



CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

801 Capitol Mall 2nd Floor
Sacramento, CA 95814
p (916) 654-5610
cpcfafa@treasurer.ca.gov
www.treasurer.ca.gov/cpcfafa

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Director of Finance

EXECUTIVE DIRECTOR
Reneé Webster-Hawkins

December 6, 2016

California Pollution Control Financing Authority The California Seismic Safety Capital Access Loan Program Notice of Emergency Regulations

The California Pollution Control Financing Authority (CPCFA), organized and operating pursuant to Sections 44500 through 44563 of the California Health and Safety Code, proposes to adopt the proposed regulations after considering all comments, objections, and recommendations regarding the proposed action.

CPCFA proposes to adopt Article 7 Sections 8078.15–8078.21 of Title 4 of the California Code of Regulations (the “Proposed Regulations”) concerning the establishment of the California Seismic Safety Capital Access Loan Program, to be administered by the CPCFA’s California Capital Access Program (the “Program”). These regulations are anticipated to be approved by the Office of Administrative Law on an emergency basis no later than December 27, 2016.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency regulation action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency regulations to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five (5) calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. Upon filing, OAL will have ten (10) calendar days within which to review and make a decision on the proposed emergency rule. If approved, OAL will file the regulations with the Secretary of State, and the emergency regulations will become effective for one hundred and eighty (180) days. Within the 180-day effective period, CPCFA will proceed with regular rulemaking action, including a public comment period. The emergency regulations will remain in effect during this rulemaking action.

In accordance with its authority under Health and Safety Code Sections 44520(b) and 44559.14 (d) and (e), CPCFA is proposing to adopt the regulations as emergency regulations. Attached to this Notice is the specific regulatory language of CPCFA’s proposed emergency action and Finding of Emergency. You may also review the proposed regulatory language and Finding of Emergency on CPCFA’s website at the following address: <http://www.treasurer.ca.gov/cpcfafa/>. If you prefer to receive a hard copy of the proposed

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emergency regulations please contact Betina Brantley at (916) 651-6432 and a copy will be provided at no cost.

The regulations will be presented to the CPCFA Board for approval at a public meeting to be held on December 13, 2016 at 10:30 A.M. in Room 587 at 915 Capitol Mall, Sacramento, California 95814.

Sincerely,



Renee Webster-Hawkins
Executive Director

Enclosure(s): Proposed Text of Regulations
Finding of Emergency

cc: Elena M. Miller, Deputy Executive Director
Robert Hedrick, CPCFA Legal Counsel
Patricia Crowson, Treasury Program Manager II
Bianca Smith, CalCAP Program Manager

RWH: em

FINDING OF EMERGENCY

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

Title 4, Division 11

Finding of Emergency

Pursuant to Section 44520(b) and 44559.14 (d) and (e) of the Health and Safety Code, the regulations being amended herewith by the California Pollution Control Financing Authority (the “Authority”) as emergency regulations (the “Emergency Regulations”) are, by legislative mandate, necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Necessity

These Emergency Regulations are necessary to implement, interpret, and make specific Article 8 of the California Pollution Control Financing Authority Act (the “Act”).¹ The Authority’s Capital Access Program (“CalCAP”) was authorized through Senate Bill 837, signed by Governor Brown on June 27, 2016, to implement the California Seismic Safety Capital Access Loan Program (the “CalCAP/ Seismic Safety Program”) that requires alternate provisions to be written into regulation as authorized in Section 44559.11 and Section 44559.14 (e) of the Act.

Authority and Reference

Authority: Sections 44520(a), 44520(b), and 44559.5(f), Health and Safety Code. Section 44520(b) of the Act authorizes the Authority to adopt regulations relating to small business financing as emergency regulations and instructs the Office of Administrative Law to consider such regulations to be “necessary for the immediate preservation of the public peace, health and safety or general welfare.” Section 44520(a) and 44559.5(f) of the Act authorize the Authority to adopt necessary regulations to carry out its powers and duties under this division in administering applications for financing.

Authority: Sections 44559.14 of the Health and Safety Code. Section 44559.14 of the Act authorizes the Authority to administer the California Seismic Safety Capital Access Loan Program to assist residential property owners and small business owners in seismically retrofitting residences and small businesses. The intent of the Act is not to assist with the physical expansion of small businesses and residences. Section 44559.14 of the Act also authorizes the Authority to adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340, including Section 11349.6) of Part 1 of Division 3 of Title 2 of the Government Code, and “the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare”.

Reference: Sections 44559.1, 44559.2, 44559.3, 44559.5, 44559.11, and 44559.14 of the Health and Safety Code; Sections 13340, 11340 and 11349.6 of the Government Code. These Emergency Regulations implement, interpret and make

¹ The Act is codified at Health and Safety Code sections 44500 through 44563 and Article 8 is codified at Health and Safety Code section 44559 through 44559.14.

specific Sections of the Act by adopting Sections 8078.15, 8078.16, 8078.17, 8078.18, 8078.19, 8078.20, and 8078.21 of Title 4, Division 11, Article 7 of the California Code of Regulations.

Informative Digest

Existing law establishes the Capital Access Program and authorizes the Authority to contract with specified financial institutions to make loans to eligible small businesses that may have difficulty obtaining capital. (Health and Safety Code, § 44559)

The proposed additions to the regulations allow the Authority to include alternate provisions specific to the California Seismic Safety Capital Access Loan Program (“CalCAP/Seismic Safety Financing Program”) within CalCAP’s existing Small Business Loan Program. The proposed regulations will create a self-sustaining program to provide loans to assist residential property owners and small business owners in financing the costs of seismically retrofitting residences and small businesses, meeting specified criteria, with priority on soft-story buildings and unreinforced brick and concrete buildings. The CalCAP/Seismic Safety Financing Program will provide a credit enhancement to support private bank loans to qualified residential property owners and qualified commercial property owners to make improvements to substantially mitigate seismic damage.

Pursuant to Title 1, Division 1 of the California Code of Regulations Section 12(b), the proposed regulations repeat and rephrase existing law to provide clarity to the CalCAP/Seismic Safety Financing Program’s participating financial institutions and qualified borrowers.

The Authority has performed a search of existing regulations and has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

The Proposed Amendments and Objectives for Each Section are as Follows:

§ 8078.15. Definitions.

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Necessity. The proposed amendments are necessary to include definitions specific to the CalCAP/Seismic Safety Financing Program.

§ 8078.16. Application by Financial Institution.

This section describes how financial institutions may apply to participate in the CalCAP/Seismic Safety Financing Program.

Necessity. The proposed regulation is necessary to provide clarification on how a financial institution may participate in the CalCAP/Seismic Safety Financing Program.

§ 8078.17. Loan Enrollment.

This section describes the contents of a completed application, contribution amounts, and terms of the enrollment. For an application to be deemed complete, the lender must submit information concerning the borrower and the project, and submit a lender certification that the application meets the CalCAP/Seismic Safety Financing Program's policies and regulations. In addition the borrower must self-certify on several aspects of the project as well as provide specific requested information regarding the project.

Necessity. A description of the application information is necessary to specify the application contents that must be provided in order for the Authority to evaluate whether the loan is qualified for enrollment in the CalCAP/Seismic Safety Financing Program.

§ 8078.18. Loss Reserve Accounts

This section describes the establishment of loss reserve accounts for participating financial institutions, and guidelines governing reporting and use of funds deposited in the loss reserve accounts.

Necessity. A description of how loss reserve funds are to be utilized and managed is necessary to ensure accountability and transparency.

§ 8078.19. Claim for Reimbursement

This section describes how participating financial institutions are to make claims for reimbursement for loans enrolled in the CalCAP/Seismic Safety Financing Program.

Necessity. The proposed regulation is necessary to provide a description regarding how participating financial institutions can file a claim for reimbursement on enrolled loans.

§ 8078.20. Subrogation

This section describes the procedure for the Authority's right to subrogation of participating financial institution's collateral during the claim process, should the situation arise.

Necessity. A description on how the Authority is to secure recovery under any collateral or security documents to which the Authority has been subrogated will help the Authority enforce its rights.

§ 8078.21. Termination and Withdrawal from Program

This section describes how a participant in the Program can withdraw or be terminated as a Participating Financial Institution. It also references how to handle the balance of the Loss Reserve Accounts.

Necessity. The proposed regulation is necessary to provide a description on how a Participating Financial Institution can withdraw from the program. It is also necessary as it describes how the Executive Director can terminate participation of a Participating Financial Institution in the Program.

Other Matters Prescribed by Statutes Applicable to the Specific State Agency or to any Specific Regulation or Class of Regulations

No other matters are prescribed by statute applicable to the Authority or to any specific regulation or class of regulation pursuant to Section 11346.1(b) or 11346.5(a)(4) of the Government Code pertaining to the Emergency Regulations or to the Authority.

Mandate on Local Agencies or School Districts

The Executive Director of the Authority has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts.

Fiscal Impact

The Executive Director of the Authority has determined that the Emergency Regulations do not impose any additional cost or savings requiring reimbursement under Section 17500 et al of the Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any State Agency pursuant to Section 11346.1(b) or 11346.5(a)(6) Government Code.

Proposed Regulations Implementing the CalCAP/ Seismic Safety Program

§ 8078.15 Definitions.

In addition to the definitions in Section 8070, the following definitions shall apply only to the California Seismic Safety Capital Access Loan Program. To the extent the definitions contained herein conflict with definitions contained in Section 8070, the definitions in this section shall control for purposes of the Program.

- (a) “CalCAP/Seismic Safety Contribution” means the Contribution(s) made by the Authority from the California Seismic Safety Capital Access Loan Program Fund established pursuant to Section 44559.14(c)(1) of the Health and Safety Code.
- (b) “Cost Estimate” means a written proposal or estimate of the Eligible Costs of materials, services, and other expenses identified to complete the Seismic retrofit construction for each Eligible project as provided by an engineer, architect or a licensed contractor.
- (c) “Earthquake-Resistant Bracing System” means a bracing system, certified by the Department of Housing and Community Development designed and constructed for the purpose of protecting the health and safety of the occupants and reducing damage in the event of an earthquake.
- (d) “Eligible Costs” means and includes all or any part, as defined in subdivision (b)(2) of Section 44559.14 of the Health and Safety Code, the costs paid or incurred on or after January 1, 2017, for an Eligible project, including any engineering or architectural design work necessary to permit or complete the Eligible project less the amount of any grant provided by a public entity for the Eligible project. “Eligible Costs” do not include costs paid or incurred for any of the following:
 - (1) Maintenance, including abatement of deferred or inadequate maintenance, and correction of violations unrelated to the seismic retrofit construction.
 - (2) Repair, including repair of earthquake damage.
 - (3) Seismic retrofit construction required by local building codes as a result of addition, repair, building relocation, or change of use or occupancy.
 - (4) Other work or improvement required by local building or planning codes as a result of the intended seismic retrofit construction.
 - (5) Rent reductions or other associated compensation, compliance actions, or other related coordination involving the qualified residential property owner or qualified small business and any other party, including a tenant, insurer, or lender.
 - (6) Replacement of existing building components, including equipment, except as needed to complete the seismic retrofit construction.
 - (7) Bracing or securing nonpermanent building contents.
 - (8) The offset of costs, reimbursements, or other costs transferred from the qualified residential property owner or qualified small business to others.

Proposed Regulations Implementing the CalCAP/ Seismic Safety Program

- (e) “Eligible project” means Seismic retrofit construction that is necessary to ensure that the Qualified building is capable of substantially mitigating seismic damage, and the financing necessary to pay Eligible Costs of the project.
- (f) “Program” or “CalCAP/Seismic Safety Financing Program” or “CalCAP/Seismic Safety Program” means the California Seismic Safety Capital Access Loan Program established pursuant to the Section 44559.14 of the Health and Safety Code. Where the term “Program” is used in Sections 8078.15 to 8078.21 inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(p).
- (g) “Qualified building” means a building in California that is certified by the appropriate local building code enforcement authority for the jurisdiction in which the building is located as hazardous and in danger of collapse in the event of a catastrophic earthquake. A “Qualified building” may be a single-family residence, multiunit housing building, multiunit housing building with commercial space, or mobilehome, manufactured home, and multifamily manufactured home installed in accordance with Health and Safety Code 18613.
- (h) “Qualified Loan” means a loan or portion of a loan as defined in subdivision (j) of Section 44559.1 or a loan made to a Qualified residential property owner, where the proceeds of the loan or portion of the loan are limited to the Eligible Costs for an Eligible project under this Program, and where the loan or portion of the loan does not exceed two hundred fifty thousand dollars (\$250,000), and where the term of loss coverage for each qualified loan is no more than ten years. “Qualified Loan” does not include any of the following:
 - (1) Any loan or portion thereof to the extent the same loan or portion thereof has been, is being, or will be enrolled in any other government program substantially similar to the Program; and
 - (2) Any loan where the total amount or value of loans enrolled in the Program by the Borrower exceeds \$250,000.
- (i) “Qualified small business” means a business referred to in subdivisions (i) and (m) of Section 44559.1 that owns and occupies, or intends to occupy, a Qualified building for the operation of the business.
- (j) “Qualified residential property owner” means either an owner and occupant of a residential building that is a Qualified building or a Qualified small business that owns one or more residential buildings, including a multiunit housing building, that is a Qualified building.
- (k) “Qualified commercial property owner” means either an owner and occupant of a commercial building that is a Qualified building or a Qualified small business that owns one or more commercial buildings, that is a Qualified building.
- (l) “Recapture” means the withdrawal of CalCAP/Seismic Safety Contribution amounts on an annual basis when enrolled loans mature or after one-hundred twenty (120) months from the date of enrollment, whichever occurs first. Recapture is not applicable for Contributions on charged off loans for which a claim has been approved.

Proposed Regulations Implementing the CalCAP/ Seismic Safety Program

- (m) “Registered mobilehome” means a mobilehome or manufactured home that is currently registered with the Department of Housing and Community Development and the Borrower’s name is on the Department of Housing and Community Development registration for that mobilehome or manufactured home.
- (n) “Seismic retrofit construction” means alteration performed on or after January 1, 2017, of a Qualified building or its components to substantially mitigate seismic damage. Seismic retrofit construction includes, but is not limited to, all of the following:
- (1) Anchoring the structure to the foundation.
 - (2) Bracing cripple walls.
 - (3) Bracing water heaters.
 - (4) Installing automatic gas shutoff valves.
 - (5) Repairing or reinforcing the foundation to improve the integrity of the foundation against seismic damage.
 - (6) Anchoring fuel storage.
 - (7) Installing an Earthquake-Resistant Bracing System for mobilehomes or manufactured homes that are registered with the Department of Housing and Community Development.

Note: Authority cited: Sections 44520, 44559.5(f), 44559.11(b), and 44559.14 Division 27, Health and Safety Code. Reference: Sections 44559.1, 44559.3, 44559.5, and 44559.11, Division 27, Health and Safety Code, and Sections 18613, 18613.4, 18613.5, and 18613.7, Division 13, Health and Safety Code; Sections 13340, 11340 and 11349.6, Government Code.

§ 8078.16 Application by Financial Institution.

Financial Institutions shall follow the procedures set forth in Section 8071 in making application to become Participating Financial Institutions in the Program.

Note: Authority cited: Sections 44520, 44559.5(f), 44559.11(b), and 44559.14 Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

§ 8078.17 Loan Enrollment.

- (a) The terms and conditions of the Qualified Loans, including rates, fees and other conditions, shall be determined solely by agreement of the Participating Financial Institution and the Borrower, consistent with the Participating Financial Institution’s usual methods for making determinations on loans that are not enrolled in the Program and subject to the safety and soundness standards as set forth in applicable federal banking regulations or State law regulating the Participating Financial Institution.
- (b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan:

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- (1) by notifying the Authority in writing, within 15 business days after the Qualified Loan is made, that it is enrolling a Qualified Loan. For purposes of this section, the date on which the Participating Financial Institution makes a Qualified Loan is the date on which the Participating Financial Institution first disburses proceeds of the Qualified Loan to the Borrower; and
 - (2) by transmitting to the Authority the Fees collected from the Participating Financial Institution and the Borrower in connection with the Qualified Loan, and by providing written evidence that the Fees have been deposited in a Loss Reserve Account held either by the Participating Financial Institution or the Program Trustee.
- (c) A Participating Financial Institution may enroll all or any portion of a Qualified Loan in the Program by submitting a CalCAP/Seismic Safety Loan Enrollment Application which shall include the following information:
- (1) The name of the Borrower, including an official business name or “Doing Business As”, if any.
 - (2) Name and title of individual(s) responsible for signing for the Qualified Loan on behalf of the Borrower(s).
 - (3) If a small business owner, brief description of the Borrower's business and regular activities, either the SIC Code(s) or the NAICS Code(s) applicable to such business.
 - (4) Brief summary of the intended use of the proceeds of the Qualified Loan consistent with uses permitted as Eligible Costs for Seismic retrofit construction.
 - (5) Location(s) of the Qualified building, including physical address.
 - (6) Type of Qualified building, residential or commercial property, and the number of dwelling units.
 - (7) Amount of the Qualified Loan being enrolled in the Program, and total loan amount if different, and the Participating Financial Institution loan number.
 - (8) Type of the Qualified Loan (e.g., secured, unsecured, term loan).
 - (9) Date of the Qualified Loan.
 - (10) Interest rate applicable to the Qualified Loan.
 - (11) Term or maturity date of the Qualified Loan.
 - (12) Whether the loan is for alteration(s) or retrofit(s) of a Qualified building located in a Severely Affected Community.
 - (13) If a Qualified small business, number of full-time equivalent employees currently

Proposed Regulations Implementing the CalCAP/ Seismic Safety Program

employed by the Borrower.

- (14) The Participating Financial Institution's certification that the loan is a Qualified Loan, and that the property owner receiving the Qualified Loan is a Qualified small business, Qualified residential property owner, or Qualified commercial property owner.
- (15) The Participating Financial Institution's certification upon enrollment of a Qualified Loan that the proceeds of the loan will be used for the Eligible Costs of Seismic retrofit construction.
- (16) The Participating Financial Institution's certification that, upon request of the Executive Director, the Participating Financial Institution will provide information from the financial records of the Borrower, and that the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.
- (17) The Participating Financial Institution's certification that the total amount of loans for the Borrower enrolled in the CalCAP/Seismic Safety Program does not exceed \$250,000.
- (18) The Participating Financial Institution's certification that it has obtained a written representation from the Borrower that the Borrower has no legal, beneficial or equitable interest in the CalCAP/Seismic Safety Contribution.
- (19) The Participating Financial Institution's certification that the Borrower has provided a Cost Estimate prepared by an engineer, architect or a licensed contractor, and that the Cost Estimate for Seismic retrofit construction to be financed is limited to Eligible Costs.
- (20) The Participating Financial Institution's certification, when the Qualified building is a mobilehome or manufactured home, that the Borrower has provided a record of Borrower's name on a current registration from the Department of Housing and Community Development for the mobilehome or manufactured home.
- (21) The Participating Financial Institution's certification that its usual methods of securing collateral have been applied, including if applicable a lien placed on the Borrower's Qualified building for the amount of the Qualified Loan.
- (22) The Participating Financial Institution's certification that the Borrower will provide all applicable licenses or permits needed for the Seismic retrofit construction and satisfy the local building enforcement agency or the Department of Housing and Community Development compliance and inspection requirements once Seismic retrofit construction is completed.
- (23) The Participating Financial Institution's certification that the Qualified Loan is not a restructured or refinanced loan and has not previously been enrolled in the Program.
- (24) Acknowledgment that the lending activities of the Participating Financial Institution

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are subject to any applicable safety and soundness standards as set forth in applicable lending regulations.

- (25) The Participating Financial Institution shall be authorized to certify to the information requested by subsections (12), (13), (14), (18) and (19) above based upon the Participating Financial Institution's established due diligence and underwriting standards, and shall maintain substantiating documentation in the Borrower's loan file.
- (26) Certification from the Participating Financial Institution that it has not, and will not, enroll the Qualified Loan, or any portion thereof, in any other Capital Access Loan Program for Small Business offered by the Authority as long as funds are available for this Program.
- (27) Certification from the Participating Financial Institution that it has provided the Borrower CPCFA's Privacy Notice for the CalCAP/Seismic Safety Financing Program, which provides the notice required under the California Information Practices Act (CIPA) (Civil Code section 1798.17). The Privacy Notice for the CalCAP/Seismic Safety Financing Program informs the Borrower that personal information protected by the CIPA may be disclosed under the following circumstances:
 - (A) To consultants, auditors or contractors retained by the CPCFA where disclosure is required to fulfill CalCAP program requirements and subject to a nondisclosure agreement;
 - (B) To another governmental entity where required by state or federal law; or
 - (C) As otherwise required by law.
- (28) The submittal of a completed Borrower's Eligibility Criteria and Self-Certification form in which the Borrower certifies to the following:
 - (A) That it satisfies the definitions in Sections 8078.15(d), 8078.15(e), 8078.15(g), 8078.15(h), 8078.15(i), 8078.15(j) and 8078.15(k) of the California Seismic Safety Capital Access Loan Program Regulations;
 - (B) The Qualified building is located within the boundaries of the State of California;
 - (C) The Borrower has legal control of the facility for a term that is equal to or greater than the length of the enrolled loan, and assumes financial liability of the loan;
 - (D) The Borrower agrees to allow the Participating Financial Institution to provide information from financial records of the Borrower upon request of the Executive Director of CPCFA;

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- (E) The Borrower has no legal, beneficial, or equitable interest in the CalCAP/Seismic Safety Contribution;
 - (F) If the Seismic retrofit construction financed through this Program is a part of a larger construction project carried out by the Borrower, the enrolled amount of the Qualified Loan in this Program is limited to Eligible Costs necessary and allocable to the Eligible project;
 - (G) The Borrower will provide all applicable licenses or permits needed for construction related to Eligible Costs for the Seismic retrofit construction to the Participating Financial Institution;
 - (H) The Borrower has provided verification of Eligible Costs less the amount of any grant provided by a public entity for the Eligible project to the Participating Financial Institution;
 - (I) The Borrower's certification that the proceeds of the loan will be used for the Seismic retrofit construction of an Eligible project;
 - (J) The Borrower's certification when the Qualified building is a mobilehome or manufactured home that it is currently registered with the Department of Housing and Community Development and the Borrower's name is on the Department of Housing and Community Development registration for that mobilehome or manufactured home;
 - (K) The Borrower agrees to allow CPCFA staff or its designee to inspect the project site.
- (d) Upon enrollment of a Qualified Loan, the Participating Financial Institution shall elect a Contribution between 2 and 3.5 percent of the Qualified Loan, and shall deposit the Participating Financial Institution's and Borrower's Contributions each in the elected amount into the Participating Financial Institution's Loss Reserve Account established for the Program pursuant to Section 8078.15.
- (e) Upon verification of the deposit of the Participating Financial Institution's and Borrower's Contributions, Qualified Loans with a term of sixty (60) months or less shall receive a CalCAP/Seismic Safety Contribution equal to four times the amount of the Participating Financial Institution's Contribution. All other Qualified Loans shall receive a CalCAP/Seismic Safety Contribution equal to three times the amount of the Participating Financial Institution's Contribution.
- (f) All Qualified Loans with a term of sixty (60) months or less that support Eligible projects located in a Severely Affected Community shall receive an additional CalCAP/Seismic Safety Contribution in the amount of two times the Participating Financial Institution's Contribution. All other Qualified Loans that support Eligible projects located in a Severely Affected Community shall receive an additional CalCAP/Seismic Safety Contribution in

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the amount of one time the Participating Financial Institution's Contribution.

- (g) Without regard to the terms of the loan, the term of enrollment in the Program shall not exceed one hundred twenty (120) months from the date of first disbursement of the Qualified Loan.
- (h) Qualified Loans shall no longer be enrolled in the Program upon the sale, transfer or refinancing of the Qualified building or Qualified Loan, and shall be deemed to have matured within the meaning of 8078.18(c) upon the date of such sale, transfer or refinancing.

Note: Authority cited: Sections 44520, 44559.5(f), 44559.11(b), and 44559.14 Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code, and Section 18613, Division 13, Health and Safety Code.

§ 8078.18 Loss Reserve Accounts

- (a) Upon the Executive Director's acceptance of an application by a Participating Financial Institution, CPCFA shall establish a Loss Reserve Account for that Participating Financial Institution for this Program for the following purposes:
 - (1) To receive deposits from the Participating Financial Institution Contributions, the Borrower Contributions and the CalCAP/Seismic Safety Contributions; and
 - (2) To pay claims in accordance with Section 8078.19.
- (b) All moneys in a Loss Reserve Account are property of the Authority held in trust to be used only for the valid and lawful purposes of the Program as provided by these regulations. Interest or income earned on moneys credited to the Loan Loss Reserve Account shall be deemed to be part of the Loss Reserve Account. The Executive Director shall be authorized to withdraw from the Loss Reserve Account all interest and income that has been credited to the Loss Reserve Account. The Executive Director shall be authorized to withdraw Contributions improperly deposited in a Loss Reserve Account.
- (c) The Executive Director shall be authorized to Recapture the CalCAP/Seismic Safety Contribution from the Loss Reserve Account when the corresponding Qualified Loan matures or at ten years from the date of enrollment, whichever occurs first.
- (d) On an annual basis after March 31, CPCFA will send a notice to the Participating Financial Institution listing the CalCAP/Seismic Safety Contribution amounts that will be recaptured based on the status of the loan(s) at the end of the previous calendar year.
- (e) If any Loss Reserve Account is held at a Participating Financial Institution, the Participating Financial Institution shall provide monthly statements to CPCFA no later than the 15th of each month reporting all Loss Reserve Account activity, and beginning and

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ending balances. In addition, the Participating Financial Institution shall provide information to CPCFA regarding the status of enrolled loans, claims and recoveries upon request.

- (f) The Participating Financial Institution shall provide reports on a quarterly basis to CPCFA no later than 15 days after the end of each quarter, listing the status of all enrolled loans, claims and recoveries whether or not the Participating Financial Institution has filed a claim with CPCFA. The quarters end on March 31, June 30, September 30, and December 31.

Note: Authority cited: Sections 44520, 44559.5(f), 44559.11(b), and 44559.14 Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

§ 8078.19 Claim for Reimbursement.

Participating Financial Institutions shall follow the procedures set forth in Section 8074 in making claims for reimbursement for Qualified Loans enrolled in the California Seismic Safety Capital Access Financing Program. Any references to Section 8072 shall be replaced with Section 8078.17.

Note: Authority cited: Sections 44520, 44559.5(f), 44559.11(b), and 44559.14 Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

§ 8078.20 Subrogation.

The procedures for subrogation set forth in Section 8075 shall be followed for loans enrolled in the California Seismic Safety Capital Access Financing Program.

Note: Authority cited: Sections 44520, 44559.5(f), 44559.11(b), and 44559.14 Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.

§ 8078.21 Termination and Withdrawal from Program.

The procedures for termination and withdrawal from the CalCAP program set forth in Section 8076 shall be followed for loans enrolled in the California Seismic Safety Capital Access Loan Program.

Note: Authority cited: Sections 44520, 44559.5(f), 44559.11(b), and 44559.14 Division 27, Health and Safety Code. Reference: Section 44559.2, Division 27, Health and Safety Code.