

CHAPTER 658

An act to amend Sections 50176, 50185, and 50195 of, and to add and repeal Chapter 3.6 (commencing with Section 50199.7) of Part 1 of Division 31 of, the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1987 Filed with
Secretary of State September 15, 1987.]

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

SECTION 1. Section 50176 of the Health and Safety Code is amended to read:

50176. As used in this chapter, the following terms have the following meanings:

(a) "Allocation" means the maximum aggregate principal amount of qualified mortgage bonds that a state or local agency is allocated to issue in any calendar year as provided in Sections 50189, 50190, and 50191.

(b) "Certificate credit rate" means the rate of the credit allowed by this chapter which is specified in the mortgage credit certificate.

(c) "Certified indebtedness amount" means the amount of indebtedness which meets both of the following criteria:

(1) Is incurred by the taxpayer for any of the following purposes:

(A) To acquire the principal residence of the taxpayer.

(B) As a qualified home improvement loan, as defined by Section 103A(l)(6) of Title 26 of the United States Code, on that residence.

(C) As a qualified rehabilitation loan, as defined by Section 103A(l)(7) of Title 26 of the United States Code.

(2) Is specified in the mortgage credit certificate.

(d) "Committee" means the Mortgage Bond and Tax Credit Allocation Committee established pursuant to Section 50185.

(e) "Entitlement allocation" means the allocation of qualified mortgage bonds to a state agency pursuant to Section 50190, and with respect to a local agency, the allocation of qualified mortgage bonds pursuant to subdivision (a) of Section 50189.

(f) "Federal act" means both of the following:

(1) For purposes of qualified mortgage bonds, Section 103A of the Internal Revenue Code of 1954 as enacted by the Mortgage Subsidy Bond Tax Act of 1980 or as hereafter amended, and includes administrative regulations adopted pursuant to that act.

(2) For purposes of mortgage credit certificates, Section 612 of the Tax Reform Act of 1984 (Public Law 98-369).

(g) Except as otherwise provided in Section 50197, "issuer" means a state agency or local agency and includes a redevelopment agency, housing authority or other local entity, authorized by state law to issue bonds, to which a local agency has assigned an allocation under

this chapter.

(h) "Local agency" means a city, county, or city and county.

(i) "Median household income" means "median household income", as defined by subdivision (f) of Section 52020.

(j) "Mortgage credit certificate" means any certificate which does all of the following:

(1) Is issued under a qualified mortgage credit certificate program by a state or local agency that has authority to issue qualified mortgage bonds to provide financing on the principal residence of a taxpayer.

(2) Is issued to a taxpayer by a state or local agency in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer's principal residence.

(3) Specifies the certificate credit rate and the certified indebtedness amount.

(k) "Mortgage credit certificate program" means any program which is established by the state or a local agency for any calendar year in which the state or a local agency is authorized to issue qualified mortgage bonds and under which the issuing agency elects not to issue an amount of qualified mortgage bonds which it may otherwise issue during the calendar year.

(l) "Qualified mortgage bonds" has the same meaning as that specified in the federal act, as defined by paragraph (1) of subdivision (f).

(m) "State agency" means the California Housing Finance Agency, the Veterans Affairs Department, the University of California Board of Regents, or any other state agency having the authority to issue qualified mortgage revenue bonds.

(n) "State ceiling" has the same meaning as that specified in the federal act, as defined by paragraph (1) of subdivision (f) and as established in accordance with that federal act by the Mortgage Bond and Tax Credit Allocation Committee as provided in Section 50187.

(o) "Supplementary allocation" means the allocation of qualified mortgage bonds to a local agency pursuant to subdivision (b) of Section 50189.

(p) "Territory" means for any city or city and county, the area within the boundaries of the city or city and county, and for any county, the area within the boundaries of the county not within the boundaries of any city.

SEC. 2. Section 50185 of the Health and Safety Code is amended to read:

50185. The Mortgage Bond Allocation Committee is hereby renamed the Mortgage Bond and Tax Credit Allocation Committee. The committee is composed of the Governor, or in the Governor's absence, the Director of Finance, the Controller, and the Treasurer. The Director of Housing and Community Development, the Executive Director of the California Housing Finance Agency, and two representatives of local government, one representative of the

counties appointed by the Senate Rules Committee, and one representative of the cities appointed by the Speaker of the Assembly shall serve as ex officio, nonvoting members. The Treasurer shall be the chairperson of the committee. The members of the committee shall serve without compensation. A majority of voting members shall be empowered to act for the committee. The committee may employ an executive secretary to carry out its duties under this chapter.

SEC. 2.5. Section 50195 of the Health and Safety Code is amended to read:

50195. (a) The committee shall establish and charge a fee which it determines is reasonably sufficient to cover all of the costs of the committee in carrying out its responsibilities under this chapter and Chapter 3.6 (commencing with Section 50199.7). The Mortgage Bond Allocation Fee Account in the General Fund is hereby renamed the Mortgage Bond and Tax Credit Allocation Fee Account. The fees shall be deposited by the committee in the Mortgage Bond and Tax Credit Allocation Fee Account and shall be available, upon appropriation by the Legislature, to the committee for the purpose of covering all of those costs, except that fees may be shared, in an amount determined by the committee, with any state or local agency through which an application has been submitted pursuant to Chapter 3.6 (commencing with Section 50199.7).

(b) Funds deposited in the Mortgage Bond and Tax Credit Allocation Fee Account are continuously appropriated without regard to fiscal year for purposes of sharing with state and local agencies pursuant to subdivision (a).

(c) Until the time that sufficient fee revenue is received by the committee, the committee may borrow any money as may be required for the purpose of meeting necessary expenses of the operation of the committee, not to exceed the amount appropriated. Any loan made to the committee pursuant to this subdivision shall be repayable solely from moneys appropriated to the committee from the Mortgage Bond and Tax Credit Allocation Fee Account and shall not constitute a general obligation for which the faith and credit of the state are pledged.

SEC. 3. Chapter 3.6 (commencing with Section 50199.7) is added to Part 1 of Division 31 of the Health and Safety Code, to read:

CHAPTER 3.6. LOW-INCOME HOUSING CREDIT

50199.7. The Legislature hereby finds and declares that the federal Tax Reform Act of 1986 (Public Law 99-514) establishes a low-income housing tax credit to stimulate the production and rehabilitation of shelter for lower income individuals and families.

The Legislature further finds that the federal law allows credit of up to 9 percent each year over a 10-year period for expenses for new construction and rehabilitation of each qualifying low-income unit.

A credit up to 4 percent each year over a 10-year period is provided for the expenses of acquisition or rehabilitation of an existing building, generally not placed in service within the last 10 years, and construction and rehabilitation of each qualifying low-income unit financed with tax-exempt bonds or similar federal subsidies.

The Legislature further finds that the federal law limits the low-income housing tax credits that can be annually issued by each state to an amount equal to one dollar and twenty-five cents (\$.25) multiplied by the state population. This credit authorization is to be allocated by the state housing credit agency. Not less than 10 percent of that amount is required to be set aside for projects involving nonprofit organizations.

The Legislature further finds that it is the intent of Congress that the credit agency reduce the credit percentage when financing and rental assistance for a project from all sources are sufficient to provide the continuing operation of the qualifying low-income building without the maximum credit.

The Legislature further finds and declares that it is necessary to designate the state housing credit agency and to establish an allocation system for the low-income housing credit.

50199.8. This chapter is enacted to implement the low-income housing tax credit established by the federal Tax Reform Act of 1986 (Public Law 99-514) in Section 42 of the Internal Revenue Code (26 U.S.C. Sec. 42).

To the extent that any provision of this chapter is held to be inconsistent with, or repugnant to, federal law, the provision shall be given effect in accordance with its terms to the greatest extent possible and consistent with the federal law and inconsistency shall have no effect on the remaining provisions of this chapter.

50199.9. As used in this chapter:

(a) "Committee" means the Mortgage Bond and Tax Credit Allocation Committee.

(b) "Housing credit" means the tax credit for low-income rental housing provided under Section 42 of the federal Internal Revenue Code (26 U.S.C. Sec. 42).

(c) "Housing credit applicant" means any owner or prospective owner of a qualifying low-income building or project who applies through the agency, the department, or a local agency for either of the following:

(1) An allocation of a portion of the current state housing credit ceiling.

(2) A reservation of a portion of the anticipated state housing credit ceiling of a subsequent year.

(d) "Housing credit ceiling" means the amount specified in Section 42(h)(3)(C) of the federal Internal Revenue Code. (26 U.S.C. Sec. 42(h)(3)(C)).

(e) "Local agency" means a city, county, or city and county.

(f) "Qualified low-income building" or "project" has the meaning specified in Section 42(c)(2) of the federal Internal Revenue Code

(26 U.S.C. Sec. 42(c)(2)).

50199.10. (a) For purposes of allocating low-income housing credits, the committee is hereby designated as this state's housing credit agency for purposes of Section 42(h) of the federal Internal Revenue Code (26 U.S.C. Sec. 42(h)). The committee shall annually determine and shall allocate the state ceiling in accordance with this chapter and in conformity with federal law. The committee shall determine the housing credit ceiling as soon as possible following the effective date of this chapter and thereafter following the commencement of each calendar year.

(b) The committee shall develop and provide application forms for use by housing credit applicants. The committee shall adopt uniform procedures for submission and review of applications of housing credit applicants, including fees to defray the committee's costs in administering this chapter. In the committee's discretion, the fees shall either be charged to a housing credit applicant as a condition of submitting an application or as a condition of receiving an allocation or reservation of the state's current or anticipated housing credit ceiling.

(c) In addition to allocating the current housing credit ceiling, the committee may reserve a portion of the state's anticipated housing credit ceiling for a subsequent year for a housing credit applicant.

(d) As a condition to making an allocation of the housing credit ceiling or a reservation of the anticipated housing credit ceiling for a subsequent year, the committee may require the housing credit applicant receiving the allocation or reservation to deposit with the committee an amount of money as a good-faith undertaking. The committee shall adopt policies for determining when deposits will be required, prescribing procedures for return of deposits, and specifying the circumstances under which the deposits will be forfeited in whole or in part for failure to timely utilize the allocation or reservation provided to the housing credit applicant.

(e) The committee may make any allocation or reservation of the state's housing credit ceiling to a housing credit applicant subject to terms and conditions in furtherance of the purposes of this part. The committee may condition an allocation or reservation on the execution of a contract between the housing credit applicant and the committee or the state or local agency through which the application was submitted, or both the committee and the state or local agency, requiring the housing credit applicant to comply with all the terms of Section 42 of the federal Internal Revenue Code, any applicable state laws, and any additional requirements which the committee deems necessary or appropriate to serve the purposes of this chapter, and providing for legal action to obtain specific performance or monetary damages for breach of contract.

50199.11. The committee shall adopt procedures for review, processing, and forwarding of applications specified in Section 50199.10 by the department, agency, and local agencies. The department, agency, and local agencies may adopt guidelines for

acceptance, review, and action on applications of housing credit applicants under this chapter and may establish and collect fees from housing credit applicants to defray administrative costs in processing the applications.

50199.12. The committee shall adopt and supply forms for eliciting information for purposes of this chapter from housing credit applicants, the department, agency, and local agencies. The department, agency, local agencies, and housing credit applicants shall provide the committee with any information requested by the committee in performing its duties and responsibilities under this chapter.

50199.13. No allocation or reservation of the housing credit ceiling under this chapter may be transferred by the housing credit applicant, unless the specific, written approval of the committee is obtained prior to the proposed transfer. Any transfer of an allocation or reservation shall be in writing and shall be subject to terms and conditions established by the committee.

50199.14. The committee, at any time, may announce priorities or set aside a portion of the current or anticipated housing credit ceiling. In order to promote the provision of affordable low-income housing within and throughout the state, the committee shall consider the following priority usages in allocating the housing credit ceiling:

(a) Projects which have been government-assisted affordable housing projects and which are eligible to convert to market-rate rental units.

(b) Projects which enhance the benefit of state or local financial and nonfinancial resources.

(c) Projects targeted to those special needs groups identified in the California Statewide Housing Plan.

(d) Projects which commit to providing a greater percentage of low-income units or for a longer period of time than is required in Section 42 of the federal Internal Revenue Code (26 U.S.C. Sec. 42).

(e) Projects which maximize the utilization of credits available to the state.

(f) Projects which meet the special housing needs of rural areas, as defined by Section 50101.

50199.15. The committee shall annually submit to the Legislature by January 1 of each year a report specifying, with respect to its activities under this chapter during the previous calendar year, (1) the total amount of low-income housing credits allocated by the committee, (2) the total number of units in buildings assisted by the credit that are occupied by very low income households and lower income households whose income is 60 percent or less of area medium gross income, (3) the amount of the credit allocated to each building, the other financing available to the building, and the number of units therein occupied by very low income households and lower income households whose income is 60 percent or less of area medium gross income, and (4) sufficient information to identify

the building and the taxpayer receiving the low-income housing credit therefor.

50199.16. All acts and proceedings taken by the committee prior to the effective date of this chapter to allocate the housing credit ceiling for 1987 under the Governor's proclamation dated February 27, 1987, are hereby confirmed, validated, and declared legally effective.

50199.17. The committee may adopt, amend, or repeal rules and regulations for allocation of housing credits for the 1987 calendar year without complying with the procedural requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These rules and regulations shall be effective upon adoption by the committee. However, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to the adoption, amendment, or repeal of rules and regulations for allocation of housing credits for years subsequent to 1987.

50199.18. This chapter shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. However, repeal of this chapter shall not invalidate or in any way affect the duration of any previously allocated low-income tax credits.

SEC. 4. The sum of one hundred thousand dollars (\$100,000) is hereby appropriated from the Mortgage Bond and the Tax Credit Allocation Fee Account in the General Fund for support of the Mortgage Bond and Tax Credit Allocation Committee for the 1987-88 fiscal year.

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

Under federal law a low-income housing tax credit is available for residential rental property placed in service between January 1, 1987, and December 31, 1989, and in certain cases as late as December 31, 1990. Therefore, to ensure that the 1987 allocation can be used in a timely fashion it is necessary that this act go into effect immediately.