MINUTES

September 3, 2008
(Agenda Item 2)

California Debt Limit Allocation Committee
Jesse Unruh Building
915 Capitol Mall, Room 587
Sacramento, CA 95814

OPEN SESSION

Call to Order and Roll Call (Agenda Item 1)

Bettina Redway, Chairperson, called the California Debt Limit Allocation Committee (Committee) meeting to order at 1:37 p.m.

Members Present: Bettina Redway for Bill Lockyer, State Treasurer
David O'Toole for John Chiang, State Controller
Fred Klass, representing Arnold Schwarzenegger, Governor

Advisory Members Present: Theresa Parker, Executive Director
California Housing Finance Agency

Elliott Mandell, representing Lynn Jacobs,
Department of Housing and Community Development (HCD)

Quorum: The Chairperson declared a quorum

Approval of the Minutes of the July 16, 2008 Meeting (Agenda Item 2) (Action Item)

David O'Toole moved approval of the minutes from the July 16, 2008 meeting. Upon a second, the minutes passed 3-0 with the following vote: David O'Toole: Aye; Fred Klass: Aye; Bettina Redway: Aye.

Executive Director's Report (Agenda Item 3)

Joanie Jones Kelly stated that there was no Executive Director's Report for this meeting.

Consideration and Approval of the Apportionment of the H.R. 3221 Special 208 Volume Cap Among Eligible State Ceiling Pools (Agenda Item 4) (Action Item) Staff—Joanie Jones Kelly

Joanie Jones Kelly stated that the purpose of this meeting is to establish the parameters for the implementation of H.R. 3221, the Federal Housing legislation.

BACKGROUND:

On July 30, 2008 the Housing Assistance Tax Act of 2008 (the "Act") was enacted. The Act modifies certain rules (the "Qualified Mortgage Bond Rules") in the Internal Revenue Code of 1986 (the "Code") that apply to tax-exempt qualified mortgage bonds and qualified veterans' mortgage bonds, issued to finance mortgage loans for single-family residences. In addition, the Act provides additional volume cap for the issuance of qualified mortgage bonds, to be shared with tax-exempt bonds issued to finance qualified residential rental projects, and temporarily exempts interest on Qualified Mortgage Bonds and Tax-Exempt Multifamily Housing Bonds from the alternative minimum tax ("AMT"). The Act also creates a category of mortgage loans defined as "qualified subprime loans" and temporarily liberalizes certain Qualified Mortgage Bond Rules in connection with the refinancing of qualified subprime loans.

General Modifications to Qualified Mortgage Bond Rules are as follows:

1. Temporary Increase in Volume Cap
   The Act provides for $11 billion in additional 2008 volume cap for the purpose of issuing bonds for qualified mortgage bonds or for the purpose of issuing bonds to finance qualified residential rental projects ("Special 2008 Volume Cap"). California's share of the $11 billion cap is $1,177.5 billion.

   Special 2008 Volume Cap that remains unused at the end of 2008 may be carried forward through December 31, 2010.

2. Qualified Subprime Loans Refinancings Permitted
   The Code generally prohibits the use of any proceeds of an issue to acquire or replace existing single family mortgage loans. The Act temporarily lifts this restriction for proceeds used to refinance a mortgage on a residence that was originally financed by the mortgagor through a "qualified subprime loan." "Qualified subprime loan" is defined as "an adjustable-rate single family residential mortgage loan made after December 31, 2001, and before January 1, 2008, that the bond issuer determines would be reasonably likely to cause financial hardship to the borrower if not refinanced." Note that this rule imposes on the issuer of the bonds a duty to determine potential financial hardship to the mortgagor. The Act provides no express guidance as to how this determination may be made.

   a. No First-Time Homebuyer Rule (for subprime loans)
      In addition to prohibiting refinancing of existing mortgage loans, the Code generally requires that at least 95% of the proceeds of an issue of qualified mortgage bonds be used to finance residences of "first-time homebuyers", defined as "mortgagors who had no present ownership interest in their principal residences at any time during the three-year period ending on the date their [bond-financed] mortgage is executed." The Act exempts the issue from this requirement to the extent of any refinancings of qualified subprime loans.

b. Purchase Price Requirement Based on Market Value (for subprime loans)
Qualified mortgage bonds are generally subject to a requirement that mortgage loans finance only residences having a purchase price not in excess of 90% of the average purchase price for single family residences in the statistical area over the previous 12-month period. The Act provides that in the case of qualified subprime loans, the purchase price requirement will be applied based on the market value of the residence at the time of refinancing, in lieu of the purchase price.

c. Proceeds Must Be Used Within 12 Months of Issuance (for subprime loans)
The Act changes the “42 Month Rule” of Section 143(a) (D) (i) to a “12-Month Rule” for the refinancing of qualified subprime loans. Proceeds of an issue of qualified mortgage bonds used to refinance qualified subprime loans must therefore be used within the 12-month period beginning on the date of issuance of the issue (or, in the case of a refunding bond, within the 12-month period beginning on the date of issuance of the original bond) to refinance qualified subprime loans or, to the extent not so used, applied to call bonds. Note that an issue may include proceeds used both to refinance qualified subprime loans within 12 months of the issuance date and to finance new qualified mortgage loans within 42 months of the issuance date.

Effective Date of this Provision: Applies to bonds issued after the date of enactment of the Act.

Sunset Date of this Provision: Does not apply to any bonds issued after December 31, 2010. Note that there is no prohibition on recycling repayments of qualified subprime loans received after December 31, 2010, either to finance new qualified mortgage loans or to refinance additional qualified subprime loans. Repayments on all loans, including qualified subprime loans, received more than 10 years after the date of issuance of the issue must be applied to redeem bonds.

3. Repeal of Alternative Minimum Tax Limitations on Qualified Mortgage Bonds and Tax-Exempt Multifamily Housing Bonds
Prior to the Act, interest on tax-exempt bonds issued to finance mortgage revenue bond programs and finance or refinance qualified residential rental projects was a specific preference item for purposes of the alternative minimum tax and was included in the adjusted current earnings of corporate bondholders. The Act reverses the rules described in the preceding sentence. The Act provides that interest on tax-exempt bonds issued to finance or refinance qualified residential rental projects and mortgage revenue bond programs is not a specific preference item for purposes of the alternative minimum tax and is not included in the adjusted current earnings of corporate bondholders.

Effective Date of this Provision: Applies to bonds issued after July 30, 2008, that do not refund, directly or indirectly, bonds issued prior to July 31, 2008.

CDLAC Implementation Plan

The California Debt Limit Allocation Committee (CDLAC) will have to allocate the entire $1,177.5 billion allocation prior to December 31, 2008. Staff recommends the following plan of action to insure the December 31st timetable is met.

July 2008: Develop a plan for implementation of the additional allocation as defined by H.R. 3221.

September 3, 2008: Hold CDLAC Authority meeting to request board approval of the allocation implementation plan.

September 2008: Post on CDLAC website, HR 3221 application guidelines and Issuer deadlines for application submittal.

October 3, 2008: Applications for HR 3221 allocation due date.

December 3, 2008: CDLAC Authority to approve HR 3221 allocation disbursement.

December 3, 2008 - December 31, 2010: CDLAC will monitor allocation disbursed to California Issuers.

<u>DISCUSSION:</u>

Staff recommendations reflect the following H.R. 3221 priorities to:

1. Provide refinancing options that would enable qualifying Californians that currently have sub-prime loans to stay in their homes (Single Family Housing Program);

2. Revitalize communities by providing reduced interest rate mortgages to first time homebuyers via programs such as REO home purchase programs (Single Family Housing Program);

3. Promote additional housing for lower income families and individuals (Qualified Residential Rental Program);

4. Preserve and rehabilitate existing governmental assisted housing for lower income families and individuals (Qualified Residential Rental Program).

In making recommendations for the distribution of the Special 2008 volume cap, staff surveyed interested parties to determine estimated Single Family Housing (SFH) and Qualified Residential Rental Program (QRRP) demand for the December 3 allocation meeting.

Based on the survey, Qualified Residential Program Pool applicants anticipate a demand of $407.9 million in the General Pool; $47 million in the Rural Pool and $858.2 million in the Mixed Income Pool. While several applicants indicated that survey amounts provided were somewhat preliminary, staff expects demand in the QRRP Pool to far exceed available allocation. As a result, staff recommends reserving 20% ($235.5 million) of the available allocation for the Qualified Residential Rental Program Pool. Allocation will be awarded to those projects providing the greatest public benefit as evidenced in the total project score. Projects that meet the minimum point threshold, but fail to obtain an allocation in December will be deferred to the 2009, January allocation meeting where they will be merged into the January staff recommendations according to their score.

Based on the survey, Single Family Housing Program Pool applicants anticipate a demand of $1,177.5 billion. Staff recommends reserving 80% ($942 million) of the available allocation for the Single Family Program Pool. The pool amount will be split evenly between CalHFA and local MRB program applicants to administer REO and Refinancing programs. Please see exhibit B for County Fair Share amounts. The detailed recommendation is as follows:

1. CALHFA will receive a statewide allocation of the HR 3221 allocation in the amount of $471 million. Local county governments will receive allocation based on their Fair Share allocation (SEE EXHIBIT A)

2. Fairshare allocation that is not requested by local county governments in October 2008 will be awarded to CalHFA in December 2008 to be utilized on a statewide basis.

3. Mortgage Revenue Bond Program applicants <u>must</u> identify a proposed REO and/or Refinancing program in their CDLAC application to be eligible for an award of allocation.

<u>RECOMMENDATIONS:</u>

Staff recommends reservation amounts that reflect the H.R. 3221 legislative emphasis of providing loans to first-time homebuyers to encourage community revitalization, the refinancing of sub-prime loans, and the promotion of affordable multifamily housing. Staff recommends a reservation amount of $942 million for the Single Family Housing Program Pool and $235.5 million for the Qualified Residential Program Pool.

Lisa Bates, Deputy Executive Director of the Sacramento Housing and Redevelopment Agency (SHRA) stated the following:

In general, the SHRA is very supportive of staff's recommendations.

We have met with seven other cities and counties that have been hard hit by the foreclosure crisis. We are in agreement that the funds should be used for REO purchases and the refinancing of sub-prime loans as you are recommending. In addition, we believe that the majority of the funds should be directed to single-family housing which is what you are recommending today.

There are two other areas that we would like further discussion on. The first one is the targeting of resources geographically. We feel that the new MRB authority should be targeted to counties that have been the hardest hit by forclosures and then working in concert with the local government resources and policies that we are developing at the local level.

We recently had a visit from an Under-Secretary from HUD and we talked a lot about how they are going to use the formulas from the CDBG funds that will be coming to the State. Although we won't know until the end of this month, we did get a sense, I think, from the HUD representative that they are looking at not one size fits all but they are really targeting the hardest hit communities. SHRA would appreciate some preference of targeting resources to the State's hardest hit communities in the interest of revitalizing our communities.

The second area of discussion is the CalHFA pilot foreclosure program. SHRA is participating in the Sacramento area and we see it as a model for the statewide expansion under the new cap. We would ask that may be there would be some consideration about how we can broaden the lender participation in that program so that we can see more REO's being able to participate in the financing that will be offered and we would hope that maybe there would be an evaluation sometime early next year as to how that production is working given the limited number of lenders that are right now participating. Those are essentially our two requests or comments.

Joanie Jones Kelly responded stating that one of the points as far as the preference for the hardest hit areas, based on what CalHFA has found thus far, the foreclosures are in the hardest hit areas and those are where the majority of the financial institutions are willing to discount the properties. We are all on the same page of wanting to use these scarce resources so that we can help California given the dramatic impact the foreclosures have had on this state. I think that what we have said all along is that first of all CalHFA recognizes that we want to try to get more banks to become partners.

Teresa Parker responded stating part of the dilemma of encouraging the banks to be part of our program is that one of the important criteria is that they have to be willing to take a haircut on properties that they list with us at 12% or greater below current market values. We have four banks and a half-a-dozen other lenders to see if they will participate in this program. What we've also found is that the number of properties these banks hold are somewhat limited and the limitation is not because they don't want to list the property, it's because these properties do not fit the criteria for which we can make a mortgage loan. They are not habitable. I think one of the real obstacles that we in the housing business see is how to get some of these properties that are out there, vacant and are certainly pulling the communities value down and are becoming problems from crime to public health issues, something must be done to get them rehabbed so that they could be put on the market for a program like we are running in CalHFA. I am hopeful that not only with the resources that we see with bond cap but perhaps with CDBG and some of the other funds that are coming in there are different kinds of partnerships that could be formed that would leverage one another so that properties once they have been rehabbed may be able to be part of a very cost efficient loan to first-time homebuyers. I know it's difficult to do that but that's one of the reasons why I think the strengths of trying to work with locals is very helpful for CalHFA. We could try to do something on a statewide basis but if we could partner and work with the localities for the areas hardest hit, perhaps working with owners or developers, I think we can build on something that could be greater than any of us can do as individuals.

Bettina Redway stated that they have had some very constructive meetings to talk about these issues and ideas. She also stated that she hopes and assumes that CDLAC, CalHFA, and others will be reporting to the Committee hopefully in January and six months later to let the Committee know how these new programs are evolving.   These reports would give the Committee and the public an opportunity for additional dialogue regarding the program.

Theresa Parker stated that unfortunately there may have been some misconceptions with some people about the program that CalHFA was running but after CalHFA had a chance to talk through with folks there was a much better understanding about the program. Ms. Parker further stated that these programs are public information and can be accessed on CalHFA's website and she certainly would encourage everyone to please check out these programs online and if there are questions, call CalHFA and they will be happy to respond.

Lisa Bates, SHRA, stated that because they are local and on the ground, they are seeing a lot of things happening and they are seeing that the housing stock is moving not necessarily for first-time homebuyers or homebuyers but a lot of investor activity is taking place and we have that challenge and we are looking at community revitalization and how we make sure we have the best opportunity for our homebuyers to get a chance. As we are looking at how to use our resources locally and we are looking at targeting our hardest hit areas which have the housing stock that you are mentioning that is not inhabitable at this time and so we are looking at ways which we can use our CDBG to rehab them and hopefully partner with a lender to provide the financing through CalHFA. Just in terms of the resource going where the foreclosures are happening , right now just as an example, I think we have twenty-six properties in process in Sacramento but we are seeing about 1,300 a month new foreclosures coming onto the market so anyway we could work to expand that would be helpful.

Theresa Parker responded to Lisa saying that after their meeting she went back to her office to check the zip code list and that of the 28 zip codes on the list for homes that Lisa was targeting their were 20 on CalHFA's list even without all of the four participating banks zip codes having been submitted. The delimna is, as you said, is not how many are REO's but how many of the REO's are habitable, or are they with other lenders that are not part of our program and I believe we also gave to you and to the County of Contra Costa a list that we had put together by our colleagues in the Department of Real Estate that have a listing of foreclosures who the owners were of those properties by zip so that they could be pursued. CalHFA is also working with Freddie and Fannie because they have approx 4500 foreclosures throughout the State and we presume that they are in the hardest hit and impacted areas.

Ms. Redway stated that she thinks there are lots of good opportunities to bring deals into CalHFA program and make it work. There are more and more properties going into foreclosure.

Mark Louder, representing CRHMFA Homebuyers Program questioned whether or not previously approved 2008 fairshare assignment letters would be accepted for special allocation awards. He also indicated that CRHMFA would have to go back to all participating jurisdictions between now and October 3 to obtain new letters.

Ms. Jones-Kelly responded that this is a special allocation and that the assignment letters from before were for the regular SFH program and that yes, she assumes new letters would be needed. Ms. Jones-Kelly deferred the question to STO council.

Ms. Redway interjected stating that the question has been asked however, she would rather the discussion take place after the meeting unless there are any others that have the same question.

Ms. Parker questioned if the difference here was the intended use of funds.

Ms. Jones-Kelly responded yes.

Mr. Louder stated that he believed the intent of the Legislation was for refinancing, REO and regular purchases and that 2008 member letters indicate that all 2008 allocation would be assigned to CRHMFA.

Mrs. Jones-Kelly stated that the special 3221 allocation would be used for SFH community revitalization programs and that the application would indicate that applicants must identify a proposed refinance or REO (or similar) program. If an applicant anticipates using the allocation for its regular program than they would need to wait until 2009 allocation becomes available. This one time 3221 allocation is for refinancing and revitalization and it will not be used to supplant existing or future SFH program allocation. To insure the intent of the legislation is being met, staff will also expect 3221 allocation applicants to report back to staff regarding the usage of the allocation. Reporting requirements will likely be every 6-12 months.

Ms. Parker questioned how much proposed program definition or narrative staff would expect in the application.

Ms. Jones-Kelly responded that staff would need to be convinced that the allocation could be used for the purposes identified.

Ms. Redway also responded by stating that evidence of a plan or concept would be accepted. Details of loans, interest rates, etc. would not be required.

Ms. Parker stated that with a two-year availability period, it would be important to monitor usage to ensure allocation is not lost. Ms. Parker also stated that she was leaving for D.C. to meet with colleagues from other state HFA's to develop a refinancing program model. A FHA HOPE representative would also be available to assist with program development.

Fred Klass moved approval of staff's recommendation. Upon a second, the item passed 3-0 with the following vote: David O'Toole: Aye; Fred Klass: Aye; Bettina Redway: Aye.

<u>Public Comment</u> (Agenda Item 5)
There was no public comment.

<u>Adjournment</u> (Agenda Item 6)

The meeting adjourned at 2:14 pm.