

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**
Meeting Date: April 17, 2012

***Request to Approve Emergency Regulations for the Loan Loss Reserve Program under the
AB x1 14 Clean Energy Upgrade Financing Program***

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Issue. Assembly Bill 14 (Skinner) of the First Extraordinary Session in 2011 (AB X1 14), signed into law on August 2, 2011, authorized the California Alternative Energy and Advanced Transportation Financing Authority (“Authority” or “CAEATFA”) to provide financial assistance in the form of credit enhancements to financial institutions making loans to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements on homes or small commercial properties.

Request. Pursuant to this legislative mandate, CAEATFA staff (“Staff”) proposes approving emergency regulations that will enable CAEATFA to implement a Loan Loss Reserve Program (“Program”) under the Clean Energy Upgrade Financing Program.

Clean Energy Upgrade Financing Program Development & Goals.¹

1. Program Goals.

The purpose of the Program is to provide credit enhancement support for Financial Institutions making loans to finance energy efficiency and renewable energy improvements on real property. More specifically, the Program has three underlying goals: 1) to promote the creation of California-based green jobs, 2) to promote the reduction of greenhouse gases, air and water pollution, or energy consumption consistent with the statute, and 3) to increase access to retrofit financing at better rates than a Borrower would be able to receive without the existence of credit enhancements.

CAEATFA proposes to meet the goals of the Program in two phases. In the initial phase of the program, Staff has proposed establishing a Loan Loss Reserve Program designed to help Financial Institutions make loans to California homeowners for energy efficiency and renewable energy retrofits. CAEATFA will make an initial 15 percent loan loss reserve contribution for each Qualified Loan made until a Participating Financial Institution’s enrolled loan volume reaches \$250,000. This will allow CAEATFA to leverage private capital while mitigating some of the initial credit risk that is perceived with making these types of new loans.

¹ *All capitalized terms are defined in the Program regulations.*

Agenda Item 4.A.

The Authority's financial assistance – in the form of a loan loss reserve – will help mitigate risks Financial Institutions associate with making loans in what is considered to be a new market. By providing an incentive to Participating Financial Institutions, they may be more likely to gain confidence and express interest in making loans and offering new products to their customers who wish to make an energy efficiency or renewable energy investment. It is the intent of the Program to provide a loan loss reserve so that Participating Financial Institutions will also be more inclined to offer loans at lower interest rates, ideally in the five to seven percent range.

In phase two, the Authority will issue a Request for Information (“RFI”) to all interested parties – public, private, and partnerships – to obtain information and ideas on alternative financing structures that might add value to the Program. CAEATFA anticipates issuing the RFI in the second quarter of 2012.

2. Program Development.

In developing the Loan Loss Reserve Program, Staff has undertaken a six month implementation process. The California Energy Commission (“CEC”) and California Public Utilities Commission (“CPUC”) staff have provided significant input and subject matter expertise in the development of the quality assurance standards and contractor qualification requirements. Staff gathered relevant information and conducted stakeholder meetings and public workshops involving: State agencies, cities and counties, various interest and consumer advocacy groups, financial institutions, independent contractors and contractor associations, electric vehicle charging infrastructure manufacturers, and consulting groups representing the energy efficiency and renewable energy industries.

Through this public process, Staff gained a strong understanding of the Program's mandate, California's need for energy efficiency financing incentives, and Program structuring issues and concerns. The CEC, CPUC, and stakeholders have provided input on policy matters such as what measures should be considered Eligible Improvements, types of certification requirements for contractors and Minimum Underwriting Criteria for loan qualifications into the Program.

In total, eight focus groups and workshops were held with stakeholders to discuss key issues and gain substantial input to develop the Program. While the workshops were held in Sacramento, there was an option for interested parties to participate over teleconference in order to reach as great of an audience as possible. In particular, the following public workshops took place:

- August 30, 2011 – Public workshop to present initial program framework
- October 18, 2011 – Focus group with electric vehicle charging infrastructure experts
- November 18, 2011 – Public workshop targeted to contractors
- November 22, 2011 – Focus group with investor owned utilities
- November 29, 2011 – Public workshop targeted to local governments
- December 2, 2011 – Public workshop targeted to financial institutions
- February 16, 2012 – Public workshop to present and discuss initial proposed draft regulations
- April 3, 2012 – Public workshop to present and discuss final proposed regulations

To date, 35 public comment letters have been received from stakeholders who engaged in the public rulemaking process. Staff has analyzed and considered all comments and incorporated changes to the emergency regulations when appropriate.

The proposed final emergency regulations balance stakeholders' comments with the statutory, legal and Program administration framework and requirements. Attachment A provides a summary of the proposed final emergency regulations and describes several of the key policy issues.

Program Structure

1. Eligibility Criteria.

The Program will take into account several eligibility criteria in regards to Eligible Properties, Eligible Improvements, eligible Borrowers, and types of financial institutions participating in the Program. Some of this criterion is established in statute, while the remaining was developed by the Authority in the regulation development process.

Eligible Properties.

First, as outlined in statute, the Program may provide financial assistance to those loans made to install certain measures on residential projects of three units or fewer or on small commercial properties with a total cost of less than \$25,000. For the initial phase of the Program, the Authority will only provide financial assistance to residential properties of three units or less since there is more complexity in developing quality assurance standards for small commercial properties. Additionally, the dollar limit of no more than \$25,000 of total project cost is a restriction in the type and amount of improvements performed on a commercial property.

Eligible Improvements.

While the statute broadly defines Eligible Improvements as the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements, Staff recommends narrowing the scope of the types of Eligible Improvements that would be offered financial assistance during the first phase of the Program. In regulations, the proposed program limits Eligible Improvements to those recommended by a pre-project energy efficiency assessment and which are designed to achieve a minimum of ten percent energy savings, and distributed generation renewable energy sources as long as they meet a loading order requirement. Staff will consider expanding the types of Eligible Improvements once it has a better understanding of the quality assurance mechanisms that will be necessary to include water efficiency and electric vehicle charging stations.

Minimum Underwriting Criteria.

As determined by statute, loan recipients, referred to as Borrowers in the regulations, must be the legal owners of the underlying property, must be current on mortgage and property tax payments, and must not be in default or bankruptcy proceedings. The loans must also be in an amount less than ten percent of the value of the property. CAEATFA will allow Participating Financial Institutions to determine the mechanism to assess the value of the property and add additional underwriting criteria for their loans.

Participating Financial Institutions.

CAEATFA also determined what types of Financial Institutions would be eligible to participate in the Program in the regulations. For the first phase of the program, the Authority chose to define an applicant as a Financial Institution—an insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in Section 103 of 12 United States Code 4702. In the second phase of the Program, the Authority will solicit Request for Information and will consider proposals from different entities that may or may not meet this definition.

Interested Financial Institutions will be required to submit an application in order to be considered for the Program and may submit them at any time for consideration. Applicants will be evaluated based on information submitted on an application, such as the combined capital and surplus at the end of the most recent fiscal year, a credit rating from a recognized rating agency which assessed the financial soundness and stability of financial institutions, and the number of lending branches and locations as it relates to geographic areas served. The application will also require a detailed description of the cost efficiency, transactional activities and transactional costs associated with its loan program to finance Eligible Improvements.

Applications may be submitted at any time for consideration and will be enrolled in the Program on a rolling basis. The Authority will be required to notify the Participating Financial Institution of enrollment within ten business days after receipt by the Authority of all documentation required pursuant to the regulations.

2. Loan Enrollment.

Staff will accept and review a Loan Enrollment Form for Qualified Loans that meet the Program requirements. Participating Financial Institutions may only enroll all or a part of any Qualified Loans after they have been accepted as a Participating Financial Institution. The Qualified Loan can be enrolled by notifying the Authority in writing within ten days after the Participating Financial Institution receives a signed Certificate of Completion from the Qualified Contractor and/or Borrower certifying that the project is complete and has satisfied all Program requirements.

In addition to the Loan Enrollment Form, Participating Financial Institutions wanting to enroll a Qualified Loan in the Program must submit the following documents for each loan: a Certificate of Completion, an Eligible Improvements Specification Report, and copies of the pre-project and post-project energy efficiency assessments conducted on the Eligible Property. These documents will contain information about the project, estimated annual energy savings, Borrower's credit profile, and certifications made by the Qualified Contractor and Borrower on the Eligible Improvements and the use of the proceeds of the loan.

3. Program Reporting.

Applicant Reporting.

Participating Financial Institutions will be required to provide a cumulative quarterly report to the Authority within two weeks of the end of each quarter. The quarterly report shall include information on outstanding Qualified Loans, including the maturity date of the loan, the total loan amount, the total enrolled amount outstanding and the payment performance on all outstanding Qualified Loans and collections, if any. This information will assist the Authority in determining the status of the outstanding Qualified Loans and level of defaults on loans.

CAEATFA Legislative Reporting.

Per AB X1 14 statute, the Authority is mandated to report to the Legislature on an annual basis the status of the account, a summary of the loans that received assistance, a summary of the benefits provided by the Program, including reduced interest and number of jobs created by the loans that received assistance. The Authority is also required to report information on energy and water savings resulting from the loans that received assistance.

Regulatory Process.

1. Emergency Regulations.

Upon Board approval of the proposed final emergency regulations, a formal emergency rulemaking process will begin. Staff will post the notice of emergency rulemaking, a finding of emergency and the text of emergency regulations to the CAEATFA website and provide it to all interested parties. Upon submittal of the regulation package to the Office of Administrative Law (“OAL”), emergency regulations will be subject to a five day public comment period. CAEATFA will have until day eight to respond to any public comments that are submitted; and OAL must make a final decision on the tenth day following submission. If on the tenth day OAL approves the emergency regulations, the emergency regulations are filed with the Secretary of State and become effective upon this filing date. These emergency regulations will be valid for six months (180 days), during which time CAEATFA will begin the permanent rulemaking process.

2. Permanent Regulations.

The process for approval of permanent regulations will commence by publishing a copy of the emergency regulations in the California Regulatory Notice Register (the “Register”). This starts a 45 calendar day public comment period. After that time, Staff will review and respond to any comments and present the final form of the permanent regulations to the Authority for approval. If there are substantial modifications, the revised regulations must be published in the Register again for a 15 calendar day public comment period before Authority approval. After Authority approval, a permanent rulemaking file is submitted to OAL, and OAL has 30 business days to review the permanent regulations for compliance with the Administrative Procedures Act and the Authority’s statute. Once OAL approves the permanent regulations, they are filed with the Secretary of State and become effective 30 calendar days later.

Tentative Timeline.

All of the dates below are tentative and subject to change at any time.

April 17 th	CAEATFA Board reviews and approves emergency regulations and proposed Program forms
April 24 th	Emergency regulations are submitted to OAL
May 7 th	OAL decision deadline, emergency regulations in effect for 180 days
May 8 th	CAEATFA begins accepting applications from financial institutions
November (2012)	End of 180 Days for emergency regulations

Recommendation. Staff recommends adoption of a resolution to approve the proposed emergency regulations establishing the Loan Loss Reserve Program under the AB X1 14 Clean Energy Upgrade Financing Program and authorize Staff to undertake emergency and permanent rulemaking proceedings and other actions related to promulgation of the regulations.

Attachments:

- Attachment A – Summary of Program Regulations and Key Policy Decisions
- Attachment B – Proposed Text of Emergency Regulations²
- Attachment C – Proposed Program Forms:
 - Financial Institution Application
 - Loan Enrollment Application
 - Eligible Improvements Specification Report
 - Certificate of Completion
 - Financial Institution Claim Application
- Attachment D – Assembly Bill X1 14 Text

² The underlined text in these proposed regulations denote modifications from the draft regulations provided to the public for comment on March 23, 2012 and discussed at the public workshop on April 3, 2012.

Resolution Of The California Alternative Energy And Advanced Transportation Financing Authority Approving Regulations And Authorizing Emergency And Permanent Rulemaking Proceedings And Other Actions Related Thereto, Including The Public Notice And Comment Procedures To Implement The Loan Loss Reserve Program Under The Clean Energy Upgrade Financing Program

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority ("Authority") is authorized by California Public Resources Code Section 26009, and 26011.8 to adopt regulations to implement and make specific the statutory provisions governing the Authority; and

WHEREAS, the Authority has determined that amendments to the Authority's regulations relating to its implementation of the Loan Loss Reserve Program under the AB X1 14 Clean Energy Upgrade Financing Program ("AB X1 14 Program"), as authorized in Section 26130 of the Public Resources Code, are necessary to be adopted at this time to implement the AB X1 14 Program.

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority as follows:

Section 1. The proposed form of Regulations, on file with the Authority, is hereby approved. The Chair, Executive Director and Deputy Executive Director are hereby authorized to file the Regulations, with the supporting documentation required by law, with the Office of Administrative Law as emergency regulations in the form currently on file with the Authority.

Section 2. The Chair, Executive Director and Deputy Executive Director are hereby authorized to proceed with the public notice and comment procedures required by California Rulemaking Law prior to submitting permanent regulations to the Office of Administrative Law.

Section 3. The Chair, Executive Director and Deputy Executive Director of the Authority are hereby authorized to take necessary actions, including making any necessary changes to the Regulations to secure approval by the Office of Administrative Law, and to execute and deliver any and all documents necessary or advisable in order to effectuate the purposes of this resolution.

Section 4. This resolution shall take effect immediately upon its approval.

Attachment A

**SUMMARY OF PROGRAM REGULATIONS
AND POLICY DECISIONS**

The emergency regulations are intended to provide direction regarding Program eligibility criteria, as well as evaluation criteria for accepting financial institutions as participating lenders in the Program.

Following is a brief summary of each of the sections of the proposed emergency regulations, the key elements of each section, and the issues, if any, underlying the section.

Article 2. Clean Energy Upgrade Financing Program

§10050. Definitions

This section clearly defines terms commonly used in the application materials and emergency regulation documents, such as Eligible Improvements or Qualified Loan.

Issues:

Eligible Improvements.

The statute allows CAEATFA to provide financial assistance for the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, and water or energy efficiency measures on homes and small commercial properties. Staff and legal counsel have determined, after a lengthy review of public comment and feedback from the CEC and CPUC to initially limit the scope of the Program to provide financial assistance only for energy efficiency improvements and the installation of distributed generation energy sources and to include only residential properties of three units or less.

Staff determined that the definition of Eligible Improvements would be based on the energy efficiency measures recommended by a pre-project energy efficiency assessment and verified by a third party inspector conducting a post-project energy assessment to ensure the measures were installed correctly. To encourage more comprehensive and deeper retrofits, it was determined that these improvements would also need to be designed to achieve a minimum of ten percent energy savings.

As previously noted, the Program will initially provide financial assistance to residential properties only since there is more complexity in developing quality assurance standards for small commercial properties. Additionally, the dollar limit of no more than \$25,000 of total project cost is a restriction in the type and amount of improvements performed on a commercial property. Staff anticipates that it will be able to expand both eligible properties and eligible measures once the new program establishes a track record.

Financial Institution.

Staff proposed to define a Financial Institution as any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in the United States Code. While several stakeholders who do not meet this definition expressed initial interest in the Program, it was determined the Authority would initially offer financial assistance to federally regulated financial institutions and that during phase two of the Program, interested parties would be able to respond to a Request for Information with proposals on alternative financing structures.

§10051. Quality Assurance Standards

This section discusses the applicable quality assurance standards projects must meet before the loans can be enrolled in the Program. As required by statute, all improvements assisted through the Program must meet quality assurance standards, including contractor certifications and third party inspections of projects completed.

Issues:

Energy Efficiency Assessments.

The investor owned utilities and some publicly owned utilities, like SMUD, have rebate programs for energy efficiency improvements. Through these programs, the utilities have compiled lists of eligible improvements to receive a rebate and have qualified contractors to participate in their programs. In order to leverage these existing quality assurance standards and infrastructure developed by the utilities, Staff initially proposed that Eligible Improvements needed to be eligible for rebate or other inclusion in a program established by the utility in whose service territory the project was located. However, Staff received several comments that suggested an alternative path to eligibility needed to be considered since there may be homeowners who live outside a utility territory with an existing rebate program.

Thus, Staff decided to revise its initial proposal to leverage utilities' existing infrastructure. In order to avoid confusion by having two eligibility paths, Staff proposed to require Eligible Improvements to be recommended by a pre-project energy efficiency assessment to assist in identifying appropriate and comprehensive energy efficiency retrofits and operations improvements. The Eligible Improvements must also be evaluated by a post-project energy assessment conducted by a third-party inspector to verify the improvements were installed correctly. Requiring the pre-project and post-project energy assessment will ensure there is uniformity and compliance of quality assurance standards required of contractors conducting the work.

Contractor Certifications.

Another quality assurance component in the regulations is to require certain types of certifications for the projects completed. Energy efficiency improvements must be performed by a Building Performance Institute ("BPI") Building Analyst certified contractor, and the pre-project and post-project energy assessments may be conducted by a HERS Whole House Rater or a BPI Building Analyst. The regulations also require that the post-project energy assessment be conducted by an independent third-party inspector so that he or she can verify the measures were installed correctly.

Loading Order for Distributed Generation.

Staff is also proposing that all projects that include distributed generation must first achieve a minimum ten percent (10%) reduction in total property energy use through the installation of energy efficiency measures. While the “loading order” requirement is not mandated in statute, it was determined that this requirement is consistent with the state’s energy policy goals of achieving energy conservation and reduction while also promoting and advancing the generation of alternative energy sources. Staff also determined it would be appropriate to include an exception for those homeowners who either a) recently invested in energy efficiency improvements or b) live in a house that was recently built and which meets energy efficiency standards. To this end, the regulations allow homeowners to comply with the loading order requirement by demonstrating a Home Energy Rating (HERS) score of at least 85 provided several basic measures have been installed if recommended by the pre-project energy efficiency assessment.

§10052. Minimum Underwriting Criteria

This section outlines the minimum underwriting criteria required in regulations. Participating Financial Institutions may set additional underwriting criteria beyond what the Program requires and will be responsible for all underwriting decisions for the Qualified Loans they make pursuant to these regulations.

- As determined by statute, Borrowers must be the legal owners of the Eligible Property. Borrowers must also be current on their mortgage and property tax payments and not in default or in bankruptcy proceedings.
- Qualified Loans may be secured or unsecured closed end loans. Statute also requires that in order for a loan to be enrolled in the Program, the loan amount must not exceed ten percent of the value of the Eligible Property.

Issues:

Minimum Underwriting Criteria.

Staff decided to require the Minimum Underwriting Criteria as determined in statute, and to give Financial Institutions the flexibility to expand the criteria since, as lenders, they are the experts in evaluating the creditworthiness of loan applicants. The language of the statute requires loan amounts not to exceed ten percent of the value of the Eligible Property. Staff initially considered defining this value as the “tax assessed value,” but several stakeholders commented there needed to be additional mechanisms to determine this value since many homes in California are undervalued due to Proposition 13 restrictions. Instead of prescribing a particular type of valuation such as tax, desktop, electronic or drive-by appraisal, the value of the Eligible Property will be determined by the Participating Financial Institution.

§10053. Application by Financial Institution

This section describes the application approval for Financial Institutions interested in participating in the Program. Applications from interested Financial Institutions may be

submitted at any time for consideration.

- As required in statute, applicants will be required to provide a detailed description of the loan program and a detailed description of the transactional activities associated with the loan issuance, including all transactional costs.
- In addition to the statutory requirements, the Authority will also require applicants to submit information such as the combined capital and surplus at the end of the most recent fiscal year and a rating from a recognized rating agency which assess the financial soundness and stability of financial institutions. Since this is a statewide program, the application will also include the number of lending branches and locations of the financial institution to better assess the geographical reach.
- The Executive Director will make the final determination whether applicants meet the eligibility and evaluation criteria. The Executive Director's decision whether an application is sufficient and meets all the criteria will be final. Once an applicant becomes accepted as a Participating Financial Institution, Staff will list the entity on the Authority's website so the public is aware of the financial institutions participating in the Program.

Issues:

“Set Aside” of Reserve Funds per Financial Institution.

One of the questions that was raised several times by stakeholders was whether Participating Financial Institutions would receive an allocated loan loss reserve contribution or “set aside” once they were accepted to participate in the Program. In order to attract as many financial institutions as possible and to reach statewide geographical coverage, it was determined financial institutions would be able to submit an application on a rolling basis and that they would not receive a defined portion of the total loan loss reserve funds at the time of acceptance into the Program. Instead, reserve funds will be allocated on a per loan basis.

§10054. Loan Enrollment

This section describes the process for enrolling a Qualified Loan in the Program. Participating Financial Institutions will be responsible for determining the terms and conditions of Qualified Loans, including interest rates, fees and other conditions.

- Statute requires that a project be complete before a loan can be enrolled in the Program. Thus, a Participating Financial Institution may enroll under the Program all or a part of any Qualified Loan by notifying the Authority in writing within ten days after it receives a signed Certificate of Completion from the Qualified Contractor and/or Borrower certifying that the project is complete and has satisfied all Program requirements.
- Participating Financial Institutions must also submit several documents at the time of loan enrollment, including: a Loan Enrollment Application, a Certificate of Completion,

an Eligible Improvement Specification Report, and a copy of the pre-project and post-project energy assessment conducted on the home. The Authority will collect these documents for each enrolled loan in order to collect information on the Borrowers' credit quality, loan terms, types of Eligible Improvements installed, and estimated total annual energy savings.

- Once the Authority receives the required documentation from the Participating Financial Institution, Staff will have ten business days to review the documentation and the Executive Director must notify the Participating Financial Institution within that timeframe whether the loan met the Program requirements and if it was enrolled in the Program. Upon enrollment of a Qualified Loan in the Program, the Authority will transfer the designated Loss Reserve Contribution into the Loss Reserve Account held on behalf of the Participating Financing Institution by the Program Trustee.
- Without regard to the term of the loan, the term of enrollment in the Program must not exceed ten years.

Issues:

Forms and Data Reporting.

In an attempt to balance the amount of information and documentation Qualified Contractors and Participating Financial Institutions submit for each enrolled loan and the amount of time required to complete these forms, Staff reviewed the type of information collected and forms used in other energy efficiency programs and solicited public feedback. Several stakeholders questioned who would be responsible for completing the forms and make certifications on the quality of the work.

Staff determined that the Qualified Contractor and Borrower would review and sign a Certificate of Completion where they each make certain certifications regarding the Eligible Improvements and the appropriate use of the loan proceeds, satisfaction with the work completed, and certification that the work was completed by a licensed contractor and verified by an independent third-party inspector. This information, along with the pre-project and post-project energy assessment and the Eligible Improvement Specification Report, will be submitted to the Participating Financial Institution making the loan, which will then review that the forms were completed and submit the corresponding documents to CAEATFA at the time of enrolling a Qualified Loan in the Program. It appears that requiring each participating entity—the Qualified Contractor, the Borrower, and the Participating Financial Institution—to make individual certifications removed some of the initial concern that financial institutions would be making assertions regarding the quality of the completed project without having the expertise or ability to deal with quality assurance and quality control.

Term of Loan Enrollment.

Several Financial Institutions expressed concern that a loan can only be enrolled in the Program for up to ten years since they may be making loans with a 15 or 20 year maturity, particularly if the loan is to finance a solar system. While it is a valid concern that loans could default after the ten year mark when they are enrolled in the Program, loan performance data for similar types of

loans has shown that most loans that become delinquent do so within the first five years. It is also important to note that loans that are charged off within the first ten years will be covered 100 percent by the Loss Reserve Account, thus reducing the risk to the Financial Institution making the loan.

Eligibility of Loans Enrolled in Local Government Programs.

Staff also considered whether Qualified Loans would be able to be enrolled in other government programs substantially similar to the Program due to the fact that there are several pilot programs in California, and the financial institutions participating in those programs have expressed an interest in participating in this Program. Staff ultimately decided to allow Participating Financial Institutions to enroll a Qualified Loan in the Program and other similar programs providing credit enhancements to better leverage other programs with the hope to further reduce interest rates, however, the claim for reimbursement could not exceed the total enrolled amount from all sources.

§10055. Loss Reserve Accounts

This section describes the purpose of the Loss Reserve Accounts, which will be held by a Program Trustee selected by the Authority.

- Once the Executive Director accepts an application by a Financial Institution to participate in the Program, the Authority will establish a Loss Reserve Account for that Participating Financial Institution for one of two purposes: either to a) receive Loss Reserve Contributions for each loan enrolled in the Program, or b) to pay claims for charged-off loans.
- All moneys in a Loss Reserve Account are property of the Authority. The Authority will be allowed to withdraw from the Loss Reserve Account all interest and income credited to the Loss Reserve Account.
- If the Authority's total contributions to a Loss Reserve Account are greater than the Participating Financial Institution's aggregate principal of its outstanding Qualified Loans for three consecutive months, the Authority may withdraw the excess funds from that Participating Financial Institution's Loss Reserve Account.

Issues:

Who Holds Reserve Funds.

Staff considered allowing Participating Financial Institutions to hold their own Loss Reserve Account as this option seemed to be of interest to a few of the financial institutions that participated in the public process. Staff ultimately decided to require that a Program Trustee hold all of the Loss Reserve Accounts as it would be administratively easier to have one main point of contact instead of multiple Financial Institutions administering their own Loss Reserve Accounts.

§10056. Claim for Reimbursement

This section describes the process for making a claim for reimbursement when a Participating Financial Institution charges off a Qualified Loan.

- Participating Financial Institutions must notify the Authority within 30 days after it has charged off all or part of a Qualified Loan as a result of a default by the Borrower. However, the Participating Financial Institution may also defer, for up to 180 days from the date of the charge off, making a claim for reimbursement, but still must inform the Authority of the charge off within 30 days.
- Participating Financial Institutions are authorized to make a claim for reimbursement of a loss from the enrolled portion of a Qualified Loan prior to the liquidation of collateral, or realization on personal or other financial guarantees or from other sources. However, claim reimbursements from all sources cannot exceed the enrolled amount of the Qualified Loans, except when reasonable out-of-pocket expenses are claimed.
- To make a claim, the Participating Financial Institution must submit a claim form to the Authority, which will include information on the Qualified Loan such as the amount and enrollment date of the Qualified Loan, date and amount of the charge off, and certification that the charge off was made in a manner consistent with the Participating Financial Institution's usual methods for taking action on loans which are not enrolled as Qualified Loans under the Program.
- Participating Financial Institutions will also need to provide a statement if claims concerning the Qualified Loans were also made with other government programs substantially similar to the Program, including amounts of reimbursements anticipated or received.

Issues: There were no issues related to the claim for reimbursement of a charged off loan.

§10057. Quarterly Reports

This section describes the information Participating Financial Institutions will be required to submit on their Quarterly Reports.

- The cumulative Quarterly Reports will include information on each enrolled Qualified Loan such as the maturity date, total original loan amount, and amount outstanding. The Financial Institutions will also be required to provide information on Qualified Loans resulting in a charge off.

Issues:

Frequency of Reports.

Staff considered requiring reports be submitted every month, however, Financial Institutions raised concerns about the administrative burden of monthly reports. Staff determined the timing of a cumulative Quarterly Report will be sufficient to provide the Authority with an overview on the performance of the Qualified Loans.

§10058. Subrogation

This section describes the subordinate position the Authority will have in respect to the rights of the Participating Financial Institution in collateral and all other forms of security for the Qualified Loan.

- The Executive Director is authorized to enter into agreements with any Participating Financial Institution to provide for such institution to act as the Authority's agent to secure recovery under any agreement, collateral or security document to which the Authority has been subrogated.

Issues: There were no issues related to subrogation of the Authority to a Participating Financial Institution.

§10059. Termination and Withdrawal from the Program

This section describes under what circumstances a Participating Financial Institution may be terminated from its participation in the Program.

- Participating Financial Institutions have the option of withdrawing from the Program after giving written notice to the Authority and may choose to either a) waive any further interest in the Loss Reserve Account or b) or to stop enrolling any further loans under the Program but the Loss Reserve Account will continue in existence to secure all Qualified Loans enrolled prior to such notice. If the Authority receives a notice that the Participating Financial Institution waives its interest in the Loss Reserve Account, the remaining balance will be distributed to the Authority.
- The Executive Director is authorized to terminate participation of a Participating Financial Institution in the Program under different circumstances, including if it enters a cease and desist order, if it fails to abide by the Program regulations, if it fails to enroll any Qualified Loan for a period of one year, or if it provides false or misleading information.

Issues: There were no issues related to the termination of a Participating Financial Institution from the Program.

§10060. Reports of Regulatory Agencies

This section states that the Executive Director will be authorized to solicit information directly from any federal or state regulatory agency concerning any Participating Financial Institution participating in the Program.

Issues: There were no issues related to the solicitation of this information.

Attachment B

PROPOSED TEXT OF REGULATIONS
CALIFORNIA CODE OF REGULATIONS
Title 4. Business Regulations
Division 13. California Alternative Energy and Advanced Transportation Financing Authority

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION
FINANCING AUTHORITY REGULATIONS IMPLEMENTING

CLEAN ENERGY UPGRADE FINANCING PROGRAM

April 24, 2012

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Note: The underlined text in these proposed regulations denote modifications from the draft regulations provided to the public for comment on March 23, 2012 and discussed at the public workshop on April 3, 2012.

§10050. Definitions.

- (a) “Authority” means the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) established pursuant to Division 16 (commencing with Section 26000 of the Public Resources Code).
- (b) “Borrower” means a property owner who is making Eligible Improvements to an Eligible Property.
- (c) “Executive Director” means the Executive Director of the Authority or his or her designee from time to time.
- (d) “Eligible Improvements” means energy saving home improvements which are ~~p~~Permanently ~~a~~Affixed to the real property and which meet the requirements as outlined in this Section.
 - 1) Eligible Improvements shall be recommended by a pre-project energy efficiency assessment conducted on the Eligible Property in accordance with Home Energy Rating System (HERS) Whole House or Building Performance Institute (BPI) Building Analyst requirements and shall be designed to achieve a minimum of ten percent (10%) energy savings.
 - 2) Eligible Improvements may also include the installation of distributed generation renewable energy sources as long as they meet the loading order requirement pursuant to Section 10051.
- (e) “Eligible Property” means a residential property of three units or less.
- (f) “Financial Institution” means any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in Section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702).
- (g) “Loss Reserve Account” means an account held by a Program Trustee that is established and maintained by the Authority for the benefit of a Participating Financial Institution for the purposes set forth in Section 10056.
- (h) “Loss Reserve Contribution” means the financial assistance provided by the Authority to the Loss Reserve Account for the benefit of a Participating Financial Institution for each Qualified Loan it enrolls in the Program. The initial Loss Reserve Contribution shall be not less than fifteen percent (15%) of the enrolled principal amount of the Qualified Loan until the Participating Financial Institution’s enrolled loan volume reaches \$250,000. Thereafter, the Loss Reserve Contribution shall be not less than ten percent (10%) of the enrolled principal amount of the Qualified Loan.
- (i) “Minimum Underwriting Criteria” means the criteria established by the Authority as defined in Section 10052.
- (j) “Participating Financial Institution” means a Financial Institution that has been approved by the Authority’s Executive Director to enroll Qualified Loans in the Program and has agreed to all terms and conditions set forth in the Law and this Article.
- (k) “Permanently Affixed” means goods that have become so related to particular real property that an interest in them arises under real property law.
- (l) “Program” means the Clean Energy Upgrade Financing Program established pursuant to Chapter 2.5 (commencing with Section 26130) of Division 16.2 of the Public Resources Code.

- | (m) “Program Trustee” means a bank or trust company, or the State Treasurer, chosen by the Authority from time to time to hold or administer some or all of the Loss Reserve Accounts on behalf of the Authority.
- | (n) “Qualified Contractor” means a contractor who is licensed for the work they perform and who must complete all work according to all applicable laws, rules, and regulations.
 - 1) For energy efficiency improvements only, the work must be performed by a BPI certified contractor.
- | (o) “Qualified Loan” means a loan or a portion of a loan made by a Participating Financial Institution to a Borrower to finance Eligible Improvements made to Eligible Properties.
 - 1) A Qualified Loan is one which meets the Minimum Underwriting Criteria as established by the Authority in Section 10052.
 - 2) A Qualified Loan does not include any of the following:
 - A) A loan in the form of a line of credit.
 - B) A loan for the construction or purchase of residential housing.
 - C) A loan for the refinancing of debt already held by the Participating Financial Institution other than a prior Qualified Loan enrolled under the Program, except to the extent of any increase in the outstanding balance.
 - D) Any loan which exceeds ten percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.
 - E) Open end loans (e.g. home equity lines of credit).

§ 10051. Quality Assurance Standards.

- (a) All Eligible Improvements financed by the Program must meet applicable quality assurance standards as outlined in this Section.
 - 1) Pre-project energy efficiency assessment. A pre-project energy efficiency assessment conducted on the Eligible Property in accordance with HERS Whole House or BPI Building Analyst requirements is required to assist in identifying appropriate and comprehensive energy efficiency retrofits and operational improvements. The cost of the pre-project energy efficiency assessment may be included as part of the total cost of the Eligible Improvements.
 - 2) Post-project energy assessment. The Eligible Improvements shall be evaluated by a post-project energy assessment conducted on the Eligible Property. This post-project energy assessment must be conducted by an independent third-party inspector who is a HERS Whole House Rater or a BPI Building Analyst. The cost of the post-project energy assessment may be included as part of the total cost of the Eligible Improvements.
 - 3) Loading order. Any project involving renewable energy improvements must be part of a single Qualified Loan in which the energy efficiency improvements achieve a minimum ten percent (10%) reduction in total property energy use.
 - A) Compliance with the loading order can be established in one of two ways:

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- (i) Installation of recommended Eligible Improvements necessary to achieve a minimum ten percent (10%) improvement over the pre-project baseline, as demonstrated by the post project energy assessment required pursuant to (a)(2).
- (ii) Demonstrating a Home Energy Rating (HERS) score of at least 85 provided air sealing, attic insulation, duct test and seal or replacement, and insulation of domestic hot water or replacement have all been installed if recommended by the pre-project energy assessment.

§ 10052. Minimum Underwriting Criteria.

- (a) A Participating Financial Institution may enroll Qualified Loans that meet the Minimum Underwriting Criteria and may set more stringent underwriting criteria. A Participating Financial Institution has responsibility for underwriting decisions and legal compliance with respect to the Qualified Loans it makes pursuant to these regulations.
- (b) A Participating Financial Institution agrees that for each Qualified Loan it makes it will investigate and evaluate the creditworthiness of the applicant in a manner consistent with the regulations and its customary practices for loans in the amount proposed.
- (c) The Clean Energy Upgrade Minimum Underwriting Criteria are:
 - 1) Loan type. Qualified Loans may be secured or unsecured closed end loans.
 - 2) Maximum loan amount. A Qualified Loan must not exceed 10 percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.
 - 3) Loan recipient. Borrowers must be the legal owners of the Eligible Property.
 - 4) Mortgage delinquencies. Borrowers must be current on their mortgage and property tax payments and not in default or in bankruptcy proceedings.

§ 10053. Application by Financial Institution.

- (a) A Financial Institution seeking to participate in the Program will complete an enrollment application that shall include the following information:
 - 1) Name of applicant Financial Institution.
 - 2) Name, address, telephone number, email address and title of contact person.
 - 3) Combined capital and surplus as of the end of the Financial Institution's most recent fiscal year.
 - 4) Number of lending branches and locations, listed by county, particularly as it relates to geographic areas served.
 - 5) Certification that the applicant Financial Institution is not subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, which would impair its ability to participate in the Program, and the name of that body. If a Participating Financial Institution becomes subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, the Participating Financial Institution shall inform the Authority in writing within thirty (30) days of such action.

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- 6) The Financial Institution's rating from a recognized rating agency which assesses the financial soundness and stability of financial institutions.
 - 7) The Financial Institution's agreement to follow the Program's regulations as set forth in this Article.
 - 8) The Financial Institution's agreement to permit an audit of any of its records relating to enrolled Qualified Loans, during normal business hours on its premises, by the Authority or its agents, and to supply such other information concerning enrolled Qualified Loans as shall be requested by the Executive Director.
 - 9) Acknowledgment by the Financial Institution that the Authority and the State will have no liability to the Participating Financial Institution under the Program except from funds deposited in the Loss Reserve Account for the Participating Financial Institution.
 - 10) A detailed description of the loan program to finance Eligible Improvements, including the cost efficiency of the loan program.
 - 11) A detailed description of the transactional activities associated with the loan issuance, including all transactional costs.
 - 12) The mechanism by which savings produced by this Program are passed on to the Borrowers in the form of lower cost financing.
- (b) Upon receipt of a completed application, the Executive Director will within ten (10) business days review and determine whether additional information is required, or whether the application is sufficient to permit the applicant to be a Participating Financial Institution. The Executive Director's decision whether an application is sufficient shall be final.
 - (c) The Participating Financial Institution is responsible for all loan decisions regarding creditworthiness and certifying compliance with the minimum underwriting requirements and certifying that it has complied with all requirements of the Program regulations.
 - (d) The Participating Financial Institution must obtain assurance from the Borrower that the loan will be used for Eligible Improvements.

§ 10054. Loan Enrollment.

- (a) The terms and conditions of Qualified Loans, including interest rates, fees and other conditions, shall be determined solely by agreement of the Participating Financial Institution and the Borrower.
- (b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan by notifying the Authority in writing within ten (10) days after it receives a signed Certificate of Completion from the Qualified Contractor and/or Borrower certifying that the project is complete and has satisfied all Program requirements.
- (c) In order to enroll a Qualified Loan, a Participating Financial Institution must submit a Loan Enrollment Application, a Certificate of Completion, an Eligible Improvements Specification Report, a copy of the pre-project energy efficiency assessment and a copy of the post-project energy assessment conducted on the Eligible Property.
- (d) The Loan Enrollment Application to the Authority shall include the following information:
 - 1) Loan identification number, city, county and zip code where the project is located.
 - 2) Borrower's FICO score and debt-to-income ratio.
 - 3) Brief summary of the Eligible Improvements and the intended use of the proceeds of the Qualified Loan.

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- 4) Amount of the Qualified Loan being enrolled (and indication if less than the full amount of the Qualified Loan is being enrolled).
 - 5) Type of the Qualified Loan (e.g., home equity loan, term loan, second mortgage).
 - 6) Date the Qualified Loan is closed.
 - 7) Date the Certificate of Completion is received by the Participating Financial Institution.
 - 8) Term of the Qualified Loan.
 - 9) Interest rate applicable to the Qualified Loan.
 - 10) The interest rate the Qualified Loan would have received had the loan not been enrolled in this Program.
 - 11) Estimated savings to the Borrower [in the form of lower cost financing](#).
 - 12) Certification that the loan is a Qualified Loan, and that the Borrower receiving the Qualified Loan meets the Minimum Underwriting Criteria set forth in this Article.
 - 13) A copy of the certification that the Qualified Loan is used for Eligible Improvements required pursuant to subdivision (e).
 - 14) Certification that the principal enrolled amount of the loan does not exceed ten percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.
 - 15) Certification that the Participating Financial Institution has obtained a written representation from the Qualified Contractor that it has secured all permits needed to complete the retrofits.
 - 16) Notification if the Participating Financial Institution has enrolled the same loan or a portion thereof in any government program substantially similar to the Program.
- (e) The Certificate of Completion shall be in a form specified by and submitted to the Authority and which shall include the following information:
- 1) General information including:
 - A) Borrower loan identification number.
 - B) City and zip code where the project is located.
 - C) Qualified Contractor's name.
 - D) Qualified Contractor's license number.
 - 2) The Qualified Contractor must also make certain certifications, including:
 - A) Certification that they are licensed to perform the work for which the Qualified Loan is made.
 - B) Certification that he or she is a BPI certified contractor if performing energy efficiency improvements.
 - C) Certification that the Eligible Improvements have been completed in accordance with the Eligible Improvements Specification Report furnished to the Borrower.
 - D) Certification that all of the Eligible Improvements installed are energy saving home improvements recommended by the pre-project energy efficiency assessment conducted on the Eligible Property.
 - E) Certification that the installation complies with all applicable California building standards (all sections of Title 24), local electricity utility interconnection requirements, and any additional laws, ordinances, regulations and standards applicable in the jurisdiction where the installation occurred.
 - F) Certification that they have secured all permits needed to install the Eligible Improvements.

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- G) Certification that the post-project energy assessment was conducted by an independent third-party inspector who is HERS or BPI certified.
- 3) The Borrower must make certain certifications, including:
 - A) Certification that the Eligible Improvements listed on the Eligible Improvements Specification Report have been completed to their satisfaction.
 - B) Certification that they understand that the Authority and its directors, officers, and agents do not guarantee the performance, quality, or workmanship of the Eligible Improvements.
 - C) Certification that the loan proceeds were used to pay for the Eligible Improvements.
 - D) Acknowledgement that the Authority, including its officers, directors, employees, affiliates, agents, or designees, has received and will receive information related to the project. The Authority may use this information for program management and evaluation and shall treat the information as confidential unless otherwise required by law.
 - E) Authorization for the Qualified Contractor and Participating Financial Institution to share information with the Authority, including contract information, data on work performed and Eligible Improvements installed, information regarding the Qualified Loan, and other information relating to or arising from participation in the Program.
- (f) The Eligible Improvements Specification Report must be completed by the Qualified Contractor and submitted to the Participating Financial Institution making the Qualified Loan. It shall include the following information:
 - 1) General project data:
 - A) Qualified Loan application number.
 - B) Project location such as city and zip code.
 - C) Building type.
 - D) Name of the Qualified Contractor's company.
 - E) Names of Qualified Contractor's certifications.
 - F) Total project invoiced cost.
 - G) Qualified Loan amount.
 - H) Amount of rebates.
 - 2) General building data:
 - A) Year constructed.
 - B) Building floorspace.
 - C) Number of occupants.
 - D) Electricity service provider name.
 - E) Natural gas service provider name.
 - F) Other primary energy fuel.
 - 3) Total energy savings:
 - A) Source or method for prediction.
 - B) Estimated electricity saved per year (kWh).
 - C) Estimated percent savings of kWh per year.
 - D) Estimated natural gas savings per year (therms).
 - E) Estimated percent savings of natural gas per year.

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- F) If other primary fuels are applicable, the expected annual energy savings per year in units of the energy fuel indicated, and the estimated percent savings per year.
- G) Estimated annual cost savings, in dollar amount.
- 4) List of installed Eligible Improvements.
- 5) Quality assurance and quality control information:
 - A) Qualified Contractor's license number.
 - B) Building permit numbers, if applicable.
- (g) The Participating Financial Institution shall be authorized to base the information requested in subdivision (f) above upon representations made to it by the Borrower and/or the Qualified Contractor; provided that no such representation may be relied upon if it is known to be false by the lending officers at the Participating Financial Institution who are directly involved in the negotiation of the Qualified Loan.
- (h) If a Borrower seeking a Qualified Loan from a Participating Financial Institution is an employee, member, director, officer, principle shareholder, or affiliate of the Participating Financial Institution, the terms and the conditions of the Qualified Loan and the internal procedures used to approve the Qualified Loan must comply with the following requirements:
 - 1) If the Participating Financial Institution is a federal-chartered bank, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 371c, 371c-1, 375a, and 375b of the Title 12 of the United States Code, and Sections 215.4 of Title 12 of the Code of Federal Regulations.
 - 2) If the Participating Financial Institution is a state-chartered bank, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Section 3370 et seq. of the Financial Code, and Sections 10.19300 to 10.19302 of Title 10 of the California Code of Regulations.
 - 3) If the Participating Financial Institution is a federal-chartered savings association, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Section 1468 of Title 12 of the United States Code.
 - 4) If the Participating Financial Institution is a state-chartered savings association, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Sections 6503 and 6529 of the Financial Code.
 - 5) If the Participating Financial Institution is a federal-chartered credit union, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 1757 and 1761c of Title 12 of the United States Code and Section 701.21(d) of Title 12 of the Code of Federal Regulations.
 - 6) If the Participating Financial Institution is a state-chartered credit union, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Section 15050 of the Financial Code.
 - 7) If the Participating Financial Institution is a certified community development financial institution (CDFI), the Qualified Loan must be made in accordance with all applicable

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federal banking laws that regulate conflicts of interests and insider transactions and Sections 1805.807 of Title 12 of the Code of Federal Regulations.

- (i) The Authority shall, upon receipt of documentation as required under Section 10054 from the Participating Financial Institution, enroll the Qualified Loan if the Executive Director determines that the Qualified Loan meets the requirements of this Article. The Executive Director shall notify the Participating Financial Institution of enrollment within ten (10) business days after receipt by the Authority of all documentation required by this Article. The Executive Director's determination whether a loan shall be enrolled in the Program shall be final.
- (j) Upon enrollment of a Qualified Loan, the Loss Reserve Contribution shall be transferred for deposit into the Loss Reserve Account held on behalf of the Participating Financial Institution by the Program Trustee. The Participating Financial Institution will be notified of the transfer.
- (k) Without regard to the term of the loan, the term of enrollment in the Program shall not exceed ten (10) years.

§10055. Loss Reserve Accounts.

- (a) Upon the Executive Director's acceptance of an application by a Financial Institution under Section 10053, the Authority shall establish a Loss Reserve Account for that Participating Financial Institution for the following purposes:
 - 1) to receive Loss Reserve Contributions deposited by the Authority; and
 - 2) to pay claims in accordance with Section 10056.
- (b) The Loss Reserve Account shall be held by a Program Trustee selected by the Authority.
- (c) All moneys in a Loss Reserve Account are the property of the Authority. Interest or income earned on moneys credited to the 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 as set forth below and in Section 10059.
- (d) If the Authority's aggregate contributions to a Participating Financial Institution's Loss Reserve Account are greater than the Participating Financial Institution's aggregate principal of its outstanding Qualified Loans for three (3) consecutive months, the Authority may withdraw the excess funds from the Participating Financial Institution's Loss Reserve Account.

§10056. Claim for Reimbursement.

- (a) A Participating Financial Institution shall notify the Authority within thirty (30) days after it has charged off all or part of a Qualified Loan as a result of a default by the Borrower.
- (b) A Participating Financial Institution shall be authorized to make a claim for reimbursement of a loss from the enrolled portion of a Qualified Loan prior to the liquidation of collateral, or realization on personal or other financial guarantees or from other sources. A Participating Financial Institution may also defer, for a period not to exceed one hundred eighty (180) days from the date of the charge off, at its sole discretion, making a claim for

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- reimbursement, but still must inform the Authority of charge off status within thirty (30) days.
- (c) The Authority shall pay claims within thirty (30) days of receipt of a completed claim request; provided, however, that the Executive Director shall be authorized to reject a claim if it is determined that the representations and warranties provided by the Participating Financial Institution pursuant to Section 10054 at the time of enrolling the Qualified Loan were false. The Authority shall be authorized, upon providing written notice to the Participating Financial Institution, to defer payment of claims up to an additional thirty(30) days if the Authority requires more information in order to determine if the claim shall be paid.
 - (d) Claim reimbursement from all sources shall not exceed the enrolled amount of the Qualified Loan or loans that form the basis for the claim, except when reasonable out-of-pocket expenses are claimed. In the event only a portion of the loan was enrolled, reimbursement of out-of-pocket expenses will be limited to the ratio of the enrolled portion to the total loan amount.
 - (e) To make a claim, the Participating Financial Institution shall submit a claim form to the Authority which shall include the following information:
 - 1) Name and identification number of the Participating Financial Institution.
 - 2) Name, address and telephone number of contact person.
 - 3) Program and Participating Financial Institution's loan number of the Qualified Loan that is subject of the claim.
 - 4) Amount and enrollment date of the Qualified Loan.
 - 5) Date of chargeoff.
 - 6) Amount of chargeoff.
 - 7) Amount of claim and breakdown of components of the claim between principal, accrued interest and reasonable out-of-pocket expenses of collection or preservation of collateral, accompanied by documentation of such expenses.
 - 8) Certification that notice was filed with the Authority as required by this section, and certification that such charge off was made in a manner consistent with the Participating Financial Institution's usual methods for taking action on loans which are not enrolled as Qualified Loans under the Program.
 - 9) Statement whether the loan is secured, and whether the Participating Financial Institution has commenced enforcement proceedings.
 - 10) If two or more claims are filed simultaneously by one Participating Financial Institution, a statement of the priority of payment of the claim compared to the other claims in the event the Loss Reserve Account is not sufficient to pay all claims.
 - 11) Statement whether the Qualified Loan qualifies under subdivision (g).
 - 12) Statement regarding claims made concerning the Qualified Loan with other government programs substantially similar to the Program, including amounts of reimbursements anticipated or received. If no such claim is being made, the statement shall explain why and include an agreement by the Participating Financial Institution that no claim will be made or in the event a claim is made that some or all of any reimbursement received shall be paid to the Authority in an amount necessary to ensure that the Participating Financial Institution does not receive more than the amount allowed pursuant to subdivision (d).

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- (f) Except as provided in subdivision (g), if a Qualified Loan suffers a loss and at the time of the Participating Financial Institution's claim there are insufficient funds in the Loss Reserve Account to cover the total amount of the claim, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible, but it shall thereafter not be eligible to obtain any further reimbursement relating to that claim.
- (g) If a Qualified Loan (or any part of it) is among the first two hundred fifty thousand dollars (\$250,000) of Qualified Loans made by a Participating Financial Institution and it suffers a loss, and at the time of the claim there is not enough money in the Loss Reserve Account to fully cover the loss, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible. If the Participating Financial Institution then continues making Qualified Loans under the Program and the Loss Reserve Account is replenished, the Participating Financial Institution shall be authorized to withdraw funds from the Loss Reserve Account at a subsequent time in order to fully cover the earlier claim, provided that the amount subsequently withdrawn to cover the earlier claim cannot exceed seventy-five percent (75%) of the amount in the Loss Reserve Account immediately prior to such subsequent withdrawal.
- (h) If, subsequent to the payment of a claim by the Authority, the Participating Financial Institution recovers from the Borrower, from liquidation of collateral or from any other source, amounts for which the Participating Financial Institution was reimbursed by the Authority, the Participating Financial Institution shall promptly pay to the Authority, for deposit in the Loss Reserve Account, the amount received, net of reasonable and customary costs of collection, that in aggregate exceeds the amount needed to fully cover the Participating Financial Institution's loss on the Qualified Loan (including the portion of a Qualified Loan which is not enrolled in the Program). Recoveries which exceed reimbursements to the Loss Reserve Account may be retained by the Participating Financial Institution.

§10057. Quarterly Reports.

- (a) A Participating Financial Institution shall provide a cumulative Quarterly Report to the Authority within two weeks of the end date of each quarter.
- (b) The Quarterly Report shall indicate the following information for each enrolled Qualified Loan:
 - 1) Participating Financial Institution's loan number.
 - 2) Maturity date of the loan.
 - 3) Total loan amount (original amount of loan).
 - 4) Total enrolled amount outstanding (today's balance or enrolled amount, whichever is less).
 - 5) The payment performance on all outstanding Qualified Loans and collections, if any.
 - 6) Any inchoate losses or acceleration notices.
 - 7) Closed Qualified Loans shall be reported in the quarter they pay or charge off as a zero balance. Once the Participating Financial Institution has reported the Qualified Loan as

zero, it does not need to be included on future Quarterly Reports and the Qualified Loan may be removed from the Quarterly Report at that time.

- 8) For Qualified Loans that resulted in a claim payment to the Participating Financial Institution, the Quarterly Report shall also include the following information:
 - A) Date of charge off.
 - B) Claim amount paid.
 - C) Recovery dates.
 - D) Recovery amounts.

§ 10058. Subrogation.

- (a) The Authority will be subrogated to the rights of the Participating Financial Institution in collateral, personal guarantees and all other forms of security for the Qualified Loan including reimbursement claims that may be made with other government programs substantially similar to the Program that have not been realized by the Participating Financial Institution, when the Participating Financial Institution's loss has been fully covered by payment of a loss claim, or by a combination of payment of a loss claim and recovery from the Borrower, liquidation of collateral, or from other sources.
- (b) At the time of subrogating its rights, the Participating Financial Institution shall provide the Authority with all original security agreements, any documents evidencing title to real property, certificates of title, guarantees, and any other documents representing security for the Qualified Loan, duly recorded and perfected, and accompanied by enforceable assignments and conveyances to the Authority, unless such security documents also secure indebtedness to the Participating Financial Institution which was not covered by the Qualified Loan. In such latter case, the Participating Financial Institution shall enter into an intercreditor agreement with the Authority, providing that the Participating Financial Institution shall be entitled to recover under such security documents, to the extent possible, the full amount of its loss on any indebtedness not covered by the Qualified Loan but secured by the same collateral as the Qualified Loan; the balance of any amounts recovered under such security documents shall be deposited in the Loss Reserve Account. The Participating Financial Institution shall provide Monthly Reports, and as requested by the Executive Director, concerning its activities in collecting moneys owed from a defaulted Borrower.
- (c) The Executive Director shall be authorized to enter into agreements with any Participating Financial Institution to provide for such institution to act as the Authority's agent to secure recovery under any agreement, collateral or security documents to which the Authority has been subrogated.

§ 10059. Termination and Withdrawal from the Program.

- (a) A Participating Financial Institution shall be authorized to withdraw from the Program after giving written notice to the Authority. Such notice shall specify either:

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- 1) that the Participating Financial Institution waives any further interest in the Loss Reserve Account (including for the reason that all Qualified Loans covered by the Loss Reserve Account have been repaid); or
 - 2) that the Participating Financial Institution will not enroll any further loans under the Program but that the Loss Reserve Account shall continue in existence to secure all Qualified Loans enrolled prior to such notice.
- (b) After receipt of a notice under subsection (a)(1) or receipt of a certificate from a Participating Financial Institution which has withdrawn from the Program pursuant to subsection (a)(2), certifying that all Qualified Loans secured by the Loss Reserve Account have been repaid and that there are no pending claims for reimbursement under Section 10056, the remaining balance in the Loss Reserve Account shall be distributed to the Authority.
- (c) The Executive Director shall be authorized to terminate participation of a Participating Financial Institution in the Program, by notice in writing, upon the occurrence of any of the following:
- 1) Entry of a cease and desist order, regulatory sanction, or any other action against the Participating Financial Institution by a regulatory agency that may impair its ability to participate in the Program; or
 - 2) Failure of the Participating Financial Institution to abide by the Law or this Article; or
 - 3) Failure of the Participating Financial Institution to enroll any Qualified Loans under the Program for a period of one year; or
 - 4) Provision of false or misleading information regarding the Participating Financial Institution to the Authority, or failure to provide the Authority with notice of material changes in submitted information regarding the Participating Financial Institution. In the event of such termination, the Participating Financial Institution shall not be authorized to enroll any further Qualified Loans, but all previously enrolled Qualified Loans shall continue to be covered by the Loss Reserve Account until they are paid, claims are filed, or the Participating Financial Institution withdraws from the Program pursuant to Section 10059(a).

§ 10060. Reports of Regulatory Agencies.

- (a) The Executive Director shall be authorized to seek information directly from any federal or state regulatory agency concerning any Participating Financial Institution participating in the Program.

Attachment C

PROPOSED PROGRAM FORMS

Financial Institution Application	C-2
Loan Enrollment Application	C-3
Eligible Improvements Specification Report.....	C-5
Certificate of Completion	C-7
Financial Institution Claim Application.....	C-9

CLEAN ENERGY UPGRADE FINANCING PROGRAM
 California Alternative Energy and Advanced Transportation Financing Authority

915 Capitol Mall, Room 457
 Sacramento, CA 95814
 Telephone (916) 651-8157
 Fax (916) 657-4821

FINANCIAL INSTITUTION APPLICATION

Name of Financial Institution: _____

Address: _____ City: _____ State: _____ Zip: _____

Contact Person Name: _____ Title: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email address: _____

Type of Institution

- Insured Depository Institution (12 USC 4702 (15)) Federal Certified Community Development Financial Institution (12 USC 4702 (13))
- Insured Credit Union (12 USC 4702 (14)) Consortium of these foregoing entities

Combined capital and surplus at most recent fiscal year end: _____ Number of lending branches: _____

Regulatory Agency: _____ Insuring Agency: _____

Recognized Rating/Rating Agency: _____

Please provide a detailed description of the loan program; a detailed description of the transactional activities associated with the loan issuance, including all transactional costs; and the mechanism by which savings produced by this Program will be passed on to the property owners. Please state the counties where you have lending branches. Attach additional pages as necessary.

Per Section 10053 of the Program regulations, by enrolling as a Participating Financial Institution:

- The applicant certifies that the applicant Financial Institution is not subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, which would impair its ability to participate in the Program.
- The Financial Institution agrees to follow the Law and Program’s regulations regarding the Clean Energy Upgrade Financing Program.
- The Financial Institution agrees to permit an audit of any of its records relating to enrolled Qualified Loans, during normal business hours on its premises, by the Authority or its agents, and to supply such other information concerning enrolled Qualified Loans as shall be requested by the Executive Director.
- The Financial Institution acknowledges that the Authority and the State will have no liability to the Participating Financial Institution under the Program except from funds deposited in the Loss Reserve Account for the Participating Financial Institution.

Note: All capitalized terms are defined in Section 10050 of the Program regulations.

Authorized Signature _____ Title _____ Date _____

California Alternative Energy and Advanced Transportation Financing Authority Use Only		
Highline Rating	LACE Rating	Lender ID#
Approval Signature		Enrollment Date

CLEAN ENERGY UPGRADE FINANCING PROGRAM
 California Alternative Energy and Advanced Transportation Financing Authority

915 Capitol Mall, Room 457
 Sacramento, CA 95814
 Fax (916) 657-4821

CAEATFA Use Only	CEUFP Loan ID #
	Date Received

LOAN ENROLLMENT APPLICATION

Lender Information

Participating Lender: _____ Lender ID#: _____
 Loan Officer Name: _____ Phone: _____ Email: _____

Borrower Information

Loan Identification Number: _____
 City: _____ County: _____ Zip: _____
 FICO Score: _____ Debt-to-Income (DTI) Ratio: _____

Loan Information

Summary of Eligible Improvements: _____

(Must be recommended in the pre-project energy efficiency assessment)

Energy Efficiency Water Efficiency Dist. Gen. Renewable Energy Sources* Electric Vehicle Charging Stations

*** Loading Order Requirements:**

Meets minimum ten percent (10%) reduction in total property energy use, **OR**
 Home Energy Rating (HERS) Score _____ *(85 or more, provided the following requirement is met)*
 Air Sealing/Attic Insulation/Duct Test & Seal/Hot Water Heater Insulation installed if recommended by pre-project energy efficiency assessment.

Is this loan amount in the first \$250,000 of CEUFP loans already enrolled by PFI? Yes No

Total Loan Amount: \$ _____ Amount of Loan covered by Program: \$ _____

Type of Loan: Home Equity Loan Term Loan Second Mortgage

Date the Qualified Loan is Closed: _____ Date of Receipt of Certificate of Completion by PFI: _____

Interest Rate: _____% Fixed Variable Maturity Date (MM/DD/YY): _____

Is the loan secured? Yes No

 List any other CEUFP Loan #(s) related to this Borrower and the covered amount(s) for each: _____

What would the interest rate be if the loan was not enrolled in this Program? _____

What are the estimated savings to the Borrower? _____

Estimated CAEATFA Contribution amount to Loss Reserve Account: \$ _____

CLEAN ENERGY UPGRADE FINANCING PROGRAM
 California Alternative Energy and Advanced Transportation Financing Authority

915 Capitol Mall, Room 457
 Sacramento, CA 95814
 Fax (916) 657-4821

Per Section 10054 of the Program regulations, by enrolling this loan, the Participating Financial Institution certifies, based in part on information provided by the Borrower and the Qualified Contractor, the following: *

- The loan is a Qualified Loan as defined in Section 10050(n) of the CAEATFA CEUFP regulations.
- The person receiving the Qualified Loan is a Borrower, as defined in 10050(b) of the CAEATFA CEUFP regulations.
- The principal enrolled amount of the Qualified Loan does not exceed ten percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.
- The Participating Financial Institution has obtained a written representation from the Qualified Contractor that the Qualified Loan is used for Eligible Improvements made to properties located in California.

The Participating Financial Institution has obtained a written representation from the Qualified Contractor that it has secured all permits needed to complete the retrofits.

Notification if the Participating Financial Institution has enrolled the same loan or a portion thereof in any government program substantially similar to the Program.

The Participating Financial Institution acknowledges that, if applicable, its lending activities are subject to safety and soundness standards as set forth in applicable federal banking regulations.

 Authorized Signature

 Date

 Title

* All capitalized terms are defined in Section 10050 of the Program regulations.

Enclosures required

- Loan Enrollment Application
- Certification of Completion
- Eligible Improvements Specification Report
- Copy of the Pre-Project Energy Efficiency Assessment
- Copy of the Post-Project Energy Assessment

California Alternative Energy and Advanced Transportation Financing Authority Use Only

CEUFP Loan ID Number _____	Loan Loss Reserve Contribution \$ _____ %	Lender's Total Loan Volume to Date \$ _____
Authorized Signature _____		Date _____

Clean Energy Upgrade Financing Program

Eligible Improvements Specification Report

Instructions to Qualified Contractor: After you have installed the Eligible Improvements to be financed, you must complete all the fields in this report and provide a copy to the Borrower along with the Certificate of Completion and a copy of the post-project and pre-project energy efficiency assessments. The Borrower must submit these three documents to the Participating Financial Institution making the Qualified Loan. Note: Some of the data you report may be used by the Authority to complete required reports to the Legislature demonstrating the energy savings achieved. This report is not intended to be a contract or replace the contract between the Qualified Contractor and the Borrower, nor is it intended to be a contract between the Authority and any other party.

General Project Data	Data Type
Qualified Loan Application Number	
Project Location: City and Zip Code	
Building Type	Owner-occupied or rental single family home
Project Start Date (mm/dd/yyyy)	
Project Completion Date (mm/dd/yyyy)	
Name of Contractor Company	
Qualified Contractor Certification 1	AEE, ASHRAE, BPI, NATE, RESNET, State-specific, WAP, NA, Missing, or Other
Qualified Contractor Certification 2	AEE, ASHRAE, BPI, NATE, RESNET, State-specific, WAP, NA, Missing, or Other
Qualified Contractor Certification 3	AEE, ASHRAE, BPI, NATE, RESNET, State-specific, WAP, NA, Missing, or Other
Total Project Invoiced Cost	
Qualified Loan Amount (\$)	
Amount of Rebates (\$)	
General Building Data	
Year Constructed	
Building Floorspace	
Number of Occupants	
Electricity Service Provider Name	
Natural Gas Service Provider Name	
Other Primary Energy Fuel	
Total Energy Savings	
Source or method for prediction	Energy Pro or other
Estimated electricity saved per year (kWh)	
Estimated % savings of kWh per year	
Estimated natural gas savings per year (therms)	
Estimated % savings natural gas per year	
IF OTHER PRIMARY FUELS ARE APPLICABLE: (Select energy fuel)	Fuel Oil, Kerosene, Propane/LPG, Wood, NA, Missing or Other
Units for the energy fuel indicated above	MMBTU, Therms, Gallons, or Other
Expected annual energy savings per year (in units above)	
Estimated % savings per year	
Estimated annual cost savings (\$)	

List of Installed Eligible Improvements		
Quality Assurance/Quality Control		
Qualified Contractor's License Number		
Contractor's BPI Certification # (for energy efficiency improvements)		
Building Permit(s) Number		
Building Permit(s) Number		
Building Permit(s) Number		

DRAFT

Clean Energy Upgrade Financing Program

Certificate of Completion

Borrower Loan Identification Number:	Qualified Contractor's Name:
City and ZIP Code Where the Project is Located:	Qualified Contractor's License Number:

Qualified Contractor Certification

Note to Qualified Contractor: Any contractor who knowingly submits false information may be subject to penalties under perjury and to the imposition of civil money penalties.

This Qualified Loan is being enrolled in the Clean Energy Upgrade Financing Program ("Program"). You are the "Qualified Contractor." By signing below, you certify the following:

- I am licensed to perform the work for which the Qualified Loan is made.
- I am a BPI-certified contractor *(required for energy efficiency improvements only)*.
- The Eligible Improvements have been completed in accordance with the Eligible Improvements Specification Report furnished to the Borrower.
- The Eligible Improvements installed are energy saving home improvements recommended by the pre-project energy efficiency assessment conducted on the Eligible Property.
- The installation complies with all applicable California building standards (all sections of Title 24), local electricity utility interconnection requirements, and any additional laws, ordinances, regulations and standards applicable in the jurisdiction where the installation occurred.
- I have secured all permits needed to install the Eligible Improvements.
- The post-project energy assessment was conducted by an independent third-party inspector who is a HERS Whole-House Rater [and/or] a BPI Building Analyst *(Please check the appropriate certification)*.

<table style="width: 100%; border: none;"> <tr> <td style="width: 40%; border: none;">Qualified Contractor's Signature</td> <td style="width: 30%; border: none;">Print Name</td> <td style="width: 30%; border: none;">Date</td> </tr> <tr> <td style="height: 20px;"></td> <td style="height: 20px;"></td> <td style="height: 20px;"></td> </tr> </table>	Qualified Contractor's Signature	Print Name	Date			
Qualified Contractor's Signature	Print Name	Date				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">Title</td> <td style="width: 50%; border: none;">Qualified Contractor's License Number</td> </tr> <tr> <td style="height: 20px;"></td> <td style="height: 20px;"></td> </tr> </table>	Title	Qualified Contractor's License Number				
Title	Qualified Contractor's License Number					
Permit Number(s)						

The Qualified Contractor is responsible for sending this original signed form to the Participating Financial Institution.

Participating Financial Institution Name:	Address:
<i>For faster processing, you may also fax a copy to lender:</i>	Fax:

Borrower Certification

Notice to Borrower: You must sign and give this certificate to the Qualified Contractor when the work is final and completed to your satisfaction.

Completion of Work

I certify that:

- The Eligible Improvements listed on the Eligible Improvements Specification Report have been completed to my satisfaction.
- I understand that the California Alternative Energy and Advanced Transportation Financing Authority (Authority) and its directors, officers, and agents do not guarantee the performance, quality, or workmanship of the Eligible Improvements.

Release of Information

I acknowledge that the Authority, including its officers, directors, employees, affiliates, agents, or designees, has received and will receive information about me related to the project. The Authority will use this information for program management and evaluation, and will treat the information as confidential unless otherwise required by law. Notwithstanding anything to the contrary:

- I authorize my Qualified Contractor and Participating Financial Institution to share information with the Authority, including contract information, data on work performed and Eligible Improvements installed, information regarding my Qualified Loan, and other information relating to or arising from participation in the Program.

Signature of Borrower	Print Name	Date
Signature of Co-Borrower, if applicable	Print Name	Date

*All capitalized terms are defined in Section 10050 of the Program regulations.

CLEAN ENERGY UPGRADE FINANCING PROGRAM
 California Alternative Energy and Advanced Transportation Financing Authority

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FINANCIAL INSTITUTION CLAIM APPLICATION

NOTE: A Participating Financial Institution (PFI) is required to notify the Authority within 30 days after it has charged off all or part of a Qualified Loan as a result of default by a Borrower. If the form is filled out properly and the PFI has faithfully complied with the Program regulations, the Authority will authorize the Program Trustee to reimburse the PFI from the PFI's Loss Reserve Account within 30 business days of receipt.

Participating Financial Institution and Borrower Information

PFI's Name: _____ PFI's ID Number: _____
 PFI Contact: Name: _____ CEUFP Loan ID Number: _____
 Phone: _____
 Address: _____

Loan Information

Original Principal Amount of Loan: _____ Date of Loan: _____
 Default Amount: _____ Date of Default: _____
 Is this loan secured? Yes No Date of Charge-off: _____
 If yes, form of security: _____

Was the loan in the first \$250,000 of CEUFP loans made by the PFI? Yes No
 Have enforcement proceedings begun? Yes No
 PFI's priority of claim (If two or more claims filed by PFI): _____

Claim Information

Outstanding Principal \$ _____
 Accrued Interest \$ _____
 Out-of-pocket expenses \$ _____
 (Attach detailed explanation)
 Total \$ _____

Please attach loan history report.

- The PFI warrants this claim is being filed within 30 days of the loan being charged off and that the charge off was consistent with the PFI's usual methods for taking action on loans not enrolled in the Program.
- The PFI will, as the Authority's agent, pursue additional recovery on this defaulted Qualified Loan through legal proceedings, seizure and liquidation of collateral, guarantees, and/or other sources.
- The PFI certifies it has given notice to the Authority of the initial enrollment of the Qualified Loan in the Program.

Authorized Signature _____ Title _____ Date _____

California Alternative Energy and Advanced Transportation Financing Authority Use Only		
Authorized Signature	Date	Amount \$

Attachment D

Assembly Bill X1 14
CHAPTER 9

An act to amend Sections 26003, 26102, 26140, and 26141 of, to amend the heading of Division 16.2 (commencing with Section 26100) of, to add Sections 26100.5 and 26103.5 to, and to add Chapter 2.5 (commencing with Section 26130) to Division 16.2 of, the Public Resources Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 2, 2011. Filed with Secretary of State August 2, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 14, Skinner. Energy: energy upgrade financing.

(1) Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a Property Assessed Clean Energy (PACE) Reserve program to assist local jurisdictions in financing the installation of distributed generation renewable energy sources or energy or water efficiency improvements meeting specified requirements that are permanently affixed on real property through the use of a voluntary contractual assessment. Existing law, until January 1, 2015, appropriates up to \$50,000,000 from the Renewable Resource Trust Fund to the authority for the purposes of the PACE Reserve program and authorizes the authority to expend up to \$300,000 of that appropriation for initial administrative costs in implementing the PACE Reserve program.

This bill would additionally require the authority to administer a Clean Energy Upgrade Program that would be developed by the State Energy Resources Conservation and Development Commission and the authority to reduce the costs to property owners of a loan provided by a financial institution that has a loan program that satisfies the specified requirements. Because this bill would authorize the use of the money appropriated for the PACE Reserve program for the Clean Energy Upgrade Program, this bill would make an appropriation. The bill would require the authority to report annually specified information regarding the program. The bill would increase the amount of the appropriation that may be expended for initial administrative costs to \$550,000, thereby making an appropriation.

(2) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

Appropriation: yes.

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

SECTION 1. Section 26003 of the Public Resources Code is amended to read:

26003. As used in this division, unless the context otherwise requires:

(a) "Authority" means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(b) "Cost" as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; the cost of the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of a project.

(c) (1) "Alternative sources" means the application of cogeneration technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels.

(2) "Alternative sources" does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) "Advanced transportation technologies" means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state's commitment to energy conservation,

pollution reduction, and transportation efficiency. Those technologies may include, but are not limited to, any of the following:

- (1) Intelligent vehicle highway systems.
- (2) Advanced telecommunications for transportation.
- (3) Command, control, and communications for public transit vehicles and systems.
- (4) Electric vehicles and ultralow-emission vehicles.
- (5) High-speed rail and magnetic levitation passenger systems.
- (6) Fuel cells.

(e) "Financial assistance" includes, but is not limited to, either, or any combination, of the following:

- (1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the board.
- (2) Any other type of assistance the authority determines is appropriate.

(f) "Participating party" means either of the following:

- (1) A person, or an entity or group of entities engaged in business or operations in the state, whether organized for profit or not for profit, that does either of the following:

(A) Applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(B) Participates in the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.

- (2) A public agency or nonprofit corporation that does either of the following:

(A) Applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(B) Participates in the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.

(g) (1) "Project" means a land, building, improvement to the land or building, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies, or an arrangement for the purchase, including prepayment, or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.

(2) "Project," for the purposes of Section 26011.8, means any tangible personal property that is utilized for the design, manufacture, production, or assembly of advanced transportation technologies or alternative source products, components, or systems.

(h) "Public agency" means a federal or state agency, department, board, authority, state or community college, university, or commission, or a county,

city and county, city, regional agency, public district, school district, or other political entity.

(i) (1) “Renewable energy” means a device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:

(A) Biomass.

(B) Solar thermal.

(C) Photovoltaic.

(D) Wind.

(E) Geothermal.

(2) For purposes of this subdivision, “conventional energy fuel” means any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquefied natural gas, or nuclear fissionable materials.

(3) Notwithstanding paragraph (1), for purposes of this section, “renewable energy” also means ultralow-emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(j) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

SEC. 2. The heading of Division 16.2 (commencing with Section 26100) of the Public Resources Code is amended to read:

**DIVISION 16.2. PROPERTY ASSESSED CLEAN ENERGY (PACE)
AND CLEAN ENERGY FINANCING ASSISTANCE**

SEC. 3. Section 26100.5 is added to the Public Resources Code, to read:
26100.5. The Legislature further finds and declares both of the following:

(a) Actions by federally chartered home loan entities have frustrated efforts to accelerate the implementation of the PACE financing program, creating a need to establish effective alternative approaches that can be rapidly deployed to advance the purposes of this division.

(b) Among the most promising alternatives that can be implemented rapidly are those intended to increase access to capital for projects that advance the purposes of this division.

SEC. 4. Section 26102 of the Public Resources Code is amended to read:
26102. “Applicant” means, for the purposes of Chapter 2 (commencing

with Section 26120), a public agency as defined in paragraph (3) of subdivision (c) of Section 5898.20 of the Streets and Highways Code and, for the purposes of Chapter 2.5 (commencing with Section 26130), a financial institution providing a loan pursuant to that chapter to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements.

SEC. 5. Section 26103.5 is added to the Public Resources Code, to read: 26103.5. "Clean Energy Upgrade Program" means a statewide energy and water efficiency and renewable energy generation building retrofit financing program developed by the State Energy Resources Conservation and Development Commission and the authority pursuant to Section 26130.

SEC. 6. Chapter 2.5 (commencing with Section 26130) is added to Division 16.2 of the Public Resources Code, to read:

Chapter 2.5. Clean Energy Upgrade Program

26130. The authority shall administer a Clean Energy Upgrade Program to reduce overall costs to the property owners of a loan provided by an applicant to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements on real property by providing a reserve or other financial assistance at a level to be determined by the State Energy Resources Conservation and Development Commission and the authority. Improvements financed pursuant to this program shall be for a residential project of three units or fewer or a commercial project that costs less than twenty-five thousand dollars (\$25,000) in total.

26131. (a) The authority shall adopt regulations governing the implementation of this chapter, including quality assurance pursuant to subdivision (b) of Section 26132, at a publicly noticed meeting. Notwithstanding any other law, regulations adopted pursuant to this section may be adopted as emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including Section 11349.6 of that code, the Office of Administrative Law shall consider the adoption of the regulations pursuant to subdivision (a) to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

26132. (a) An applicant shall submit to the authority an application providing a detailed description of the loan program to finance the installation of distributed generation renewable energy sources, electric

vehicle charging infrastructure, or energy or water efficiency improvements on real property, a detailed description of the transactional activities associated with the loan issuance, including all transactional costs, and other information deemed necessary by the authority.

(b) The authority shall ensure that all improvements financed by the program meet quality assurance standards developed by the authority in consultation with the State Energy Resources Conservation and Development Commission. The standards shall include contractor certification and third-party inspection of an appropriate portion of completed projects to ensure project performance and consumer protection.

26133. (a) In evaluating eligibility, the authority shall consider whether the applicant's loan program includes the following conditions:

- (1) Loan recipients are legal owners of underlying property.
- (2) Loan recipients are current on mortgage and property tax payments.
- (3) Loan recipients are not in default or in bankruptcy proceedings.
- (4) Loans are for less than 10 percent of the value of the property.
- (5) The program offers financing for energy and water efficiency improvements.
- (6) Improvements financed by the program follow applicable standards of energy efficiency retrofit work, including any guidelines adopted by the State Energy Resources Conservation and Development Commission.

(b) In evaluating an application, the authority shall consider all of the following factors:

- (1) The use by the loan program of best practices, adopted by the authority, to qualify eligible properties for participation in underwriting the loan program.
- (2) The cost efficiency of the applicant's loan program.
- (3) The projected number of jobs created by the loan program.
- (4) The applicant's loan program requirements for quality assurance and consumer protection, as related to achieving efficiency and clean energy production, in accordance with the standards developed pursuant to subdivision (b) of Section 26132.
- (5) The mechanisms by which savings produced by this program are passed on to the property owners.
- (6) Any other factors deemed appropriate by the authority.

(c) The authority may approve a loan program that offers financing for electric vehicle charging infrastructure if the electric vehicle charging infrastructure is part of a project to install energy efficiency improvements and distributed generation renewable energy resources and is designed so that the project does not increase peak energy demand.

26134. (a) The authority shall require certification from a loan applicant that each loan offered pursuant to the applicant's loan program is consistent with the requirements of the Clean Energy Upgrade Program administered pursuant to this chapter.

(b) If the conditions of subdivision (a) are satisfied, the authority shall allocate to the applicant, at the closing of the loan, the amount made available from the Renewable Resource Trust Fund in the form of financial assistance as approved by the State Energy Resources Conservation and Development Commission and the authority. Prior to providing financial assistance pursuant to this section, the authority shall enter into an agreement with the applicant regarding the financial assistance, including the process for the possible return of moneys disbursed to or on behalf of the applicant.

SEC. 7. Section 26140 of the Public Resources Code is amended to read:

26140. (a) Until January 1, 2015, an amount of up to fifty million dollars (\$50,000,000) from the Renewable Resource Trust Fund, established pursuant to Section 25751, is hereby appropriated to the authority for the purposes of this division. The moneys appropriated shall remain in the Renewable Resource Trust Fund until the funds are needed by the authority pursuant to this division.

(b) Of the moneys appropriated in subdivision (a), up to five hundred fifty thousand dollars (\$550,000) may be expended by the authority for the initial administrative costs in implementing this division.

(c) All repayments of moneys disbursed pursuant to this division shall be deposited into the Renewable Resource Trust Fund.

SEC. 8. Section 26141 of the Public Resources Code is amended to read:

26141. (a) On March 31, 2011, and annually thereafter, the authority shall submit to the Legislature a report pursuant to Section 9795 of the Government Code on all of the following:

- (1) The status of the account.
- (2) A summary of the PACE bonds that received assistance pursuant to Chapter 2 (commencing with Section 26120) and a summary of the loans that received assistance pursuant to Chapter 2.5 (commencing with Section 26130).
- (3) A summary of the benefits provided by this division, including reduced interest rates on the PACE bonds or on loans receiving assistance pursuant to this division.
- (4) The number of jobs created by the PACE programs or loans that received assistance pursuant to this division.
- (5) Information on energy and water savings resulting from the PACE programs or loans that received assistance pursuant to this division.
- (6) Other information deemed appropriate by the authority.

(b) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 9. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.