



Councilmembers Dan Kalb & Abel Guillén

CITY OF OAKLAND

CITY HALL - ONE FRANK H. OGAWA PLAZA, 2<sup>ND</sup> FLOOR - OAKLAND - CALIFORNIA 94612

## Agenda Memorandum

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To: Rules & Legislation Committee

From: Councilmember Dan Kalb and President Pro Tempore Abel Guillén

Date: February 2, 2017

Subject: Support of AB 71: Bring California Home Act

Colleagues on the City Council and Members of the Public,

With our Resolution of Support for AB 71 (Chiu), we are submitting the attached Fact Sheet and text of the bill.

Respectfully submitted,

A handwritten signature in cursive script that reads "Dan Kalb".

Dan Kalb, Councilmember

A handwritten signature in cursive script that reads "Abel Guillén".

Abel Guillén, President Pro Tempore

17 FEB -2 PM 4:25

**DRAFT**

City Attorney's Office

## OAKLAND CITY COUNCIL

### RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER DAN KALB AND PRESIDENT PRO TEMPORE ABEL GUILLÉN

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**RESOLUTION IN SUPPORT OF ASSEMBLY BILL 71 (CHIU) THAT WOULD ELIMINATE STATE MORTGAGE INTEREST DEDUCTION ON VACATION HOMES AND INCREASE THE LOW INCOME HOUSING TAX CREDIT BY \$300 MILLION PER YEAR TO FUND AFFORDABLE HOUSING.**

**WHEREAS**, virtually no low-income Californians, who make up 38 percent of the state's population, can afford their local housing costs and nearly 70 percent of low-income and very-low income households spend more than 50 percent of their income on housing costs; and

**WHEREAS**, California's investment in affordable housing for lower income families has been drastically reduced in the last five years, due to the exhaustion of State bond funds and the elimination of redevelopment; and

**WHEREAS**, there is a housing affordability crisis throughout the Bay Area; and

**WHEREAS**, the largest investment in housing that California makes is in the mortgage interest deduction, which disproportionately benefits those with upper-middle and upper incomes and those with higher mortgages; and

**WHEREAS**, in addition to the deduction taxpayers can take on their primary home, they can also deduct interest paid on a second, vacation home, which approximately 195,000 Californians claim a mortgage interest deduction for with an estimated impact on the General Fund averaging \$300 million per year; and

**WHEREAS**, the state's low-income housing tax credit (LIHTC) program established in 1987 limits the total amount of low-income housing tax credits the state may allocate at \$70 million per year and is oversubscribed, with only 49 percent of applicants awarded credits in 2014, leaving many high quality developments without a secure source of funding, and there is an untapped federal low-income housing tax credit that the state can still access, the 4% Federal Tax Credit, which is unlimited and remains unused largely due to requiring additional state resources to make development viable, which additional LIHTC funds would allow; and

**WHEREAS**, Assembly Bill (SB) 71 (Chiu) would eliminate the vacation home mortgage interest deduction and simultaneously increase the annual state tax credit allocation amount to \$300 million, allowing California affordable housing projects to leverage \$1 billion dollars in new federal resources and creating both more than 3,000 affordable homes each year for low-income Californians and 7,000 new jobs, without increasing cost to the state; therefore, be it

**RESOLVED**: That the Oakland City Council hereby endorses AB 71 and urges the California State Legislature and Governor Jerry Brown to support its enactment into law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB,  
KAPLAN, AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council of the  
City of Oakland, California

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## SUMMARY

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This bill provides an ongoing state funding source for affordable housing by eliminating the state mortgage interest deduction on vacation homes. This deduction results in a revenue loss to the state of approximately \$300 million annually. The funds saved as a result of eliminating the deduction would then increase the Low Income Housing Tax Credit (LIHTC) program by \$300 million per year. Californians could continue to claim a mortgage interest deduction for a vacation home on their federal taxes.

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## BACKGROUND

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The largest investment the state makes in housing is through the mortgage interest deduction; a deduction that disproportionately benefits those with higher incomes and larger mortgages. In 2012, 77 percent of the benefits of the federal mortgage interest deduction went to homeowners with incomes above \$100,000. According to the Franchise Tax Board, approximately four million Californians claim the deduction resulting in over \$5 billion in revenue loss to the state every year.

In addition to the deduction taxpayers can take on their primary home, they can also deduct interest paid on a vacation home. The estimated impact of the vacation home mortgage interest deduction on the General Fund averages \$300 million every year. Approximately 195,000 Californians claim a mortgage interest deduction on a second, vacation home.

The Low-Income Housing Tax Credit Program (LIHTC) was enacted by Congress in 1986 is one of the only remaining sources of funding available for affordable housing. The LIHTC program provides the market with an incentive to invest in more affordable housing through federal tax credits. The California Tax Credit Allocation Committee was directed to award these credits to developers of qualified projects in the state. Developers sell these credits to investors to raise capital for their projects, reducing the debt that the developer would otherwise have to borrow. As a result, property owners are able to offer lower, more affordable pricing.

In response to the high cost of developing housing in California, in 1987 the Legislature authorized a state low-income housing tax credit program. Existing law limits the total amount of low-income housing tax credits the state may allocate at \$70 million per year. However, due to increased demand for housing

development, the tax credit program has been oversubscribed – in 2014 only 49 percent of applicants were awarded credits – leaving many high quality developments without a secure source of funding.

In addition, there is an untapped federal low-income housing tax credit that the state can still access—the 4% Federal Tax Credit. These 4% federal credits are unlimited and remain unused by the state. This is largely due to the fact that the 4% credits require additional state resources to make the development viable – additional state LIHTC funds will allow the state to tap into these resources.

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## THE PROBLEM

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Virtually no low-income Californians, who make up 38 percent of the state's population, can afford their local housing costs. Nearly 70 percent of low-income and very-low income households spend more than 50 percent of their income on housing costs.

State investment in affordable housing for lower income families has been drastically reduced in the last five years. Voter-approved bonds to fund construction of affordable housing have been exhausted; Proposition 46 of 2002 and Proposition 1C of 2006 together had provided \$4.95 billion for affordable housing. Along with the elimination of redevelopment agencies, our state's funding of affordable housing has dropped by \$1.7 billion each year.

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## THE SOLUTION

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By eliminating the vacation home mortgage interest deduction and simultaneously increasing the annual state tax credit allocation amounts to \$300 million, California could leverage \$1 billion dollars in new federal resources and create more than 3,000 affordable homes each year for low-income Californians and 7,000 new jobs.

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## SUPPORT

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California Housing Consortium (co-sponsor)  
Housing California (co-sponsor)  
California Housing Partnership (co-sponsor)

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## FOR MORE INFORMATION

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Lisa Engel  
Office of Assemblymember David Chiu  
[Lisa.engel@asm.ca.gov](mailto:Lisa.engel@asm.ca.gov)

**ASSEMBLY BILL**

**No. 71**

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**Introduced by Assembly Member Chiu  
(Coauthors: Assembly Members Mullin and Ting)**

December 16, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 71, as introduced, Chiu. Taxes: credits: low-income housing: allocation increase.

Existing law establishes a low-income housing tax credit program pursuant to which the California Tax Credit Allocation Committee provides procedures and requirements for the allocation of state insurance, personal income, and corporation tax credit amounts among qualified low-income housing projects in modified conformity to federal law that have been allocated, or qualify for, a federal low-income housing tax credit, and for farmworker housing. Existing law limits the total annual amount of the state low-income housing credit for which a federal low-income housing credit is required to the sum of \$70,000,000, as increased by any percentage increase in the Consumer Price Index for the preceding calendar year, any unused credit for the preceding calendar years, and the amount of housing credit ceiling returned in the calendar year. Existing law additionally allows a state credit, which is not dependent on receiving a federal low-income housing credit; the aggregate of which is \$500,000 per calendar year for projects to provide farmworker housing.

This bill, under the Insurance Taxation Law, the Personal Income Tax Law, and the Corporation Tax Law, for calendar years beginning 2018, would increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects to \$300,000,000, as specified, and would allocate to farmworker housing projects \$500,000 per year of that amount. The bill, under the insurance taxation law, the Personal Income Tax Law, and the Corporation Tax Law, would modify the definition of applicable percentage relating to qualified low-income buildings that meet specified criteria.

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

This bill would disallow that deduction.

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

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 12206 of the Revenue and Taxation Code  
2 is amended to read:

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

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

13 (3) "Housing sponsor," for purposes of this section, means the  
14 sole owner in the case of a "C" corporation, the partnership in the  
15 case of a partnership, *the limited liability company in the case of*  
16 *a limited liability company,* and the "S" corporation in the case of  
17 an "S" corporation.

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

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

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

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

16 (i) The project’s housing sponsor has been allocated by the  
17 California Tax Credit Allocation Committee a credit for federal  
18 income tax purposes under Section 42 of the Internal Revenue  
19 Code, 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 2020, 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) This subparagraph ~~does~~ *shall* not apply to a project that  
4 receives a preliminary reservation of state low-income housing  
5 tax credits under the set-aside described in subdivision (c) of  
6 Section 50199.20 of the Health and Safety Code unless the project  
7 also receives a preliminary reservation of federal low-income  
8 housing tax credits.

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

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

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

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

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

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

33 ~~(ii) Notwithstanding clause (i), the California Tax Credit  
34 Allocation Committee may allocate the credit for buildings located  
35 in DDAs or QCTs that are restricted to having 50 percent of its  
36 occupants be special needs households, as defined in the California  
37 Code of Regulations by the California Tax Credit Allocation  
38 Committee, even if the taxpayer receives federal credits pursuant  
39 to Section 42(d)(5)(B) of the Internal Revenue Code, relating to  
40 increase in credit for buildings in high-cost areas, provided that~~



1 ~~the credit allowed under this section shall not exceed 30 percent~~  
2 ~~of the eligible basis of the building.~~

3 (G)

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

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

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

19 (1) In the case of any qualified low-income building that receives  
20 ~~an allocation after 1989 and is a new building~~ *building, as defined*  
21 *in Section 42 of the Internal Revenue Code, relating to low-income*  
22 *housing credit, and the regulations promulgated thereunder, and*  
23 *not federally subsidized, the term "applicable percentage" means*  
24 *the following:*

25 (A) For each of the first three years, the percentage prescribed  
26 by the Secretary of the Treasury for new buildings that are not  
27 federally subsidized for the taxable year, determined in accordance  
28 with the requirements of ~~Section 42(b)(2)~~ *42(b)(1)* of the Internal  
29 Revenue Code, relating to ~~temporary minimum credit rate for~~  
30 ~~nonfederally subsidized new buildings, in lieu of the percentage~~  
31 ~~prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.~~  
32 *determination of applicable percentage.*

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

35 (2) In the case of any qualified low-income building that receives  
36 ~~an allocation after 1989 and that (A)~~ *is a new building that is*  
37 *federally subsidized or that is an existing building that is "at risk*  
38 *of conversion," building, as defined in Section 42 of the Internal*  
39 *Revenue Code, relating to low-income housing credit, and the*  
40 *regulations promulgated thereunder, (B) not located in designated*

1 *difficult development areas (DDAs) or qualified census tracts*  
2 *(QCTs), as defined in Section 42(d)(5)(B) of the Internal Revenue*  
3 *Code, relating to increase in credit for buildings in high cost areas,*  
4 *and (C) is federally subsidized, the term “applicable percentage”*  
5 ~~means the following: for the first three years, 15 percent of the~~  
6 ~~qualified basis of the building, and for the fourth year, 5 percent~~  
7 ~~of the qualified basis of the building.~~

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

17 (A)

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

21 (B)

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

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

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

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

35 ~~(ii) The Below-Market-Interest-Rate Program pursuant to~~  
36 ~~Section 221(d)(3) of the National Housing Act, Sections~~  
37 ~~1715(d)(3) and (5) of Title 12 of the United States Code.~~

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

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

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

7 ~~(vi) The low-income housing credit program set forth in Section~~  
8 ~~42 of the Internal Revenue Code, relating to low-income housing~~  
9 ~~credit.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (g) The aggregate housing credit dollar amount that may be  
17 allocated annually by the California Tax Credit Allocation  
18 Committee pursuant to this section, Section 17058, and Section  
19 23610.5 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (iii) (I) Existing projects that are "at risk of ~~conversion,~~" as  
34 defined by paragraph (3) of subdivision (c). *conversion.*"

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

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

1     *(Ia) New construction, substantial rehabilitation, moderate*  
2 *rehabilitation, property disposition, and loan management set-aside*  
3 *programs, or any other program providing project-based*  
4 *assistance pursuant to Section 8 of the United States Housing Act*  
5 *of 1937, Section 1437f of Title 42 of the United States Code, as*  
6 *amended.*

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

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

12    *(Id) Programs for rent supplement assistance pursuant to*  
13 *Section 18 101 of the Housing and Urban Development Act of*  
14 *1965, Section 1701s of Title 12 of the United States Code, as*  
15 *amended.*

16    *(Ie) Programs pursuant to Section 515 of the Housing Act of*  
17 *1949, Section 1485 of Title 42 of the United States Code, as*  
18 *amended.*

19    *(If) The low-income housing credit program set forth in Section*  
20 *42 of the Internal Revenue Code, relating to low-income housing*  
21 *credits.*

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

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

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

34    *(iv) Projects for which a public agency provides direct or indirect*  
35 *long-term financial support for at least 15 percent of the total*  
36 *project development costs or projects for which the owner's equity*  
37 *constitutes at least 30 percent of the total project development*  
38 *costs.*

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

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

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

8 The term “secretary” shall be replaced by the term “Franchise  
9 Tax Board.”

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

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

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

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

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

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

39 (2) (A) The taxpayer that originally received the credit shall  
40 report to the California Tax Credit Allocation Committee within

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

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

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

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

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

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

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

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

39 (p) The California Tax Credit Allocation Committee may  
40 prescribe rules, guidelines, or procedures necessary or appropriate

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

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

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

12 17058. (a) (1) There shall be allowed as a credit against the  
13 "net tax," defined by in Section 17039, a state low-income housing  
14 tax credit in an amount equal to the amount determined in  
15 subdivision (c), computed in accordance with Section 42 of the  
16 Internal Revenue Code, relating to low-income housing credit,  
17 except as otherwise provided in this section.

18 (2) "Taxpayer," for purposes of this section, means the sole  
19 owner in the case of an individual, the partners in the case of a  
20 partnership, and the shareholders in the case of an "S" corporation.

21 (3) "Housing sponsor," for purposes of this section, means the  
22 sole owner in the case of an individual, the partnership in the case  
23 of a partnership, and the "S" corporation in the case of an "S"  
24 corporation.

25 (4) "*Extremely low income households*" has the same meaning  
26 as in Section 50053 of the Health and Safety Code.

27 (5) "*Very low income households*" has the same meaning as in  
28 Section 50053 of the Health and Safety Code.

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

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

36 (i) Except for projects to provide farmworker housing, as defined  
37 in subdivision (h) of Section 50199.7 of the Health and Safety  
38 Code, that are allocated credits solely under the set-aside described  
39 in subdivision (c) of Section 50199.20 of the Health and Safety  
40 Code, the project's housing sponsor has been allocated by the

1 California Tax Credit Allocation Committee a credit for federal  
2 income tax purposes under Section 42 of the Internal Revenue  
3 Code, relating to low-income housing credit.

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

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

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

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

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

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

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

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

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

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

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

32 ~~(F)~~

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



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

4 (c) Section 42(b) of the Internal Revenue Code, relating to  
5 applicable percentage: 70 percent present value credit for certain  
6 new buildings; 30 percent present value credit for certain other  
7 buildings, 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: that is~~  
13 ~~a new building, as defined in Section 42 of the Internal Revenue~~  
14 ~~Code, relating to low-income housing credit, and the regulations~~  
15 ~~promulgated thereunder, and not federally subsidized, the term~~  
16 ~~"applicable percentage" means the following:~~

17 ~~(2) In the case of any qualified low-income building that receives~~  
18 ~~an allocation after 1989 and is a new building not federally~~  
19 ~~subsidized, the term "applicable percentage" means the following:~~

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

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

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

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

13 (A)

14 (i) 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)

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

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

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

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

31 (ii) The Below-Market-Interest-Rate Program pursuant to  
32 Section 221(d)(3) of the National Housing Act, Sections  
33 1715l(d)(3) and (5) of Title 12 of the United States Code.

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

36 (iv) Programs for rent supplement assistance pursuant to Section  
37 101 of the Housing and Urban Development Act of 1965, Section  
38 1701s of Title 12 of the United States Code, as amended.

1 ~~(v) Programs pursuant to Section 515 of the Housing Act of~~  
2 ~~1949, Section 1485 of Title 42 of the United States Code, as~~  
3 ~~amended.~~

4 ~~(vi) The low-income housing credit program set forth in Section~~  
5 ~~42 of the Internal Revenue Code, relating to low-income housing~~  
6 ~~credit.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (i) ~~The owner equity, which equity that~~ shall include the amount  
24 of the capital contributions actually paid to the housing sponsor  
25 and shall not include any amounts until they are paid on an investor  
26 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~~ *shall apply* in the aggregate  
2 to the partners if the housing sponsor is a partnership and in the  
3 aggregate to the shareholders if the housing sponsor is an “S”  
4 corporation.

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

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

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

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

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

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

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

38 (1) Section 42(h)(2) of the Internal Revenue Code, relating to  
39 allocated credit amount to apply to all taxable years ending during  
40 or after credit allocation year, ~~does not apply~~ *shall not be*

1 *applicable* and instead the following provisions ~~apply~~: *shall be*  
2 *applicable.*

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

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

12 (g) The aggregate housing credit dollar amount that may be  
13 allocated annually by the California Tax Credit Allocation  
14 Committee pursuant to this section, Section 12206, and Section  
15 23610.5 shall be an amount equal to the sum of all the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (j) (1) The committee shall allocate the housing credit on a  
39 regular basis consisting of two or more periods in each calendar  
40 year during which applications may be filed and considered. The



1 committee shall establish application filing deadlines, the maximum  
2 percentage of federal and state low-income housing tax credit  
3 ceiling that may be allocated by the committee in that period, and  
4 the approximate date on which allocations shall be made. If the  
5 enactment of federal or state law, the adoption of rules or  
6 regulations, or other similar events prevent the use of two allocation  
7 periods, the committee may reduce the number of periods and  
8 adjust the filing deadlines, maximum percentage of credit allocated,  
9 and the allocation dates.

10 (2) The committee shall adopt a qualified allocation plan, as  
11 provided in Section 42(m)(1) of the Internal Revenue Code, relating  
12 to plans for allocation of credit among projects. In adopting this  
13 plan, the committee shall comply with the provisions of Sections  
14 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code,  
15 relating to qualified allocation plan and relating to certain selection  
16 criteria must be used, respectively.

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

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

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

29 (ii) The project's proposed financing, including tax credit  
30 proceeds, shall be sufficient to complete the project and that the  
31 proposed operating income shall be adequate to operate the project  
32 for the extended use period.

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

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

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

1 (vi) The housing sponsor shall demonstrate that the project  
2 development team has the experience and the financial capacity  
3 to ensure project completion and operation for the extended use  
4 period.

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

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

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

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

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

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

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

29 (iii) (I) Existing projects that are "at risk of ~~conversion,~~" as  
30 defined by paragraph (4) of subdivision (e). *conversion.*"

31 (II) *For purposes of this section, the term "at risk of*  
32 *conversion," with respect to an existing property means a property*  
33 *that satisfies all of the following criteria:*

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

37 (1a) *New construction, substantial rehabilitation, moderate*  
38 *rehabilitation, property disposition, and loan management set-aside*  
39 *programs, or any other program providing project-based*  
40 *assistance pursuant to Section 8 of the United States Housing Act*

1 of 1937, Section 1437f of Title 42 of the United States Code, as  
2 amended.

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

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

8 (Id) Programs for rent supplement assistance pursuant to  
9 Section 18 101 of the Housing and Urban Development Act of  
10 1965, Section 1701s of Title 12 of the United States Code, as  
11 amended.

12 (Ie) Programs pursuant to Section 515 of the Housing Act of  
13 1949, Section 1485 of Title 42 of the United States Code, as  
14 amended.

15 (If) The low-income housing credit program set forth in Section  
16 42 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

6 (l) In the case ~~in which~~ *where* the credit allowed under this  
7 section exceeds the net tax, the excess may be carried over to  
8 reduce the net tax in the following year, and succeeding *taxable*  
9 years, if necessary, until the credit has been exhausted.

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

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

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

18 (3) Notwithstanding paragraph (2), a project applying for an  
19 allocation under this subdivision ~~is~~ *shall be* subject to the  
20 requirements of paragraph (3) of subdivision (j).

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

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

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

30 (q) (1) For a project that receives a preliminary reservation  
31 under this section beginning on or after January 1, 2016, and before  
32 January 1, 2020, a taxpayer may make an irrevocable election in  
33 its application to the California Tax Credit Allocation Committee  
34 to sell all or any portion of any credit allowed under this section  
35 to one or more unrelated parties for each taxable year in which the  
36 credit is allowed subject to both of the following conditions:

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

39 (B) The unrelated party or parties purchasing any or all of the  
40 credit pursuant to this subdivision is a taxpayer allowed the credit

1 under this section for the taxable year of the purchase or any prior  
2 taxable year or is a taxpayer allowed the federal credit under  
3 Section 42 of the Internal Revenue Code, relating to low-income  
4 housing credit, for the taxable year of the purchase or any prior  
5 taxable year in connection with any project located in this state.  
6 For purposes of this subparagraph, "taxpayer allowed the credit  
7 under this section" means a taxpayer that is allowed the credit  
8 under this section without regard to the purchase of a credit  
9 pursuant to this subdivision.

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

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

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

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

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

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

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

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

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

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

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

23 (t) This section shall remain in effect on and after December 1,  
24 1990, for as long as Section 42 of the Internal Revenue Code,  
25 relating to low-income housing credit, remains in effect. ~~Any~~  
26 ~~unused credit may continue to be carried forward, as provided in~~  
27 ~~subdivision (l), until the credit has been exhausted.~~

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

31 SEC. 3. Section 17225 of the Revenue and Taxation Code is  
32 amended to read:

33 17225. (a) Section 163(h)(3)(E) of the Internal Revenue Code,  
34 relating to mortgage insurance premiums treated as interest, shall  
35 not apply.

36 *(b) Sections 163(h)(4)(A)(I)(II) and 163(h)(4)(A)(ii)(II) of the*  
37 *Internal Revenue Code shall not apply.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

23 ~~(F)~~

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

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

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

39 (1) In the case of any qualified low-income building placed in  
40 service by the housing sponsor during 1987, the term "applicable

1 percentage” means 9 percent for each of the first three years and  
2 3 percent for the fourth year for new buildings (whether or not the  
3 building is federally subsidized) and for existing buildings: *that is*  
4 *a new building, as defined in Section 42 of the Internal Revenue*  
5 *Code, relating to low-income housing credit, and the regulations*  
6 *promulgated thereunder, and not federally subsidized, the term*  
7 *“applicable percentage” means the following:*

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

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

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

21 (2) *In the case of any qualified low-income building that (A) is*  
22 *a new building, as defined in Section 42 of the Internal Revenue*  
23 *Code, relating to low-income housing credit, and the regulations*  
24 *promulgated thereunder, (B) not located in designated difficult*  
25 *development areas (DDAs) or qualified census tracts (QCTs), as*  
26 *defined in Section 42(d)(5)(B) of the Internal Revenue Code,*  
27 *relating to increase in credit for buildings in high cost areas, and*  
28 *(C) is federally subsidized, the term “applicable percentage”*  
29 *means for the first three years, 15 percent of the qualified basis*  
30 *of the building, and for the fourth year, 5 percent of the qualified*  
31 *basis of the building.*

32 (3) ~~In the case of any qualified low-income building that receives~~  
33 ~~an allocation after 1989 and that is a new building that is federally~~  
34 ~~subsidized or that is an existing building that is “at risk of~~  
35 ~~conversion,” the term “applicable percentage” is (A) an existing~~  
36 ~~building, as defined in Section 42 of the Internal Revenue Code,~~  
37 ~~relating to low-income housing credit, and the regulations~~  
38 ~~promulgated thereunder, (B) not located in designated difficult~~  
39 ~~development areas (DDAs) or qualified census tracts (QCTs), as~~  
40 ~~defined in Section 42(d)(5)(B) of the Internal Revenue Code,~~

1 relating to increase in credit for buildings in high cost areas, and  
2 (C) is federally subsidized, the term applicable percentage means  
3 the following:

4 (A)

5 (i) 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)

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

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

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

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

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

26 (iii) ~~Section 236 of the National Housing Act, Section 1715z-1~~  
27 ~~of Title 12 of the United States Code.~~

28 (iv) ~~Programs for rent supplement assistance pursuant to Section~~  
29 ~~101 of the Housing and Urban Development Act of 1965, Section~~  
30 ~~1701s of Title 12 of the United States Code, as amended.~~

31 (v) ~~Programs pursuant to Section 515 of the Housing Act of~~  
32 ~~1949, Section 1485 of Title 42 of the United States Code, as~~  
33 ~~amended.~~

34 (vi) ~~The low-income housing credit program set forth in Section~~  
35 ~~42 of the Internal Revenue Code, relating to low-income housing~~  
36 ~~credit.~~

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

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

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

9 *(4) In the case of any qualified low-income building that is (A)*  
10 *a new or an existing building, (B) located in designated difficult*  
11 *development areas (DDAs) or qualified census tracts (QCTs) as*  
12 *defined in Section 42(d)(5)(B) of the Internal Revenue Code,*  
13 *relating to increase in credit for buildings in high cost areas, and*  
14 *(C) federally subsidized, the California Tax Credit Allocation*  
15 *Committee shall determine the amount of credit to be allocated*  
16 *under subparagraph (E) of paragraph (2) of subdivision (b)*  
17 *required to produce an equivalent state tax credit to the taxpayer,*  
18 *as produced in paragraph (2), taking into account the basis boost*  
19 *provided under Section 42(d)(5)(B) of the Internal Revenue Code,*  
20 *relating to increase in credit for buildings in high cost areas.*

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

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

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

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

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

7 (d) The term “qualified low-income housing project” as defined  
8 in Section 42(c)(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 equity that~~ *equity that* shall include the amount  
16 of the capital contributions actually paid to the housing sponsor  
17 and shall not include any amounts until they are paid on an investor  
18 note.

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

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

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

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

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

1 Section 42(g)(1) of the Internal Revenue Code, relating to in  
2 general.

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

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

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

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

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

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

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

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

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

6 (g) The aggregate housing credit dollar amount that may be  
7 allocated annually by the California Tax Credit Allocation  
8 Committee pursuant to this section, Section 12206, and Section  
9 17058 shall be an amount equal to the sum of all the following:

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

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

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

36 (3) The amount of housing credit ceiling returned in the calendar  
37 year. For purposes of this paragraph, the amount of housing credit  
38 dollar amount returned in the calendar year equals the housing  
39 credit dollar amount previously allocated to any project that does  
40 not become a qualified low-income housing project within the

1 period required by this section or to any project with respect to  
2 which an allocation is canceled by mutual consent of the California  
3 Tax Credit Allocation Committee and the allocation recipient.

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

7 (B) Five hundred thousand dollars (\$500,000) of the amount  
8 allocated pursuant to subparagraph (B) of paragraph (1) per  
9 calendar year for projects to provide farmworker housing, as  
10 defined in subdivision (h) of Section 50199.7 of the Health and  
11 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~~ shall not be applicable and the  
24 following shall be 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~~ the regulatory agreement shall  
28 be subordinated, when required, to any lien or encumbrance of  
29 any banks or other institutional lenders to the project. The  
30 regulatory agreement entered into pursuant to subdivision (f) of  
31 Section 50199.14 of the Health and Safety Code shall apply,  
32 provided that the agreement includes all of the following  
33 provisions:

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

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

38 (3) A provision stating which state and local agencies can  
39 enforce the regulatory agreement in the event the housing sponsor  
40 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~~ *The* remedies available in the event of  
22 a default under the regulatory agreement that is not cured within  
23 a reasonable cure ~~period~~ *period*, include, but are not limited to,  
24 allowing any of the parties designated to enforce the regulatory  
25 agreement to collect all rents with respect to the project; taking  
26 possession of the project and operating the project in accordance  
27 with the regulatory agreement until the enforcer determines the  
28 housing sponsor is in a position to operate the project in accordance  
29 with 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 or more bedrooms.

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

21 (iii) (I) Existing projects that are "at risk of conversion," as  
22 defined by paragraph (4) of subdivision (e): *conversion.*"

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

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

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

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

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

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

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

8     *(If) The low-income housing credit program set forth in Section*  
9     *42 of the Internal Revenue Code.*

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

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

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

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

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

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

33    (5) Not less than 20 percent of the low-income housing tax  
34 credits available annually under this section, Section 12206, and  
35 Section 17058 shall be set aside for allocation to rural areas as  
36 defined in Section 50199.21 of the Health and Safety Code. Any  
37 amount of credit set aside for rural areas remaining on or after  
38 October 31 of any calendar year shall be available for allocation  
39 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~~ *where* the credit allowed under this  
9 section exceeds the "tax," the excess may be carried over to reduce  
10 the "tax" in the following year, and succeeding *taxable* years if  
11 necessary, 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~~ *shall be* subject to the  
22 requirements of 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, *shall* 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~~ *shall* 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, and before  
16 January 1, 2020, a taxpayer may make an irrevocable election in  
17 its application to the California Tax Credit Allocation Committee  
18 to sell all or any portion of any credit allowed under this section  
19 to one or more unrelated parties for each taxable year in which the  
20 credit is allowed subject to both 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 or parties to whom the credit has been sold, the  
8 face amount of the credit sold, and the amount of consideration  
9 received by the taxpayer for the sale of the credit.

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

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

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

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

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

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

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

1 (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. 5. This act is an urgency statute necessary for the  
20 immediate preservation of the public peace, health, or safety within  
21 the meaning of Article IV of the California Constitution and shall  
22 go into immediate effect. The facts constituting the necessity are:

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