

AMENDED IN SENATE JUNE 4, 2007
AMENDED IN SENATE APRIL 19, 2007
AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 713

**Introduced by Senator Lowenthal
(Principal coauthor: Senator Cedillo)**

February 23, 2007

An act to amend Section 50199.20 of, and to repeal Chapter 3.7 (commencing with Section 50199.50) of Part 1 of Division 31 of, the Health and Safety Code, and to amend Sections 12206, 17058, and 23610.5 of, and to repeal Sections 17053.14, 23608.2, and 23608.3 of, the Revenue and Taxation Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 713, as amended, Lowenthal. Farmworker housing assistance.

Existing law establishes a low-income housing tax credit program, administered by the California Tax Credit Allocation Committee, which provides procedures and requirements for the allocation of state tax credit amounts among low-income housing projects based on federal law. Existing law also establishes a farmworker housing assistance program and prescribes requirements for claiming tax credits under the program, including a requirement that expenditures upon which the amount of the credit is based shall be eligible costs, as defined, and a limitation on the amount of development fees that may be included as eligible costs.

This bill would repeal the farmworker housing assistance program and, instead, *would* require that an amount specified within those tax credit provisions be set aside for projects housing farmworker

households, as provided. This bill would, in the case of a partnership, require the distribution of the credits to partners based upon the partnership agreement, *regardless of whether the tax credit, or any portion of the federal low-income housing tax credit, as provided, is distributed to the partners, or whether the agreement has substantial economic effect, as specified.*

This bill would also repeal specified existing tax credits for farmworker housing authorized under the Personal Income Tax Law and the Corporation Tax Law.

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

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

1 SECTION 1. Section 50199.20 of the Health and Safety Code
2 is amended to read:

3 50199.20. (a) Not less than 20 percent of the federal ceiling
4 on low-income housing tax credits shall be set aside for allocation
5 to rural areas as defined in Section 50199.21. Any amount of credit
6 set aside for rural areas remaining after the ranking of credits in
7 the final cycle of any calendar year shall be available for allocation
8 to any eligible project.

9 (b) Up to 2 percent of the low-income housing tax credit
10 available under this chapter and Sections 12206, 17058, and
11 23610.5 of the Revenue and Taxation Code may be set aside for
12 small developments as determined by the committee. Any amount
13 of credit set aside for small developments remaining after the
14 ranking of projects in the final cycle of any calendar year shall be
15 available for allocation to any eligible project.

16 (c) Not less than the amount specified in paragraph (4) of
17 subdivision (g) of Section 23610.5 of the Revenue and Taxation
18 Code shall be set aside for projects housing farmworker
19 households.

20 SEC. 2. Chapter 3.7 (commencing with Section 50199.50) of
21 Part 1 of Division 31 of the Health and Safety Code is repealed.

22 SEC. 3. Section 12206 of the Revenue and Taxation Code is
23 amended to read:

24 12206. (a) (1) There shall be allowed as a credit against the
25 “tax” (as defined by Section 12201) a state low-income housing
26 tax credit in an amount equal to the amount determined in

1 subdivision (c), computed in accordance with Section 42 of the
2 Internal Revenue Code, except as otherwise provided in this
3 section.

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

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

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

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

19 (i) The project’s housing sponsor shall have been allocated by
20 the California Tax Credit Allocation Committee a credit for federal
21 income tax purposes under Section 42 of the Internal Revenue
22 Code.

23 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the
24 Internal Revenue Code.

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

32 ~~(C) A partner’s distributive share of a credit allowed under this
33 section shall be determined by the partnership agreement.~~

34 *(C) For a project to which the state low-income housing tax
35 credit, allowed pursuant to subdivision (a), is allocated on or after
36 January 1, 2008, the credit shall be distributed to the partners of
37 a partnership owning the project in accordance with the
38 partnership agreement, regardless of whether the credit or any
39 portion of the federal low-income housing tax credit with respect
40 to the project is distributed to the partners, or whether the*

1 *agreement has substantial economic effect, within the meaning of*
2 *Section 704(b) of the Internal Revenue Code.*

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

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

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

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

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

17 (F) No credit shall be allocated under this section to buildings
18 located in a difficult development area or a qualified census tract
19 as defined in Section 42 of the Internal Revenue Code for which
20 the eligible basis of a new building or the rehabilitation expenditure
21 of an existing building is 130 percent of that amount pursuant to
22 Section 42(d)(5)(C) of the Internal Revenue Code, unless the
23 committee reduces the amount of federal credit, with the approval
24 of the applicant, so that the combined amount of federal and state
25 credit shall not exceed the total credit allowable pursuant to this
26 section and Section 42(b) of the Internal Revenue Code, computed
27 without regard to Section 42(d)(5)(C) of the Internal Revenue
28 Code.

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

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

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

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

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

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

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

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

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

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 1715l(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.

36 (B) The restrictions on rent and income levels will terminate or
37 the federal insured mortgage on the property is eligible for
38 prepayment anytime within five years before or after the date of
39 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 regarding rehabilitation expenditures,
7 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
8 apply.

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

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

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

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

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

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

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

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

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

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

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

9 If, as of the close of any taxable year in the compliance period,
10 after the first year of the credit period, the qualified basis of any
11 building exceeds the qualified basis of that building as of the close
12 of the first year of the credit period, the housing sponsor, to the
13 extent of its tax credit allocation, shall be eligible for a credit on
14 the excess in an amount equal to the applicable percentage
15 determined pursuant to subdivision (c) for the four-year period
16 beginning with the later of the taxable years in which the increase
17 in qualified basis occurs.

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

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

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

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

30 (g) The aggregate housing credit dollar amount that may be
31 allocated annually by the California Tax Credit Allocation
32 Committee pursuant to this section, Section 17058, and Section
33 23610.5 shall be an amount equal to the sum of all the following:

34 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
35 year, and, for the 2002 calendar year and each calendar year
36 thereafter, seventy million dollars (\$70,000,000) increased by the
37 percentage, if any, by which the Consumer Price Index for the
38 preceding calendar year exceeds the Consumer Price Index for the
39 2001 calendar year. For the purposes of this paragraph, the term

1 “Consumer Price Index” means the last Consumer Price Index for
2 all urban consumers published by the federal Department of Labor.

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

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

13 (4) Five hundred thousand dollars (\$500,000) per calendar year
14 for projects housing farmworker households plus, on a one-time
15 basis, any unallocated credits available pursuant to Sections
16 17053.14, 23608.2, and 23608.3 as those sections read prior to
17 January 1, 2008.

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

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

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

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

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

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

1 (D) A provision that the regulatory agreement shall be deemed
2 a contract enforceable by tenants as third-party beneficiaries thereto
3 and which allows individuals, whether prospective, present, or
4 former 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 (E) A provision incorporating the requirements of Section 42
8 of the Internal Revenue Code as modified by this section.

9 (F) A requirement that the housing sponsor notify the California
10 Tax Credit Allocation Committee or its designee and the local
11 agency that can enforce the regulatory agreement 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 (G) A requirement that the housing sponsor, as security for the
15 performance of the housing sponsor's obligations under the
16 regulatory agreement, assign the housing sponsor's interest in rents
17 that it receives from the project, provided that until there is a
18 default under the regulatory agreement, the housing sponsor is
19 entitled to collect and retain the rents.

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

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

1 adjust the filing deadlines, maximum percentage of credit allocated,
2 and the allocation dates.

3 (2) The committee shall adopt a qualified allocation plan, as
4 provided in Section 42(m)(1) of the Internal Revenue Code. In
5 adopting this plan, the committee shall comply with the provisions
6 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
7 Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (iii) Existing projects that are “at risk of conversion,” as defined
19 by paragraph (3) of subdivision (c).

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

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

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

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

33 The term “secretary” shall be replaced by the term “California
34 Franchise Tax Board.”

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

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

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

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

9 SEC. 4. Section 17053.14 of the Revenue and Taxation Code
10 is repealed.

11 SEC. 5. Section 17058 of the Revenue and Taxation Code is
12 amended to read:

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

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

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

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

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

33 (i) The project’s housing sponsor shall have been allocated by
34 the California Tax Credit Allocation Committee a credit for federal
35 income tax purposes under Section 42 of the Internal Revenue
36 Code.

37 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the
38 Internal Revenue Code.

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

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

6 ~~(C) A partner's distributive share of a credit allowed under this~~
7 ~~section shall be determined by the partnership agreement.~~

8 *(C) For a project to which the state low-income housing tax*
9 *credit, allowed pursuant to subdivision (a), is allocated on or after*
10 *January 1, 2008, the credit shall be distributed to the partners of*
11 *a partnership owning the project in accordance with the*
12 *partnership agreement, regardless of whether the credit or any*
13 *portion of the federal low-income housing tax credit with respect*
14 *to the project is distributed to the partners, or whether the*
15 *agreement has substantial economic effect, within the meaning of*
16 *Section 704(b) of the Internal Revenue Code.*

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

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

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

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

27 (E) For buildings located in designated difficult development
28 areas or qualified census tracts as defined in Section 42(d)(5)(C)
29 of the Internal Revenue Code, credits may be allocated under this
30 section in the amounts prescribed in subdivision (c), provided that
31 the amount of credit allocated under Section 42 of the Internal
32 Revenue Code is computed on 100 percent of the qualified basis
33 of the building.

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

36 (1) In the case of any qualified low-income building placed in
37 service by the housing sponsor during 1987, the term "applicable
38 percentage" means 9 percent for each of the first three years and
39 3 percent for the fourth year for new buildings (whether or not the
40 building is federally subsidized) and for existing buildings.

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

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

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

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

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

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

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

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

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

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

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

37 (iv) Programs for rent supplement assistance pursuant to Section
38 101 of the Housing and Urban Development Act of 1965, Section
39 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.

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

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

14 (D) The property satisfies the requirements of Section 42(e) of
15 the Internal Revenue Code regarding rehabilitation expenditures,
16 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
17 apply.

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

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

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

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

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

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

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 shall apply in the aggregate to the
2 partners if the housing sponsor is a partnership and in the aggregate
3 to the shareholders if the housing sponsor is an “S” corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (4) Five hundred thousand dollars (\$500,000) per calendar year
24 for projects housing farmworker households plus, on a one-time
25 basis, any unallocated credits available pursuant to Sections
26 17053.14, 23608.2, and 23608.3 as those sections read prior to
27 January 1, 2008.

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

32 (i) Section 42(j) of the Internal Revenue Code shall not be
33 applicable and the following requirements of this section shall be
34 set forth in a regulatory agreement between the California Tax
35 Credit Allocation Committee and the housing sponsor, which
36 agreement shall be subordinated, when required, to any lien or
37 encumbrance of any banks or other institutional lenders to the
38 project. The regulatory agreement entered into pursuant to
39 subdivision (f) of Section 50199.14 of the Health and Safety Code

1 shall apply, providing the agreement includes all of the following
2 provisions:

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

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

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

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

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

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

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

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

39 (j) (1) The committee shall allocate the housing credit on a
40 regular basis consisting of two or more periods in each calendar

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

11 (2) The committee shall adopt a qualified allocation plan, as
12 provided in Section 42(m)(1) of the Internal Revenue Code. In
13 adopting this plan, the committee shall comply with the provisions
14 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
15 Code.

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

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

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

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

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

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

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

38 (vi) The housing sponsor shall demonstrate that the project
39 development team has the experience and the financial capacity

1 to ensure project completion and operation for the extended use
2 period.

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

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

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

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

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

22 (i) Projects serving large families in which a substantial number,
23 as defined by the committee of all residential units is comprised
24 of low-income units with three and more bedrooms.

25 (ii) Projects providing single room occupancy units serving very
26 low income tenants.

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

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.

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

1 The term “secretary” shall be replaced by the term “California
2 Franchise Tax Board.”

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

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

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

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

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

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

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

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

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

29 This section shall remain in effect on and after December 1,
30 1990, for as long as Section 42 of the Internal Revenue Code,
31 relating to low-income housing credits, remains in effect.

32 (r) The amendments to this section by the act adding this
33 subdivision shall apply only to taxable years beginning on or after
34 January 1, 1994.

35 SEC. 6. Section 23608.2 of the Revenue and Taxation Code
36 is repealed.

37 SEC. 7. Section 23608.3 of the Revenue and Taxation Code
38 is repealed.

39 SEC. 8. Section 23610.5 of the Revenue and Taxation Code
40 is amended to read:

1 23610.5. (a) (1) There shall be allowed as a credit against the
 2 “tax” (as defined by Section 23036) a state low-income housing
 3 tax credit in an amount equal to the amount determined in
 4 subdivision (c), computed in accordance with Section 42 of the
 5 Internal Revenue Code of 1986, except as otherwise provided in
 6 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 (b) (1) The amount of the credit allocated to any housing
 16 sponsor shall be authorized by the California Tax Credit Allocation
 17 Committee, or any successor thereof, based on a project’s need
 18 for the credit for economic feasibility in accordance with the
 19 requirements of this section.

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

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

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

28 (B) The California Tax Credit Allocation Committee shall not
 29 require fees for the credit under this section in addition to those
 30 fees required for applications for the tax credit pursuant to Section
 31 42 of the Internal Revenue Code. The committee may require a
 32 fee if the application for the credit under this section is submitted
 33 in a calendar year after the year the application is submitted for
 34 the federal tax credit.

35 ~~(C) A partner’s distributive share of a credit allowed under this~~
 36 ~~section shall be determined by the partnership agreement.~~

37 *(C) For a project to which the state low-income housing tax*
 38 *credit, allowed pursuant to subdivision (a), is allocated on or after*
 39 *January 1, 2008, the credit shall be distributed to the partners of*
 40 *a partnership owning the project in accordance with the*

1 *partnership agreement, regardless of whether the credit or any*
2 *portion of the federal low-income housing tax credit with respect*
3 *to the project is distributed to the partners, or whether the*
4 *agreement has substantial economic effect, within the meaning of*
5 *Section 704(b) of the Internal Revenue Code.*

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

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

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

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

16 (E) For buildings located in designated difficult development
17 areas or qualified census tracts as defined in Section 42(d)(5)(C)
18 of the Internal Revenue Code, credits may be allocated under this
19 section in the amounts prescribed in subdivision (c), provided that
20 the amount of credit allocated under Section 42 of the Internal
21 Revenue Code is computed on 100 percent of the qualified basis
22 of the building.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 If, as of the close of any taxable year in the compliance period,
10 after the first year of the credit period, the qualified basis of any
11 building exceeds the qualified basis of that building as of the close
12 of the first year of the credit period, the housing sponsor, to the
13 extent of its tax credit allocation, shall be eligible for a credit on
14 the excess in an amount equal to the applicable percentage
15 determined pursuant to subdivision (c) for the four-year period
16 beginning with the later of the taxable years in which the increase
17 in qualified basis occurs.

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

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

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

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

30 (g) The aggregate housing credit dollar amount that may be
31 allocated annually by the California Tax Credit Allocation
32 Committee pursuant to this section, Section 12206, and Section
33 17058 shall be an amount equal to the sum of all the following:

34 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
35 year, and, for the 2002 calendar year and each calendar year
36 thereafter, seventy million dollars (\$70,000,000) increased by the
37 percentage, if any, by which the Consumer Price Index for the
38 preceding calendar year exceeds the Consumer Price Index for the
39 2001 calendar year. For the purposes of this paragraph, the term

1 “Consumer Price Index” means the last Consumer Price Index for
2 all urban consumers published by the federal Department of Labor.

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

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

13 (4) Five hundred thousand dollars (\$500,000) per calendar year
14 for projects housing farmworker households plus, on a one-time
15 basis, any unallocated credits available pursuant to Sections
16 17053.14, 23608.2, and 23608.3 as those sections read prior to
17 January 1, 2008.

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

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

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

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

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

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

39 (4) A provision that the regulatory agreement shall be deemed
40 a contract enforceable by tenants as third-party beneficiaries

1 thereto, and that allows individuals, whether prospective, present,
2 or former occupants of the building, who meet the income
3 limitation applicable to the building the right to enforce the
4 regulatory agreement in any state court.

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

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

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

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

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

1 (2) The committee shall adopt a qualified allocation plan, as
2 provided in Section 42(m)(1) of the Internal Revenue Code. In
3 adopting this plan, the committee shall comply with the provisions
4 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
5 Code.

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

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

14 (i) The housing sponsor shall demonstrate that there is a need
15 for low-income housing in the community or region for which it
16 is proposed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 The term “secretary” shall be replaced by the term “California
2 Franchise Tax Board.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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