) of subdivision (e).~~

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, relating to~~
23 ~~certifications and other reports to secretary, shall be modified as~~
24 ~~follows:~~

25 ~~The term “secretary” shall be replaced by the term “Franchise~~
26 ~~Tax Board.”~~

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

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

34 ~~(n) The provisions of Section 11407(e) of Public Law 101-508,~~
35 ~~relating to election to accelerate credit, do not apply.~~

36 ~~(o) (1) For a project that receives a preliminary reservation~~
37 ~~under this section beginning on or after January 1, 2016, a taxpayer~~
38 ~~may make an irrevocable election in its application to the California~~
39 ~~Tax Credit Allocation Committee to sell all or any portion of any~~
40 ~~credit allowed under this section to one or more unrelated parties~~

1 for each taxable year in which the credit is allowed subject to both
2 of the following conditions:

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

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

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

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

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

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

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

38 (4) Notwithstanding any other provision of law, the taxpayer
39 that originally received the credit that is sold pursuant to paragraph
40 (1) shall remain solely liable for all obligations and liabilities

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

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

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

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

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

27 *SEC. 2. Section 214 of the Revenue and Taxation Code is*
28 *amended to read:*

29 214. (a) Property used exclusively for religious, hospital,
30 scientific, or charitable purposes owned and operated by
31 community chests, funds, foundations, limited liability companies,
32 or corporations organized and operated for religious, hospital,
33 scientific, or charitable purposes is exempt from taxation, including
34 ad valorem taxes to pay the interest and redemption charges on
35 any indebtedness approved by the voters prior to July 1, 1978, or
36 any bonded indebtedness for the acquisition or improvement of
37 real property approved on or after July 1, 1978, by two-thirds of
38 the votes cast by the voters voting on the proposition, if:

39 (1) The owner is not organized or operated for profit. However,
40 in the case of hospitals, the organization shall not be deemed to

1 be organized or operated for profit if, during the immediately
2 preceding fiscal year, operating revenues, exclusive of gifts,
3 endowments and grants-in-aid, did not exceed operating expenses
4 by an amount equivalent to 10 percent of those operating expenses.
5 As used herein, operating expenses include depreciation based on
6 cost of replacement and amortization of, and interest on,
7 indebtedness.

8 (2) No part of the net earnings of the owner inures to the benefit
9 of any private shareholder or individual.

10 (3) The property is used for the actual operation of the exempt
11 activity, and does not exceed an amount of property reasonably
12 necessary to the accomplishment of the exempt purpose.

13 (A) For the purposes of determining whether the property is
14 used for the actual operation of the exempt activity, consideration
15 shall not be given to use of the property for either or both of the
16 following described activities if that use is occasional:

17 (i) The owner conducts fundraising activities on the property
18 and the proceeds derived from those activities are not unrelated
19 business taxable income, as defined in Section 512 of the Internal
20 Revenue Code, of the owner and are used to further the exempt
21 activity of the owner.

22 (ii) The owner permits any other organization that meets all of
23 the requirements of this subdivision, other than ownership of the
24 property, to conduct fundraising activities on the property and the
25 proceeds derived from those activities are not unrelated business
26 taxable income, as defined in Section 512 of the Internal Revenue
27 Code, of the organization, are not subject to the tax on unrelated
28 business taxable income that is imposed by Section 511 of the
29 Internal Revenue Code, and are used to further the exempt activity
30 of the organization.

31 (B) For purposes of subparagraph (A):

32 (i) “Occasional use” means use of the property on an irregular
33 or intermittent basis by the qualifying owner or any other qualifying
34 organization described in clause (ii) of subparagraph (A) that is
35 incidental to the primary activities of the owner or the other
36 organization.

37 (ii) “Fundraising activities” means both activities involving the
38 direct solicitation of money or other property and the anticipated
39 exchange of goods or services for money between the soliciting
40 organization and the organization or person solicited.

1 (C) Subparagraph (A) shall have no application in determining
2 whether paragraph (3) has been satisfied unless the owner of the
3 property and any other organization using the property as provided
4 in subparagraph (A) have filed with the assessor a valid
5 organizational clearance certificate issued pursuant to Section
6 254.6.

7 (D) For the purposes of determining whether the property is
8 used for the actual operation of the exempt activity, consideration
9 shall not be given to the use of the property for meetings conducted
10 by any other organization if the meetings are incidental to the other
11 organization's primary activities, are not fundraising meetings or
12 activities as defined in subparagraph (B), are held no more than
13 once per week, and the other organization and its use of the
14 property meet all other requirements of paragraphs (1) to (5),
15 inclusive, of this subdivision. The owner or the other organization
16 also shall file with the assessor a copy of a valid, unrevoked letter
17 or ruling from the Internal Revenue Service or the Franchise Tax
18 Board stating that the other organization, or the national
19 organization of which it is a local chapter or affiliate, qualifies as
20 an exempt organization under Section 501(c)(3) or 501(c)(4) of
21 the Internal Revenue Code or Section 23701d, 23701f, or 23701w.

22 (E) Nothing in subparagraph (A), (B), (C), or (D) shall be
23 construed to either enlarge or restrict the exemption provided for
24 in subdivision (b) of Section 4 and Section 5 of Article XIII of the
25 California Constitution and this section.

26 (4) The property is not used or operated by the owner or by any
27 other person so as to benefit any officer, trustee, director,
28 shareholder, member, employee, contributor, or bondholder of the
29 owner or operator, or any other person, through the distribution
30 of profits, payment of excessive charges or compensations, or the
31 more advantageous pursuit of their business or profession.

32 (5) The property is not used by the owner or members thereof
33 for fraternal or lodge purposes, or for social club purposes except
34 where that use is clearly incidental to a primary religious, hospital,
35 scientific, or charitable purpose.

36 (6) The property is irrevocably dedicated to religious, charitable,
37 scientific, or hospital purposes and upon the liquidation,
38 dissolution, or abandonment of the owner will not inure to the
39 benefit of any private person except a fund, foundation, or

1 corporation organized and operated for religious, hospital,
2 scientific, or charitable purposes.

3 (7) The property, if used exclusively for scientific purposes, is
4 used by a foundation or institution that, in addition to complying
5 with the foregoing requirements for the exemption of charitable
6 organizations in general, has been chartered by the Congress of
7 the United States (except that this requirement shall not apply
8 when the scientific purposes are medical research), and whose
9 objects are the encouragement or conduct of scientific
10 investigation, research, and discovery for the benefit of the
11 community at large.

12 The exemption provided for herein shall be known as the
13 “welfare exemption.” This exemption shall be in addition to any
14 other exemption now provided by law, and the existence of the
15 exemption provision in paragraph (2) of subdivision (a) of Section
16 202 shall not preclude the exemption under this section for museum
17 or library property. Except as provided in subdivision (e), this
18 section shall not be construed to enlarge the college exemption.

19 (b) Property used exclusively for school purposes of less than
20 collegiate grade and owned and operated by religious, hospital, or
21 charitable funds, foundations, limited liability companies, or
22 corporations, which property and funds, foundations, limited
23 liability companies, or corporations meet all of the requirements
24 of subdivision (a), shall be deemed to be within the exemption
25 provided for in subdivision (b) of Section 4 and Section 5 of Article
26 XIII of the California Constitution and this section.

27 (c) Property used exclusively for nursery school purposes and
28 owned and operated by religious, hospital, or charitable funds,
29 foundations, limited liability companies, or corporations, which
30 property and funds, foundations, limited liability companies, or
31 corporations meet all the requirements of subdivision (a), shall be
32 deemed to be within the exemption provided for in subdivision
33 (b) of Section 4 and Section 5 of Article XIII of the California
34 Constitution and this section.

35 (d) Property used exclusively for a noncommercial educational
36 FM broadcast station or an educational television station, and
37 owned and operated by religious, hospital, scientific, or charitable
38 funds, foundations, limited liability companies, or corporations
39 meeting all of the requirements of subdivision (a), shall be deemed
40 to be within the exemption provided for in subdivision (b) of

1 Section 4 and Section 5 of Article XIII of the California
2 Constitution and this section.

3 (e) Property used exclusively for religious, charitable, scientific,
4 or hospital purposes and owned and operated by religious, hospital,
5 scientific, or charitable funds, foundations, limited liability
6 companies, or corporations or educational institutions of collegiate
7 grade, as defined in Section 203, which property and funds,
8 foundations, limited liability companies, corporations, or
9 educational institutions meet all of the requirements of subdivision
10 (a), shall be deemed to be within the exemption provided for in
11 subdivision (b) of Section 4 and Section 5 of Article XIII of the
12 California Constitution and this section. As to educational
13 institutions of collegiate grade, as defined in Section 203, the
14 requirements of paragraph (6) of subdivision (a) shall be deemed
15 to be met if both of the following are met:

16 (1) The property of the educational institution is irrevocably
17 dedicated in its articles of incorporation to charitable and
18 educational purposes, to religious and educational purposes, or to
19 educational purposes.

20 (2) The articles of incorporation of the educational institution
21 provide for distribution of its property upon its liquidation,
22 dissolution, or abandonment to a fund, foundation, or corporation
23 organized and operated for religious, hospital, scientific, charitable,
24 or educational purposes meeting the requirements for exemption
25 provided by Section 203 or this section.

26 (f) Property used exclusively for housing and related facilities
27 for elderly or handicapped families and financed by, including,
28 but not limited to, the federal government pursuant to Section 202
29 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section
30 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of
31 Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of
32 Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and
33 operated by religious, hospital, scientific, or charitable funds,
34 foundations, limited liability companies, or corporations meeting
35 all of the requirements of this section shall be deemed to be within
36 the exemption provided for in subdivision (b) of Section 4 and
37 Section 5 of Article XIII of the California Constitution and this
38 section.

39 The amendment of this paragraph made by Chapter 1102 of the
40 Statutes of 1984 does not constitute a change in, but is declaratory

1 of, existing law. However, no refund of property taxes shall be
2 required as a result of this amendment for any fiscal year prior to
3 the fiscal year in which the amendment takes effect.

4 Property used exclusively for housing and related facilities for
5 elderly or handicapped families at which supplemental care or
6 services designed to meet the special needs of elderly or
7 handicapped residents are not provided, or that is not financed by
8 the federal government pursuant to Section 202 of Public Law
9 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public
10 Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law
11 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law
12 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption
13 pursuant to this subdivision unless the property is used for housing
14 and related facilities for low- and moderate-income elderly or
15 handicapped families. Property that would otherwise be exempt
16 pursuant to this subdivision, except that it includes some housing
17 and related facilities for other than low- or moderate-income elderly
18 or handicapped families, shall be entitled to a partial exemption.
19 The partial exemption shall be equal to that percentage of the value
20 of the property that is equal to the percentage that the number of
21 low- and moderate-income elderly and handicapped families
22 represents of the total number of families occupying the property.

23 As used in this subdivision, “low and moderate income” has the
24 same meaning as the term “persons and families of low or moderate
25 income” as defined by Section 50093 of the Health and Safety
26 Code.

27 (g) (1) Property used exclusively for rental housing and related
28 facilities and owned and operated by religious, hospital, scientific,
29 or charitable funds, foundations, limited liability companies, or
30 corporations, including limited partnerships in which the managing
31 general partner is an eligible nonprofit corporation or eligible
32 limited liability company, meeting all of the requirements of this
33 section, or by veterans’ organizations, as described in Section
34 215.1, meeting all the requirements of paragraphs (1) to (7),
35 inclusive, of subdivision (a), shall be deemed to be within the
36 exemption provided for in subdivision (b) of Section 4 and Section
37 5 of Article XIII of the California Constitution and this section
38 and shall be entitled to a partial exemption equal to that percentage
39 of the value of the property that is equal to the percentage that the
40 number of units serving lower income households represents of

1 the total number of residential units in any year in which any of
2 the following criteria applies:

3 (A) The acquisition, rehabilitation, development, or operation
4 of the property, or any combination of these factors, is financed
5 with tax-exempt mortgage revenue bonds or general obligation
6 bonds, or is financed by local, state, or federal loans or grants and
7 the rents of the occupants who are lower income households do
8 not exceed those prescribed by deed restrictions or regulatory
9 agreements pursuant to the terms of the financing or financial
10 assistance.

11 (B) The owner of the property is eligible for and receives
12 low-income housing tax credits pursuant to Section 42 of the
13 Internal Revenue Code of 1986, as added by Public Law 99-514,
14 *Code, relating to low-income housing tax credit, or is allowed a*
15 *workforce housing tax credit pursuant to Section 12206.1, 17058.1,*
16 *or 23610.7.*

17 (C) In the case of a claim, other than a claim with respect to
18 property owned by a limited partnership in which the managing
19 general partner is an eligible nonprofit corporation, that is filed
20 for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent
21 or more of the occupants of the property are lower income
22 households whose rent does not exceed the rent prescribed by
23 Section 50053 of the Health and Safety Code. The total exemption
24 amount allowed under this subdivision to a taxpayer, with respect
25 to a single property or multiple properties for any fiscal year on
26 the sole basis of the application of this subparagraph, may not
27 exceed twenty thousand dollars (\$20,000) of tax.

28 (D) (i) The property was previously purchased and owned by
29 the Department of Transportation pursuant to a consent decree
30 requiring housing mitigation measures relating to the construction
31 of a freeway and is now solely owned by an organization that
32 qualifies as an exempt organization under Section 501(c)(3) of the
33 Internal Revenue Code.

34 (ii) This subparagraph shall not apply to property owned by a
35 limited partnership in which the managing partner is an eligible
36 nonprofit corporation.

37 (2) In order to be eligible for the exemption provided by this
38 subdivision, the owner of the property shall do both of the
39 following:

1 (A) (i) For any claim filed for the 2000–01 fiscal year or any
2 fiscal year thereafter, certify and ensure, subject to the limitation
3 in clause (ii), that there is an enforceable and verifiable agreement
4 with a public agency, a recorded deed restriction, or other legal
5 document that restricts the project’s usage and that provides that
6 the units designated for use by lower income households are
7 continuously available to or occupied by lower income households
8 at rents that do not exceed those prescribed by Section 50053 of
9 the Health and Safety Code, or, to the extent that the terms of
10 federal, state, or local financing or financial assistance conflicts
11 with Section 50053, rents that do not exceed those prescribed by
12 the terms of the financing or financial assistance.

13 (ii) In the case of a limited partnership in which the managing
14 general partner is an eligible nonprofit corporation, the restriction
15 and provision specified in clause (i) shall be contained in an
16 enforceable and verifiable agreement with a public agency, or in
17 a recorded deed restriction to which the limited partnership
18 certifies.

19 (B) Certify that the funds that would have been necessary to
20 pay property taxes are used to maintain the affordability of, or
21 reduce rents otherwise necessary for, the units occupied by lower
22 income households.

23 (3) As used in this subdivision:

24 (A) ~~“Lower-~~*(i) Except as provided in paragraph (2), income*
25 *households”* has the same meaning as the term “lower income
26 households” as defined by Section 50079.5 of the Health and Safety
27 Code.

28 *(ii) “Lower income households,” for purposes of subparagraph*
29 *(B) of paragraph (1), has the same meaning as “low-income*
30 *household” as defined by Sections 12206.1, 17058.1, and 23610.7.*

31 (B) “Related facilities” means any manager’s units and any and
32 all common area spaces that are included within the physical
33 boundaries of the rental housing development, including, but not
34 limited to, common area space, walkways, balconies, patios,
35 clubhouse space, meeting rooms, laundry facilities and parking
36 areas, except any portions of the overall development that are
37 nonexempt commercial space.

38 (C) “Units serving lower income households” shall mean units
39 that are occupied by lower income households at an affordable
40 rent, as defined in Section 50053 of the Health and Safety Code

1 or, to the extent that the terms of federal, state, or local financing
2 or financial assistance conflicts with Section 50053, rents that do
3 not exceed those prescribed by the terms of the financing or
4 financial assistance. Units reserved for lower income households
5 at an affordable rent that are temporarily vacant due to tenant
6 turnover or repairs shall be counted as occupied.

7 (h) Property used exclusively for an emergency or temporary
8 shelter and related facilities for homeless persons and families and
9 owned and operated by religious, hospital, scientific, or charitable
10 funds, foundations, limited liability companies, or corporations
11 meeting all of the requirements of this section shall be deemed to
12 be within the exemption provided for in subdivision (b) of Section
13 4 and Section 5 of Article XIII of the California Constitution and
14 this section. Property that otherwise would be exempt pursuant to
15 this subdivision, except that it includes housing and related
16 facilities for other than an emergency or temporary shelter, shall
17 be entitled to a partial exemption.

18 As used in this subdivision, “emergency or temporary shelter”
19 means a facility that would be eligible for funding pursuant to
20 Chapter ~~11~~ 11.5 (commencing with Section 50800) of Part 2 of
21 Division 31 of the Health and Safety Code.

22 (i) Property used exclusively for housing and related facilities
23 for employees of religious, charitable, scientific, or hospital
24 organizations that meet all the requirements of subdivision (a) and
25 owned and operated by funds, foundations, limited liability
26 companies, or corporations that meet all the requirements of
27 subdivision (a) shall be deemed to be within the exemption
28 provided for in subdivision (b) of Section 4 and Section 5 of Article
29 XIII of the California Constitution and this section to the extent
30 the residential use of the property is institutionally necessary for
31 the operation of the organization.

32 (j) For purposes of this section, charitable purposes include
33 educational purposes. For purposes of this subdivision,
34 “educational purposes” means those educational purposes and
35 activities for the benefit of the community as a whole or an
36 unascertainable and indefinite portion thereof, and do not include
37 those educational purposes and activities that are primarily for the
38 benefit of an organization’s shareholders. Educational activities
39 include the study of relevant information, the dissemination of that

1 information to interested members of the general public, and the
2 participation of interested members of the general public.

3 (k) In the case of property used exclusively for the exempt
4 purposes specified in this section, owned and operated by limited
5 liability companies that are organized and operated for those
6 purposes, the State Board of Equalization shall adopt regulations
7 to specify the ownership, organizational, and operational
8 requirements for those companies to qualify for the exemption
9 provided by this section.

10 (l) The amendments made by Chapter 354 of the Statutes of
11 2004 shall apply with respect to lien dates occurring on and after
12 January 1, 2005.

13 SEC. 3. Section 12206.1 is added to the Revenue and Taxation
14 Code, to read:

15 12206.1. (a) (1) For taxable years beginning on or after
16 January 1, 2017, there shall be allowed to a taxpayer a credit
17 against the “tax,” as defined by Section 12201, for a qualified
18 low-income building ~~in an amount equal to the amount computed~~
19 ~~in~~ accordance with Section 42 of the Internal Revenue Code,
20 relating to low-income housing credit as modified by this section.

21 ~~(2) In determining the amount of credit allowed pursuant to this~~
22 ~~section, the following shall apply:~~

23 ~~(A) The eligible basis of a building shall be equal to the project’s~~
24 ~~total cost basis.~~

25 ~~(B) The applicable percentage shall be:~~

26 ~~(1) For a project with units for low-income households, 130~~
27 ~~percent.~~

28 ~~(2) For a project with units for median-income households with~~
29 ~~incomes between 80 percent and 99 percent of the area median~~
30 ~~income, 108 percent.~~

31 ~~(3) For a project with units for median-income households with~~
32 ~~incomes of 100 percent of the area median income, 76 percent.~~

33 ~~(2) The amount of credit shall be equal to 20 percent of the~~
34 ~~project’s unadjusted allocated basis, as defined by the California~~
35 ~~Tax Credit Allocation Committee by regulation, not to exceed fifty~~
36 ~~thousand dollars (\$50,000) per unit.~~

37 (b) For purposes of this section:

38 (1) “Low-income household” means a household with an income
39 that is greater than 60 percent and not higher than 80 percent of
40 the area median household income.

1 ~~(2) “Median-income household” means a household with an~~
2 ~~income that is greater than 80 percent but not higher than 100~~
3 ~~percent of the area median household income.~~

4 ~~(3)~~

5 (2) “Qualified low-income building” has the same meaning as
6 in Section 42(c)(2) of the Internal Revenue Code, relating to
7 qualified low-income housing building, and also means the
8 qualified low-income building is eligible for a tax credit pursuant
9 to Section 42 of the Internal Revenue Code, relating to low-income
10 housing credit, except that Section 42(g) of the Internal Revenue
11 Code, relating to qualified low-income housing project, shall not
12 apply and instead the following requirements shall be met:

13 (A) The project is for the acquisition or substantial rehabilitation
14 of a building at least 20 years old or is a new development.

15 (B) The project includes no more than 50 percent of its units
16 that are eligible for the tax credit allowed pursuant to Section
17 12206.

18 (C) Any units reserved for a tax credit allowed pursuant to this
19 section shall not supplant existing affordable housing units not
20 eligible for a tax credit pursuant to this section, including any units
21 for households with an income that is less than that of a low-income
22 ~~household~~ household, and the rent for those units is at least 20
23 percent below market rate at the time the tax credit is allocated.

24 (D) The project will allocate at least ~~20~~ 40 percent of its units
25 to low-income households and median-income households.

26 (E) *The project is located, in the year of the application for the*
27 *tax credit, in one of the 12 counties within this state identified by*
28 *the United State Department of Housing and Urban Development*
29 *as having the highest fair market rents in the state. The California*
30 *Tax Credit Allocation Committee shall annually publish those*
31 *counties on its Internet Web site.*

32 (c) (1) This section shall not be construed to require a taxpayer
33 to have been previously or currently allocated a tax credit pursuant
34 to Section 42 of the Internal Revenue Code, relating low-income
35 housing credit.

36 (2) This section shall not be construed to preclude a taxpayer,
37 allowed a credit pursuant to this section, from being allocated a
38 credit pursuant to Section 12206 or Section 42 of the Internal
39 Revenue Code, relating to low-income housing credit.

1 (3) A credit shall not be allowed pursuant to this section if a
2 taxpayer has been allocated a credit pursuant to Section 42 of the
3 Internal Revenue Code, relating to low-income housing credit, for
4 units for a household with a household income that is greater than
5 60 percent of the area median household income.

6 (d) An applicant for the credit allowed pursuant to this section
7 must demonstrate to the California Tax Credit Allocation
8 Committee that, within the city in which the project is situated,
9 the area median income for the average rental unit is above the
10 area median income for the project.

11 (e) (1) In the case where the credit allowed under this section
12 exceeds the “tax,” the excess may be carried over to reduce the
13 “tax” in the following year, and succeeding 14 years if necessary,
14 until the credit has been exhausted.

15 (2) The credit shall be claimed in the same manner, with regard
16 to the credit period, as a credit claimed pursuant to Section 12206.

17 (3) The credit allowed pursuant to this section shall have a
18 compliance period of 55 consecutive taxable years at the affordable
19 rate or at substantially below-market rate beginning with the first
20 taxable year of the credit period with respect thereto, administered
21 in the same manner as under Section 12206.

22 (f) The California Tax Credit Allocation Committee shall
23 allocate, on a first-come-first-served basis, the credit allowed by
24 this section. The aggregate amount of credit that may be allocated
25 ~~in any fiscal year pursuant to this section and Sections 17058.1~~
26 ~~and 23610.7 shall be an amount equal to the sum of paragraphs~~
27 ~~(1) and (2): one hundred million dollars (\$100,000,000).~~

28 ~~(1) One hundred million dollars (\$100,000,000) for the 2016–17~~
29 ~~fiscal year, and for each fiscal year thereafter.~~

30 ~~(2) The unallocated credit amount, if any, from the preceding~~
31 ~~fiscal year.~~

32 (g) (1) For a project that is allocated a credit under this section,
33 a taxpayer may make an irrevocable election in its application to
34 the California Tax Credit Allocation Committee to sell all or any
35 portion of any credit allowed under this section to one or more
36 unrelated parties for each taxable year in which the credit is
37 allowed, subject to both of the following conditions:

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

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

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

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

26 (3) (A) *A credit may be sold pursuant to this subdivision to more*
27 *than one unrelated party.*

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

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

34 (4) *Notwithstanding any other provision of law, the taxpayer*
35 *that originally received the credit that is sold pursuant to*
36 *paragraph (1) shall remain solely liable for all obligations and*
37 *liabilities imposed on the taxpayer by this section with respect to*
38 *the credit, none of which shall apply to any party to whom the*
39 *credit has been sold or subsequently transferred. Parties who*
40 *purchase credits pursuant to paragraph (1) shall be entitled to*

1 *utilize the purchased credits in the same manner in which the*
2 *taxpayer that originally received the credit could utilize them.*

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

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

12 ~~(g)~~

13 *(h) (1) The California Tax Credit Allocation Committee shall*
14 *establish guidelines to specify that a taxpayer may be allowed a*
15 *tax credit pursuant to this section, Section 12206, and Section 42*
16 *of the Internal Revenue Code, relating to low-income housing*
17 *credit, subject to the requirements of these sections: sections and*
18 *paragraph (3) of subdivision (c).*

19 ~~(2) The California Tax Credit Allocation Committee and the~~
20 ~~Department of Insurance may adopt regulations, rules, guidelines,~~
21 ~~or procedures necessary or appropriate to carry out the purposes~~
22 ~~of this section, including guidelines to conform the credit allowed~~
23 ~~by this section to any procedures established pursuant to Section~~
24 ~~12206.~~

25 ~~(3) The Administrative Procedure Act (Chapter 3.5~~
26 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
27 ~~2 of the Government Code) does not apply to this subdivision.~~

28 ~~(h) Section 41 does not apply to the credit allowed by this~~
29 ~~section.~~

30 ~~SEC. 4. Section 17058 of the Revenue and Taxation Code is~~
31 ~~amended to read:~~

32 ~~17058. (a) (1) There shall be allowed as a credit against the~~
33 ~~“net “tax,” defined in Section 17039, a state low-income housing~~
34 ~~tax credit in an amount equal to the amount determined in~~
35 ~~subdivision (c), computed in accordance with Section 42 of the~~
36 ~~Internal Revenue Code, relating to low-income housing credit,~~
37 ~~except as otherwise provided in this section.~~

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

1 ~~(3) “Housing sponsor,” for purposes of this section, means the~~
2 ~~sole owner in the case of an individual, the partnership in the case~~
3 ~~of a partnership, and the “S” corporation in the case of an “S”~~
4 ~~corporation.~~

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

12 ~~(i) Except for projects to provide farmworker housing, as defined~~
13 ~~in subdivision (h) of Section 50199.7 of the Health and Safety~~
14 ~~Code, that are allocated credits solely under the set-aside described~~
15 ~~in subdivision (e) of Section 50199.20 of the Health and Safety~~
16 ~~Code, 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, relating to low-income housing credit.~~

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

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

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

1 of the Internal Revenue Code, relating to determination of
2 distributive share.

3 (ii) To the extent the allocation of the credit to a partner under
4 this section lacks substantial economic effect, any loss or deduction
5 otherwise allowable under this part that is attributable to the sale
6 or other disposition of that partner's partnership interest made prior
7 to the expiration of the federal credit shall not be allowed in the
8 taxable year in which the sale or other disposition occurs, but shall
9 instead be deferred until and treated as if it occurred in the first
10 taxable year immediately following the taxable year in which the
11 federal credit period expires for the project described in clause (i).

12 (iii) This subparagraph does not apply to a project that receives
13 a preliminary reservation of state low-income housing tax credits
14 under the set-aside described in subdivision (c) of Section 50199.20
15 of the Health and Safety Code unless the project also receives a
16 preliminary reservation of federal low-income housing tax credits.

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

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

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

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

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

31 (E) (i) Except as described in clause (ii), for buildings located
32 in designated difficult development areas (DDAs) or qualified
33 census tracts (QCTs), as defined in Section 42(d)(5)(B) of the
34 Internal Revenue Code, relating to increase in credit for buildings
35 in high-cost areas, credits may be allocated under this section in
36 the amounts prescribed in subdivision (c), provided that the amount
37 of credit allocated under Section 42 of the Internal Revenue Code,
38 relating to low-income housing credit, is computed on 100 percent
39 of the qualified basis of the building.

1 ~~(ii) Notwithstanding clause (i), the California Tax Credit~~
2 ~~Allocation Committee may allocate the credit for buildings located~~
3 ~~in DDAs or QCTs that are restricted to having 50 percent of its~~
4 ~~occupants be special needs households, as defined in the California~~
5 ~~Code of Regulations by the California Tax Credit Allocation~~
6 ~~Committee, even if the taxpayer receives federal credits pursuant~~
7 ~~to Section 42(d)(5)(B) of the Internal Revenue Code, relating to~~
8 ~~increase in credit for buildings in high-cost areas, provided that~~
9 ~~the credit allowed under this section shall not exceed 30 percent~~
10 ~~of the eligible basis of the building.~~

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

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

22 ~~(e) Section 42(b) of the Internal Revenue Code, relating to~~
23 ~~applicable percentage, shall be modified as follows:~~

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

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

32 ~~(A) For each of the first three years, the percentage prescribed~~
33 ~~by the Secretary of the Treasury for new buildings that are not~~
34 ~~federally subsidized for the taxable year, determined in accordance~~
35 ~~with the requirements of Section 42(b)(2) of the Internal Revenue~~
36 ~~Code, relating to temporary minimum credit rate for nonfederally~~
37 ~~subsidized new buildings, in lieu of the percentage prescribed in~~
38 ~~Section 42 (b)(1)(A) of the Internal Revenue Code.~~

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

1 ~~(3) In the case of any qualified low-income building that receives~~
2 ~~an allocation after 1989 and that is a new building that is federally~~
3 ~~subsidized or that is an existing building that is “at risk of~~
4 ~~conversion,” the term “applicable percentage” means the following:~~
5 ~~(A) For each of the first three years, the percentage prescribed~~
6 ~~by the Secretary of the Treasury for new buildings that are federally~~
7 ~~subsidized for the taxable year.~~
8 ~~(B) For the fourth year, the difference between 13 percent and~~
9 ~~the sum of the applicable percentages for the first three years.~~
10 ~~(4) 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 ~~(A) 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 ~~(i) 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 ~~(ii) 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 ~~(iii) Section 236 of the National Housing Act, Section 1715z-1~~
25 ~~of Title 12 of the United States Code.~~
26 ~~(iv) Programs for rent supplement assistance pursuant to Section~~
27 ~~101 of the Housing and Urban Development Act of 1965, Section~~
28 ~~1701s of Title 12 of the United States Code, as amended.~~
29 ~~(v) 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 ~~(vi) The low-income housing credit program set forth in Section~~
33 ~~42 of the Internal Revenue Code, relating to low-income housing~~
34 ~~credit.~~
35 ~~(B) The restrictions on rent and income levels will terminate or~~
36 ~~the federally insured mortgage on the property is eligible for~~
37 ~~prepayment any time within five years before or after the date of~~
38 ~~application to the California Tax Credit Allocation Committee.~~
39 ~~(C) The entity acquiring the property enters into a regulatory~~
40 ~~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 ~~(D) The property satisfies the requirements of Section 42(e) of~~
4 ~~the Internal Revenue Code, relating to rehabilitation expenditures~~
5 ~~treated as a separate new building, except that the provisions of~~
6 ~~Section 42(e)(3)(A)(ii)(I) shall not apply.~~

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

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

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

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

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

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

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

31 ~~(2) The limitation on return applies in the aggregate to the~~
32 ~~partners if the housing sponsor is a partnership and in the aggregate~~
33 ~~to the shareholders if the housing sponsor is an “S” corporation.~~

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

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

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

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

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

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

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

28 ~~(1) Section 42(h)(2) of the Internal Revenue Code, relating to~~
29 ~~allocated credit amount to apply to all taxable years ending during~~
30 ~~or after credit allocation year, does not apply and instead the~~
31 ~~following provisions apply:~~

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, relating~~
39 ~~to limitation on aggregate credit allowable with respect to projects~~
40 ~~located in a state, do not apply to this section.~~

1 ~~(g) The aggregate housing credit dollar amount that may be~~
2 ~~allocated annually by the California Tax Credit Allocation~~
3 ~~Committee pursuant to this section, Section 12206, and Section~~
4 ~~23610.5 shall be an amount equal to the sum of all the following:~~

5 ~~(1) Seventy million dollars (\$70,000,000) for the 2001 calendar~~
6 ~~year, and, for the 2002 calendar year and each calendar year~~
7 ~~thereafter, seventy million dollars (\$70,000,000) increased by the~~
8 ~~percentage, if any, by which the Consumer Price Index for the~~
9 ~~preceding calendar year exceeds the Consumer Price Index for the~~
10 ~~2001 calendar year. For the purposes of this paragraph, the term~~
11 ~~“Consumer Price Index” means the last Consumer Price Index for~~
12 ~~All Urban Consumers published by the federal Department of~~
13 ~~Labor.~~

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

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

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

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

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

37 ~~(i) Section 42(j) of the Internal Revenue Code, relating to~~
38 ~~recapture of credit, does not apply and the following requirements~~
39 ~~of this section shall be set forth in a regulatory agreement between~~
40 ~~the California Tax Credit Allocation Committee and the housing~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 ~~(iii) The project shall have enforceable financing commitments,~~
2 ~~either construction or permanent financing, for at least 50 percent~~
3 ~~of the total estimated financing of the project.~~
- 4 ~~(iv) The housing sponsor shall have and maintain control of the~~
5 ~~site for the project.~~
- 6 ~~(v) The housing sponsor shall demonstrate that the project~~
7 ~~complies with all applicable local land use and zoning ordinances.~~
- 8 ~~(vi) The housing sponsor shall demonstrate that the project~~
9 ~~development team has the experience and the financial capacity~~
10 ~~to ensure project completion and operation for the extended use~~
11 ~~period.~~
- 12 ~~(vii) The housing sponsor shall demonstrate the amount of tax~~
13 ~~credit that is necessary for the financial feasibility of the project~~
14 ~~and its viability as a qualified low-income housing project~~
15 ~~throughout the extended use period, taking into account operating~~
16 ~~expenses, a supportable debt service, reserves, funds set aside for~~
17 ~~rental subsidies and required equity, and a development fee that~~
18 ~~does not exceed a specified percentage of the eligible basis of the~~
19 ~~project prior to inclusion of the development fee in the eligible~~
20 ~~basis, as determined by the committee.~~
- 21 ~~(B) The committee shall give a preference to those projects~~
22 ~~satisfying all of the threshold requirements of subparagraph (A)~~
23 ~~if both of the following apply:~~
- 24 ~~(i) The project serves the lowest income tenants at rents~~
25 ~~affordable to those tenants.~~
- 26 ~~(ii) The project is obligated to serve qualified tenants for the~~
27 ~~longest period.~~
- 28 ~~(C) In addition to the provisions of subparagraphs (A) and (B),~~
29 ~~the committee shall use the following criteria in allocating housing~~
30 ~~credits:~~
- 31 ~~(i) Projects serving large families in which a substantial number,~~
32 ~~as defined by the committee, of all residential units are low-income~~
33 ~~units with three and more bedrooms.~~
- 34 ~~(ii) Projects providing single-room occupancy units serving~~
35 ~~very low income tenants.~~
- 36 ~~(iii) Existing projects that are “at risk of conversion,” as defined~~
37 ~~by paragraph (4) of subdivision (e).~~
- 38 ~~(iv) Projects for which a public agency provides direct or indirect~~
39 ~~long-term financial support for at least 15 percent of the total~~
40 ~~project development costs or projects for which the owner’s equity~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 ~~(t) This section shall remain in effect on and after December 1,~~
29 ~~1990, for as long as Section 42 of the Internal Revenue Code,~~
30 ~~relating to low-income housing credit, remains in effect. Any~~
31 ~~unused credit may continue to be carried forward, as provided in~~
32 ~~subdivision (l), until the credit has been exhausted.~~

33 ~~SEC. 5.~~

34 ~~SEC. 4.~~ Section 17058.1 is added to the Revenue and Taxation
35 Code, to read:

36 17058.1. (a) (1) For taxable years beginning on or after
37 January 1, 2017, there shall be allowed to a taxpayer a credit
38 against the “net tax,” as defined by Section 17039, for a qualified
39 low-income building in an amount equal to the amount computed

1 in accordance with Section 42 of the Internal Revenue Code,
2 relating to low-income housing credit as modified by this section.

3 ~~(2) In determining the amount of credit allowed pursuant to this~~
4 ~~section, the following shall apply:~~

5 ~~(A) The eligible basis of a building shall be equal to the project's~~
6 ~~total cost basis.~~

7 ~~(B) The applicable percentage shall be:~~

8 ~~(1) For a project with units for low-income households, 130~~
9 ~~percent.~~

10 ~~(2) For a project with units for median-income households with~~
11 ~~incomes between 80 percent and 99 percent of the area median~~
12 ~~income, 108 percent.~~

13 ~~(3) For a project with units for median-income households with~~
14 ~~incomes of 100 percent of the area median income, 76 percent.~~

15 ~~(2) The amount of credit shall be equal to 20 percent of the~~
16 ~~project's unadjusted allocated basis, as defined by the California~~
17 ~~Tax Credit Allocation Committee by regulation, not to exceed fifty~~
18 ~~thousand dollars (\$50,000) per unit.~~

19 (b) For purposes of this section:

20 (1) "Low-income household" means a household with an income
21 that is greater than 60 percent and not higher than 80 percent of
22 the area median household income.

23 ~~(2) "Median-income household" means a household with an~~
24 ~~income that is greater than 80 percent but not higher than 100~~
25 ~~percent of the area median household income.~~

26 ~~(3)~~

27 (2) "Qualified low-income building" has the same meaning as
28 in Section 42(c)(2) of the Internal Revenue Code, relating to
29 qualified low-income housing building, and also means the
30 qualified low-income building is eligible for a tax credit pursuant
31 to Section 42 of the Internal Revenue Code, relating to low-income
32 housing credit, except that Section 42(g) of the Internal Revenue
33 Code, relating to qualified low-income housing project, shall not
34 apply and instead the following requirements shall be met:

35 (A) The project is for the acquisition or substantial rehabilitation
36 of a building at least 20 years old or is a new development.

37 (B) The project includes no more than 50 percent of its units
38 that are eligible for the tax credit allowed pursuant to Section
39 17058.

1 (C) Any units reserved for a tax credit allowed pursuant to this
2 section shall not supplant existing affordable housing units not
3 eligible for a tax credit pursuant to this section, including any units
4 for households with an income that is less than that of a low-income
5 ~~household~~ household, and the rent for those units is at least 20
6 percent below market rate at the time the tax credit is allocated.

7 (D) The project will allocate at least ~~20~~ 40 percent of its units
8 to low-income ~~households and median-income~~ households.

9 (E) *The project is located, in the year of the application for the*
10 *tax credit, in one of the 12 counties within this state identified by*
11 *the United State Department of Housing and Urban Development*
12 *as having the highest fair market rents in the state. The California*
13 *Tax Credit Allocation Committee shall annually publish those*
14 *counties on its Internet Web site.*

15 (c) (1) This section shall not be construed to require a taxpayer
16 to have been previously or currently allocated a tax credit pursuant
17 to Section 42 of the Internal Revenue Code, relating low-income
18 housing credit.

19 (2) This section shall not be construed to preclude a taxpayer,
20 allowed a credit pursuant to this section, from being allocated a
21 credit pursuant to Section 17058 or Section 42 of the Internal
22 Revenue Code, relating to low-income housing credit.

23 (3) *A credit shall not be allowed pursuant to this section if a*
24 *taxpayer has been allocated a credit pursuant to Section 42 of the*
25 *Internal Revenue Code, relating to low-income housing credit, for*
26 *units for a household with a household income that is greater than*
27 *60 percent of the area median household income.*

28 (d) An applicant for the credit allowed pursuant to this section
29 must demonstrate to the California Tax Credit Allocation
30 Committee that, within the city in which the project is situated,
31 the area median income for the average rental unit is above the
32 area median income for the project.

33 (e) (1) In the case where the credit allowed under this section
34 exceeds the “net tax,” the excess may be carried over to reduce
35 the “net tax” in the following year, and succeeding 14 years if
36 necessary, until the credit has been exhausted.

37 (2) The credit shall be claimed in the same manner, with regard
38 to the credit period, as a credit claimed pursuant to Section 17058.

39 (3) The credit allowed pursuant to this section shall have a
40 compliance period of 55 consecutive taxable years at the affordable

1 rate or at substantially below-market rate beginning with the first
2 taxable year of the credit period with respect thereto, administered
3 in the same manner as under Section 17058.

4 (f) The California Tax Credit Allocation Committee shall
5 allocate, on a first-come-first-served basis, the credit allowed by
6 this section. The aggregate amount of credit that may be allocated
7 ~~in any fiscal year pursuant to this section and Sections 12206.1~~
8 ~~and 23610.7 shall be an amount equal to the sum of paragraphs~~
9 ~~(1) and (2): one hundred million dollars (\$100,000,000).~~

10 ~~(1) One hundred million dollars (\$100,000,000) for the 2016–17~~
11 ~~fiscal year, and for each fiscal year thereafter.~~

12 ~~(2) The unallocated credit amount, if any, from the preceding~~
13 ~~fiscal year.~~

14 (g) (1) *For a project that is allocated a credit under this section,*
15 *a taxpayer may make an irrevocable election in its application to*
16 *the California Tax Credit Allocation Committee to sell all or any*
17 *portion of any credit allowed under this section to one or more*
18 *unrelated parties for each taxable year in which the credit is*
19 *allowed, subject to both of the following conditions:*

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

22 (B) *The unrelated party or parties purchasing any or all of the*
23 *credit pursuant to this subdivision are taxpayers allowed the credit*
24 *under this section for the taxable year of the purchase or any prior*
25 *taxable year or is a taxpayer allowed the federal credit under*
26 *Section 42 of the Internal Revenue Code, relating to low-income*
27 *housing credit, for the taxable year of the purchase or any prior*
28 *taxable year in connection with any project located in this state.*
29 *For purposes of this subparagraph, “taxpayer allowed the credit*
30 *under this section” means a taxpayer that is allowed the credit*
31 *under this section without regard to the purchase of a credit*
32 *pursuant to this subdivision.*

33 (2) (A) *The taxpayer that originally received the credit shall*
34 *report to the California Tax Credit Allocation Committee within*
35 *10 days of the sale of the credit, in the form and manner specified*
36 *by the California Tax Credit Allocation Committee, all required*
37 *information regarding the purchase and sale of the credit,*
38 *including the social security or other taxpayer identification*
39 *number of the unrelated party or parties to whom the credit has*

1 *been sold, the face amount of the credit sold, and the amount of*
2 *consideration received by the taxpayer for the sale of the credit.*

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

8 *(3) (A) A credit may be sold pursuant to this subdivision to more*
9 *than one unrelated party.*

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

12 *(ii) All or any portion of any credit allowed under this section*
13 *may be resold once by an original purchaser to one or more*
14 *unrelated parties, subject to all of the requirements of this*
15 *subdivision.*

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

25 *(5) A taxpayer shall not sell a credit allowed by this section if*
26 *the taxpayer was allowed the credit on any tax return of the*
27 *taxpayer.*

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

34 ~~(g)~~

35 *(h) (1) The California Tax Credit Allocation Committee shall*
36 *establish guidelines to specify that a taxpayer may be allowed a*
37 *tax credit pursuant to this section, Section 17058, and Section 42*
38 *of the Internal Revenue Code, relating to low-income housing*
39 *credit, subject to the requirements of these sections. sections and*
40 *paragraph (3) of subdivision (c).*

1 (2) The California Tax Credit Allocation Committee and the
2 Department of Insurance may adopt regulations, rules, guidelines,
3 or procedures necessary or appropriate to carry out the purposes
4 of this section, including guidelines to conform the credit allowed
5 by this section to any procedures established pursuant to Section
6 17058.

7 (3) The Administrative Procedure Act (Chapter 3.5
8 (commencing with Section 11340) of Part 1 of Division 3 of Title
9 2 of the Government Code) does not apply to this subdivision.

10 ~~(h) Section 41 does not apply to the credit allowed by this~~
11 ~~section.~~

12 ~~SEC. 6. Section 23610.5 of the Revenue and Taxation Code~~
13 ~~is amended to read:~~

14 ~~23610.5. (a) (1) There shall be allowed as a credit against the~~
15 ~~“tax,” defined by Section 23036, a state low-income housing tax~~
16 ~~credit in an amount equal to the amount determined in subdivision~~
17 ~~(e), computed in accordance with Section 42 of the Internal~~
18 ~~Revenue Code, relating to low-income housing credit, except as~~
19 ~~otherwise provided in this section.~~

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

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

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

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

35 ~~(i) Except for projects to provide farmworker housing, as defined~~
36 ~~in subdivision (h) of Section 50199.7 of the Health and Safety~~
37 ~~Code, that are allocated credits solely under the set-aside described~~
38 ~~in subdivision (e) of Section 50199.20 of the Health and Safety~~
39 ~~Code, the project’s housing sponsor has been allocated by the~~
40 ~~California Tax Credit Allocation Committee a credit for federal~~

1 income tax purposes under Section 42 of the Internal Revenue
2 Code, relating to low-income housing credit.

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

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

14 (C) (i) For a project that receives a preliminary reservation of
15 the state low-income housing tax credit, allowed pursuant to
16 subdivision (a), on or after January 1, 2009, and before January 1,
17 2016, the credit shall be allocated to the partners of a partnership
18 owning the project in accordance with the partnership agreement,
19 regardless of how the federal low-income housing tax credit with
20 respect to the project is allocated to the partners, or whether the
21 allocation of the credit under the terms of the agreement has
22 substantial economic effect, within the meaning of Section 704(b)
23 of the Internal Revenue Code, relating to determination of
24 distributive share.

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

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

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

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

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

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

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

15 ~~(E) (i) Except as described in clause (ii), for buildings located~~
16 ~~in designated difficult development areas (DDAs) or qualified~~
17 ~~census tracts (QCTs), as defined in Section 42(d)(5)(B) of the~~
18 ~~Internal Revenue Code, relating to increase in credit for buildings~~
19 ~~in high-cost areas, credits may be allocated under this section in~~
20 ~~the amounts prescribed in subdivision (c), provided that the amount~~
21 ~~of credit allocated under Section 42 of the Internal Revenue Code,~~
22 ~~relating to low-income housing credit, is computed on 100 percent~~
23 ~~of the qualified basis of the building.~~

24 ~~(ii) Notwithstanding clause (i), the California Tax Credit~~
25 ~~Allocation Committee may allocate the credit for buildings located~~
26 ~~in DDAs or QCTs that are restricted to having 50 percent of its~~
27 ~~occupants be special needs households, as defined in the California~~
28 ~~Code of Regulations by the California Tax Credit Allocation~~
29 ~~Committee, even if the taxpayer receives federal credits pursuant~~
30 ~~to Section 42(d)(5)(B) of the Internal Revenue Code, relating to~~
31 ~~increase in credit for buildings in high cost areas, provided that~~
32 ~~the credit allowed under this section shall not exceed 30 percent~~
33 ~~of the eligible basis of the building.~~

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

1 relating to low-income housing credit, are reduced by an equivalent
2 amount:

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

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

8 (1) ~~In the case of any qualified low-income building placed in~~
9 ~~service by the housing sponsor during 1987, the term “applicable~~
10 ~~percentage” means 9 percent for each of the first three years and~~
11 ~~3 percent for the fourth year for new buildings (whether or not the~~
12 ~~building is federally subsidized) and for existing buildings.~~

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

16 (A) ~~For each of the first three years, the percentage prescribed~~
17 ~~by the Secretary of the Treasury for new buildings that are not~~
18 ~~federally subsidized for the taxable year, determined in accordance~~
19 ~~with the requirements of Section 42(b)(2) of the Internal Revenue~~
20 ~~Code, relating to temporary minimum credit rate for nonfederally~~
21 ~~subsidized new buildings, in lieu of the percentage prescribed in~~
22 ~~Section 42(b)(1)(A) of the Internal Revenue Code.~~

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

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

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

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

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

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

- 1 (i) ~~New construction, substantial rehabilitation, moderate~~
2 ~~rehabilitation, property disposition, and loan management set-aside~~
3 ~~programs, or any other program providing project-based assistance~~
4 ~~pursuant to Section 8 of the United States Housing Act of 1937,~~
5 ~~Section 1437f of Title 42 of the United States Code, as amended.~~
- 6 (ii) ~~The Below-Market-Interest-Rate Program pursuant to~~
7 ~~Section 221(d)(3) of the National Housing Act, Sections~~
8 ~~1715l(d)(3) and (5) of Title 12 of the United States Code.~~
- 9 (iii) ~~Section 236 of the National Housing Act, Section 1715z-1~~
10 ~~of Title 12 of the United States Code.~~
- 11 (iv) ~~Programs for rent supplement assistance pursuant to Section~~
12 ~~101 of the Housing and Urban Development Act of 1965, Section~~
13 ~~1701s of Title 12 of the United States Code, as amended.~~
- 14 (v) ~~Programs pursuant to Section 515 of the Housing Act of~~
15 ~~1949, Section 1485 of Title 42 of the United States Code, as~~
16 ~~amended.~~
- 17 (vi) ~~The low-income housing credit program set forth in Section~~
18 ~~42 of the Internal Revenue Code, relating to low-income housing~~
19 ~~credit.~~
- 20 (B) ~~The restrictions on rent and income levels will terminate or~~
21 ~~the federally insured mortgage on the property is eligible for~~
22 ~~prepayment any time within five years before or after the date of~~
23 ~~application to the California Tax Credit Allocation Committee.~~
- 24 (C) ~~The entity acquiring the property enters into a regulatory~~
25 ~~agreement that requires the property to be operated in accordance~~
26 ~~with the requirements of this section for a period equal to the~~
27 ~~greater of 55 years or the life of the property.~~
- 28 (D) ~~The property satisfies the requirements of Section 42(e) of~~
29 ~~the Internal Revenue Code, relating to rehabilitation expenditures~~
30 ~~treated as a separate new building, except that the provisions of~~
31 ~~Section 42(e)(3)(A)(ii)(I) shall not apply.~~
- 32 (d) ~~The term “qualified low-income housing project” as defined~~
33 ~~in Section 42(c)(2) of the Internal Revenue Code, relating to~~
34 ~~qualified low-income building, is modified by adding the following~~
35 ~~requirements:~~
- 36 (1) ~~The taxpayer shall be entitled to receive a cash distribution~~
37 ~~from the operations of the project, after funding required reserves,~~
38 ~~that, at the election of the taxpayer, is equal to:~~
- 39 (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 applies 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 later of the taxable years in which the increase
9 in qualified 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, does not apply and instead the
16 following provisions apply:

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, do not apply to this section.

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 12206, and Section
29 17058 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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

22 ~~(i) Section 42(j) of the Internal Revenue Code, relating to~~
23 ~~recapture of credit, does not apply and the following shall be~~
24 ~~substituted in its place:~~

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

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

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

37 ~~(3) A provision stating which state and local agencies can~~
38 ~~enforce the regulatory agreement in the event the housing sponsor~~
39 ~~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 the 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 ~~for low-income housing in the community or region for which it~~
22 ~~is proposed.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 ~~(5) Not less than 20 percent of the low-income housing tax~~
35 ~~credits available annually under this section, Section 12206, and~~
36 ~~Section 17058 shall be set aside for allocation to rural areas as~~
37 ~~defined in Section 50199.21 of the Health and Safety Code. Any~~
38 ~~amount of credit set aside for rural areas remaining on or after~~
39 ~~October 31 of any calendar year shall be available for allocation~~
40 ~~to any eligible project. No amount of credit set aside for rural areas~~

1 shall be considered available for any eligible project so long as
2 there are eligible rural applications pending on October 31.

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

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

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

12 (m) A project that received an allocation of a 1989 federal
13 housing credit dollar amount shall be eligible to receive an
14 allocation of a 1990 state housing credit dollar amount, subject to
15 all of the following conditions:

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

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

20 (3) Notwithstanding paragraph (2), a project applying for an
21 allocation under this subdivision is subject to the requirements of
22 paragraph (3) of subdivision (j).

23 (n) The credit period with respect to an allocation of credit in
24 1989 by the California Tax Credit Allocation Committee of which
25 any amount is attributable to unallocated credit from 1987 or 1988
26 shall not begin until after December 31, 1989.

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

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

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

1 Chapter 881 of the Statutes of 1993, and “voting common stock”
2 is substituted for “voting stock” wherever it appears in the section,
3 as that section was amended by Chapter 881 of the Statutes of
4 1993.

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

6 (A) ~~May be based on any method selected by the corporation~~
7 ~~that originally receives the credit.~~

8 (B) ~~Shall be irrevocable for the taxable year the credit is allowed,~~
9 ~~once made.~~

10 (C) ~~May be changed for any subsequent taxable year if the~~
11 ~~election to make the assignment is expressly shown on each of the~~
12 ~~returns of the affiliated corporations that assign and receive the~~
13 ~~credits.~~

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

21 (A) ~~The credit is sold for consideration that is not less than 80~~
22 ~~percent of the amount of the credit.~~

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

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

34 (I) ~~The purchase of a credit under this section pursuant to this~~
35 ~~subdivision.~~

36 (II) ~~The assignment of a credit under this section pursuant to~~
37 ~~subdivision (q).~~

38 (III) ~~The assignment of a credit under this section pursuant to~~
39 ~~Section 23363.~~

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

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

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

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

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

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

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

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

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

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

11 ~~(u) This section shall remain in effect on and after December~~
 12 ~~1, 1990, for as long as Section 42 of the Internal Revenue Code,~~
 13 ~~relating to low-income housing credit, remains in effect.~~

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

19 ~~SEC. 7.~~

20 ~~SEC. 5.~~ Section 23610.7 is added to the Revenue and Taxation
 21 Code, to read:

22 23610.7. (a) (1) For taxable years beginning on or after
 23 January 1, 2017, there shall be allowed to a taxpayer a credit
 24 against the "tax," as defined by Section 23036, for a qualified
 25 low-income building in an amount equal to the amount computed
 26 in accordance with Section 42 of the Internal Revenue Code,
 27 relating to low-income housing credit as modified by this section.

28 (2) ~~In determining the amount of credit allowed pursuant to this~~
 29 ~~section, the following shall apply:~~

30 (A) ~~The eligible basis of a building shall be equal to the project's~~
 31 ~~total cost basis.~~

32 (B) ~~The applicable percentage shall be:~~

33 (1) ~~For a project with units for low-income households, 130~~
 34 ~~percent.~~

35 (2) ~~For a project with units for median-income households with~~
 36 ~~incomes between 80 percent and 99 percent of the area median~~
 37 ~~income, 108 percent.~~

38 (3) ~~For a project with units for median-income households with~~
 39 ~~incomes of 100 percent of the area median income, 76 percent.~~

1 (2) *The amount of credit shall be equal to 20 percent of the*
2 *project's unadjusted allocated basis, as defined by the California*
3 *Tax Credit Allocation Committee by regulation, not to exceed fifty*
4 *thousand dollars (\$50,000) per unit.*

5 (b) For purposes of this section:

6 (1) "Low-income household" means a household with an income
7 that is greater than 60 percent and not higher than 80 percent of
8 the area median household income.

9 ~~(2) "Median-income household" means a household with an~~
10 ~~income that is greater than 80 percent but not higher than 100~~
11 ~~percent of the area median household income.~~

12 ~~(3)~~

13 (2) "Qualified low-income building" has the same meaning as
14 in Section 42(c)(2) of the Internal Revenue Code, relating to
15 qualified low-income housing building, and also means the
16 qualified low-income building is eligible for a tax credit pursuant
17 to Section 42 of the Internal Revenue Code, relating to low-income
18 housing credit, except that Section 42(g) of the Internal Revenue
19 Code, relating to qualified low-income housing project, shall not
20 apply and instead the following requirements shall be met:

21 (A) The project is for the acquisition or substantial rehabilitation
22 of a building at least 20 years old or is a new development.

23 (B) The project includes no more than 50 percent of its units
24 that are eligible for the tax credit allowed pursuant to Section
25 23610.5.

26 (C) Any units reserved for a tax credit allowed pursuant to this
27 section shall not supplant existing affordable housing units not
28 eligible for a tax credit pursuant to this section, including any units
29 for households with an income that is less than that of a low-income
30 ~~household.~~ *household, and the rent for those units is at least 20*
31 *percent below market rate at the time the tax credit is allocated.*

32 (D) The project will allocate at least ~~20~~ 40 percent of its units
33 to low-income ~~households and median-income~~ households.

34 (E) *The project is located, in the year of the application for the*
35 *tax credit, in one of the 12 counties within this state identified by*
36 *the United State Department of Housing and Urban Development*
37 *as having the highest fair market rents in the state. The California*
38 *Tax Credit Allocation Committee shall annually publish those*
39 *counties on its Internet Web site.*

1 (c) (1) This section shall not be construed to require a taxpayer
2 to have been previously or currently allocated a tax credit pursuant
3 to Section 42 of the Internal Revenue Code, relating low-income
4 housing credit.

5 (2) This section shall not be construed to preclude a taxpayer,
6 allowed a credit pursuant to this section, from being allocated a
7 credit pursuant to Section 23610.5 or Section 42 of the Internal
8 Revenue Code, relating to low-income housing credit.

9 (3) *A credit shall not be allowed pursuant to this section if a*
10 *taxpayer has been allocated a credit pursuant to Section 42 of the*
11 *Internal Revenue Code, relating to low-income housing credit, for*
12 *units for a household with a household income that is greater than*
13 *60 percent of the area median household income.*

14 (d) An applicant for the credit allowed pursuant to this section
15 must demonstrate to the California Tax Credit Allocation
16 Committee that, within the city in which the project is situated,
17 the area median income for the average rental unit is above the
18 area median income for the project.

19 (e) (1) In the case where the credit allowed under this section
20 exceeds the “tax,” the excess may be carried over to reduce the
21 “tax” in the following year, and succeeding 14 years if necessary,
22 until the credit has been exhausted.

23 (2) The credit shall be claimed in the same manner, with regard
24 to the credit period, as a credit claimed pursuant to Section 23610.5.

25 (3) The credit allowed pursuant to this section shall have a
26 compliance period of 55 consecutive taxable years at the affordable
27 rate or at substantially below-market rate beginning with the first
28 taxable year of the credit period with respect thereto, administered
29 in the same manner as under Section 23610.5.

30 (f) The California Tax Credit Allocation Committee shall
31 allocate, on a first-come-first-served basis, the credit allowed by
32 this section. The aggregate amount of credit that may be allocated
33 ~~in any fiscal year pursuant to this section and Sections 12206.1~~
34 ~~and 17058.1 shall be an amount equal to the sum of paragraphs~~
35 ~~(1) and (2): one hundred million dollars (\$100,000,000).~~

36 ~~(1) One hundred million dollars (\$100,000,000) for the 2016–17~~
37 ~~fiscal year, and for each fiscal year thereafter.~~

38 ~~(2) The unallocated credit amount, if any, from the preceding~~
39 ~~fiscal year.~~

1 (g) (1) For a project that is allocated a credit under this section,
2 a taxpayer may make an irrevocable election in its application to
3 the California Tax Credit Allocation Committee to sell all or any
4 portion of any credit allowed under this section to one or more
5 unrelated parties for each taxable year in which the credit is
6 allowed, subject to both of the following conditions:

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

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

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

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

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

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

38 (ii) All or any portion of any credit allowed under this section
39 may be resold once by an original purchaser to one or more

1 *unrelated parties, subject to all of the requirements of this*
 2 *subdivision.*

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

12 *(5) A taxpayer shall not sell a credit allowed by this section if*
 13 *the taxpayer was allowed the credit on any tax return of the*
 14 *taxpayer.*

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

21 ~~(g)~~

22 *(h) (1) The California Tax Credit Allocation Committee shall*
 23 *establish guidelines to specify that a taxpayer may be allowed a*
 24 *tax credit pursuant to this section, Section 23610.5, and Section*
 25 *42 of the Internal Revenue Code, relating to low-income housing*
 26 *credit, subject to the requirements of these sections: sections and*
 27 *paragraph (3) of subdivision (c).*

28 ~~(2) The California Tax Credit Allocation Committee and the~~
 29 ~~Department of Insurance may adopt regulations, rules, guidelines,~~
 30 ~~or procedures necessary or appropriate to carry out the purposes~~
 31 ~~of this section, including guidelines to conform the credit allowed~~
 32 ~~by this section to any procedures established pursuant to Section~~
 33 ~~23610.5.~~

34 *(3) The Administrative Procedure Act (Chapter 3.5*
 35 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
 36 *2 of the Government Code) does not apply to this subdivision.*

37 ~~(h) Section 41 does not apply to the credit allowed by this~~
 38 ~~section.~~

39 *SEC. 6. (a) In accordance with Section 41 of the Revenue and*
 40 *Taxation Code, to measure whether the Sections 12206.1, 17058.1,*

1 and 23610.7 of the Revenue and Taxation Code, as added by
2 Sections 3, 4, and 5 of this act, achieve their intended purpose, on
3 the January 1 after the final allocation of tax credits allowed
4 pursuant to those sections, the California Tax Credit Allocation
5 Committee shall prepare a written report to the Legislature which
6 shall include, but is not limited to, the following:

7 (1) The total number of units for which the tax credits were
8 allowed.

9 (2) The geographic areas of the tax credit allocations.

10 (3) A recommendation as to whether the tax credits should
11 continue to be allowed.

12 (b) A report submitted pursuant to subdivision (a) shall be
13 submitted in compliance with Section 9795 of the Government
14 Code.

15 SEC. 7. If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.

20 SEC. 8. Notwithstanding Section 2229 of the Revenue and
21 Taxation Code, no appropriation is made by this act and the state
22 shall not reimburse any local agency for any property tax revenues
23 lost by it pursuant to this act.

24 ~~SEC. 8.~~

25 SEC. 9. This act provides for a tax levy within the meaning of
26 Article IV of the Constitution and shall go into immediate effect.