

**Proposed Regulations Changes  
(11-24-15)**

**(Proposed new language is underlined and deleted language is struck)**

**Section 5033. Minimum Application Requirements.** (a) Applications for an Allocation of the State Ceiling may be submitted to the Committee at its offices in Sacramento, California. An Applicant must submit all required information appropriate to the type of Bond for which the Applicant requests an Allocation. The Applicant shall submit a complete Application and supplemental material for each project or program for which the Applicant is requesting an Allocation. Only complete Applications bearing the original signatures of an officer of the Applicant and the Project Sponsor, if applicable, will be accepted.

(b) Unless specifically exempted, the following items must accompany all Applications:

(1) Performance Deposit Certification and evidence of the performance deposit as provided in section 5050(a).

(2) A non-refundable first installment of the filing fee of \$600 made payable to the California Debt Limit Allocation Committee as provided in section 5054(a).

(3) Proof of the Bond sale structure requirements pursuant to article 6 of this chapter, if applicable, (for all Applications other than Applications relating to a Mortgage Credit Certificate Program pursuant to chapter 3).

(4) An inducement or reimbursement resolution adopted by the governing body of the Applicant approving the project or program to be Bond financed and authorizing a senior officer, or in the case of a Student Loan Program, an officer of the sponsor of the Student Loan Program, to file the Application with the Committee, pay any fees required by the Committee, and certify the posting of the required performance deposit.

(5) For all Applications other than those relating to a Mortgage Credit Certificate Program pursuant to chapter 3, a Recovery Zone Economic Development Bond Project, or a Qualified Energy Conservation Bond Project (governmental bond only), a TEFRA Resolution adopted by the governing body of the jurisdiction in which the proposed project or program will be located, or in the case of a Student Loan Program, a resolution adopted by the sponsor of the Student Loan Program, memorializing the public approval process as required by 26 U.S.C. section 147(f). The resolution shall clearly indicate that a public hearing was properly noticed and held with respect to the proposed issuance of Bonds. Such resolutions shall be accompanied by the approval of the Bonds for the specific project or program by the applicable elected representative as such term is defined in 26 U.S.C. section 147(f)(2)(E). A copy of the fully executed adopted resolution with the approval of the Bond issue must be provided to the Committee:

(A) No less than four (4) ~~five (5)~~ calendar days prior to the first public posting of Committee recommendations as provided in section 5035.

(B)(i) In the event that a copy of an adopted TEFRA Resolution cannot be provided within the timeframes set forth in subdivision (b)(5)(A) of this section, the Applicant shall provide written certification as to the date, time, location, and outcome of the public hearing, the approval of the issuance of Bonds by the applicable elected representative, and that the actions comply with the provisions of 26 U.S.C. section 147(f). The certification shall be accompanied by a copy of the notice announcing the public hearing. If the required documentation is not received within the timeframe specified above, the Application will not be considered for an Allocation.

(ii) In the event that a TEFRA Resolution for a proposed project or program is to be signed by a member of the Committee, the Applicant may submit only the minutes of the required public hearing and proof of publication of the notice announcing the public hearing no later than thirty (30) calendar days following the application deadline. Applicants shall submit the signed TEFRA Resolution no later than the date on which they submit a Report of Action Taken, as required by section 5142.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.85(a), 8869.85(b), and 8869.90, Government Code.

**Section 5052. Forfeiture of Performance Deposit.** (a) For Projects receiving an allocation award on or after March 16, 2016, an extension of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132 will result in forfeiture of the Project's performance deposit to the extent that the performance deposit has not previously been forfeited.

(b a) If less than 80% of the Allocation is used to issue Bonds or issue at least one (1) Mortgage Credit Certificate prior to the expiration date, a pro-rata portion of the deposit will be forfeited equal to the same percentage ratio as the amount of unused Allocation bears to the amount of awarded Allocation ~~unless the Committee determines there is good cause to return all or part of the deposit.~~ If 80% or more of the Allocation is used to issue bonds prior to the expiration date or issue at least one (1) Mortgage Credit Certificate prior to the expiration date, a full refund of the performance deposit will be authorized.

(c b) Applicants bear the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and/or timeframes set forth in the Committee Resolution.

(d e) The Applicant shall remit all forfeited performance deposits to the Committee within thirty (30) days of receipt of an invoice issued by the Committee.

(e) An Applicant may request waiver of a performance deposit forfeiture by submitting a written request to the Executive Director within 30 days of the date of the Committee's Forfeiture Fee Invoice. The Committee shall grant a forfeiture waiver upon a showing that the circumstances prompting the forfeiture were unforeseen and entirely beyond the control of the Project's sponsor and development team. The granting of a waiver pursuant to this subsection will not preclude performance deposit forfeiture for subsequent extensions of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e), and 8869.86(c)(3) Government Code.

**Section 5100. Program Expiration Dates.** (a) The expiration date of the Allocation ~~shall~~ will be specified in the Committee Resolution and shall start from the date on which the Committee awards the Allocation.

(b) Notwithstanding extensions as provided in sections 5101, 5102, or 5103; ~~or 5104, the limitations prescribed by section 5104;~~ or Allocations awarded on a carry-forward basis as provided in section 5131; ~~the initial~~ expiration dates ~~for to issuing issue~~ Bonds or convert~~ing~~ Bonds to Mortgage Credit Certificate authority shall be ~~no more than the following:~~

(1) Ninety (90) days for the issuance of Beginning Farmer Bonds, Mortgage Revenue Bonds, Small-Issue Industrial Development Bonds, Exempt Facility Bonds, Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, Qualified Energy Conservation Bonds and the conversion of Bonds to Mortgage Credit Certificate authority.

(2) One-hundred twenty (120) days for the issuance of Student Loan Bonds and for the issuance of at least one (1) Mortgage Credit Certificate.

(3) For Qualified Residential Rental Project Bonds, the following expiration dates shall be assigned randomly by a lottery drawing conducted by the Executive Director within five (5) business days following each Allocation Round:

(i) Projects receiving an allocation during a Competitive Application Process shall be assigned an expiration date of ninety (90) days, one-hundred (100) days or one-hundred ten (110) days.

(ii) Projects receiving an allocation during an Open Application Process shall be assigned an expiration date of one-hundred eighty (180) days or one-hundred ninety-four (194) days.

(iii) A project's applicant may request an expiration date of less than one-hundred eighty (180) days by submitting a written request to the Executive Director. The request shall be submitted no later than the final posting date for the round in which the project is seeking an allocation.

~~(1) One hundred ten (110) days for the issuance of Qualified Residential Rental Bonds, except as provided in section 5101.~~

~~(2) Ninety (90) days for the issuance of Mortgage Revenue Bonds, Small Issue Industrial Development Bonds, and Exempt Facility Bonds, or conversion of Bonds to Mortgage Credit Certificate authority.~~

~~(3) Ninety (90) days for the issuance of Recovery Zone Facility Bonds and Recovery Zone Economic Development Bonds, except as provided in section 5103.~~

~~(4) Ninety (90) days for the issuance of Qualified Energy Conservation Bonds.~~

~~(5) One hundred twenty (120) days, for the issuance of at least one (1) Mortgage Credit Certificates, and Student Loan Bonds.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e), 8869.89, Government Code.

~~**Section 5101. Lottery for Qualified Residential Rental Bonds.** To facilitate the issuance process for Qualified Residential Rental Bonds, Projects may be assigned an expiration date that is either ninety (90) days or less, one hundred (100) days or one hundred ten (110) days from the date of the Allocation. Within five (5) business days following each Allocation Round, these expiration dates will be assigned randomly by a lottery drawing conducted by the Executive Director. The Committee may extend the expiration date for the issuance of Qualified Residential Rental Bonds up to one hundred thirty (130) days solely for the purpose of coordinating pooled transactions with a common Bond sale structure or for the co-ordination of low income housing tax credits. The Committee may delegate this authority to the Executive Director.~~

~~Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c) and 8869.84(e), Government Code.~~

~~**Section 5101 5102. Extensions to Expiration Dates.** Excluding Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, and Mortgage Credit Certificates, Allocations awarded during an Open Application Process, Allocation Round the Executive Director may be extended up to the next regularly scheduled meeting at which time the Committee may elect to grant an additional extensions of up to ninety (90) days. The Committee may delegate this authority to the Executive Director.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.89, Government Code.

~~**Section 5102 5103. Recovery Zone Bond Extensions.** The Committee may extend the expiration date for the issuance of Recovery Zone Facility Bonds or Recovery Zone Economic Development Bonds to thirty (30) days. The Committee may delegate this authority to the Executive Director.~~

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c) and 8869.84(e), Government Code.

~~**Section 5103 5104. Five Day Hardship Extensions.** The Committee may grant an extension to the expiration dates provided in sections 5100, 5101, 5102, and 5103 up to five (5) additional~~

business days for extreme hardship cases. The Committee may delegate this authority to the Executive Director.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e), and 8869.89, Government Code.

**Section ~~5104~~ 5105. Year-End Allocations.** Unless the Committee authorizes the carry-forward of an Allocation pursuant to article 10 of this chapter, the expiration date of all Allocations shall be no later than December 31 of the same calendar year pursuant to 26 U.S.C. section 146(d), which defines the State Ceiling. ~~For Allocations awarded after October 15, The~~ the pending year-end expiration ~~may shall~~ result in the assignment of expiration dates shorter than as prescribed in section 5100.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c) 8869.84(e), and 8869.89, Government Code.

**Section ~~5105~~ 5106. Reversion to Committee.** Upon the expiration of an Allocation, any amount of the Allocation that has not been used to issue Qualified Private Activity Bonds or converted to Mortgage Credit Certificate authority will automatically revert to the Committee.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c) and 8869.89, Government Code.

**Section ~~5106~~ 5107. Veterans Home Loan Programs.** Carryforward Allocations made pursuant to article 10 of this chapter to a Veterans Home Loan Program are not subject to expiration except as set forth in 26 U.S.C section 146(f)(3).

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c) and 8869.84(e), Government Code.

**Section 5132. Expiration of Carryforward ~~CarryForward~~ Allocations.** The Committee will specify the expiration date of the carryforward Allocation in the Committee Resolution memorializing the grant of the Allocation. If any amount of the carryforward Allocation has not been used to issue Bonds or convert Bonds to Mortgage Credit Certificate Authority on or before the expiration date, the performance deposit will be forfeited to the Committee **and** the Committee may require the Issuer to transfer the carryforward Allocation to another approved Project by the same Issuer in accordance with section 5120. If the Committee does not require a transfer of the carryforward Allocation, the expiration date may be extended with the approval of the Executive Director until the Allocation expires pursuant to 26 U.S.C. section 146(f)(3) or to each subsequent deadline for submitting Applications to the Committee. At that time, the Committee may require the Issuer to transfer the carryforward Allocation to another approved Project by the same Issuer.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e), 8869.85(c), and 8869.86(a)(3), Government Code.

## Section 5170. Definitions

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“Community Revitalization Plan” means a comprehensive plan ~~adopted by a public entity~~ that details specific efforts being undertaken in a neighborhood or a community, that will result in the improvement of the economic conditions and the quality of life in that area.

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Federal Promise Zone means any area with a continuous boundary and a population of not more than 200,000 that is nominated by a local government or Indian tribe and designated by the U.S. Department of Housing and Urban Development to receive priority for Federal funding on the basis of its unemployment, poverty, vacancy, and crime rates.

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High Quality Transit means a transit line with service seven days per week that operates on a railway, dedicated right-of-way or contains at least one of the following characteristics for at least a portion of its route: use of a High Occupancy Vehicle (HOV) or High Occupancy Toll (HOT) lane, middle of the road boarding alignment, signal prioritization, or use of limited stop service, including express service and skip-stopping.

~~“HOPE VI Project” means a Project funded by a grant from the Urban Revitalization Program created by Public Law 102-389 and administered by the Department of Housing and Urban Development under section 24 of the United States Housing Act of 1937 (42 U.S.C. section 1437(v)).~~

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“HUD Acknowledgement Letter” means HUD correspondence outlining that a project has submitted an application for FHA financing, that the application has been deemed complete, and that HUD is committed to providing the project with a Firm Commitment Letter prior to the issuance expiration date of the project’s Allocation.

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“Native American Lands” means real property located within the State of California that meets both the following criteria:  
(a) is trust land for which the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians, or is restricted Indian land for which one or more tribes or individual Indians holds fee title to the tract or interest but can alienate or encumber it only with the approval of the United States.  
(b) the land may be leased for housing development and residential purposes under federal law.

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“Residential Rental Regulatory Agreement” means a covenant recorded against the title of a subject property by a government entity limiting the property’s use to rental housing and restricting tenant incomes and rents to no more than 80% Area Median Income of the County in which the property is located.

“Scattered Site Project” means multiple location Projects that:  
(a) except where a single existing project-based Section 8 contract is in effect that covers all locations, consist of no more than five (5) locations; and  
(b) are not contiguous except for the interposition of a road, street, stream or similar property; and  
(c) are proposed to be financed through a single pooled bond transaction; and  
(d) all locations are:  
(1) subject to a Residential Rental Regulatory Agreement or subject to a federal, state, or local rental or operating assistance agreement;  
(A) within the boundaries of the same city, or  
(B) within a 10-mile diameter circle within the same county, or  
(C) within the same county if no location is within a city having a population of five-hundred thousand (500,000) or more; or  
(2) All projects not described within (d)(1) must be within a one (1) mile diameter.

~~“Scattered Site Project—Competitive Round” means multiple location Projects which are either Federally Assisted At Risk Projects within the same city or within a five (5) mile diameter circle; or Non-Federally Assisted At Risk Projects within a one (1) mile diameter circle.~~

~~“Scattered Site Project—Non-Competitive Round” means multiple location Projects which are rehabilitation projects proposed to be financed through a single pooled bond transaction within the same city or within a ten (10) mile diameter circle. All other multiple location projects shall be considered to be “Scattered Site Project—Competitive Round” projects and shall be subject to all requirements applicable to such projects.~~

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"Standard QRRP Competitive Application" means the Application for an Allocation of the Qualified Residential Rental Project Pool titled "Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)" (revised ~~10-20-15~~ ~~01-21-15~~), which is hereby incorporated by reference.

"Standard QRRP ~~Open Non-Competitive~~ Application" means the Application for an Allocation of the Qualified Residential Rental Project Pool titled "Non-Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)" (revised ~~10-20-15~~ ~~01-21-15~~), which is hereby incorporated by reference.

Substantial Renovation Project means a multifamily residential rental project where the hard costs of rehabilitation, including overhead, profit, and general conditions, are at least \$35,000 per tenant unit.

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"Universal Competitive Addendum" means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool titled "Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum" (revised ~~10-20-15~~ ~~01-21-15~~), which is hereby incorporated by reference.

"Universal ~~Open Non-Competitive~~ Addendum" means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided

by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool titled “Non-Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum” (revised ~~10-20-15~~ ~~01-21-15~~), which is hereby incorporated by reference.

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Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

**Section 5190. Readiness.** In its Application, the Project Sponsor must demonstrate its readiness to use the Allocation as set forth in this section.

(a) Demonstrated site control. The Applicant shall provide evidence that the Project site is at the time of Application submission within the control of the Applicant or Project Sponsor. A current title report, or, for projects that will be located on Native American Trust Lands, a Land Title Status Report from the Bureau of Indian Affairs or an attorney’s opinion regarding chain of title and current title status, dated completed no more than ninety (90) days prior to Application deadline as provided in section 5030, shall be submitted with all applications for the purposes of this requirement.

(1) Site control may be evidenced by any of the following:

- (A) The Applicant or Project Sponsor holds fee title as evidenced by the title report;
- (B) An executed lease agreement or lease option for the length of time the Project will be regulated under this program between the Applicant or Project Sponsor and the owner of the subject property;
- (C) An executed disposition and development agreement for the length of time the Project will be regulated under this program between the Project Sponsor and a public agency; or
- (D) A valid, current, and enforceable contingent purchase and sale agreement or option agreement between the Project Sponsor and the owner of the subject property, including evidence that all extensions necessary to keep the agreement current through the date of the award of Allocation have been executed.
- (E) Valid, current and enforceable purchase and sale agreements, contingent purchase sale or option agreements in combination between the Project Sponsor, a third party and the owner of the subject property such that the Committee can determine that upon a grant of Allocation the Project Sponsor has a right to acquire the subject property.
- (F) The Executive Director may determine that site control has been demonstrated where a local agency has documented its intention to acquire the site, or portion of the site, through eminent domain proceedings as evidenced by order(s) of possession.

(b) Local Approvals and Zoning. The Project Sponsor shall provide evidence, no later than the application due date for the allocation round in which the Project is seeking an allocation at the time the Application is filed, that the site is zoned for the Project, as proposed, and that all applicable local land use approvals that are subject to the discretion of local elected officials and/or subject to public appeal have been obtained. Additionally, if any land use approval is subject to public appeal, within no less than 5 calendar days prior to the first public posting of the Committee, the applicant must provide proof that either no appeals were received, or that any appeals received during that time period were resolved and the project is ready to proceed. Examples of such approvals include, but are not limited to, general plan amendments, re-zonings, and conditional use permits, but do not include design review approvals. The Applicant may include a completed Verification of Zoning and Local Approvals form signed by an appropriate local government planning official of the applicable local jurisdiction for the purpose of satisfying this requirement. Those Qualified Residential Rental Pool Projects with redevelopment-related project financing that is subject to the approval of the Department of Finance (DOF) are required to have obtained a Final and Conclusive Determination Letter, or other written communication from DOF stating

that DOF does not issue, or concludes is unnecessary, a Final and Conclusive Determination for this form of redevelopment financing obligation, prior to submitting an application to the Committee.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5191. Income and Rent Restrictions.** All Qualified Residential Rental Projects must meet the following minimum income and rent restrictions, which will be included in the Committee Resolution.

(a) Minimum Income Restrictions. A minimum of ten percent (10%) of the units in a Qualified Residential Rental Project must have Gross Rents that are restricted to households with incomes no greater than fifty percent (50%) of the AMI. The rent restricted units that meet this requirement, with the exception of Mixed Income Pool Projects and units located on the upper level floors of high-rise developments, shall be generally distributed in terms of location and number of bedrooms throughout the Project. All units shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to those units that are available to other tenants.

(b) Minimum Rent Restrictions. Except for projects subject to an existing Residential Rental Regulatory Agreement that propose rents not exceeding one hundred-five percent (105%) of the current rents and operate with a vacancy rate of no more than five percent (5%), for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%) as demonstrated by a market study completed pursuant to Section 42 (m)(1)(A)(iii); the ~~The~~ proposed tenant paid rents for each Restricted Rental Unit type (defined by bedroom count) in the proposed development shall be at least ten percent (10%) below the weighted average rent for comparable market rate units and each Restricted Rental Unit's value ratio (dollars per square foot) shall be at or below the weighted average unit value ratio for comparable market rate units as demonstrated in a Rent Comparability Matrix meeting the requirements of article 4 of this chapter.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5192. Minimum Term of Restrictions.** (a) Income and rent restrictions must be maintained for the Qualified Project Period. For the purposes of this section, the Qualified Project Period is that period which begins on the date when ten percent (10%) occupancy is achieved and ends on the later of:

- (1) Thirty (30) years following the date on which fifty percent (50%) occupancy is achieved, or
- (2) The date on which Bonds are no longer outstanding.

(b) All Projects shall be subject to subdivision (a) or subdivision (c) of this section, unless a Project is intended for eventual tenant homeownership, in which case evidence of a financially feasible program must be submitted in the Application. The program shall include but is not limited to, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, no involuntary relocation of tenants, and a plan for conversion of the facility to home ownership no sooner than the end of the initial 15-year Qualified Project Period as required by 26 U.S.C. section 142(d)(2)(A). In such a case, the regulatory agreement shall contain provisions for the enforcement of such covenants.

(c) If the round in which an Application is being considered has been established under an Open Application Process, the Committee shall increase the minimum term of restriction to fifty-five (55) years following the date on which fifty percent (50%) occupancy is achieved. Projects located on Native American Lands shall have a term of restriction of 50 years from the property lease effective date.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5200. Minimum Requirements.** The Market Study must meet the current guidelines as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10322(h)(10).

(a) A full Market Study with a Rent Comparability Matrix for each applicable unit type prepared within (180) days of the Application deadline by an independent third party having no identity of interest with the Applicant, Project Sponsor, or Related Party is required.

(b) The study must establish both need and demand for the proposed Project. If the Market Study does not support sufficient need and demand for the Project, the Application may be considered ineligible to receive an award of Allocation.

(c) Except where a waiver is obtained from the Executive Director in advance of a submitted application, CDLAC shall not award an allocation to a rural new construction project if a tax-exempt bond, tax credit, or other publicly assisted project housing the same population is currently under construction or has received an allocation of bonds within the same market area. The Executive Director may grant a waiver where newly constructed housing would be replacing specific existing housing, or where extraordinary demand warrants an exception to the prohibition. The Executive Director may also grant a waiver for subsequent phases of a single new construction project where those phases are described in the application of the initial phase,

(d) A market study shall be updated when ~~either~~ proposed subject project rents change by more than five percent (5%), or the distribution of higher rents increased by more than 5%, or 180 days have elapsed between the earliest site inspection date for the subject property or comparable properties and the application submission deadline for the round in which the Project is seeking an allocation. ~~passed since the first site inspection date of the subject property and comparable properties.~~ CDLAC shall not accept an updated market study when more than twelve (12) months have passed since the earliest listed site inspection date of either the subject property or any comparable property. In such cases, applicants shall provide a new market study.

(e) Acquisition/Rehabilitation projects subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Section 5200(a), a comprehensive market study consistent with 26 U.S.C. Section 42 (m)(1)(A)(iii). The study must be a written statement certified by a third party market analyst and the project must meet at least one of the following requirements:

(1) as certified by a third-party market analyst, the proposed rents will not exceed one hundred-five percent (105%) of the current rents and a vacancy rate of no more than five percent (5%); for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%); or

(2) as evidenced by copies of executed contracts, that the Project has been receiving federal, state, or local operating or rental assistance and will continue to receive such assistance for at least five (5) additional years. If a contract demonstrating operating or rental assistance for an additional five (5) years is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract, and the expected contract execution date.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5205. Minimum Requirements.**

(a) Applicants shall provide a certification ~~of their intent to utilize landscaping and construction materials which are compatible with the neighborhood in which the proposed project is to be located, and that the architectural design and construction materials will provide for low maintenance and durability, as well as be suited to the environmental conditions to which the project will be subjected. Additionally, the~~

~~certification of intent shall note~~ that the following minimum specifications will be incorporated into the project design for all new construction and rehabilitation projects. The requirements of subsections (2) through (9) of this section are only applicable when investment in such elements is proposed in the Project's scope of work and/or the Capital Needs Assessment:

- (1) Energy Efficiency. ~~All new construction buildings shall be thirty percent (30%) better than the 2008 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24). Alternatively, new construction buildings may meet the 20 percent (20%) Zero Net Energy (ZNE) standard established at Section 5230(k)(4)(B).~~ All rehabilitation projects rehabilitated buildings shall have improved energy efficiency above the modeled energy consumption ~~of the building(s)~~ based on existing conditions, with at least a ten percent (10%) post-rehabilitation improvement over existing conditions. ~~energy efficiency achieved for each building~~ Scattered-site rehabilitation projects shall also have at least a five percent (5%) improvement over existing conditions at each location. In the case of projects in which energy efficiency improvements have been completed within ~~five two~~ five years prior to the application date pursuant to a government program or a public or regulated utility program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements.
  - (2) Landscaping. A variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs. Projects shall follow the requirements of the State's Model Water Efficient Landscape Ordinance (Title 23, California Code of Regulations, Section 490 et seq.) (<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/>) unless a local landscape ordinance has been determined to be at least as stringent as the current model ordinance.
  - (3) Roofs. Roofing shall carry a three-year subcontractor guarantee and at least a 20-year manufacturer's warranty.
  - (4) Exterior Doors. Insulated or solid core, flush, paint or stain grade exterior doors shall be made of metal clad, hardwood faces, or fiberglass faces; with all six sides factory primed and subject to a standard one-year guarantee.
  - (5) Appliances. Refrigerators, dishwashers, clothes washers and clothes dryers provided or replaced within low-income units and/or in on-site community facilities shall be ENERGY STAR rated appliances unless waived by the Executive Director. All waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline
  - (6) Window Coverings. Window coverings shall be provided and may include fire retardant drapes or blinds.
  - (7) Water Heater. For units with individual tank-type water heaters, minimum capacities are to be ~~28 30~~ 30 38 gallons for one-bedroom and two-bedroom units and ~~38 40~~ 40 48 gallons for three-bedroom ~~units or and~~ units and larger units.
  - (8) Floor Coverings. A hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. ~~All carpeting Carpet shall~~ Carpet shall comply with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D, ~~or alternatively, cork, bamboo, linoleum, or hardwood floors shall be provided in all other floor spaces unless this requirement is specifically waived by the Executive Director. All waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline.~~
  - (9) Insulation. All fiberglass-based insulation shall meet the requirements as established by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (f)(7)(I).
- (b) If a rehabilitation project's Applicant does not propose to meet the requirements of this section, its capital needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive. If section 5205(a)(1) specifically is not being met, a qualified energy consultant shall provide documentation stating what energy improvements would achieve the 10% improvement, the cost of such improvement(s), and a statement describing why the improvements would be unnecessary and/or excessively expensive.

(c) Compliance and Verification. ~~Evidence of compliance is to be submitted~~ Projects that receive an award of low income housing tax credits (LIHTC) shall submit evidence of compliance to TCAC with the Placed in Service Application. Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit evidence of compliance to CDLAC as an attachment to the first Certification of Compliance (the form of which is attached to the project resolution and which is required to be submitted on March 1 of each year). For projects under construction or rehabilitation, the information is due following receipt of the verification, but in no event shall this documentation be submitted more than two years after the issuance of bonds.

~~(1) Under subdivision (a)(1), Projects that have been newly constructed or rehabilitated must submit the appropriate California Energy Commission evidence for the Project that shows the necessary percentage improvement better than the Title 24 standards.~~

~~(2) Projects subject to~~ Under subdivision (a)(1), ~~Applicants with rehabilitation projects~~ must submit the California Energy Commission HERS II energy consumption and analysis report, which shows the pre-rehabilitation and post-rehabilitation HERS II estimated annual energy use demonstrating the required improvement, with ~~the their~~ first annual certification of compliance.

~~(2 3)~~ For subdivisions (a)(2) through (a)(~~9 11~~), Applicants shall submit third party documentation from one of the following sources confirming the existence of items, measures, and/or project characteristics:

- A. A certified HERS Rater;
- B. A certified GreenPoint Rater; or
- C. A US Green Building Council Certification.

~~(3 4)~~ Failure to produce appropriate and acceptable third party documentation for subdivisions (a) (1) through (a)(~~9 11~~) of this section may result in negative points.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5210. Minimum Expenditures.** (a) Except as set forth in subdivision (b) of this section, Qualified Residential Rental Projects involving the rehabilitation of existing buildings must complete a minimum of ~~\$15,000 \$10,000~~ in hard construction costs per unit.

(b) Federally Assisted At Risk Projects that receive only an award of Bond authority and do not receive low income housing tax credits, must spend the minimum amount required by 26 U.S.C. section 147(d)(2).

(c) For purposes of this article, “hard construction costs” means the ~~sum amount~~ of the structure costs plus on-site and off-site costs.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

### **Section 5230. Evaluation Criteria.**

(a) The following criteria will be used to evaluate and rank all Applications whether for Mixed Income Projects, Rural Projects or other Qualified Residential Rental Projects. Any points awarded in this section shall be rounded to the nearest one-tenth decimal place unless otherwise stated in this section. Each of the items in this section shall be memorialized in the Committee Resolution.

(b) Preservation Projects. Projects meeting the following criteria shall receive the following points, up to a maximum of 20 points:

(1) a project subject to a Residential Rental Regulatory Agreement or a local, state, or federal rental or operating assistance contract, or a project subject to an expired residential rental agreement that continues the rental structure prescribed by the expired residential rental agreement, as demonstrated by a copy of the executed agreement or contract, shall receive ten (10) points;

(2) a project eligible for points under subdivision (b)(1) shall receive an additional ten (10) points if it receives state or federal rental assistance or a state, federal, or local operating subsidy and, as a result, the rents are limited in at least fifty percent (50%) of the Project's tenant units to no more than thirty percent (30%) of each such unit's tenants' income, as demonstrated by a copy of the executed agreement or contract;

(3) a Project eligible for points under subdivision (b)(1) shall receive an additional ten (10) points if it has income restricted tenant paid rents for each Restricted Rental Unit type that on average are at least twenty percent (20%) below rents for the same unit types in comparable market rate rental properties, as demonstrated in a market study meeting the requirements of section 5200(e) and in a table utilizing three (3) market comparable properties for each restricted unit type in the Project.

~~Federally Assisted At Risk Projects and HOPE VI Projects (20 points maximum). Projects that are Federally Assisted At Risk Projects or HOPE VI Projects will receive ten (10) points. Projects that are Federally Assisted At Risk Projects or HOPE VI Projects and have income restricted tenant paid rents for each Restricted Rental Unit that is at least twenty percent (20%) below rents for the same unit types in comparable market rate rental properties will receive ten (10) additional points.~~

(c) Exceeding the Minimum Income Restrictions (35 points maximum for Qualified Residential Rental Projects other than Mixed Income Projects, 15 points maximum for Mixed Income Projects). Points will be awarded as set forth below for the percentage of units that are Restricted Rental Units. The Gross Rent definition will apply to the rents calculated in this subdivision.

(1) For each ten percent (10%) increment of units restricted at fifty percent (50%) of AMI or below, Qualified Residential Rental Projects other than Mixed Income Projects will receive seven (7) points, and Mixed Income Projects will receive three (3) points (fractional percentages above the minimum 10% increment will be calculated on a pro rata basis and the total points calculated will be rounded to the nearest whole number).

(2) For each ten percent (10%) increment of units restricted at greater than fifty percent (50%) of AMI, and up to sixty percent (60%) of AMI, Qualified Residential Rental Projects other than Mixed Income Projects will receive two (2) points, and Mixed Income Projects will receive one-half (½) point.

(d) Gross Rents (5 points).

(1) Five (5) points will be awarded to Projects which utilize Gross Rents to define Restricted Rental Units as evidenced by one of the following:

(A) A letter from the local public housing authority that includes a current utility allowance schedule, certifies that the proposed Project is located within its jurisdiction and itemizes which components of the utility allowance schedule applies to the Project. Projects that are subject to a Department of Housing and Urban Development (HUD) Section 8 Housing Assistance Payments Program do not require a housing authority certification and may rely solely on the utility allowance included in a HUD rent schedule provided the schedule specifically identifies the name of the Project.

(B) If a Project is to be substantially retrofitted for energy conservation or will be newly constructed with substantial energy conservation, the Applicant may submit revised utility allowances based on the projected reduction in utility costs after construction or retrofit. The revised utility allowances shall be validated by either of the following:

(i) A letter from the public utility or housing authority having jurisdiction over the Project that validates the revised utility allowances based on the proposed use of energy conservation materials, or

(ii) A current utility allowance estimate consistent with 26 CFR section 1.42-10. The Applicant must indicate which components of the utility allowance schedule apply to the Project. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission. The CUAC estimate shall be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA). Measures that are used in the CUAC that require field verification shall be verified by a certified HERS Rater, in accordance with current HERS

regulations. Use of the CUAC is limited to new construction projects and existing tax credit projects with Multifamily Affordable Solar Housing (MASH) program awards that offset tenant area electrical load.

(e) Exceeding the Minimum Rent Restrictions (10 points maximum). One (1) point will be awarded for each percentage point the highest rental rate of each Restricted Rental Unit type (defined by bedroom count) is more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rent Comparability Matrix. The average of all Restricted Rental Unit type percentage points beyond 20% will be used to determine the number of awarded points. All unit types must be more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rental Comparability Matrix to qualify for points under this category. Where sizes (defined by square footage) vary among those units with the highest rent, the smallest of these units shall be the basis for this comparison. When family comparables are used in addition to senior comparables (outside the 1-mile radius) points will be calculated using the family matrices. Applications receiving points under subdivision (b) of this section shall be ineligible to receive points under this subdivision.

(f) Exceeding the Minimum Term of Restrictions (10 points maximum). If the Committee establishes a Competitive Application Process, Applications that maintain the Qualified Project Period for longer than thirty (30) years will be awarded two (2) points for every five (5) years of affordability beyond thirty (30) years.

(g) Large Family Units (5 points).

(+) Five (5) points will be awarded to those Projects where at least twenty-five percent (25%) ~~thirty percent (30%)~~ of the Restricted Rental Units are three-bedroom or larger units.

(h) Leveraging (10 points maximum).

(1) Applications that include Public Funds as a permanent funding source are eligible for points.

All Public Funds must be committed by a public entity at the time of Application. Evidence provided shall signify the form of the commitment, the amount of the loan, grant or subsidy, the length of the term of the commitment, conditions of participation, express authorization from the governing body or an official expressly authorized to act on behalf of said governing body, committing the funds, and the Project Sponsor's acceptance. Commitments shall be final and only subject to conditions within the control of the Project Sponsor. Funding commitments shall be from funds within the control of the entity making the commitment at the time of the Application. One (1) point will be awarded for every dollar of Public Funds committed as a percentage of total development costs (minus developer fees) rounded to the nearest whole number.

(2) Applications that include Taxable Debt as a permanent funding source, in addition to tax-exempt Bond financing, are eligible for points based on the degree that the Taxable Debt supplants the use of tax-exempt Bond financing. The requirement for using Taxable Debt will be included in the Committee Resolution. Taxable Debt may only be utilized for project related expenses, not for the cost of issuance, for which the Applicant could otherwise have used tax-exempt financing in order to receive points under this category. One-half (1/2) of a point will be awarded for every dollar of Taxable Debt committed as a percentage of total development costs (minus developer fees) rounded to the nearest whole number.

(i) Community Revitalization Area Criteria (5 points). Projects meeting the following criteria will receive 5 points:

(1) The project is located within:

(A) any Qualified Census Tract or equivalent geographic area defined by the Census Bureau in which at least fifty percent (50%) of the households have an income of less than sixty percent (60%) AMI; or

(B) a Federal Promise Zone; and

(2) The development will contribute to a concerted Community Revitalization Plan as demonstrated by a letter from a local government official. The letter must delineate the community revitalization efforts, including but not limited to:

(A) community enhancement services in the neighborhood, including but not limited to, job training or after-school enrichment programs;

(B) funds, not including funds for the proposed project, that have been expended in the past three (3) years, that are being expended or that are committed to be expended to improve the community infrastructure, including, but not limited to, parks, storm water systems, sewer systems, or street improvements of the overall area;

(C) projects, including but not limited to, retail, office and housing that contributes to community revitalization that have been completed within the past three (3) years, are underway or are committed to be completed; and

(D) how the project would contribute to the community's revitalization.

~~Community Revitalization Area Criteria (15 points maximum)-~~

~~(1) Applications with Projects located in a Community Revitalization Area (CRA) will qualify for points provided that the CRA meets one or more Distressed Community characteristics and includes documentation from the municipality or any agency responsible for affordable housing with jurisdiction over the Project that substantiates the following:~~

~~(A) Confirmation that a plan for revitalizing the subject area has been adopted, the date of adoption and name of the CRA;~~

~~(B) Identification of which Distressed Community characteristic(s) is applicable to the CRA. If the applicable characteristic is pursuant to California Health and Safety Code sections 33000 et seq., a description of the blighted conditions that exist in the subject area must be included.~~

~~(C) Confirmation that the Project is within the CRA.~~

~~(D) A scaled-for distance map that is legible and clearly shows the boundaries of the CRA and the location of the proposed Project within the area boundaries.~~

~~(2) Points will be awarded if the documentation provided pursuant to subdivision (1) substantiates the following activities:~~

~~(A) Five (5) points will be awarded where specific and significant on-going programs in conjunction with community partnerships, evidenced by a legally enforceable agreement(s) between two or more wholly separate entities, have been established, are currently operating, and are providing community enhancement services in the neighborhood, including, but not limited to, job training or after-school enrichment programs.~~

~~(B) Five (5) points will be awarded where funds, not including the funds for the proposed Project, have been expended in the last three (3) years, are being expended or are committed to be expended to improve the community infrastructure, including, but not limited to, parks, storm water and sewer systems or street improvements of the overall area.~~

~~(C) Five (5) points will be awarded where other Projects, including, but not limited to, retail, office and housing that contribute to community revitalization have been completed in the last three (3) years, are underway or are committed to be completed.~~

~~(j) Site Amenities (10 points maximum)~~

~~(1) The Committee will award points to Applications with site amenities as described in this subdivision. Except as specifically set forth in this section, points will be awarded only for those amenities that exist at the time of Application. Applicants requesting points for site amenities that do not currently exist must include a letter from the controlling entity, signed by an authorized individual representing the entity, that states the funds for the amenity are committed, and the amenity is planned. The letter shall also state the anticipated date for the amenity to be placed in service, which shall not be more than two (2) years after the date the Project is anticipated to be placed in service.~~

~~(2) Points will be awarded provided the site amenities are appropriate for the population served, and a scaled-for-distance map showing the location of the Project and amenities are provided as follows:~~

~~(A) Points will be awarded for the following Transit amenities:~~

~~(1) Two and one-half (2 ½) points for projects located within one-third (1/3) mile of a Public Transit Corridor or, for Rural Projects where there is no public transportation system, to projects using a van or dial-a-ride service; or~~

~~(2) Two and one-half (2 ½) points for projects located within one-half (1/2) mile of a High Quality Transit stop or station.~~

(3) Projects eligible for points in subsection (A)(1) or (2) will receive the following additional points for committing to provide to residents monthly passes for the transit amenity for which the project received points at no cost or priced at no more than half of retail cost. Passes shall be made available on a first-come, first-served basis to all tenants of rent-restricted units for at least 15 years:

(i) three (3) points for at least one pass per rent-restricted unit

(ii) one and one-half points (1½) for at least one pass per each 2 Rent-Restricted units.

~~Two and one-half (2 ½) points will be awarded to Projects located within one-quarter (¼) mile of a Public Transit Corridor or, for Rural Projects where there is no public transportation system, to Projects using a van or dial-a-ride service.~~

(B) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a park or recreational facility.

(C) Points will be awarded under 1 of the 2 following categories: i) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile (1 mile for Rural Projects) of a full service grocery store of at least 25,000 gross interior square feet; or; ii) Two and one-half (2 ½) points will be awarded to Projects located within one-fourth (1/4) mile (one-half (½) mile for Rural Projects) of a full service grocery store of at least 5,000 gross interior square feet. Evidence shall include, but is not limited to, the following: a signed letter from a county assessor or city planner for that jurisdiction certifying the square footage of the grocery store, a letter from the store manager, or a letter from the Project's architect. The letter must state the square footage of the grocery market.

A full service grocery store shall mean for the purpose of this section a store or market that provides at minimum, food staples, fresh meats and/or poultry, dairy products, and produce, as well as other personal and household products and sundries.

(D) Two and one-half (2 ½) points will be awarded to Projects located near a school. The site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school that children living in the development may attend (an additional 1/2 mile for each public school type for Rural projects) and that the site is within the attendance area of that school. Projects where all units are restricted to households having members 55 years or older, shall not be eligible for points in this category. Evidence shall include, but is not limited to, the following: a signed letter from the school district with the appropriate Project address stating said address is within the boundaries of the school, or documentation from an internet-based school locator tool.

(E) Two and one-half (2 1/2) points will be awarded to Projects located within:

(i) 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic:

(I) that has a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, and

(II) that accepts Medi-Cal and Medicare payments, or Health Care for the Homeless for projects housing homeless populations, or that has an equally comprehensive subsidy program for low-income patients; or  
(ii) ~~1 1/2~~ mile (for Rural set-aside projects, 1.5 miles ~~1-mile~~) of a hospital (not merely a private doctor's office); or

(iii) ~~1/2 1/4~~ mile (for Rural projects, 1 1/2 mile) of a pharmacy.

(F) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile of a public library.

(G) Two and one-half (2 ½) points will be awarded to Projects which provide high speed internet or wireless "WiFi" service connection in each unit. High speed internet service, with a minimum average download speed of 768 kilobits/second must be made available to each unit for a minimum of ~~15~~10 years, free of charge to the tenants, and available at the time of the project's placed-in-service date.

(k) Sustainable ~~Building~~ Methods (10 points maximum).

(1) Points will be awarded provided that the Project Sponsor and the licensed Project architect each submit a certification indicating which items, commencing with subdivision (k)(3) of this section, will be included in the Project's design and any relevant specifications.

(2) The Project Sponsor shall submit a certification at Project completion from the Project's licensed architect that the design elements that formed the basis for any award of points pursuant to subdivision (k)

have been met or exceeded. A Project Sponsor may be subject to monitoring for compliance with this certification. A Project Sponsor receiving points under subdivision (k) who fails to meet this requirement will be subject to negative points under subdivision (n) of this section.

(3) Five (5) points will be awarded to Projects that commit to irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens).

(4) Two (2) points will be awarded to Projects that commit to having at least one (1) nonsmoking building. If the proposed Project contains only one (1) building, the Project is subject to a policy developed by the Sponsor that prohibits smoking in contiguous designated units. In both circumstances these restrictions shall be incorporated into the lease agreements for the appropriate units.

(5) Two (2) points will be awarded to Projects that commit to a parking ratio equivalent to or less than 1 parking stall per single room occupancy or one-bedroom restricted rental unit and 1.5 parking stalls per two-bedroom or larger restricted rental unit.

(6) (3) New Construction and Adaptive Reuse Projects: Five (5) points will be awarded to projects that commit to developing the project in accordance with the California Tax Credit Allocation Committee's minimum requirements for energy efficient programs, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(A).

(4) For projects receiving points under subdivision (k)(3) of this section, additional points for energy efficiency shall be awarded according to one of the following:

(A) Energy efficiency (including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy) beyond the requirements in the 2008 Title 24, Part 6, of the California Building Code (the 2008 Standards), shall be awarded as follows:

<u>Percentage better than the 2008 Standards</u>	<u>Low-Rise Multifamily (3 or fewer habitable stories)</u>	<u>High-Rise Multifamily (4 or more habitable stories)</u>
<u>32.5 percent</u>	<u>2 points</u>	<u>3 points</u>
<u>35 percent</u>	<u>3 points</u>	<u>5 points</u>
<u>40 percent</u>	<u>5 points</u>	

(B) Energy Efficiency with renewable energy that provides the following percentages of project tenants' energy loads:

<u>Offset of Tenants' Load</u>	<u>Low-Rise Multifamily (3 or fewer habitable stories)</u>	<u>High-Rise Multifamily (4 or more habitable stories)</u>
<u>20 percent</u>	<u>2 points</u>	<u>3 points</u>
<u>30 percent</u>	<u>3 points</u>	<u>4 points</u>
<u>40 percent</u>	<u>4 points</u>	
<u>50 percent</u>	<u>5 points</u>	

The percentage Zero Net Energy (ZNE) solar offset of a project's tenant energy loads is to be calculated using the California Utility Allowance Calculator (CUAC) with kilowatt hours (kWh) consumed to be balanced by kilowatts generated on-site. Gas use is to be converted to kWh for percentage ZNE offset calculations, assuming 1 Therm = 29.3 kWh, and 100,100 British Thermal Units (BTUs) = 29.3 kWh. Residential energy loads modeled by the CUAC shall include all energy used by tenants, both gas and electric, regardless of whether the energy load is billed to the owner or the tenants. This calculation excludes non-residential energy uses associated with the community building, elevators, parking lot

~~lighting, and similar end uses, but includes domestic hot water and Heating, Ventilation, and Air Conditioning (HVAC) loads, regardless of whether they are central or distributed.~~

~~(7.5) For projects receiving points under subdivision (k)(6.3) of this section, Applicants may be awarded points for committing to developing their project beyond the minimum requirements of the green building program chosen in subdivision (k)(6.3) of this section:~~

<del>LEED</del>	<del>Silver</del>	<del>Gold</del>
<del>GreenPoint Rated</del>	<del>Silver</del>	<del>Gold</del>
	<del>3 points</del>	<del>5 points</del>

~~(8) New Construction or Adaptive Reuse Projects not eligible for points under subdivision (k)(6) of this section shall be awarded energy efficiency points according to one of the following:~~

~~(A) Energy efficiency (including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy) beyond the requirements in the 2013 Title 24, Part 6, of the California Building Code (the 2013 Standards), shall be awarded as follows:~~

<del>Percentage better than the 2013 Standards</del>	<del>Low-Rise Multifamily (3 or fewer habitable stories)</del>	<del>High-Rise Multifamily (4 or more habitable stories)</del>
<del>9 percent</del>	<del>3 points</del>	<del>4 points</del>
<del>15 percent</del>	<del>5 points</del>	<del>6 points</del>
<del>24 percent</del>	<del>8 points</del>	<del>9 points</del>
<del>30 percent</del>	<del>10 points</del>	<del>10 points</del>

~~(B) Energy Efficiency with renewable energy that provides the following percentages of project tenants' energy loads:~~

<del>Offset of Tenants' Load</del>	<del>Low-Rise Multifamily (3 or fewer habitable stories)</del>	<del>High-Rise Multifamily (4 or more habitable stories)</del>
<del>20 percent</del>	<del>3 points</del>	<del>4 points</del>
<del>30 percent</del>	<del>4 points</del>	<del>5 points</del>
<del>40 percent</del>	<del>5 points</del>	

~~The percentage Zero Net Energy (ZNE) solar offset of a project's tenant energy loads is to be calculated using the California Utility Allowance Calculator (CUAC) with kilowatt hours (kWh) consumed to be balanced by kilowatts generated on-site. Gas use is to be converted to kWh for percentage ZNE offset calculations, assuming 1 Therm = 29.3 kWh, and 100,100 British Thermal Units (BTUs) = 29.3 kWh. Residential energy loads modeled by the CUAC shall include all energy used by tenants, both gas and~~

electric, regardless of whether the energy load is billed to the owner or the tenants. This calculation excludes non-residential energy uses associated with the community building, elevators, parking lot lighting, and similar end uses, but includes domestic hot water and Heating, Ventilation, and Air Conditioning (HVAC) loads, regardless of whether they are central or distributed.

(9.6) Rehabilitation Projects: The project will be rehabilitated to improve energy efficiency above the modeled energy consumption of the building(s) based on existing conditions. In the case of projects in which energy efficiency improvements have been completed within ~~two~~ five years prior to the application date pursuant to a public or regulated utility program or other governmental program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements. Points are awarded based on the building(s) percentage decrease in estimated annual energy use (or improvement in energy efficiency) in the building’s Home Energy Rating System II (HERS II) rating post rehabilitation:

Improvement Over Current	
15 percent	3 points
20 percent	5 points
25 percent	7 points
30 percent	10 points

(10.7) Additional Rehabilitation Project Measures.

(A) For projects receiving points under subdivision (k)(9.6) of this section, Applicants may be awarded three (3) points for committing to developing, and/or managing, their project with one or more of the following:

- (i) Photovoltaic (PV) generation that offsets tenant loads; or
- (ii) PV that offsets either 50 percent (50%) of common area load (if the combined available roof area of the project structures, including carports, is insufficient for provision of 50% of annual common area electricity use, then the project shall have onsite renewable generation based on at least 90 percent (90%) of the available solar accessible roof area); or
- (iii) Solar hot water for all tenants who have individual water meters.

(B) For projects receiving points under subdivision (k)(9.6) of this section, Applicants may be awarded ~~two three~~ (32) points for projects that implement sustainable building management practices including:

- (i) Develop a project-specific maintenance manual including replacement specifications and operating information of all energy and green building features; and
- ~~(ii) Certify building management staff in sustainable building operations per Building Performance Institute Multifamily Building Operator or equivalent training program; and~~
- ~~(ii iii)~~ Undertake formal building systems commissioning, retro-commissioning or re-commissioning as appropriate (continuous commissioning is not required).

(C) Applicants may be awarded three (3) points for individually metering or sub-metering currently master-metered gas, electricity, or central hot water systems for all tenants.

(11.8) Compliance and Verification. Projects that receive an award of low income housing tax credits (LIHTC) shall submit evidence of compliance to TCAC with the Placed in Service Application. Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit Evidence of Compliance is to be submitted to CDLAC as an attachment to the first Certification of Compliance (the form of which is attached to the project resolution and which is required to be submitted on March 1 of each year). For projects under construction or rehabilitation, the information is due following receipt of the verification, but in no event shall this documentation be submitted more than two years after the issuance of bonds. Compliance will be demonstrated as follows:

(A) For Applications that receive points under subdivisions (k)(~~6 3~~) and (k)(~~8 5~~) of this section, the Applicant must submit the appropriate required third party verification documentation showing the project has met the requirements for the relevant program.

(B) For Applications that receive points under subdivision (k)(~~7 4~~), the Applicant must submit the appropriate California Energy Commission compliance form for the project which shows the necessary percentage improvement better than the appropriate Standards. This compliance form must be the output from the building(s) modeled “as built” and reflect all relevant changes that impact the building(s) energy efficiency that were made after the Application was submitted. The compliance form must be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA). Documentation for measures that require verification by California Home Energy Rating System (HERS) Raters must also be submitted.

(C) For Applications that receive points under subdivision (k)(~~9 6~~), the Applicant must submit the California Energy Commission HERS II energy consumption and analysis report, completed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA), which shows the pre- and post- rehabilitation HERS II estimated annual energy use demonstrating the required improvement and is signed by a qualified HERS Rater.

(D) For Applications that receive points under subdivision (k)(~~10 7~~) the Applicants must submit the following documentation:

(i) For projects including photovoltaic generation that offsets tenant loads, the Applicant must submit evidence as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(F)(~~6 5~~)(i).

(ii) For sustainable building management practices ~~implemented by appropriately trained onsite staff~~, the Applicant must submit a copy of the energy management and maintenance manual and; the building commissioning plan, ~~and provide evidence onsite staff has been certified in green building operations and maintenance as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (c)(6)(F)(5)(ii). Owner certification of ongoing sustainable building management practices will be provided annually in accordance with section 5144 of the CDLAC Regulations.~~

(iii) For sub-metered central hot water systems, the Applicant must demonstrate compliance with the California Public Utilities Commission regulations for hot water sub-metering and billing by submitting a copy of the Utility Service Agreement from project’s local utility provider.

(~~12 9~~) Failure to produce the appropriate documentation for subdivisions (1) through (~~11 8~~) of this subsection may result in an award of negative points for the Project Sponsor.

(I) Service Amenities (10 points maximum).

(1) Points will be awarded provided the Project Sponsor certifies the following:

(A) Service amenities must be appropriate to the tenant population served and committed to for a minimum of ~~fifteen (15) ten (10)~~ years. Programs must be of a regular, ongoing nature and provided to tenants free of charge, except for day care services. Services must be designed to generate positive changes in the lives of tenants, such as increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets, increasing health and well-being, or improving the educational success of children and youth.

(B) Services must be provided on-site except that Projects may use off-site services within a one-half (½) mile of the Project (one and one-half (1½) miles for Rural projects) provided that they have a written agreement with the service provider at the time of Application enabling the development’s tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. Projects may use off-site services located more than one-half (½) mile from the Project (one and one-half (1½) miles for Rural projects) provided that they have a written agreement with the service provider at the time of Application enabling the development’s tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative, and a written agreement at the time of Application demonstrating that tenants will be provided with free of charge round-trip

transportation between the development and the off-site services. Referral services will not be eligible for points.

(C) Contracts with service providers, service provider experience, and evidence that physical space will be provided on- or off-site must be documented within the Application. Documentation must be provided for each category of services for which the Applicant is claiming service amenity points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided; state annual value of the services; commit that services will be provided for a period of at least one (1) year; and name the project to which the services are being committed. Evidence shall take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead. Services delivered by the on-site Property Manager or other property management staff will not be eligible for points under any category. All organizations providing services for which the project is claiming points must document that they have at least 24 months of experience providing services to the project's target population. Experience of individuals may not be substituted for organizational experience.

(D) The Application must propose a combined annual value of at least \$10,000, or \$5,000 for Projects of twenty (20) units or fewer, for those services. In addition, any donated services must be assigned a dollar value by the provider of those services. Applications must contain a detailed budget clearly displaying all anticipated income and expenses associated with the Project's services program.

(2) Points will be awarded in this subdivision as follows:

(A) Five (5) points to family Projects with after school programs of an ongoing nature. Programs shall include, but are not limited to: tutoring, mentoring, homework club, art and recreation activities.

Programs shall be provided on weekdays throughout the school year for at least 10 hours per week.

(B) Five (5) points to Projects with instructor-led educational classes, health and wellness, or skill building classes, including but not limited to: financial literacy, computer training, home-buyer education, GED, resume building, ESL, nutrition, exercise, health information/awareness, art, parenting, on-site food cultivation and preparation, and smoking cessation. Instruction is to be provided a minimum of 84 hours per year (drop-in computer labs, monitoring or technical assistance shall not qualify).

(C) Five (5) points to Projects with licensed childcare providing 20 hours or more per week (Monday through Friday) to residents of the development.

(D) Five (5) points to Projects with wellness services and programs, such services and programs shall provide individualized support for tenants (not group classes) but need not be provided by licensed individuals or organizations. The services and programs shall include, but are not limited to: visiting nurses programs, intergenerational visiting programs, and senior companion programs. The services and programs shall be provided for a minimum of 100 hours per year.

(E) Five (5) points to Projects with a full time-equivalent (FTE) bona fide service coordinator/social worker available, provided that the experience of the coordinator, the duties of the coordinator and a budget to pay for the coordinator are included in the Application. The minimum number of hours per year for the full time-equivalent service coordinator/social worker will be calculated based on the formula: 1) the number of bedrooms X 0.0017 = FTE multiplier; then 2) FTE Multiplier X 2,080 = minimum number of hours per year (up to a maximum of 2,080 hours). The responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or enrichment activities for tenants (such as holiday events, tenant council, etc.)

(m) New ~~Construction~~ construction and Substantial Rehabilitation Projects ~~projects~~ (10 points). Ten (10) points will be awarded to new construction, substantial renovation or adaptive re-use Projects with Restricted Rental Units.

(n) For projects subject to the Competitive Application Process, one (1) point will be awarded for each one percent (1%) of foregone eligible developer fee, as determined by the California Tax Credit Allocation Committee, pursuant to Title 4, Division 17, Chapter 1, Section 10327, up to a maximum of ten (10) points.

(Q #) Negative Points (No maximum).

(1) The Committee will deduct points for an Application involving a Project Sponsor that has been or is a Related Party to a Project Sponsor (i.e. in the ownership structure) for which an Allocation has been awarded as follows:

(A) Ten (10) points will be deducted for each failure to fully utilize the committed public subsidies or Taxable Debt for which points were awarded in connection with the prior Allocation, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control, or the amount not utilized is not material. This deduction will be assessed against the Project Sponsor for a period of two (2) calendar years (10 points each year) from the date on which the prior Allocation was awarded.

(B) Ten (10) points will be deducted for each failure to issue Bonds that results in the full amount of the Allocation reverting back to the Committee, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction will be assessed against the Project Sponsor for a period of two (2) succeeding years (10 points each year) following the year Allocation was awarded.

(C) Ten (10) points will be deducted for each failure to spend the proceeds of Bonds issued pursuant to an Allocation in full, or in accordance with the terms and conditions of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control, the amount not spent is not material, or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction will be assessed against the Project Sponsor for a period of three (3) calendar years (10 points each year) from the date of determination of failure to spend proceeds.

(D) Ten (10) points will be deducted for failure to comply with any provision of the Committee Resolution, unless it can be demonstrated that the failure was unforeseen and entirely outside of the Project Sponsor's control. This deduction will be assessed for a period of three (3) calendar years (10 points each year) from the date of determination of non-compliance with the Committee Resolution.

(2) Where TCAC has determined an Application for tax credits involving a Project Sponsor that has been or is a Related Party to a Project Sponsor who is subject to negative points under its regulations, CDLAC will deduct an equal amount of points for an equal period of time from tax exempt bond applications involving the Project Sponsor or a Related Party to the Project Sponsor.

(3) Where TCAC has determined an Applicant for tax credits involving a Project Sponsor that has been a Related Party to a Project sponsor who is subject to any type of determination of ineligibility, CDLAC will recognize the length of ineligibility and apply it to the tax exempt bond applications involving the Project Sponsor or Related Party to the Project Sponsor.

(4 2) Multiple or repeated failures of subdivisions (n)(1) or (3) of this section may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code

**Section 5232. Competitive Application Process Maximum Allocation Amount.** (a) For projects subject to the Competitive Application Process, the ~~The~~ Committee will allocate no more than fifty million dollars (\$50,000,000) ~~\$30,000,000~~ for any proposed Qualified Residential Rental Project. Where a proposed Qualified Residential Rental Project is located within one-fourth (1/4) mile of another Qualified Residential Rental Project involving the same Project Sponsor or a Related Party to the Project Sponsor, the Allocation amounts for the Qualified Residential Rental Projects cannot, in the aggregate, exceed fifty million dollars (\$50,000,000) ~~\$30,000,000~~ within a calendar year.

(b) The Committee may waive this maximum allocation amount if the Committee determines that the demand for allocation for Qualified Residential Rental Projects is such that the maximum allocation amount is not warranted. An Applicant requesting an Allocation in excess of fifty million dollars (\$50,000,000) ~~\$30,000,000~~ may seek a waiver from the Committee based on the following factors:

- (1) The Qualified Residential Rental Project qualifies as a Federally Assisted At-Risk Project; or
- (2) Documentation is provided in the Application indicating why a Qualified Residential Rental Project cannot be developed in phases at a ~~fifty million dollars (\$50,000,000)~~ \$30,000,000 level. The documentation must be specific and may include, but is not limited to, a site plan detailing the layout of the subject property, unit mix per stage of the phase, any unique features of the property which inhibits phasing, a description of infrastructure costs, and a cost breakdown by phases.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5250. Application Requirements.** (a) Applications for Scattered Site Projects shall provide all information required for each site. Additional stipulations are as follows:

- (1) Data in Table 1 and Table 2, as defined in section 5170, shall be provided for each site and as a combined total. Each site must independently meet the Committee's income and rent restriction requirements as required in section 5191.
- (2) A Capital Needs Assessment report may combine information for all Project sites in one report.
- (3) ~~For a Scattered Site Project Competitive Round, a~~ A Market Study may combine information for all Project sites in one report; however the Market Study shall have separate Rent Comparability Matrices for each site. ~~For a Scattered Site Project Non-Competitive Round, a market study and set of rent comparability matrices are not required if the proposed rents do not exceed one hundred and ten percent (110%) of the current rent levels, or if the property has been receiving and will continue to receive state or federal project based rental assistance or a state or federal operating subsidy for a minimum of the last five (5) years.~~
- (4) Acquisition/Rehabilitation Projects where each location is subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Sections 5200(a) and 5250(a)(3), a comprehensive market study consistent with 26 U.S.C. Section 42(m)(1)(A)(iii). The study must be a written statement certified by a third party market analyst and the project must meet at least one of the following requirements:
  - (A) as certified by a third-party market analyst, the proposed rents will not exceed one hundred-five percent (105%) of the current rents and a vacancy rate of no more than five percent (5%); for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%); or
  - (B) as evidenced by copies of executed contracts, the project has been receiving federal, state, or local operating or rental assistance and will continue to receive such assistance for at least five (5) additional years. If a contract demonstrating operating or rental assistance for an additional five (5) years is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract, and the expected contract execution date.
- (5) 4 Evidence of site control shall be required for each site.
- (6) 5 Any maps provided shall include each site.
- (b) An Applicant may seek a waiver of the Scattered Site five (5) location limit. A written request describing how the project will benefit from waiver of the location limit must be submitted no later than the application due date for the allocation round in which the Project is seeking an allocation.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

## **Article 11. ~~Forward Commitment Open Application Process Applications for Federal Housing Administration (FHA) Financed Projects in Non-Competitive Application Years~~**

**Section 5255. Application Requirements.** (a) A CDLAC Forward Commitment letter may be granted in lieu of an award of allocation until the Applicant receives the HUD Firm Commitment letter for the Project. A complete ~~Open Non-Competitive~~ Qualified Residential Rental Pool Application may be submitted when the Project meets the following requirements:

- (1 ~~a~~) Applications must meet the requirements of a Qualified Residential Rental Project, as described in Chapter 2.
- (2 ~~b~~) Applications may be submitted at any time with an expected staff review period of at least thirty (30) days.
- (3 ~~c~~) The Applicant must disclose upon application that the Project is a FHA financed development.
- (4 ~~d~~) In lieu of a HUD Firm Commitment letter, a MAP Lender commitment letter outlining the FHA financing must accompany the Application.
- (5 ~~e~~) All awards of allocation following a CDLAC Forward Commitment must occur prior to the last day of the calendar year.
- (6 ~~f~~) Proof of HUD Firm Commitment Application Submittal will be due within thirty (30) days of CDLAC Forward Commitment Approval.

(b) The Committee shall make an award of allocation for a new Application if the following is submitted no later than the application due date for the allocation round in which the project is seeking an allocation:

- (1) a complete Standard QRRP Open Application and application fee;
- (2) a MAP Lender commitment letter outlining the FHA financing; and
- (3) a HUD Acknowledgement Letter.

(c) The Committee shall make an award of allocation for an existing Applicant who has received a CDLAC Forward Commitment upon submission of a HUD Acknowledgement Letter no later than four (4) days before the first public posting of Committee recommendations as provided in section 5035.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

## **Article 12. Expiring Projects in Difficult Development Areas**

**Section 5258. Eligibility Retention.** (a) To confirm that a Qualified Residential Rental Project (QRRP) application is complete in order to retain a project's current year Difficult Development Area (DDA) status, an Applicant must submit the following items to CDLAC no later than 15 days prior to the expiration date of the project's DDA status:

- (1) the project's completed Qualified Residential Rental Project application; and
- (2) a written statement identifying the CDLAC allocation round in which the Applicant intends to seek an allocation, pursuant to a CDLAC generated list of eligible allocation rounds for projects in expiring DDA areas; and
- (3) a written request that CDLAC confirm the Application is complete.

(b) Upon determining that the application is complete, CDLAC will, prior to the expiration of the project's DDA status, provide the Applicant with a letter stating that the application is complete.

(c) The letter described in subsection (b) shall be void and of no effect unless the bond issuances for the project occur within the federally mandated timeframe for bond issuances applicable to projects with expiring DDA statuses.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5260. Definitions.**

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“MCC Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Mortgage Credit Certificate Program” (revised ~~10-20-15 1-11-14~~), which is hereby incorporated by reference.

“MRB Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Single-Family Housing Bond Program” (revised ~~10-20-15 1-11-14~~), which is hereby incorporated by reference.

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Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), Government Code.

**Section 5267. Consistency with Adopted Housing Elements.** (a) The proposed Single Family Housing Program must be consistent with the adopted housing element(s) for the jurisdiction(s) in which the program is to be operated. The California Department of Housing and Community Development must have determined the jurisdiction’s adopted housing element to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. In addition, as required under Section 65400 of the Government Code, the jurisdiction must have submitted an annual progress report to the California Department of Housing and Community Development for the preceding 12-month calendar year.

(b) Applicants requesting Allocation to implement a new Mortgage Credit Certificate Program shall submit the following:

- (1) Copies of the publicly-adopted documents required by section 5031(b); and
- (2) Copies of the program or operational manual.

(c) Applicants requesting Allocation for an existing Mortgage Credit Certificate Program shall submit the following:

- (1) A certification that the previously publicly-adopted documents required in section 5031(b) are valid and remain in force; or
- (2) Provide copies of newly publicly adopted documents.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5271. Allocation Method.** Applicants for the Single Family Housing Program Pool will be awarded an Allocation on a Fair Share Basis. If a request exceeds an Applicant’s Fair Share, additional funding can be provided to the extent allocation is available in the Undesignated Reserve Pool in the allocation year the funding is requested.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.

**Section 5273. Income and Purchase Price Certification.** The Applicant's bond or tax counsel must certify that the income and purchase price limits outlined in the CDLAC application for the program were established in accordance with a methodology authorized by the Internal Revenue Code.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), and 8869.85(b), Government Code.