

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**  
**May 26, 2010**

**Consideration of and Approval to Submit Draft CDLAC Regulations to the Office of  
Administrative Law for a Public Comment Period  
(Agenda Item No. 4)**

**ACTION**

Approve staff's request to submit proposed Draft CDLAC Regulations to the Office of Administrative Law for a 45-day public comment period (see Attachment A).

**BACKGROUND**

Presently, the California Debt Limit Allocation Committee (Committee) operates under adopted procedures that set forth the priorities and process by which potential issuers of qualified private activity bonds may apply for, and be awarded, an allocation of the annual state ceiling in accordance with the provisions and requirements of 26 U.S.C. Sections 141, et seq., as amended, and California Government Code Sections 8869.80, et seq., as amended. Over the years, the Committee has operated pursuant to procedures adopted by the Committee following notice and public comment. With the addition of new and more complex programs, staff is recommending the Committee adopt regulations to ensure its rules are readily accessible, clear, and in conformance with other similar rules utilized by state agencies.

**DISCUSSION**

The proposed draft regulations will not modify the priorities or the process of the Committee with the exception of the following proposed additions:

- Under the Qualified Residential Rental Program, the evaluation criteria for Site Amenities will include additional points:
  - “Two and one-half (2 ½) points will be awarded to projects located within one-half (½) mile of a public library.”*
- The evaluation for Sustainable Building Methods will include additional points for:
  - A. *“Projects, where the Project Sponsor commits to develop and secure the certification of the project under any one of the following programs: Leadership in Energy & Environmental Design (LEED); Green Communities; or the GreenPoint Rated Multifamily Guidelines, will receive eight (8) points.”*
  - B. *“An allocation of Historic Tax Credits”*
- The evaluation for Service Amenities will include the following provision:
  - “The application must propose a combined annual value of at least \$10,000, or \$5,000 for projects of 20 units or fewer, for those services. This annual value does not apply to High Speed Internet Service when chosen as a single service amenity. In addition, any donated services must be assigned a dollar value by the provider of those services. Applications must contain a detailed budget clearly displaying all anticipated income and expenses associated with the projects services program.”*
- Service Amenities will include additional points as follows:

*“Five (5) points to projects with a bona fide service coordinator/social worker available. Having a bona fide service coordinator (not the on-site manager, for example) may count for 5 points in this category, provided that a description of the experience of the coordinator, a description of the duties of the coordinator, and a budget to pay for the coordinator are included in the application.”*

- Under the Expiration of Allocations, it is proposed that in the case of extreme hardship, the Committee may extend beyond five (5) business days provided the following:

*“If an Allocation was awarded during an Open Allocation Round, the Committee may extend the Project’s expiration date up to the next regularly scheduled meeting at which time the Committee may elect to grant an additional extension up to ninety (90) days.”*

Each of these recommended changes are designed to either clarify or update language and references currently found in the CDLAC Procedures. In addition to this Committee meeting, the public will have an opportunity to review and comment on these items during the Office of Administrative Law (OAL) public comment period. CDLAC staff anticipates submitting these draft regulations to OAL in early June.

#### **RECOMMENDATION**

Staff recommends the approval to submit the proposed Draft CDLAC Regulations to the Office of Administrative Law for a 45-day public comment period.

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# CDLAC REGULATIONS

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### Chapter 1. General Provisions

#### Article 1. Definitions

Section 1. In addition to the definitions set forth in Government Code Section 8862 and unless otherwise required by the context, the following terms shall have the meanings set forth in this Article.

Section 2. "Allocation" means the portion of the State Ceiling awarded by the Committee to an Applicant.

Section 3. "Allocation Round" means a meeting or series of meetings of the Committee during which a pre-determined portion of the State Ceiling is made available for allocation by the Committee to one or more Applicants selected by the Committee during that meeting or series of meetings.

Section 4. "Applicant" means any state or local governmental agency, joint powers authority (JPA), special district, nonprofit public benefit corporation that issues only student loan bonds or any other public agency that is empowered to issue debt that submits an Application to the Committee.

Section 5. "Application" means the request by an Applicant to the Committee for an Allocation of the State Ceiling which shall include the information specified in Article 5.

Section 6. "Area Median Income" means the median family income of a county as set by the U.S. Department of Housing and Urban Development.

Section 7. "Bond" means a Qualified Private Activity bond pursuant to Section 24.

Section 8. "Census Designated Place" means a place designated as a census designated place by the Bureau of the Census.

Section 9. "CIDFAC" means the California Industrial Development Financing Advisory Commission.

Section 10. "CIEDB" means the California Infrastructure and Economic Development Bank.

Section 11. "Committee" means the California Debt Limit Allocation Committee established by California Government Code Sections 8869.80, et seq.

Section 12. "Committee Resolution" means for any Allocation, the resolution duly adopted by the Committee that among other things, memorializes the grant of the Allocation by the Committee to the Applicant.

Section 13. "Competitive Application Process" means the procedure under which the Committee will evaluate an Application for an award of Allocation that is competitive based upon the number of points each Application is awarded. Applications submitted under this process will be awarded points only when the Project qualifies for such points and evidence supporting an award of points is demonstrated at the time when submitted. The Committee will not consider an award of points for specific criteria submitted after the Application deadline, nor will the Committee review an incomplete Application except to determine whether the Application is complete.

Section 14. "Credit Enhancement" means the additional assurance provided by a third party pursuant to a payment guaranty, letter of credit, bond insurance or other similar vehicle with a marketable investment grade credit rating.

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Section 15. "Credit Enhancer" means the party providing Credit Enhancement.

Section 16. "CTCAC" means the California Tax Credit Allocation Committee.

Section 17. "Deemed Waived" means any designated Qualified Energy Conservation Bond and/or Recovery Zone Bond Allocation not issued or included in a Plan of Issuance by August 15, 2010 that will be automatically deemed returned to CDLAC for reallocation.

Section 18. "Deposit Certification Form" means the form provided by and due to the Committee in which the Applicant certifies the required performance deposit has been made and is being held on behalf of the Committee.

Section 19. "Distressed Community" means a community that the Applicant demonstrates to be any one or more of the following:

- (a) A community with an unemployment rate equal to or greater than 125% of the statewide average based on the California Employment Development Department's most recent annual average for sub-county areas.
- (b) A community with median family income of less than 80% of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)
- (c) A community with a poverty rate equal to or greater than 110% of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place such as a census tract or tracts, smaller geographic areas will be used.)
- (d) A state designated Enterprise Zone (including a Manufacturing Enhancement Area or Targeted Tax Area).
- (e) A federally designated Empowerment Zone, Enterprise Community (as defined in 26 U.S.C. Section 1392), or Renewal Community.
- (f) A redevelopment project area adopted pursuant to California Health and Safety Code Sections 33000 et seq., where the Committee determines that the project area meets the definition of "blighted area" contained in California Health and Safety Code Section 33030.

Section 20. "Eligible QECB Reallocation Applicant" means any city, county (acting directly or through an entity acting on behalf of the city or county pursuant to a joint powers agreement), state entity or Indian tribal government located in the State of California.

Section 21. "Eligible QECB Reallocation Issuer"- per IRS Notice 2009-29, "Eligible issuers include States, political subdivisions as defined for purposes of § 103, and entities empowered to issue bonds on behalf of any such entity under rules similar to those for determining whether a bond issued on behalf of a State or political subdivision constitutes an obligation of that State or political subdivision for purposes of § 103 and § 1.103-1(b) of the regulations."

Section 22. "Executive Director" means the Executive Director of the Committee.

Section 23. "Exempt Facility Project" means a facility satisfying the requirements of 26 U.S.C. Section 142, except that airports, docks and wharves, governmentally owned solid waste disposal facilities, and Qualified Residential Rental Projects shall not be considered exempt facilities for purposes of these Procedures.

Section 24. "Exempt Facility Project Pool" means the reserve of the State Ceiling established by the Committee for Exempt Facility Projects.

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Section 25. "Extra Credit Teacher Home Purchase Program" means a program offering Mortgage Credit Certificates or loans funded by Mortgage Revenue Bonds to Eligible Teachers, Eligible Administrators, Eligible Classified Employees, and Eligible Staff Members for the purpose of assisting them in becoming homeowners.

Section 26. "Extra Credit Teacher Home Purchase Program Pool" means the reserve of the State Ceiling established by the Committee for the Extra Credit Teacher Home Purchase Program.

Section 27. "Job Creation" means new full-time jobs created by the Project Sponsor. The number of jobs created shall be calculated after deducting any jobs within the State that are eliminated by the company. Job Creation will begin upon completion of the project and must be met within two (2) years following the completion of the project. The Job Creation requirement may be monitored by CIDFAC and CIEDB utilizing Employment Development Department employment statistics.

Section 28. "LEED Certified" means Leadership in Energy & Environmental Design certification by the U.S. Green Building Council.

Section 29. "Local Issuer" means a local government entity that issues Mortgage Revenue Bonds or Mortgage Credit Certificates for Single Family Housing Programs or small-issue industrial development bonds or a joint powers authority that issues small-issue industrial development bonds on behalf of a local government entity.

Section 30. "Market Study" means the current Joint Market Study Guidelines published by the Committee and the California Tax Credit Allocation Committee.

Section 31. "Mixed Income Pool" means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee.

Section 32. "Mixed Income Project" means a Qualified Residential Rental Project having 50% or fewer of its total units designated as Restricted Rental Units.

Section 33. "Mortgage Credit Certificate" means a mortgage credit certificate as defined by 26 U.S.C. Section 25(c)(1).

Section 34. "Mortgage Revenue Bond" means a bond defined by 26 U.S.C. Section 143(A).

Section 35. "Mortgage Revenue Bond Program" means a program defined by 26 U.S.C. Section 143(A).

Section 36. "Nationally Recognized Statistical Rating Organization" means credit rating agencies that satisfy the requirements of 15 USC § 78c (62).

Section 37. "Net Proceeds" means a minimum of 95% of net proceeds (as defined in section 150(a) (3)) are to be used for "recovery zone property" per section 1400-U-3(b)(1)(A). ARRA Bonds cannot be used to purchase land.

Section 38. "Open Application Process" means the procedure under which the Committee will evaluate an Application for an award of Allocation that is not competitive. The Committee will not review an incomplete Application except to determine whether the Application is incomplete and notify the Applicant of the deficiency.

Section 39. "Plan of Issuance" means a report due to CDLAC not later than January 31, 2010 from a county or municipality receiving Qualified Energy Conservation Bond and/or Recovery Zone Bond allocation including a description of the projects to be funded by the unused Qualified Energy Conservation Bond and/or Recovery Zone Bond allocation. In addition, counties and

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municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.

Section 40. "Project" means the subject property for which an Application for Allocation has been submitted.

Section 41. "Project Sponsor" means the entity, or an affiliate thereof, using the proceeds of a bond issue to complete the project described in the Application.

Section 42. "Public Transit Corridor" means that area within one-quarter mile of a route on which there is regular service provided by a transit system or within one-quarter mile of an existing or planned public mass transit guideway or busway station, or within one-quarter mile of a multimodal transportation terminal serving public mass transit operations.

Section 43. "Qualified Business" means any trade or business except as defined in 26 U.S.C. Section 168(e)(2) and Section 144(c)(6)(B):

(a) The rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not a residential rental property (as defined in Section 168(e)(2)); and

(b) Such term shall not include any trade or business consisting of the operation of any facility described in Section 144(c)(6)(B).

Section 44. "Qualified Energy Conservation Bond (QECB)" means any qualified tax credit bond issued as part of an issue if: (1) 100 percent of the available project proceeds of such issue are to be used for one or more "qualified conservation purposes" as defined in 26 U.S.C. Section 54D(f), (2) the bond is issued by a State or local government, and (3) the issuer designates such bonds for purposes pursuant to 26 U.S.C. Section 54D.

Section 45. "Qualified Energy Conservation Bond Reallocation Pool" means the reserve of the amount Deemed Waived by the Committee for reallocation for a Qualified Energy Conservation Bond.

Section 46. "Qualified Private Activity Bond" means a bond that satisfies the requirements of 26 U.S.C. Sections 141, et seq.

Section 47. "Qualified Recovery Zone Bond Issuer" means Eligible issuers of Recovery Zone Bonds include States, political subdivision as defined for purposes of code 103, and entities empowered to issue bonds on behalf of any such entity under rules similar to those for determined whether a bond issued on behalf of a State or political subdivision constitutes an obligation of the State or political subdivision for purposes of code 103 and 1.103-1(b) of the Income Tax Regulations. Further, eligible issuers include otherwise-eligible issuers in conduit financing issues (as defined in code 1.150-1(b)). An eligible issuer may issue Recovery Zone Bonds based on a volume cap allocation received by the eligible issuer itself or by a conduit borrower or other ultimate beneficiary of the issue of the bonds.

Section 48. "Qualified Residential Rental Project" means a qualified residential rental project as defined by 26 U.S.C. Section 142(d)(1).

Section 49. "Qualified Residential Rental Project Pool" means the reserve of the State Ceiling established by the Committee for Qualified Residential Rental Projects.

Section 50. "Recovery Zone" means an area designated by the local issuing entity per section 1400U-1(b) defined as meeting one of the following criteria:

(a) Significant poverty, unemployment, rate of home foreclosures or general distress

(b) Economically distressed because of military base closure or realignment

(c) An area which has been designation as an empowerment zone or a renewal community

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Section 51. "Recovery Zone Economic Development Bonds (RZEDB)" means a type of Build America Bond issued before January 1, 2011 in which the Issuer shall receive a credit from the Treasury Department equal to 45% of the interest payment.

Section 52. "Recovery Zone Economic Development Bond Reallocation Pool" means the reserve of the amount Deemed Waived by the Committee for reallocation for a Recovery Zone Economic Development.

Section 53. "Recovery Zone Facility Bonds (RZFB)" means a category of bonds created by the American Recovery and Reinvestment Act of 2009 (ARRA) that will be treated as Exempt Facility Bond Project for the purpose of code section 142, these bonds are limited to issuance in 2009 and 2010.

Section 54. "Recovery Zone Facility Bonds Reallocation Pool" means the reserve of the amount Deemed Waived by the Committee for reallocation for a Recovery Zone Facility Bonds.

Section 55. "Redevelopment Project Area" means an urbanized area of a community which is a blighted area as defined in Sections 33030-33039 of the California Health and Safety Code, the redevelopment of which is necessary to effectuate the public purposes declared in Sections 33000, et seq. of the California Health and Safety Code.

Section 56. "Related Party" means:

- (a) The brothers, sisters, spouse, ancestors, and direct descendants of a person;
- (b) A person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
- (c) Two or more corporations, general partnership(s), limited partnership(s) or limited liability corporations connected through debt or equity ownership, in which:
  - (1) Stock is held by the same persons or entities for:
    - (A) At least 50% of the total combined voting power of all classes that can vote, or
    - (B) At least 50% of the total value of shares of all classes of stock of each of the corporations, or
    - (C) At least 50% of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing that voting power or value, stock owned directly by that other corporation;
  - (2) Concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity from which income is derived;
  - (3) Concurrent ownership by a parent or related entity, regardless of the percentage of ownership, or a separate entity where a sale-leaseback transaction provides the parent or related entity with income from the property leased or that creates an undue influence on the separate entity as a result of the sale-leaseback transaction;
  - (4) Concurrent ownership by a parent or related entity, regardless of the percentage of ownership, of a separate entity where an interlocking directorate exists between the parent or related entity and the separate entity.
- (d) A grantor and fiduciary of any trust;
- (e) A fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (f) A fiduciary of a trust and a beneficiary of that trust;
- (g) A fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust or by or for a person who is a grantor of the trust;
- (h) A person or organization and an organization that is tax-exempt under Subsection 501(c)(3) or (4) of the IRC and that is affiliated with or controlled by that person or the person's family members or by that organization;
- (i) A corporation and a partnership or joint venture if the same persons own more than:
  - (1) 50% in value of the outstanding stock of the corporation; and
  - (2) 50% of the capital interest, or the profits' interest, in the partnership or joint venture;

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(j) One S corporation or limited liability corporation and another S corporation or limited liability corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;

(k) An S corporation or limited liability corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation;

(l) A partnership and a person or organization owning more than 50% of the capital interest, or the profits' interest, in that partnership; or

(m) Two partnerships where the same person or organization owns more than 50% of the capital interests or profits' interests.

The constructive ownership provisions of IRC Section 267 also apply to subsections (a) through (m) above. The more stringent of regulations shall apply as to the ownership provisions of this section.

Section 57. "Report of Action Taken" means the report provided by and due to the Committee not more than three (3) days following the use of Allocation to issue Bonds or Mortgage Credit Certificates.

Section 58. "Rural Project Pool" means a reserve within the Qualified Residential Rental Project Pool that may be established by the Committee.

Section 59. "Single Family Housing Program" means a program satisfying the requirements of 26 U.S.C. Section 25 and 26 U.S.C. Section 143.

Section 60. "Single Family Housing Program Bonus Pool" means a reserve within the Single Family Housing Program Pool that may be established by the Committee.

Section 61. "Single Family Housing Program Pool" means the reserve of the State Ceiling established by the Committee for Single Family Housing Programs.

Section 62. "Small Business Program" means a program that meets the requirements for eligibility established and administered by CIDFAC.

Section 63. "Small-Issue Industrial Development Bond Project" means a project that meets the requirements for a qualified small-issue bond as described under 26 U.S.C. Section 144.

Section 64. "Small-Issue Industrial Development Bond Project Pool" means the reservation of the State Ceiling reserved for Small-Issue Industrial Development Bond Projects.

Section 65. "Special Designation Area" means a community that the Applicant demonstrates is any one or more of the following:

(a) A state designated Enterprise Zone (pursuant to Government Code Section 7073), Manufacturing Enhancement Area (pursuant to Government Code Section 7073.8) or Targeted Tax Area (pursuant to Government Code Section 7097).

(b) A federally designated Empowerment Zone (pursuant to 26 U.S.C. 1392), Enterprise Community (pursuant to 26 U.S.C. Section 1392) or Renewal Community (pursuant to 26 U.S.C. Section 1400E).

(c) A redevelopment project area adopted pursuant to California Health and Safety Code Sections 33000 et seq., where the Committee determines that the project area meets the definition of blighted area contained in Health and Safety Code Section 33030.

Section 66. "State Ceiling" means the aggregate amount of Qualified Private Activity Bonds that can be issued in California each calendar year as established by 26 U.S.C. Section 146 and as determined and announced by the Committee in accordance with Section 3 of these Procedures.

Section 67. "State Ceiling Pools" means the individual pools created by the Committee and as defined in this article.



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Section 68. "State Issuer" means any State agency that issues Mortgage Revenue Bonds or Mortgage Credit Certificates for Single Family Housing Programs.

Section 69. "Student Loan Program" means a program that meets the requirements for a qualified student loan bond under 26 U.S.C. Section 144(b).

Section 70. "Student Loan Program Pool" means the reserve of the State Ceiling established by the Committee for Student Loan Programs.

Section 71. "Sustainable Building Methods" means any methods used in the development or rehabilitation of a qualified residential rental project that will increase energy efficiency by at least 15% above the energy standards set forth by the California Energy Commission Title 24, Part 6 of the California Code of Regulations as amended from time to time.

Section 72. "Taxable Debt" means taxable bonds or conventional financing from a major financial institution.

Section 73. "TEFRA Resolution" means the approval signed by the applicable elected representative of the governmental unit having jurisdiction over the proposed Project under 26 U.S.C. Section 147(f).

Section 74. "U.S. Treasury Designated Recovery Zone Bond Allocation" means Allocation received directly from the federal government pursuant to the American Recovery and Reinvestment Act of 2009.

Section 75. "Verification of Zoning and Local Approvals" means the form provided by the Committee in which the appropriate local government planning official having jurisdiction over the Project certifies specific statements pertaining to land use approvals for the Project.

Section 76. "Veterans Home Loan Program" means a p Single Family Housing Program administered by the California Department of Veterans Affairs, satisfying the requirements of 26 U.S.C. Section 143, and that is restricted to California veterans of military service.

Section 77. "Welfare To Work Plan" means a plan as described by Sections 10531, et seq. of the California Welfare and Institutions Code.

#### Article 2. Determination of State Ceiling and Application Process

Section 100. (a) As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee shall determine and announce the State Ceiling and the portion of the State Ceiling that will be available for each of the State Ceiling Pools as set forth in **Article 3**.

(b) Pursuant to subsection (a), the Committee shall then determine and announce the establishment of either an Open Application Process or a Competitive Application Process, or both for each State Ceiling Pool. The Committee shall determine which process is best for each program pool based on factors including, but not limited to the amount of the state ceiling available to the pool and the history of applications for allocations from each pool.

(c) The Committee may provide for a combination of the Open Application Process and the Competitive Application Process for a pool as necessary to best meet the needs of a specific program or pool. For example, the Committee may establish an Open Application Process from January through August and a Competitive Application Process from September through December.

#### Article 3. State Ceiling Pools

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Section 110. As soon as practicable after the beginning of each calendar year, and before any Applications are considered, the Committee will:

- (a) Determine and announce what amount, expressed both as a percentage and as a dollar amount, of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Qualified Residential Rental Projects from the Qualified Rental Residential Project Pool.
- (b) Subsequent to the determination made pursuant to subsection (a), determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage (not to exceed twenty-five percent (25%)) of the Qualified Residential Rental Project Pool shall be reserved in a Mixed Income Pool to be available for allocation to Mixed Income Projects, and determine what amount, if any, shall be available in each Allocation Round.
- (c) Subsequent to the determination made pursuant to subsection (a), determine and announce whether a portion of the Qualified Residential Rental Project Pool, expressed as a dollar amount and as a percentage (not to exceed ten percent (10%)) of the Qualified Residential Rental Project Pool shall be reserved in a Rural Project Pool to be available for allocation to Rural Projects and determine what amount, if any, shall be available in each Allocation Round.
- (d) Determine and announce what amount, expressed both as a percentage and as a dollar amount of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Single Family Housing Programs.
- (e)(1) Subsequent to the determination made pursuant to subsection (d) determine and announce what portion of the Single Family Housing Program Pool will be reserved and allocated to State Issuers.
- (2) Subsequent to the determination made pursuant to subsection (e)(1), the remainder of the Single Family Housing Program Pool will be reserved by county, for Local Issuers. Each county shall receive a proportionate share of the amount reserved for Local Issuers based on the population of the county relative to the State's total population. Populations will be based on data published by the California State Department of Finance Demographics Unit. Where there is more than one Local Issuer in a county, each Local Issuer shall receive a proportionate share of the county's reservation based on the population of the jurisdictions served by an issuer relative to the county's total population, or as agreed upon by the participating Local Issuers. Local Issuers may apply independently of the county level issuer. Any allocation awarded specifically to a Local Issuer shall reduce the amount available for the county level issuer accordingly.
- (f) Subsequent to the determination made pursuant to subsection (d) and (e), determine and announce whether a portion of the Single Family Housing Program Pool, expressed as a dollar amount and as a percentage of the Single Family Housing Pool shall be reserved in a separate Single Family Housing Program Bonus Pool to be available for allocation by the Committee during the year and in each Allocation Round. The Single Family Housing Program Bonus Pool may be made available for allocation at any Allocation Round subsequent to the first Allocation Round in a given calendar year. The Committee will also designate which Applicants will be eligible for consideration for this pool.
- (g) Determine and announce what amount expressed both as a percentage and as a dollar amount, of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Extra Credit Teacher Home Purchase Programs.
- (h) Determine and announce what amount expressed both as a percentage and as a dollar amount, of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Small-Issue Industrial Development Projects.
- (j) Determine and announce what amount expressed both as a percentage and as a dollar amount, of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Exempt Facility Projects.
- (k) Determine and announce what amount expressed both as a percentage and as a dollar amount, of the State Ceiling shall be available for allocation during the year and in each Allocation Round to Student Loan Programs..

Section 111. Notwithstanding any other provision of this Article, the Committee may, at any time, alter the competitiveness of Allocation Rounds, the number of Allocation Rounds, the portion of the State Ceiling that will be available to each type of State Ceiling Pool, or any Program within a

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Pool in each of the Allocation Rounds, the schedule of the Allocation Rounds and the deadlines for Applicants to submit Applications for consideration based on its finding, at a noticed meeting, that the changes are in the public interest and reasonably necessary to further the purposes for which the Committee was created.

#### Article 4. Application Process

Section 120. Pursuant to **Article 2**, the Committee shall as soon as practical, give notice of the dates and deadlines to submit Applications for each Allocation Round and whether the Applications will be evaluated pursuant to an Open Application Process and the Competitive Application Process.

Section 121. (a) Any state or local governmental agency, joint powers authority (JPA), special district, nonprofit public benefit corporation that issues only student loan bonds or any other public agency that is empowered to issue debt may file an Application . The issuer of the Qualified Private Activity Bonds or Mortgage Credit Certificates must be the Applicant.

(b) Where the Applicant is administering a Single Family Housing Program on behalf of one or more jurisdictions, the Applicant must submit the Application to the Committee. The Applicant must also obtain, and provide to the Committee with its application, publicly adopted documents from each jurisdiction participating in the Applicant's program that explicitly grant authority to the Applicant to conduct the program in the participant's jurisdiction. Documentation must consist of a resolution or a cooperative agreement.

Section 122. Applications for an Allocation shall include the information prescribed by the Committee specific to the State Ceiling Pool or program to which the Application is addressed.

Section 123. Minimum Requirements. (a) Applications for an Allocation of the State Ceiling may be submitted to the Committee at its offices in Sacramento, California. An Applicant must submit all required information appropriate to the type of Qualified Private Activity Bond for which the Applicant requests an Allocation. The Applicant shall submit a complete Application and supplemental material for each project or program for which the Applicant is requesting an Allocation. Only complete Applications bearing the original signatures of an officer of the Applicant and the Project Sponsor, if applicable, will be accepted.

(b) The following items must accompany all Applications:

(1) Deposit Certification Form.

(2) Evidence the performance deposit pursuant to **Article 5** has been deposited. Such evidence may include, but is not limited to a copy of a check, certified funds or in the case where the Application is for a Single Family Housing Program, a copy of a general ledger statement evidencing that funds have been reserved for this purpose.

(3) A non-refundable first installment of the filing fee of \$600 made payable to the California Debt Limit Allocation Committee.

(4) Proof of the bond sale structure requirements pursuant to **Article 6**, if applicable, (for all Applications other than Applications relating to a Mortgage Credit Certificate Program pursuant to **Chapter 3**).

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

(6) For all Applications other than those relating to a Mortgage Credit Certificate Program pursuant to **Chapter 3**, a TEFRA Resolution adopted by the governing body of the jurisdiction in which the proposed project or program will be located, or in the case of a Student Loan Program, a resolution adopted by the sponsor of the Student Loan Program, memorializing the public approval process as required by 26 U.S.C. Section 147(f). The resolution shall clearly indicate that a public hearing was properly noticed and held with respect to the proposed issuance of bonds; such resolutions shall be accompanied by the approval of the bonds for the specific

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project or program by the applicable elected representative as such term is defined in 26 U.S.C. Section 147(f)(2)(E). A copy of the fully executed adopted resolution with the approval of the bond issue must be provided to the Committee:

(A) No later than 45 calendar days following the Application deadline if a Competitive Application Process is established.

(B) Not less than 30 days prior to the scheduled allocation meeting at which the Application will be considered if an Open Application Process is established.

(C)(i) In the event that a copy of an adopted resolution cannot be provided within the timeframes set forth in (b)(6)(A) or (b)(6)(B), the Applicant shall provide written certification as to the date, time, location, and outcome of the public hearing, the approval of the issuance of bonds by the applicable elected representative, and that the actions comply with the provisions of 26 U.S.C. Section 147(f); the certification shall be accompanied by a copy of the notice announcing the public hearing. If the required documentation is not received within the timeframe specified above, the Application will not be considered for an Allocation.

(ii) In the event that a TEFRA Resolution for a proposed project or program is to be signed by a member of the Committee, the Applicant may submit only the minutes of the required public hearing and proof of publication of the notice announcing the public hearing no later than 30 calendar days following the application deadline. Applicants shall submit the signed TEFRA Resolution no later than the date on which they submit the Report of Action Taken, as required by Section 232.

(7) An Applicant requesting Allocation to implement a new Mortgage Credit Certificate Program must include copies of the documents required by Section 210(b) with its Application. Applicants of existing Mortgage Credit Certificate Programs must either certify on the Application that the previously publicly-adopted documents are valid and remain in force or provide copies of newly publicly-adopted documents.

(8) For all Applications relating to a new Mortgage Credit Certificate Program, Applicants must provide a program or operational manual. Applicants of existing programs do not need to include a program or operational manual unless substantive changes have been made.

Section 124. The Committee may establish a minimum point threshold, wait list, or other minimum requirements for any State Ceiling Pool to provide incentive for Applicants to meet the Committee's public policy goals.

Section 125. Applications submitted under a Competitive Application Process will be ranked according to the number of points awarded by the Committee pursuant to the evaluation criteria specific to the State Ceiling Pool or program to which the Application is addressed.

Section 126. An Applicant whose Application is denied under a Competitive Application Process due to program competitiveness, but has otherwise met program threshold requirements in one Allocation Round may request in writing that its Application be considered in a future Allocation Round. The Applicant will not receive any priority or preference as a result of having been previously denied an Allocation. This option is limited to the calendar year in which the application was considered (for example a December Round project may not be deferred to a January Round).

#### Article 5. Performance Deposits and Fees

Section 140. (a) Applications shall include evidence of a performance deposit equal to one-half of one percent (.5%) of the Allocation requested, not to exceed \$100,000 made payable to the Applicant, and a fully executed Deposit Certification Form that certifies the required deposit has been made and is being held by the Applicant on the behalf of the Committee.

(b) Applicants must maintain the performance deposit until a written release is received from the Committee. The performance deposit shall not be released unless the Committee has received payment of all filing fees pursuant to Section 146.

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Section 141. (a) In the case of Qualified Private Activity Bonds, the full release of a deposit will not be authorized unless at least 80% of the Allocation is used to issue Qualified Private Activity Bonds for the purposes approved by the Committee by the date specified in the Committee Resolution. If less than 80% of the Allocation is used to issue Qualified Private Activity Bonds, a pro-rata portion of the deposit will be forfeited equal to the same percentage ratio as the amount of unused Allocation bears to the amount of awarded Allocation. For example, a project received a \$10,000,000 Allocation award. The Applicant uses \$7,900,000 of the Allocation to issue bonds. The unused portion of Allocation is \$2,100,000, or 21% of the \$10,000,000 awarded. Therefore, 21% of the performance deposit will be forfeited to the Committee.

(b) In the case of a Qualified Residential Rental Project that also requests an allocation of state credit reserved for tax-exempt projects from the California Tax Credit Allocation Committee (CTCAC), the full release or refund of a performance deposit will be authorized if the Project Sponsor is able to demonstrate that the failure to use Allocation is solely due to the failure to receive an allocation of state tax credit.

(c) In the case of Mortgage Credit Certificates, the full release or refund of a deposit will not be authorized unless the Allocation has been converted to Mortgage Credit Certificate authority and at least one certificate issued by the date specified in the Committee Resolution. If the Allocation is converted by the specified date but at least one certificate is not issued by the specified date, 20% of the performance deposit will be forfeited by the Applicant. For example, if an Applicant receives a \$3,000,000 Allocation, timely converts the Allocation to Mortgage Credit Certificates, but fails to issue at least one certificate by the specified date, 20% of the performance deposit would be forfeited to the Committee.

(d) Nothing in this section shall be construed to address the forfeiture of deposit relative to utilization of carry forward allocations pursuant to Section 217.

Section 142. The written authorization releasing a performance deposit or refund of deposits paid to the Committee will occur upon the Committee's receipt of all filing fees, and a properly completed Report of Action Taken that is appropriate to the transaction type. The Committee Resolution shall provide the timeframe for using the Allocation and filing the required Report of Action Taken.

Section 143. If the Applicant withdraws an Application prior to consideration by the Committee or if a project fails to receive an allocation, the performance deposit shall be automatically refunded or released and no written authorization from the Committee shall be necessary.

Section 144. Applicants bear the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and timeframes set forth in the Committee Resolution.

Section 145. The Applicant shall remit all forfeited performance deposits to the Committee within 30-days of receipt of an invoice issued by the Committee.

Section 146. Each Applicant shall submit a filing fee in an amount equal to the product of the amount of Allocation actually used to issue Qualified Private Activity Bonds or Mortgage Credit Certificates multiplied by .00035. The payment of the fee will be in two installments as follows:

(a) Initial Filing Fee. A check in the amount of \$600 payable to the California Debt Limit Allocation Committee shall accompany the filing of an Application to cover the Committee's costs Associated with reviewing applications. This portion of the filing fee is not refundable under any circumstances but shall be credited against the total filing fee.

(b) Second Installment of Filing Fee. The second installment of the filing fee will be due upon the use of the Allocation to issue Qualified Private Activity Bonds, Governmental Bonds or the first Mortgage Credit Certificate. The Committee will issue an invoice in conjunction with the Committee Resolution transferring the Allocation to the Applicant. The amount of the second installment of the filing fee is the product of the amount of Allocation used to issue bonds multiplied by .00035, less the fee paid pursuant to subsection (a), above.

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(c) The second installment filing fee is due within 60 days of receipt of a Report of Action Taken as required in Section 232.

#### Article 6. Bond Sale Structure Requirements

Section 160. Applicants, other than Applicants for a Mortgage Credit Certificate Program, shall provide evidence of either a marketing plan for the public sale of the credit enhanced Qualified Private Activity Bonds, or a commitment(s) to purchase the Bonds for an amount no less than the amount requested in the Application. Applicants requesting allocation for pollution control projects administered by the California Pollution Control Financing Authority (CPCFA) or allocation for Industrial Development Bond Projects administered by California Industrial Development Financing Advisory Commission (CIDFAC) should refer to CPCFA or CIDFAC regulations for additional requirements.

Section 161. Applications for Bonds to be issued and sold through a public sale with Credit Enhancement shall include signed documentation from the Credit Enhancer that includes, at a minimum the following:

- (a) Project Sponsor (borrower).
- (b) Project name and location.
- (c) Amount of the Credit Enhancement.
- (d) A binding commitment to close the transaction and to provide the Credit Enhancement.
- (e) Salient terms and conditions of the agreement.
- (f) The security, collateral, or guaranty for the commitment.
- (g) For Qualified Residential Rental Projects, a minimum debt service coverage ratio (the ratio of the net operating income from the project divided by the required debt service on the debt associated with the project) of 1.10.
- (h) Fee structure.
- (i) Occupancy requirements and use restrictions for the project.
- (j) Evidence that all terms and conditions must be achievable by the Project Sponsor within the allotted time for closing the bonds.
- (k) Evidence that the Credit Enhancer committed to move forward with the transaction if the terms and conditions in the commitment letter are met.
- (l) Sources of repayment other than the project.
- (m) Acceptance of the terms and conditions of the Credit Enhancement by the Credit Enhancer and Project Sponsor.
- (n) If Fannie Mae, (a private, shareholder-owned company with a charter from Congress requiring the company to support the housing finance system) or any additional or successor entity possessing a similar Congressional charter is providing the Credit Enhancement, the commitment issued by a qualified lender under the Delegated Underwriting and Servicing (DUS) program of Fannie Mae will constitute acceptable proof of Credit Enhancement.
- (o) If the bonds are to be variable rate bonds, the short term rating shall be no less than "A1" by Standard & Poor's, "VMIG1" by Moody's, or "F-1" by Fitch IBCA, Inc. or the equivalent.
- (p) If the bonds are to be fixed rate bonds, the bond rating shall be no less than an "A" category or the equivalent as rated by a Nationally Recognized Statistical Rating Organization. If the bond rating is below an "A" category or the equivalent, the Application will be evaluated pursuant to Section 164.
- (q) If the California Housing Finance Agency is providing the Credit Enhancement, evidence of its investment grade rating shall be provided with the Application.

Section 162. Applications for Bonds to be issued and sold through a private placement sale shall include signed documentation from the bond purchaser(s) that includes, at a minimum the following:

- (a) Project Sponsor (borrower).
- (b) Project name and location.
- (c) Bond purchase amount.
- (d) A binding commitment to purchase the Bonds.



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- (e) Salient terms and conditions, including the interest rate of the agreement.
- (f) The security, collateral, or guaranty for the commitment.
- (g) For Qualified Residential Rental Projects, a minimum debt service coverage ratio (the ratio of the net operating income from the project divided by the required debt service on the debt associated with the project) of 1.10.
- (h) Fee structure.
- (i) Evidence that all terms and conditions must be achievable by the Project Sponsor within the allotted time for closing the bonds.
- (j) Evidence that the lender is committed to move forward with the transaction if the terms and conditions in the commitment letter are met.
- (k) Sources of repayment other than the project.
- (l) Acceptance of the terms and conditions of the commitment letter by the purchaser and Project Sponsor.

Section 163. Applications for Bonds to be issued and publicly sold without Credit Enhancement will be considered provided the bond sale is feasible based upon, but not limited to, the following factors:

- (a) Bond rating; provided said bond rating is no less than an "A" category or the equivalent as rated by a Nationally Recognized Statistical Rating Organization. If the bond rating is below an "A" category of the equivalent, the Application will be evaluated pursuant to Section 164.
- (b) Marketability of the bonds.
- (c) Experience level and the track record of the entity selling the bonds on behalf of the Applicant.
- (d) Financial strength of the project and the Project Sponsor.
- (e) Additional sources of repayment other than the project.
- (f) The rights, capability and resources of parties to the transaction other than the Project Sponsor to complete and operate the project in the event of default.

Section 164. Applications for Bonds to be issued and publicly sold without a bond rating or Bonds that are rated below an "A" category or the equivalent as rated by a Nationally Recognized Statistical Rating Organization shall be considered pursuant to Section 163 but with the following additional requirements:

- (a) Bonds must be issued in minimum denominations no smaller than \$100,000.
- (b) The offering is to be limited only to sophisticated investors such as an accredited investor as defined by Regulation D of the Securities Act of 1933; or to qualified institutional buyers under Rule 144 A of the Act, to be approved by the Executive Director.
- (c) An "investor letter" from initial investors indicating that they meet the investor criteria for the offering pursuant to subsection (b), that they have no present intention of reoffering the bonds in a subsequent public offering (but may subsequently transfer the bonds in a limited offering to another permitted transferee), that they have the sophistication to evaluate the merits and risks of the investment and suffer a loss of the investment, that they have been furnished all the information which they and their advisers requested on the offering and have had an opportunity to ask questions relating to that information, and other such matters.
- (d) A traveling investor letter of any subsequent transferee subject to the size of the minimum denomination.

#### Article 7. Committee Resolution; Use of State Ceiling Allocations

Section 180. The granting of an Allocation by the Committee shall be memorialized in a written resolution adopted by the Committee. The Committee Resolution shall specify, but not be limited to the following: the Applicant, the amount of the Allocation, the project or program name for which the Allocation has been provided, the Project Sponsor using the bond proceeds where applicable, the location of the project or program, the expiration of date of the allocation and any additional conditions or restrictions imposed on the Allocation by the Committee.

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Section 181. Use of an Allocation shall be limited by the provisions of the Committee Resolution. Any changes to the specifications contained in the Committee Resolution prior to the issuance of Qualified Private Activity Bonds, including, but not limited to, changes to the bond sale structure, the provider of any Credit Enhancement, the direct purchaser of the bonds if a private placement of bonds is indicated, the entity selling bonds, or the identity of the Applicant, must be approved by the Committee prior to the bond issuance. The Committee may delegate the authority to approve these changes to the Committee Chair or to the Executive Director.

Section 182. The Executive Director may administratively approve routine and non-substantive changes that do not require additional Allocation.

#### Article 8. Expiration of Allocations

Section 190. The expiration date of the Allocation will be specified in the Committee Resolution and shall start from the date on which the Committee awards the Allocation. Expiration dates shall be no more than the following:

(a) One-hundred ten (110) days for the issuance of Qualified Residential Rental Bonds, except as provided in Section 192.

(b) Ninety (90) days for the issuance of Mortgage Revenue Bonds, Small-Issue Industrial Development Bonds, and Exempt Facility Bonds.

(c) Ninety (90) days for the issuance of Recovery Zone Facility Bonds and Recovery Zone Economic Development Bonds, except as provided in Section 193.

(d) Ninety (90) days for the issuance of and Qualified Energy Conservation Bonds.

(e) One-hundred twenty (120) days, for the issuance of Mortgage Credit Certificates, and Student Loan Bonds.

Section 191. To facilitate the issuance process for Qualified Residential Rental Bonds, Projects may be assigned an expiration date that is either ninety (90) days or less, one-hundred (100) days or one-hundred ten (110) days from the date of the Allocation. Within five (5) business days following each Allocation Round, these expiration dates will be assigned randomly by a lottery drawing conducted by the Executive Director.

Section 192. Notwithstanding Section 190(a), the Committee may extend the expiration date for the issuance of Qualified Residential Rental Bonds up to one-hundred thirty (130) days solely for the purpose of coordinating pooled transactions with a common bond sale structure or for the coordination of low income housing tax credits. The Committee may delegate this authority to the Executive Director.

Section 193. Notwithstanding Section 190(b), the Committee may extend the expiration date for the issuance of Recovery Zone Facility Bonds or Recovery Zone Economic Development Bonds to thirty (30) days. The Committee may delegate this authority to the Executive Director.

Section 194. The Committee may grant an extension to the expiration date provided in Sections 190, 191, 192, and 193 up to five (5) additional business days for extreme hardship cases. Excluding Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, and Mortgage Credit Certificates, Allocations awarded during an Open Allocation Round may be extended up to the next regularly scheduled meeting at which time the Committee may elect to grant an additional extension up to ninety (90) days. The Committee may delegate this authority to the Executive Director.

Section 195. Applicants that receive an Allocation after October 15 must sell and close the Qualified Private Activity Bonds or convert the Allocation to Mortgage Credit Certificate authority no later than December 31 of the same calendar year in order to comply with federal law, unless the Committee authorizes a carry forward of the Allocation pursuant to Article 10. The Committee may impose a shorter time frame for closing bonds or converting the Allocation to Mortgage Credit Certificate authority to insure full use of the State Ceiling.



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Section 196. Upon expiration of an Allocation, any amount of the Allocation that has not been used to issue Qualified Private Activity Bonds or converted to Mortgage Credit Certificate authority will automatically revert to the Committee.

Section 197. Carry forward Allocations made pursuant to **Article 10** to a Veterans Home Loan Program are not subject to expiration except as set forth in 26 U.S.C Section 146(f)(3).

#### Article 9. Transfers of Allocation

Section 210. (a) Except for the reversion of unused Allocation pursuant to Section **196**, Allocations, including carry forward Allocations, are not transferable unless expressly authorized in writing by the Committee. The Committee will permit transfers of Allocation, including carry forward Allocations to the highest scoring Application on a waiting list or, if a waiting list does not exist, the highest scoring project in queue in a current Allocation Round.

(b) Where the Applicant is administering a Single Family Housing Program for itself and other participating jurisdictions, the use of Allocation within the participating jurisdictions, listed in the resolution is not considered a transfer. For purposes of this subsection, participating jurisdictions means those entities that have provided written assignment of their rights to secure an Allocation to the Applicant. The Applicant shall submit copies of the assignments with the Application.

#### Article 10. Carry Forward Allocations

Section 215. An Applicant receiving an Allocation may not carry forward the Allocation to a subsequent calendar year unless expressly authorized in writing by the Committee.

Section 216. At the end of a calendar year or during the final Allocation Round(s) of the year, the Committee may award Allocation on a carry forward basis for the purpose of providing sufficient time for Applicants to issue bonds under the current year's State Ceiling and/or to ensure all remaining portions of the State Ceiling is issued. In this event, the Committee will announce the conditions for applying and for receiving a carry forward Allocation.

Section 217. The Committee will specify the expiration date of the carry forward allocation in the Committee Resolution memorializing the grant of the allocation. If any amount of the carry forward Allocation has not been used to issue Qualified Private Activity Bonds or converted to Mortgage Credit Certificate Authority on or before the expiration date, the performance deposit will be forfeited to the Committee and the Committee may require the issuer to transfer, in accordance with Section **210**, the carry forward Allocation to another approved project by the same issuer. If the Committee does not require a transfer of the carry forward Allocation, the expiration date may be extended with the approval of the Executive Director until the Allocation expires pursuant to **26 U.S.C. 146(f)(3)** to each subsequent deadline for submitting applications to the Committee. At that time, the Committee may require the issuer to transfer the carry forward Allocation to another approved project by the same issuer.

#### Article 11. Reporting

Section 230. All reports required in this Article shall be transmitted to the Committee at the address, e-mail or fax number listed on the Committee's website, [www.treasurer.ca.gov/cdlac](http://www.treasurer.ca.gov/cdlac).

Section 231. Within twenty-four (24) hours of using the Allocation to issue Qualified Private Activity Bonds or to convert bond authority to Mortgage Credit Certificate authority, an Applicant or its counsel shall notify the Committee of such use of the Allocation via the e-mail address or facsimile number pursuant to Section **230**. The notification shall identify the Applicant, the project or program, the date the Allocation was used, and the amount of the Allocation used.

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Section 232. Within fifteen (15) calendar days of a bond closing or issuance of the first Mortgage Credit Certificate, an Applicant or its counsel shall transmit to the Committee information regarding the issuance of bonds or certificates by submitting the appropriate Report of Action Taken to the address pursuant to Section 230.

Section 233. Following the Committee's receipt of the Report of Action Taken for Qualified Private Activity Bonds, the State Treasurer or his or her designee shall provide the Applicant with a letter certifying that the bond issue meets the requirements of 26 U.S.C. Section 146. This certification letter shall be provided to an Applicant of Mortgage Credit Certificates at the time that the Committee Resolution is transmitted.

#### Article 12. Evaluation Criteria Applicable to All Applications

Section 240. Wherever these regulations require that an Applicant demonstrate a certain condition or characteristic or satisfy certain minimum requirements, each such condition or characteristic or minimum requirement must be demonstrated by satisfactory evidence. The Executive Director shall, upon delegation by the Committee determine whether each minimum requirement has been satisfactorily demonstrated, and may refuse to consider any Application that has not satisfactorily demonstrated every minimum requirement.

Section 241. It is the responsibility of each Applicant and each Project Sponsor to provide the Committee with complete and accurate information at the time the Application is filed. If the Applicant/Project Sponsor (or their attorneys, agents, employees, or other representatives) provides material that is incomplete, erroneous, inaccurate, misleading or false as to a fact to the Executive Director's decision-making process, the Application may be rejected. If incomplete, erroneous, inaccurate, misleading or false information is discovered after an Allocation has been made, the Allocation may be rescinded, if bonds have not been sold or an election to convert bond authority to Mortgage Credit Certificates has not been filed with the Internal Revenue Service. If bonds have been sold or converted to Mortgage Credit Certificates, the Committee may take other action as it deems appropriate.

Section 242. Wherever the Application process contemplates the awarding of points, the Applicant must demonstrate by satisfactory evidence that the related criterion has been satisfied. Where it is determined that the evidence has not been satisfactorily demonstrated, the Executive Director shall not award the related points.

Section 243. The Applicant must demonstrate satisfactory evidence that it can use the Allocation within the time frame required by these Procedures to issue Qualified Private Activity Bonds or Mortgage Credit Certificates.

Section 244. Wherever these regulations contemplate an award of points based on a measurement of distance, that distance shall be measured from the perimeter of the proposed project to the perimeter of the amenity referenced. Applications shall include a detailed scaled-for-distance map from which the Committee can document that the measurement criteria have been met.

Section 245. (a) The Committee may disqualify an Application for a portion of Qualified Residential Rental Pool with significant outstanding non-compliance matters relating to the annual certification of compliance, tenant files or physical conditions at any tax-exempt bond or low income housing tax credit financed property in California. Properties monitored by the Committee or an entity acting on its behalf and owned by the Project Sponsor or any entity that is a Related Party of the Project Sponsor or management company will not be considered until the Committee has received documentation that the outstanding non-compliance matters have been resolved;

(b) Multiple or repeated failure to use committed public subsidies, to use private activity bond allocations within applicable deadlines, or to provide physical amenities or services;

(c) False information provided in connection with an Application; or

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(d) Information that leads the Committee to reasonably and in good faith conclude that an allocation will be inimical to, or incompatible with, the purposes of these regulations or the laws regulating the allocation of the State Ceiling on Qualified Private Activity Bonds.

Section 246. Where these regulations contemplate an award of points, the Committee shall establish a minimum number of points for which Applications must qualify to receive an Allocation.

#### Chapter 2. Qualified Residential Rental Projects

##### Article 1. Definitions.

Section 260. "Area Median Income" means the median family income of a county as set by the U.S. Department of Housing and Urban Development.

Section 261. "Adaptive Reuse" means the retrofitting and repurposing of existing buildings that create new Qualified Residential Rental Project units for the market, and expressly excludes any project that involves rehabilitation or any construction affecting existing residential rental units.

Section 262. "Bond Regulatory Agreement" means the agreement between the Issuer, Project Sponsor, and any third party related to the ownership, financing, and management of a proposed Qualified Residential Rental Project that binds the parties to the commitments made in the Application that resulted in the Allocation for the project and any other requirements mandated by 26 U.S.C. Section 142.

Section 263. "Capital Needs Assessment" means a document containing the information defined in **Section 93**.

Section 264. "Certification of Compliance" means the form provided in the Committee Resolution to be completed by the Project Sponsor in which the Project Sponsor certifies that the Project is in compliance with all of the terms and conditions set forth in the Committee Resolution.

Section 265. "Community Revitalization Area" means a Distressed Community for which a comprehensive Community Revitalization Plan has been adopted and efforts specific to the plan have occurred.

Section 266. "Community Revitalization Plan" means a comprehensive plan adopted by a public entity that details specific efforts being undertaken in a neighborhood or a community, that will result in the improvement of the economic conditions and the quality of life in that area.

Section 268. "Energy Star" means the certification satisfying the requirements of 42 U.S.C. § 6294(a).

Section 269. "Federally Assisted At Risk Project" means a property that is at risk of conversion as defined by Revenue and Taxation Code Section 17058 (c)(4) and by Section 10325 (g)(5)(B)(i)-(v) of Title 4 of the California Code of Regulations; or a property that otherwise meets all requirements of Revenue and Taxation Code Section 17058(c)(4) and Section 10325(g)(5)(B)(i) of Title 4 of the California Code of Regulations, except that the federal assistance due to expire within two (2) calendar years of application to the Committee may include a tax-exempt private activity bond regulatory agreement.

Section 270. "Gross Rent" means gross rent as defined by Section 42(g)(2)(B) of the Internal Revenue Code. Utility allowances, as provided by Section 42(g)(2)(B)(ii) of the Internal Revenue Code, will be included for purposes of this calculation. Projects that are Federally Assisted At

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Risk Projects or projects that request low income housing tax credits are required to use Gross Rents for the calculation of restricted rents.

Section 271. "HOPE VI Project" means a project funded by a grant from the Urban Revitalization Program created by Public Law 102-389 and administered by the Department of Housing and Urban Development under Section 24 of the United States Housing Act of 1937 (42 U.S.C. Section 1437(v)).

Section 272. "Mixed Income Project" means a Qualified Residential Rental Project having 50% or fewer of its total units designated as Restricted Rental Units.

Section 273. "New Construction" means a Qualified Residential Rental Project with 100% of its units constituting new units to the market, and expressly excluding any project that involves rehabilitation or any construction affecting existing residential rental units.

Section 274. "Public Funds" means direct grants, below market rate or subsidized loans, loans where the repayment of the financing is deferred into the future or based on residual receipts from the project's cash flow, direct funds from a public source including, but not limited to, waiver of fees or the value of land donated or leased by a public agency substantiated either by the actual purchase price of the land or by an appraisal whichever is lower, excluding a property tax exemption. Public Funds do not include any Allocation awarded by the Committee.

Section 275. "Qualified Project Period" shall mean the same as defined in Section 142(d)(2)(A) and regulations promulgated there under, except that the minimum term shall be 30-years.

Section 276. "Redevelopment Agency Housing Set Aside Program" means a program to assist redevelopment agencies to maximize the impact of housing set aside programs established and funded pursuant to Health and Safety Code section 33334.2 through the use of housing set aside as security for the repayment of tax-exempt private activity bonds.

Section 277. "Restricted Rental Units" means tenant occupied units within a Qualified Residential Rental Project that are restricted to households earning 60% or less of the Applicable Median Family Income pursuant to a Bond Regulatory Agreement or a CTCAC Extended Low-Income Housing Regulatory Agreement for a minimum of thirty (30) years.

Section 278. "Rural Project" means a Qualified Residential Rental Project located in a rural area as defined by Health and Safety Code Section 50199.21 but shall not include a Mixed Income Project.

Section 279. "Scattered Site Project" means multiple location projects which are:

- (a) At-Risk Projects within the same city or within five miles of each other; or
- (b) Non-At Risk Projects within one mile of each other.

Section 280. "Supplemental Allocation" means the award of allocation to a Qualified Residential Rental Program Applicant for a project that received allocation within the preceding three year period.

Section 281. "Sustainable Building Methods" means any materials utilized in the development or rehabilitation of a Qualified Residential Rental Project that will increase energy efficiency by at least 10 New Construction projects above the energy standards set forth by the California Energy Commission in Part 6 (commencing with Section 10-101) of Title 24 of the California Code of Regulations or a rehabilitation project not subject to Title 24 Standards that reduces energy use on a per square foot basis by 25%.

Section 282. "Table 1" means the table included in the Application for a Qualified Residential Rental Project that itemizes the proposed number of units, square footage, rent, utility allowance,

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and the income restriction each unit or other characteristics deemed appropriate by the Committee for the subject Project.

Section 283. "Table 2" means the table included in the Application for a Qualified Residential Rental Project that itemizes the proposed total of all units, all restricted units, the number and percentage of units restricted for households at or below 50% of AMI, at or below 60% of AMI or other characteristics deemed appropriate by the Committee for the subject Project.

Section 284. "VOC" means a volatile organic compound.

#### Article 2. Applications

Section 300. Concurrent Application to CTCAC. Applicants requesting an Allocation for a Qualified Residential Rental Project who concurrently have an application for the same project filed with CTCAC for consideration under the nine percent (9%) program set forth in Section 10325 of Title 4 of the California Code of Regulations will not be permitted to apply to the Committee unless the application to CTCAC is withdrawn prior to the Application deadline.

Section 301. Subsequent Application to CTCAC. Applicants that receive an Allocation for a Qualified Residential Rental Project are prohibited from subsequently requesting an allocation of 9% low income housing tax credits from CTCAC for the same project, except where the Executive Director grants a waiver based on extraordinary circumstances, including but not limited to, the passage of significant time or circumstances outside the Applicant's control, and makes a determination that the waiver is consistent with the provision of affordable housing.

Section 302. High Cost Projects. Applications with Projects where total project costs exceed \$400,000 per unit or with Rural Projects where total project costs exceed \$350,000 per unit must include an explanation for why costs are beyond these levels and demonstrate that such costs are justified. Applications with high project costs may be presented to the Committee individually from the balance of recommended projects.

Section 303. Readiness. In its Application, the Project Sponsor must demonstrate its readiness to use the Allocation as set forth in this section.

(a) Demonstrated site control. The Applicant shall provide evidence that the project site is at the time of application submission within the control of the Applicant or Project Sponsor. A current title report (completed no more than 90 days prior to application) shall be submitted with all applications for the purposes of this requirement.

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

(A) The Applicant or Project Sponsor holds fee title as evidenced by the title report;

(B) An executed lease agreement or lease option for the length of time the Project will be regulated under this program between the Applicant or Project Sponsor and the owner of the subject property;

(C) An executed disposition and development agreement between the Project Sponsor and a public agency; or

(D) A valid, current, enforceable contingent purchase and sale agreement or option agreement between the Project Sponsor and the owner of the subject property, including evidence that all extensions necessary to keep agreement current through the date of the award of allocation have been executed.

(E) Valid, current and enforceable purchase and sale agreements, contingent purchase sale or option agreements in combination between the Project Sponsor, a third party and the owner of the subject property such that the Committee can determine that upon a grant of Allocation the Project Sponsor has a right to acquire the subject property.

(F) The Executive Director may determine that site control has been demonstrated where a local agency has documented its intention to acquire the site, or portion of the site, through eminent domain proceedings as evidenced by order(s) of possession.

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(b) Local Approvals and Zoning. The Project Sponsor shall provide evidence, at the time the Application is filed, that the site is zoned for the project, as proposed, and that all applicable local land use approvals that are subject to the discretion of local elected officials have been obtained. Examples of such approvals include, but are not limited to, general plan amendments, re-zonings, and conditional use permits. Notwithstanding the first sentence of this subsection, local land use approvals not required to be obtained at the time of Application include, design review, initial environmental study assessments, variances, and development agreements. The Applicant shall, at the time of application submit a Verification of Zoning and Local Approvals form signed by an appropriate local government planning official of the applicable local jurisdiction for the purpose of satisfying this requirement.

Section 304. Income and Rent Restrictions. All Qualified Residential Rental Projects must meet the following minimum income and rent restrictions, which will be included in the Committee Resolution.

(a) Minimum Income Restrictions. A minimum of ten percent (10%) of the units in a Qualified Residential Rental Project must have Gross Rents that are restricted to households with incomes no greater than fifty percent (50%) of the Area Median Income.

The rent restricted units that meet this requirement, with the exception of Mixed Income Pool projects and units located on the upper level floors of high-rise developments, shall be generally distributed in terms of location and number of bedrooms throughout the project. All units shall be of comparable quality and offer a range of sizes and number of bedrooms comparable to those units that are available to other tenants.

(b) Minimum Rent Restrictions. The proposed tenant paid rents for each tax-exempt bond unit type in the proposed development shall be at least ten percent (10%) below rents for the same unit types in the comparable market rate rental properties, as demonstrated by a Market Study meeting the requirements of Article 3.

Section 305. Minimum Term of Restrictions. (a) Income and rent restrictions must be maintained for the Qualified Project Period. For the purposes of this section, the Qualified Project Period is that period which begins on the date when ten percent (10%) occupancy is achieved and ends on the later of:

(1) Thirty (30) years following the date on which fifty percent (50%) occupancy is achieved, or

(2) The date on which bonds are no longer outstanding.

(b) All projects shall be subject to subsection (a) or subsection (c), unless they are intended for eventual tenant homeownership, in which case they must submit, at application, evidence of a financially feasible program, incorporating, among other items, an exit strategy, home ownership counseling, funds to be set aside to assist tenants in the purchase of units, no involuntary relocation of tenants, and a plan for conversion of the facility to home ownership no sooner than the end of the initial 15 year qualified project period as required by 26 U.S.C. Section 142(d)(2)(A). In such a case, the regulatory agreement shall contain provisions for the enforcement of such covenants.

(c) If the Committee estimates that the Qualified Residential Rental Program Pool will be non-competitive or evenly subscribed, and establishes an Open Application Process for a program year, the Committee shall increase the minimum term of restriction to fifty-five (55) years following the date on which fifty percent (50%) occupancy is achieved.

### Article 3. Market Studies.

Section 310. A full Market Study prepared within 180 days of the Application deadline by an independent third party having no identity of interest with the Applicant, Project Sponsor, or Related Party is required. The study must meet the current Market Study guidelines distributed by the Committee, and establish both need and demand for the proposed project. If the Market Study does not meet the guidelines or support sufficient need and demand for the project, the application may be considered ineligible to receive an award of Allocation.

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#### Article 4. Acquisition and Rehabilitation Projects.

Section 320. (a) Except as set forth in subsection (b), Qualified Residential Rental Projects involving the rehabilitation of existing buildings, must complete a minimum of \$10,000 in hard construction costs per unit.

(b) A Federally Assisted At Risk Project that receives only an award of bond authority and does not receive low income housing tax credit, must spend the minimum amount required by 26 U.S.C. Section 147(d)(2).

(c) For purposes of this Article, "Hard construction costs" means the amount of the Hard construction costs plus the on & off site costs.

Section 321. Tenant relocation plan. Applicants proposing rehabilitation or demolition of occupied housing shall provide an explanation of the relocation requirements, and a detailed relocation plan including a budget with an identified funding source. Where existing low income tenants will receive a rent increase exceeding five percent (5%) of their current rent, applicants shall provide a relocation plan addressing economic displacement. Where applicable, the applicant shall provide evidence that the relocation plan is consistent with the Uniform Relocation Assistance and Real Property Acquisition Policy Act and has been submitted to the appropriate local agency.

Section 322. The Applicant shall submit a Capital Needs Assessment performed within 180 days prior to the application deadline that details the condition and remaining useful life of the building's major structural components, all necessary work to be undertaken and its associated costs, as well as the nature of the work, and distinguishing between immediate and long term repairs. The Capital Needs Assessment shall also include a 15-year reserve study, indicating anticipated dates and costs of future replacements of all major building components that are not being replaced immediately and the reserve contributions needed to fund those replacements. The Capital Needs Assessment shall be prepared by the project architect, as long as the project architect has no identity of interest with the project sponsor or other member of the development team; or by a qualified independent third party who has no identity of interest with any of the members of the development team. The Capital Needs Assessment is not required if the project, within the immediately preceding three years received an Allocation and this requirement was satisfied in the original application.

#### Article 5. Compliance Monitoring.

Section 330. (a) All projects that receive an Allocation shall be monitored for compliance with the terms and conditions of the Committee Resolution by the Applicant. The Applicant shall submit a Certification of Compliance in the form provided in the Committee Resolution to the Committee annually that the project meets the terms and conditions of the Committee Resolution. The certification must be submitted by the Project Sponsor (on Project Sponsor letterhead) to the Applicant who will then forward it to the California Debit Limit Allocation Committee no later than March 1 of each year (or at such other time as requested by the Committee). The requirement shall be enforceable by the Committee through an action for specific performance or other available remedy.

(b) All projects that receive Allocation and an award of low income housing tax credits shall be monitored by the Committee or an entity acting on its behalf for compliance with the terms and conditions of the Committee Resolution, and shall be subject to the provisions of Section 10337 of Title 4 of the California Code of Regulations.

(c) The Committee will not consider Applications involving Project Sponsors or their affiliates with significant outstanding non-compliance issues related to any property financed with tax-exempt bonds or low income housing tax credits in California until the Committee receives satisfactory evidence that such issues have been resolved.

#### Article 6. Specific Evaluation Criteria



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Section 340. (a) The following criteria will be used to evaluate and rank all Applications whether for Mixed Income Projects, Rural Projects or other Qualified Residential Rental Projects. Each of the items in this Section shall be memorialized in the Committee Resolution.

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

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

(1) For each ten percent (10%) increment of units restricted at fifty percent (50%) of Area Median Income or below, Qualified Residential Rental Projects other than Mixed Income Projects will receive seven (7) points, and Mixed Income Projects will receive three (3) points.

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

(d) Gross Rents (5 points)

(1) Five (5) points will be awarded to projects which are required to utilize the Gross Rent definition as evidenced by one of the following:

(A) A letter from the local public housing authority that includes a current utility allowance schedule, certifies that the proposed project is located within its jurisdiction and itemizes which components of the utility allowance schedule applies to the project.

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

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

(ii) A current utility allowance estimate consistent with 26 CFR Section 1.42-10. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission. The CUAC estimate shall be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Plans Examiner (CEPE) who is also either a California licensed Mechanical or Electrical Engineer, or a certified Home Energy Rating System (HERS) rater. Measures that are used in the CUAC that require field verification shall be verified by a certified HERS Rater, in accordance with current HERS regulations. The applicant must indicate which components of the utility allowance schedule apply to the project.

(e) Exceeding the Minimum Rent Restrictions (10 points maximum). One (1) point will be awarded for each percentage point that the rental rate of each Restricted Rental Unit type is more than twenty percent (20%) below the rental rate of the same unit type in the comparable market rental properties as demonstrated in the Market Study required by Section 310. Applications receiving points under subsection (b) shall be ineligible to receive points under this subsection.

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

(g) Large Family Units (5 points).

(1) Five (5) points will be awarded to those projects where at least thirty percent (30%) of the Restricted Rental Units are three-bedroom or larger units.

(h) Leveraging (10 points maximum).



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

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

(i) Community Revitalization Criteria (15 points maximum).

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

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

(B) Identification of which Distressed Community characteristic(s) is applicable to the subject area. If the applicable characteristic is pursuant to Section 267(f), a description of the blighted conditions that exist in the subject area must be included.

(C) Confirmation that the project is within the CRA.

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

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

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

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

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

(j) Site Amenities (10 points maximum)

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

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

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

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

(C) Two and one-half (2 ½) points will be awarded to projects located within one-half (½) mile of groceries and other essential shopping needs.

(D) Two and one-half (2 ½) points will be awarded to projects located within one-half (½) mile of a public school (K thru 12th). Projects with all units restricted to households having all members 55 years or older shall not be eligible for points in this category.

(E) Two and one-half (2 ½) points will be awarded to projects located within one-half (½) mile of a medical facility serving seniors or a senior center. Only projects with all units restricted to households having members 55 years or older (with the exception of caregivers and others who are exempt by state law from the age restrictions) shall be eligible for points in this category.

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

(k) Sustainable Building Methods (8 points maximum).

(1) Points described in this subsection will be awarded provided that the Project Sponsor and the licensed project architect or mechanical engineer each submit a certification on company letterhead indicating which items, commencing with subsection (k)(3), will be included in the project's design and any relevant specifications.

(2) In addition to the certification required in subdivision 1, the Project Sponsor shall submit a certification at project completion from the project's licensed architect or mechanical engineer that the design elements that formed the basis for any award of points pursuant to this section have been met or exceeded. A Project Sponsor may be subject to monitoring for compliance with this certification. A Project Sponsor receiving points under this section who fails to meet this requirement will be subject to negative points under subsection n.

(3) Projects that develop and commit to certifying the project under any one of the following programs: Leadership in Energy & Environmental Design (LEED); Green Communities; or the GreenPoint Rated Multifamily Guidelines will receive eight (8) points.

(4) Projects defined as either New Construction or Adaptive Reuse that exceed the energy standards set forth in Title 24 of the California Code of Regulations by at least 10%, or a rehabilitation project not subject to Title 24, that reduces energy use on a per square foot basis by 25% as calculated using a methodology approved by the California Energy Commission will receive five (5) points.

(5) Projects that incorporate items from the following list will receive one (1) point for each item used in the Project, up to a maximum of three (3) points:

(A) Energy Star rated ceiling fans in all bedrooms and living rooms; or use of a whole house fan; or use of an economizer cycle on mechanically cooled HVAC systems.

(B) Water-saving fixtures or flow restrictors in the kitchen (2gpm or less) and bathrooms (1.5 gpm or less).

(C) At least one High Efficiency Toilet (1.3 gpf) or dual-flush toilet per unit.

(D) Material for all cabinets, countertops and shelving that is free of added formaldehyde or fully sealed on all six sides by laminates and/or a low-VOC primer or sealant (150 g/l or less).

(E) Interior paint with no volatile organic compounds. (5 g/l or less).

(F) CRI Green-label, low-VOC carpeting and pad and low-VOC adhesives 25 g/l or less.

(G) Bathroom fans in all bathrooms that exhaust to the outdoors and are equipped with a humidistat sensor or timer.

(H) Formaldehyde-free insulation.

(I) At least one of the following recycled materials at the designated levels: a) cast-in-place concrete (20% flyash); b) carpet (25%); c) road base, fill or landscape amendments (30%).

(J) Design the elements to retain, infiltrate and/or treat on-site the first one-half inch of rainfall in a 24-hour period.

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(K) Inclusion of a Construction Indoor Air Quality Management plan that requires the following: a) protection of construction materials from water damage during construction; b) capping of ducts during construction; c) cleaning of ducts upon completion of construction; and d) for rehabilitation projects, implementation of a dust control plan that prevents particulates from migrating into occupied areas.

(L) The following design features in at least half of the project's units: accessible routes of travel to the dwelling units with accessible 34" minimum clear-opening-width entry and interior doors with lever hardware and 42" minimum width hallways; accessible full bathroom on primary floor with 30" x 60" clearance parallel to the entry to 60" wide accessible showers with grab bars, anti-scald valves and lever faucet/shower handles, and reinforcement applied to walls around toilet for future grab bar installations; accessible kitchen with 30" x 48" clearance parallel to and centered on front of all major fixtures and appliances.

(M) Inclusion of no-smoking buildings or sections of buildings. To be eligible for an award pursuant to this subdivision, the no-smoking sections must consist of at least half the units within the building, and those units must be contiguous.

(N) An allocation of Historic Tax Credits as defined under 26 U.S.C. Section 47(a).

(O) For rehabilitation projects not subject to Title 24 Standards, use of florescent light fixtures for at least 75% of light fixtures or comparable energy saving lighting for the project's total lighting (including community rooms and any common space) throughout the compliance period.

(I) Service Amenities (10 points maximum)

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

(A) Service amenities must be appropriate to the tenant population served and committed to for a minimum of 10 years. Programs must be of a regular, ongoing nature and provided to tenants free of charge, except for day care services.

(B) Services must be provided on-site except that projects may use off-site services within 1/4 mile of the development provided that they have a written agreement with the service provider at the time of application enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative. Referral services will not be eligible for points.

(C) Contracts with service providers, service provider experience, and evidence that physical space will be provided on- or off-site must be documented within the application.

(D) The application must propose a combined annual value of at least \$10,000, or \$5,000 for projects of 20 units or fewer, for those services. This annual value does not apply to High Speed Internet Service when chosen as a single service amenity. In addition, any donated services must be assigned a dollar value by the provider of those services. Applications must contain a detailed budget clearly displaying all anticipated income and expenses associated with the projects services program.

(2) No more than 10 points will be awarded in this subsection as follows:

(A) Five (5) points to projects with high speed internet service provided in each unit.

(B) Five (5) points to projects with after school programs of an ongoing nature.

(C) Five (5) points to projects with educational classes (such as English as a Second Language, computer training, etc.) but which are not the same as (B).

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

(E) Five (5) points to projects with direct client services, such as assistance with activities of daily living, or provision of counseling services

(F) Five (5) points to projects with a bona fide service coordinator/social worker available. Having a bona fide service coordinator (not the on-site manager, for example) may count for 5 points in this category, provided that the experience of the coordinator, the duties of the coordinator, and a budget to pay for the coordinator are included in the application.

(m) New Construction Projects (10 points). Ten (10) points will be awarded to new construction or adaptive re-use projects with restricted rental units.

(n) Negative Points – (No maximum negative points)

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

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

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

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

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

(2) Multiple or repeated failures pursuant to subdivision 1 may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.

Section 341. After all of Applications for Qualified Residential Rental Projects are evaluated pursuant to Section 340, the Applications will be ranked and may be awarded an Allocation as follows:

(a) Applications for Mixed Income Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for Mixed Income Projects awarded the greatest number of points shall be awarded an Allocation from the Mixed Income Pool. Applications for Mixed Income Projects not receiving an Allocation will not be eligible for consideration for an Allocation under subsections (b) or (c).

(b) Applications for Rural Projects will be ranked amongst themselves, and separately from Applications for all other Qualified Residential Rental Projects. Applications for Rural Projects awarded the greatest number of points shall be awarded an Allocation from the Rural Project Pool. Applications for Rural Projects not receiving an Allocation pursuant to this subsection are eligible for consideration for an Allocation under subsection (c).

(c) Applications for Qualified Residential Rental Projects that are not Mixed Income Projects, and any Applications for Rural Projects not receiving an Allocation under subsection (b), will then be ranked together. Applications receiving the greatest number of points shall be awarded an Allocation from the Qualified Residential Rental Project Pool.

(d) If two or more Applications are awarded the same total number of points, these Applications will be ranked according to the lowest amount of requested Allocation per Restricted Rental Unit (Allocation amount requested divided by number of Restricted Rental Units).

Section 342. Maximum Allocation Amount. (a) The Committee will allocate no more than \$30 million for any proposed Qualified Residential Rental Project. Where a proposed Qualified Residential Rental Project is located within one-fourth (1/4) mile of another Qualified Residential Rental Project involving the same Project Sponsor or a Related Party to the Project Sponsor, the Allocation amounts for the Qualified Residential Rental Projects cannot, in the aggregate, exceed \$30 million within a calendar year.

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

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

#### Article 7. Supplemental Allocation.

Section 350. (a) Where the Committee estimates that the Qualified Residential Rental Program pool will be noncompetitive or evenly subscribed in a program year, projects that have received allocation within the past three calendar years may apply for additional allocation by the submittal of a Supplemental Allocation request letter. Letters may be submitted at any time throughout the program year consistent with the timelines associated with the Open Application Process. Staff will review each request for Supplemental Allocation and make a recommendation to the Committee regarding any possible award of additional allocation. Approval of the request and award of allocation will be memorialized in a Committee Resolution. All requirements imposed on the initial allocation, including, but not limited to, expiration of Allocation, bond issuance deadlines, extensions, transfers of allocation, carry forward elections and reporting will be equally applicable to Supplemental Allocations.

(b) The following rules apply to Supplemental Allocations:

(1) A Supplemental Allocation will only be considered for projects that received their initial allocation within the previous three (3) calendar years. Requests for Supplemental Allocation for projects that received allocation more than three calendar years prior must comply with the process for filing a new complete application to be reviewed by the Committee pursuant to Article 4, Chapter 1 and the appropriate provisions of Chapter 2.

(2) Letters from the Applicant must be signed and must include information about the project including, but not limited to, the date and amount(s) of prior allocation, the current status of the project, revised sources and uses, justification for the request for additional allocation, and any other information that the Committee or Executive Director deems necessary.

(3) Supplemental Allocations must evidence compliance with the following requirements:

(A) Posting of a performance deposit pursuant to Section 140.

(B) Payment of a filing fee pursuant to Section 146.

(C) Evidence of the bond sale structure pursuant to Article 6, Chapter 1.

(D) An inducement resolution pursuant to Section 123(b)(5).

(E) A TEFRA Resolution pursuant to Section 123(b)(6).

#### Article 8. Scattered Site Applications

Section 360. (a) Applications for Scattered Site Projects shall include the information required by Table 1, the capital needs assessment, market studies and maps for each separate project included in the Application. Each site must independently meet the Committee's income and rent restriction requirements. The information required by Table 2 shall be provided individually and also as a combined total.

(b) Points awarded pursuant to Section 340(k)(l) will be scored proportionately based upon the following criteria:

(i) Each site's score, and

(ii) The percentage of units represented by each site. For example, if only fifty percent (50%) of the project's total units lie within a ½ mile of a park or recreational area, the project shall receive half the possible points available for that category.

#### Chapter 3. Single Family Housing

##### Article 1. Definitions.



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Section 370. "Applicable Median Family Income" means the applicable median family income defined by 26 U.S.C. Section 143(f)(4), except that the definition of income contained in subsection B of 26 U.S.C. Section 143(f)(4) shall not apply to Applicants for a Single Family Housing Program.

Section 371. "Fair Share Basis" means that each county shall receive a proportionate share of the amount reserved for Local Issuers based on the population of the county relative to the State's total population. Populations will be based on data published by the California State Department of Finance Demographics Unit. Where there is more than one Local Issuer in a county, each Local Issuer shall receive a proportionate share of the county's reservation based on the population of the jurisdictions served by an issuer relative to the county's total population, or as agreed upon by the participating Local Issuers.

Section 372. "Fair Share Allocation Amount" means the amount of Allocation each Local Issuer shall receive pursuant to Section 371.

Section 373. "Homeownership Assistance" means financial assistance, including down-payment assistance, closing cost assistance, soft-second financing for the purchase of a home, or such alternative homeownership assistance as proposed by the Applicant in the Application and approved by the Committee. The Homeownership Assistance must:

- (a) Be in a minimum amount of \$7,500 or 3% of the purchase price of the home, whichever is greater;
- (b) Be structured in the form of either a grant or a deferred payment loan where the payment of principal and interest is deferred until such time as the home is sold or re-financed; and
- (c) Include an incentive, to be proposed by the Applicant, for Program Participants to fully perform the three (3) year service commitment.

Applicants will not be required to establish a distinct and separate homeownership program; existing programs may be used. The Committee may delegate to the Chair or to the Executive Director of the Committee the authority to accept and consider homeownership assistance of different types or characteristics than those specifically enumerated or required by this definition. The Committee may establish, or concur with the establishment of, higher assistance limits to ensure program participation in high cost areas.

Section 374. "Performance Achievement Index" means the percentage of households that participated in a Single Family Housing Program having met the goals set forth in Section 390(a) expressed as a percentage of the minimum goal committed to by the Applicant. For example, if the number of households earning eighty percent (80%) or less of the Applicable Median family Income of the area consisted of only 38% of the participants in a program, then based on a committed goal of 40%, the Performance Achievement Index would equal 95% (38% divided by 40%).

Section 375. "Qualified Census Tract" means any census tract that is designated by the Secretary of Housing and Urban Development and in which, for the most recent year for which census data is available on household income in such tract, 50% or more of the households have an income which is less than 60% of the Area Median Income for such year.

### Article 2. Minimum Requirements

Section 390. An Applicant requesting an Allocation for a Single Family Housing Program must commit to the following goals: (a) A minimum of forty percent (40%) of the participants in the Single Family Housing Program must be households:

- (1) Earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located; or
- (2) Located in a Qualified Census Tract. Applicants may use the high-cost area adjustment set forth in 26 U.S.C. Section 143(f)(5) to meet this minimum requirement.

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(b) An Applicant that is unable to meet the requirement outlined in subsection (a), may request an exemption. However, in no case may less than thirty-five percent (35%) of the participants in the Single Family Housing Program be households:

(1) Earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located; or

(2) Located in a Qualified Census Tract. Applicants may use the high-cost area adjustment set forth in 26 U.S.C. Section 143(f)(5) to meet this minimum requirement.

(c) To be considered for an exemption an Applicant must submit documentation of the programmatic or economic reasons why the requirement outlined in subsection (a) cannot be met.

Section 391. The proposed Single Family Housing Program must be consistent with the adopted housing element(s) for the jurisdiction(s) in which the program is to be operated.

Section 392. For Mortgage Revenue Bond Programs, in order to be eligible for a new Single Family Housing Program Allocation, the Applicant must:

(a) Demonstrate that all proceeds from a bond issuance in the calendar year three (3) years prior to the current year (other than minor amounts not to exceed \$1 million) either:

(1) Have been used to finance loans, or; have been refunded on either a short or long term basis so as to be available to finance loans.

(2) Certify that any remaining bond proceeds or authority from an Allocation up to two calendar years prior to the current year will be used either before the use of new Allocation or in conjunction with new Allocation in satisfying federal requirements (32-year rule) **(Citation?)** for such prior funds.

Section 393. For Mortgage Credit Certificate programs, in order to be eligible for a new Single Family Housing Program Allocation, the Applicant must:

(a) Demonstrate that no Mortgage Credit Certificate authority from the year two years prior to the current year has been unused (other than minor amounts not to exceed \$1 million); and

(b) Certify that any Mortgage Credit Certificate authority remaining from the year prior to the current year will be used before the use of new Mortgage Credit Certificate authority.

Section 394. The Committee may consider exceptions to the minimum requirements based upon detailed information submitted by the Applicant that meeting these requirements presents an undue financial burden or economic hardship for the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair of the Committee or to the Executive Director. With respect to section, and section, to be granted an exception an Applicant must demonstrate its need to use new Allocation even if unused Mortgage Revenue Bond authority or Mortgage Credit Certificate authority totaling over \$1 million remains from prior years.

Section 395. The Veterans Home Loan Program will utilize mortgage revenue bonds to assist eligible California veterans with advantageous first mortgages that are at minimum commensurate with similar state administered Single Family Housing Programs with respect to interest rates and Homeownership Assistance. Allocation will be made on the condition that the entire Allocation will be used to provide below market interest rate mortgages to California veterans.

Section 396. The Applicant for an Allocation under the Veterans Home Loan Program will be required to submit information including, but not limited to:

(a) An outline of the proposed bond structure, bond term, fixed or variable interest rate, and credit rating.

(b) The estimated sources and uses of bond proceeds, including cost of issuance and other fees associated with the proposed program.

(c) The anticipated number of veterans to be assisted and the time frame for the use of Allocation.

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Section 397. The Applicant receiving an Allocation for a Veterans Home Loan Program shall be responsible for submitting an annual report of program activity to the Committee. The Committee will provide the format for all such annual reports.

#### Article 3. Evaluation Criteria.

Section 410. If the Committee has established a Single Family Housing Program Bonus Pool in accordance with Section 110(f), the Applicant must demonstrate the following in order to qualify:

(a) For Mortgage Revenue Bond Programs:

(1) Demonstrate that bonds allocated from the current year's Single Family Housing Pool have been issued.

(2) Certify that proceeds from the current year's allocation are being used to finance loans.

(3) Justify the need for additional Allocation.

(b) For Mortgage Credit Certificate Programs:

(1) Demonstrate that bonds allocated from the current year's Single Family Housing Pool have been converted into mortgage certificates.

(2) Certify that Mortgage Credit Certificates are being issued.

(3) Justify the need for additional Allocation.

Section 411. (a) For Applications meeting the minimum requirements set forth in Section 410, the following criteria will be used to evaluate and rank all Applications considered for the Single Family Housing Program Bonus Pool.

(b) Five (5) points will be awarded where a minimum of twenty-five percent (25%) of program participants are households earning sixty percent (60%) or less of the Applicable Median Family Income of the area in which the program is located.

(c) Five (5) points will be awarded where the program has exceeded its prior year's program performance (based on the most recent yearly data that is available) by ten percent (10%) in assisting households earning sixty percent (60%) or less of the Applicable Median Family Income of the area in which the program is located.

(d) Five (5) points will be awarded where the program will address a demonstrable imbalance between jobs and housing in the community or neighborhood based on sufficient evidence provided to the Committee.

(e) Five (5) points will be awarded where at least twenty-five percent (25%) of the program activity will occur in a Community Revitalization Area.

(f) Five (5) points will be awarded where at least twenty-five percent (25%) of the program activity will occur in rural locations to assist units that will be developed under a low-income self-help ownership program or be restricted for sale to low income households engaged in agricultural employment as described in Section 7202 of the Health and Safety Code.

(g) Five (5) points will be awarded where the program is augmented with a down payment assistance program provided by the Applicant or by the other participating jurisdictions.

Section 412. Applicants will be awarded an Allocation of the Single Family Housing Program Bonus Pool in the same proportion as their current year Fair Share Basis limit pursuant to Section 371.

Section 413. (a) If the Committee has established that any portion of the Single Family Housing Program Pool and Single Family Housing Bonus Pool is remaining by the final meeting of the year, this amount may be made available to Local Issuers under the Single Family Housing Bonus Pool regardless of the their initial Fair Share Basis limit or amount of Allocation awarded in the current year.

(b) Subsequent to the determination made in subsection (a) awards in this round will be based on the pro-rata population of the jurisdictions served by the Applicant relative to the total population served by the winning Applicants, but shall not exceed the amount requested in the application.

(c) If the total amount requested by all Applicants as determined in subsection (b) is less than the amount available as determined in subsection (a), and there are Applicants whose pro-rata



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portion is less than their request, the Committee will consider distributing the excess up to the full amount requested.

Section 414. (a) An Applicant receiving an Allocation for a Single Family Housing Program will be held accountable for achieving the minimum goals that were considered by the Committee in awarding the Allocation. The Committee will monitor, on an annual basis, the programs awarded an Allocation. An Applicant whose Single Family Housing Program did not achieve the participation goals set forth in Section 390(a) in the previous calendar year, will have their Fair Share Allocation Amount subject to following schedule:

Performance Achievement Index	Percentage of Fair Share Allocation Amount
91% -- 100%	100%
81% -- 90%	90%
71% -- 80%	80%
61% -- 70%	70%
0% -- 60%	60%

(b) The Committee may consider exceptions to the above schedule of reduced Allocation where the Applicant provides full written documentation of the reasons for the underachievement demonstrating that the circumstances surrounding the underachievement are beyond the control of the Applicant. The Committee may delegate the discretion to approve or deny an Applicant's request for such exception to the Chair or to the Executive Director.

#### Chapter 4. Extra Credit Teacher Home Purchase Program

##### Article 1. Definitions.

Section 420. "Academic Performance Index" or "API" means the index created by the Public Schools Accountability Act of 1999 to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socio-economically disadvantaged subgroups within schools. (Education Code 52052)

Section 421. "Alternative School" means a continuation school, county school, Charter School or other school that meets the definition of alternative school pursuant to Education Code section 58500.

Section 422. "Eligible Administrator" means any person who holds one of the following credentials issued by the California Commission on Teacher Credentialing:

- (a) Administrative Services Credential Administrative Services Credential (Examination)
- (b) Standard Supervision Credential Standard Administration Credential
- (c) General Elementary School Administration Credential General Elementary School Supervision Credential
- (d) General Secondary School Administration Credential General Secondary School Supervision Credential
- (e) General Administration Credential General Supervision Credential
- (f) The Supervision Credential General School Principal or Supervisor Credential

Section 423. "Eligible Classified Employee" means an employee of a school district employed in a position not requiring certification qualifications and who provides administration or service at a high priority school.

Section 424. "Eligible Staff Member" means any person who holds one of the following credentials issued by the California Commission on Teaching Credentialing:

- (a) School Nurse Credential
- (b) Clinical or Rehabilitation Service Credential

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- (c) Pupil Personnel Services Credential (e.g. School Counseling, School Social Work, School Psychology and Child Welfare and Attendance)
- (d) Library Media Teacher Service Credential
- (e) Designated Subjects Vocational Education Teaching Credential

Section 425. "Eligible Teacher" means any person who holds one of the following credentials issued by the California Commission on Teacher Credentialing:

- (a) Single Subject Teaching Credential
- (b) Multiple Subject Teaching Credential
- (c) Specialist Instruction Credential in Special Education
- (d) Education Specialist Instruction Credential
- (e) Standard Elementary Teaching Credential
- (f) Standard Secondary Teaching Credential
- (g) Standard Early Childhood Education Teaching Credential
- (h) Standard Restricted Special Education Teaching Credential
- (i) General Kindergarten-Primary Teaching Credential
- (j) General Junior High Teaching Credential
- (k) General Elementary Teaching Credential
- (l) Special Secondary Teaching Credential in Art
- (m) General Secondary Teaching Credential
- (n) Special Secondary Teaching Credential in Business Ed
- (o) Special Credential for Teaching Exceptional Children
- (p) Special Secondary Teaching Credential in Homemaking
- (q) Special Secondary Credential for Teaching Lip Reading
- (r) Special Secondary Credential for Teaching the Blind
- (s) Special Secondary Limited Teaching Credential in Music
- (t) Special Secondary Credential for Teaching the Partially Sighted Child
- (u) Special Secondary Credential for Teaching Industrial Arts
- (v) Special Secondary Teaching Credential in Speech Arts
- (w) Special Secondary Teaching Credential in Music
- (x) Special Secondary Credential for Teaching the Mentally Retarded
- (y) Special Secondary Credential for Teaching Credential Limited in Agric.
- (z) Special Secondary Teaching Credential in Correction of Speech Defects
- (aa) Special Secondary Teaching Credential in Physical Ed.

Section 426. "Extra Credit Teacher Home Purchase Program Eligibility Certificate" means the certification to be completed and submitted by the employing school district, County Office of Education or local Board of Education that certifies to all of the following:

- (a) The Program Participant is an Eligible Teacher, Eligible Administrator, Eligible Classified Employee, or Eligible Staff Member;
- (b) The Program Participant is not currently under suspension, and there is not currently pending any disciplinary inquiry, investigation, action or proceeding that could result in the suspension or dismissal of the Program Participant;
- (c) The entity completing the certificate has verified with the California Commission on Teacher Credentialing that the credential of the Program Participant is not currently under suspension, and there is not currently pending any disciplinary inquiry, investigation, action or proceeding that could result in the suspension or revocation of the credential of the Program Participant;
- (d) The personnel file of the Program Participant reflects that he or she has not been dismissed from employment with any school or school district for any reason, and that he or she has not been the subject of a disciplinary suspension that has been upheld.

Section 427. High Priority School" means a California K-12 public school 1) ranked in the bottom 50% of all schools based on the most recent Academic Performance Index, i.e. schools receiving an API Statewide Ranking of 1, 2, 3, 4 or 5; or 2) that does not have an API ranking but 70% or more of the school's pupil enrollment is eligible for free or reduced price meals.

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Section 428. "Homeownership Assistance" means financial assistance, including down-payment assistance, closing cost assistance, soft-second financing for the purchase of a home, or such alternative homeownership assistance as proposed by the Applicant in the Application and approved by the Committee. The Homeownership Assistance must:

- (a) Be in a minimum amount of \$7,500 or 3% of the purchase price of the home, whichever is greater;
- (b) Be structured in the form of either a grant or a deferred payment loan where the payment of principal and interest is deferred until such time as the home is sold or re-financed; and
- (c) Include an incentive, to be proposed by the Applicant, for Program Participants to fully perform the three (3) year service commitment.
- (d) Applicants will not be required to establish a distinct and separate homeownership program; existing programs may be used. The Committee may delegate to the Chair or to the Executive Director of the Committee the authority to accept and consider homeownership assistance of different types or characteristics than those specifically enumerated or required by this definition.
- (e) The Committee may establish, or concur with the establishment of, higher assistance limits to ensure program participation in high cost areas.

Section 429. "National Board Certification" means certification from the National Board for Professional Teaching Standards based upon successful completion of a voluntary assessment program covering a variety of subject areas and student developmental levels.

Section 430. "Program Participant" means an Eligible Teacher, Eligible Administrator, Eligible Classified Employee, or Eligible Staff Member who receives a Mortgage Credit Certificate or a loan funded by Mortgage Revenue Bonds from an issuer receiving an Allocation from the Extra Credit Teacher Home Purchase Program Pool.

Section 431. "Service Commitment" means the written agreement of a Program Participant executed and delivered by the Program Participant pursuant to Section 442 or Section 450(b).

### Article 2. Procedure

Section 440. Issuers of Mortgage Revenue Bonds or Mortgage Credit Certificates pursuant to this Chapter may apply these eligibility standards, to borrowers without regard to the date of receipt of Allocation.

Section 441. An Applicant requesting an Allocation from the Extra Credit Teacher Home Purchase Program Pool must be an approved issuer of Mortgage Credit Certificates or Mortgage Revenue Bonds and must propose an Extra Credit Teacher Home Purchase Program whereby Mortgage Credit Certificates or loans funded by Mortgage Revenue Bonds will be made available to Eligible Teachers, Eligible Administrators, Eligible Classified Employees, and Eligible Staff Members. Issuers of Mortgage Credit Certificates and Mortgage Revenue Bonds may apply jointly.

Section 442. The Extra Credit Teacher Home Purchase Program proposed by the Applicant must be for the purpose of recruiting and retaining Eligible Teachers, Eligible Administrators, and Eligible Classified Employees in High Priority Schools, and the Applicant must commit to and describe its plan to promote, publicize and market the program in conjunction with School District(s) and County Office(s) of Education to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees.

Section 443. The Extra Credit Teacher Home Purchase Program proposed by the Applicant must, at a minimum, include all of the following:

- (a) A specific plan that gives priority to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees working in High Priority Schools ranked 1, 2 or 3 in the API rankings.

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(b) A provision that Eligible Teachers, Eligible Administrators, and Eligible Classified Employees include such individuals who are assigned to a school district but provide administration or service to at least one High Priority School for the length of the service commitment.

(c) A provision restricting the program to Eligible Teachers, Eligible Administrators, and Eligible Classified Employees who agree, through a written Service Commitment, to teach, provide administration or service in a High Priority School for a minimum of three (3) years continuously from the date the Mortgage Credit Certificate or the loan funded by Mortgage Revenue Bonds is awarded to the Program Participant, and for whom an Extra Credit Teacher Home Purchase Program Eligibility Certificate has been completed and submitted by a duly authorized representative of the employing school district or County Office of Education.

(d) The documentation associated with the Mortgage Credit Certificate or the loan funded by the Mortgage Revenue Bond will include a written Service Commitment of the Program Participant. Program Participants are required to certify to the Applicant when they have fully performed the Service Commitment or request to be excused from the Service Commitment pursuant to subsection (e). Early pay off of a loan does not constitute an excuse from the Service Commitment. Certifications of Service Commitment must be signed by either:

(1) A duly authorized representative of the employing school district or County Office of Education; or

(2) The Program Participant under penalty of perjury.

(e) Program Participants will be excused from their Service Commitment in the following cases:

(1) The Program Participant has been continuously employed at the same school since the date of the Service Commitment, but the school is no longer considered a High Priority School;

(2) The Program Participant's departure from the High Priority School was involuntary, and was not the result of disciplinary action, and she/he accepts another eligible position at a California K-12 public school within one year of the date of departure;

(3) Hardship cases, including but not limited to serious illness, death and divorce;

(4) Occurrences covered under the Family Medical Leave Act or the California Family Rights Act;

(5) Other exceptions as proposed by the Applicant in the Application and approved by the Committee; the Committee may delegate this authority to the Chair or the Executive Director.

(f) A priority system such that:

(1) In the event an applicant's program is oversubscribed, the applicant must provide assistance to Eligible Teachers and Eligible Administrators before providing such assistance to other eligible program participants.

(2) Eligible Teachers with National Board Certification shall have priority over Eligible Teachers without such certification.

(3) Applicants may determine how each priority will be implemented (e.g., a program set-aside) and shall indicate such in the Application.

Section 444. (a) The Extra Credit Teacher Home Purchase Program proposed by the Applicant may also include a proposal to recruit and retain Eligible Teachers, Eligible Administrators, Eligible Classified Employees, or Eligible Staff Members who provide administration or service at an Alternative School.

(b) If an Applicant includes such a proposal, the proposal must comply with the provisions of Section 442.

### Article 3. Evaluation Criteria and Allocation

Section 450. Upon a determination that an Application meets the minimum requirements pursuant to Article 2, Applications will be evaluated based on the following criteria:

(a) The amount of the Homeownership Assistance to be provided and the percentage of Program Participants to whom it will be provided.

(b) The strength of the Applicant's plan to publicize, promote and market the Extra Credit Teacher Home Purchase Program to School Districts, County Offices of Education, Alternative Schools and Eligible Teachers, Eligible Administrators, Eligible Classified Employees and Eligible Staff Members.

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(c) The extent to which Applicants show the greatest need within the Applicant's jurisdiction to recruit and retain Eligible Teachers, Eligible Administrators, Eligible Classified Employees and Eligible Staff Members.

(d) The Applicant's past performance, if any, in using past Allocations from the Extra Credit Teacher Home Purchase Program Pool.

Section 451. The Committee will determine the amount to be Allocated to each Applicant based upon the evaluation criteria set forth in Section 450, the number of Applicants applying in the Allocation Round, and the amount of allocation available in the Extra Credit Teacher Home Purchase Program Pool. The Committee may, in its sole discretion, allocate a larger portion of the Extra Credit Teacher Home Purchase Program Pool to Applicants who administer statewide Mortgage Credit Certificate and Mortgage Revenue Bond programs.

#### Article 4. Reporting Requirements

Section 460. The Applicant shall annually report to the Committee, no later than January 31 of each year, the following information:

- (a) The number of loans or Mortgage Credit Certificates issued aggregated by calendar year;
- (b) The schools at which Program Participants are employed, aggregated by API rank and the percent of uncredentialed teachers employed at the school;
- (c) The number of Program Participants that have paid off their loans prior to the completion of the Service Commitment;
- (d) The number of Program Participants that successfully complete the Service Commitment during the prior calendar year;
- (e) The number of Program Participants that are currently serving but have not completed the Service Commitment;
- (f) The number of Program Participants that were excused during the prior calendar year from the Service Commitment under Section 443(e);
- (g) The number of Program Participants during the prior calendar year that left a High Priority School without fulfilling their Service Commitment and who were not eligible for one of the exceptions set forth in Section 443(e);
- (h) The number of Program Participants that have not responded to the Applicant's request for certification of the Service Commitment; and
- (i) The total amount of assessment, if any, collected pursuant to Section 470.

#### Article 5. Noncompliance

Section 470. Where a Program Participant fails to fulfill the requirements of the Service Commitment and has not been excused from the Service Commitment, the Applicant may recover as an assessment from the Program Participant a monetary amount equal to the lesser of the following:

- (a) One-half (1/2) of the Program Participant's net proceeds from the sale of the related residence; or
- (b) The amount of monetary benefit conferred on the Program Participant as a result of the loan or mortgage credit certificate, offset by the amount of any federal recapture, as defined by Section 143(m) of the Internal Revenue Code.

#### Chapter 5. Small Issue Industrial Development Bond Program.

##### Article 1. Definitions

Section 480. "ANSI" means the American National Standards Institute which facilitates the development of American National Standards by accrediting Standards Developing Organizations for a wide variety of products, manufacturing and industrial processes, and distribution processes for goods, services and energy.

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Section 481. "Census Designated Place" means a place designated as a census designated place by the Bureau of the Census.

Section 482. "Forest Stewardship Council" means the independent, non-governmental, not-for-profit organization established in 1993 to promote the responsible management of the world's forests in cooperation with the ISO.

Section 483. "ISO" means the International Organization of Standardization

Section 484. "Job Retention" means full time jobs that will be retained in California by the Project Sponsor. The company must be actively seeking to relocate jobs out of the state; forced to eliminate jobs in order to remain in operation; at risk of closing their local operations; or acquired prior to closing or relocating under new ownership that commits to maintain company operations and retain existing jobs. The number of jobs retained shall be calculated on the number of full time jobs that are on the company payroll at the time of application. The Job Retention period will begin upon issuance of the bonds and must be met within two (2) years after issuance of bonds. The Job Retention requirement may be monitored by CIDFAC and CIEDB utilizing Employment Development Department job retention statistics.

Section 485. "Local Issuer" means a local government entity that issues small-issue industrial development bonds or a joint powers authority that issues small-issue industrial development bonds on behalf of a local government entity.

Section 486. "Median Hourly Production Occupation Wage" means the median hourly wage for production occupations as defined by the U.S. Bureau of Labor Statistics.

Section 487. "Metropolitan Statistical Area" means the geographic entity defined by the U.S. Office of Management and Budget (OMB).

Section 488. "Qualified Retirement Plan" means a retirement satisfying the requirements of 26 U.S.C. § 401(a), or 403(a) and the Employee Retirement Income Security Act of 1974 (ERISA).

Section 489. "Renewable Energy" means any 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 pursuant to California Public Resources Code 26003(i)(1):

- (a) Biomass
- (b) Solar thermal.
- (c) Photovoltaic.
- (d) Wind.
- (e) Geothermal.

#### Article 2. Allocation to the California Industrial Development Financing Advisory Commission

Section 510. The Committee may award a Small-Issue Industrial Development Bond Allocation to CIDFAC for the purposes of administering the Small-Issue Industrial Development Bond Project program. In awarding the Allocation to CIDFAC, the Committee will authorize CIDFAC to allocate portions of the award to Local Issuers and the CIEDB for purposes of issuing bonds.

#### Article 3. Specific Evaluation Criteria

Section 520. An Applicant requesting an Allocation for a Small-Issue Industrial Development Bond Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed project at the time of

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Application. Applicants are not required to have obtained ministerial approvals at the time of Application. The following criteria will be used to evaluate, rank and award Allocations from the Small-Issue Industrial Development Bond Pool.

(a) Community Economic Need (25 points maximum)

If a Project is located in an area for which there is no available economic data, to determine points commencing under this subsection, the Applicant may submit alternate information to establish the project's consistency with the intent of the aforementioned point categories. For example, an Applicant may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed project. The Executive Director shall have the authority to determine whether the alternate information meets intent of the point category for which such information has been submitted. Applications will be awarded up to twenty-five (25) points for projects that are located in communities according to the following:

(1) Unemployment Rate of the Area In Which Project Site Is Located (10 points maximum)

Based on data from the California Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Small-Issue Industrial Development Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded:

(A) Ten (10) points to a project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.

(B) Five (5) points to a project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.

(2) Project Area Poverty Rate (5 points maximum)

Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a one (1) mile radius area of the project site, the poverty rate of the census tract(s) will be divided by the statewide poverty rate and multiplied by 100. The following points will be awarded (if there is more than one tract, the poverty rates will be averaged):

(A) Five (5) points to a project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.

(B) Three (3) points to a project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate.

(3) Special Designation Area (5 points maximum)

Projects located in a Special Designation Area will be awarded 5 points.

(4) Median Family Income (5 points maximum)

Five (5) points to a project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Applicant chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.

(b) Jobs Creation and Retention (35 points maximum)

Applications will be awarded points for projects that create and/or retain jobs according to the following:

(1) Job Creation (25 points maximum)

Deducting any jobs within the State that currently exist within the company, Applications will be eligible for Job Creation points when full-time new jobs have been created within two (2) years after the completion of the Project. Applications that receive points for Job Creation will be monitored by CIDFAC and CIEDB utilizing California Employment Development Department employment statistics. Based on the Project Sponsor's representation that they will make their best efforts to increase the number of direct, full-time employees at the Project site within two years of Project completion, points will be awarded as follows:

(A) Twenty-five (25) points to projects creating a 31% or more increase in the manufacturer's workforce.



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(B) Fifteen (15) points to projects creating a 21% to 30% increase in the manufacturer's workforce.

(C) Ten (10) points to projects creating a 10% to 20% increase in the manufacturer's workforce.

(2) Job Retention (10 points maximum)

Applications will be eligible for Job Retention points when jobs have been retained pursuant to Section 27. To qualify for Job Retention points, the jobs retained must be those that would be lost in the absence of the requested Allocation. Points will be awarded provided the following:

(A) A certification that the Project Sponsor will retain the specified jobs for a two-year period after the issuance of Bonds. The Committee may verify jobs retained at any time during the two year period, or

(B) A verification letter from the appropriate local governmental entity stating that the Project Sponsor's business is at risk of closing local operations, and that the requested Allocation and retention of the Project Sponsor's business is an integral part of its plan to maintain the health of the local economy and retain employment, or

(C) Written evidence from the Project Sponsor that the company within two years prior to the submission of an application for tax-exempt IDB financing, engaged a "site selector" to find possible relocation sites.

(c) Workforce and Economic Development (15 points maximum)

(1) Welfare to Work (5 points)

Points will be awarded where the Project Sponsor proposes participation in a Welfare-to-Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization.

(2) Workforce Training (5 points)

To qualify for points in this category, the Project Sponsor must provide copies of official documentation of its current or pending participation. Such documentation shall include copy of an executed contract between the Project Sponsor and the provider; or a formal letter from the provider addressed to the Project Sponsor acknowledging the Project Sponsor's current or pending participation in the program. Points will be awarded where the Project Sponsor participates in one or more training, retraining or apprenticeship programs offered by any of the following state agencies, certified training facilities or postsecondary institutions:

(A) The State's Employment Training Panel;

(B) The State Department of Industrial Relations;

(C) A community college;

(D) University;

(E) Adult school; or

(F) A Regional Occupational Program or private training agency approved by the Bureau of Private Postsecondary and Vocational Education.

(3) Exports Outside of California (5 points maximum)

To qualify for points in this category, an officer or owner of the Project Sponsor must certify in writing on Project Sponsor letterhead that it exports, or in the case of the construction of a new manufacturing facility at a new Project site, anticipates that it will export as part of its business plan as follows:

(A) In excess of 30% of its products manufactured at the Project site (5 points)

(B) Up to 30% of its products manufactured at the Project site (3 points)

(C) Up to 20% of its products manufactured at the Project site (2 points)

(d) Payment of Employee and Dependent Medical, Dental, Vision and Retirement Costs (20 points maximum)

(1) Health, Dental and Vision (15 points maximum)

Applications will be awarded points where the Project Sponsor contributes toward the cost of employee and dependent medical, dental, and vision benefits. Applicants must provide a certification letter from each of a Project Sponsor's medical, dental and vision providers certifying to the Project Sponsor's average contribution per employee toward the provision of these benefits. The Project Sponsor must confirm that it will offer such benefits to employees hired in accordance with representations made with respect to the Job Creation pursuant to Section 27.

This average will be computed by dividing the Project Sponsor's total monthly aggregate contribution toward the provision of these benefits by the total number of participating employees.



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Points will be awarded based on the average dollar amount per participating employee contributed by the Project Sponsor toward the cost of benefits as follows:

(A) Fifteen (15) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$330 or more per month toward the cost of the medical, dental, or vision for each participating employee and dependents of the employee of the Small-Issue Industrial Development Bond Project.

(B) Ten (10) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$220 or more, but less than \$330, per month toward the cost of the medical, dental, or vision benefits for each participating employee and dependents of the employee of the Small-Issue Industrial Development Bond Project.

(C) Five (5) points will be awarded to Applications that demonstrate that the Project Sponsor will contribute an average of \$110, but less than \$220, per month toward the cost of the medical, dental, or vision benefits for each participating employee and dependents of the employee of the Small-Issue Industrial Development Bond Project.

#### (2) Retirement Plans (5 points)

To qualify for points in this category, the Project Sponsor must provide specific documentation to show it contributes to a Qualified Retirement Plan or other retirement account for each participating employee and must confirm that it will offer such benefits to employees hired in accordance with the representations made with respect to the Job Creation pursuant to Section 27.

#### (e) Average Hourly Wage (10 points maximum)

Applications will be eligible for points providing the Project Sponsor certifies that the average hourly wage of existing employees and of employees who will be hired in accordance with representation under the Job Creation category pursuant to Section 27, is greater when compared to the most recent Median Hourly Production Occupation Wage for the Metropolitan Statistical Area in which the project is located ("Job Wage") as reported and periodically updated by the U.S. Department of Labor - Bureau of Labor Statistics. If a Project is not located in a Metropolitan Statistical Area for which the Bureau of Labor Statistics keeps hourly wage data, or not located in any Metropolitan Statistical Area, the Executive Director will set the Job Wage based upon the Job Wage of a comparable area. The Project Wage will be divided by the Job Wage and multiplied by 100. Points will be awarded as follows:

(1) Ten (10) points for a Project Wage that is one hundred twenty-five percent (125%) or more of the Job Wage;

(2) Six (6) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty-five percent (125%) of the Job Wage;

(3) Three (3) points for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.

#### (f) Environmental Stewardship (27 points maximum)

##### (1) Land Use (3 points)

Points will be awarded to projects that involve the reuse of the following:

(A) Vacant or abandoned buildings; or

(B) Vacant or abandoned land with developed infrastructure, excluding land where the immediate prior use was agricultural, open space or other similar use.

##### (2) Public Transportation (4 points maximum)

(A) Three (3) points will be awarded to Projects that are located within one-quarter ( $\frac{1}{4}$ ) of a mile of a regular route stop within a Public Transit Corridor or, in areas where there is no public transportation system, the Project Sponsor has an adopted transportation system management plan, or;

(B) Four (4) points will be awarded to Projects that are located within one-quarter ( $\frac{1}{4}$ ) of a mile of a regular route stop within a Public Transit Corridor and where the Project Sponsor provides written evidence of offering public transit subsidies for employees at the Project site.

##### (3) Energy Efficiency/ Renewable Energy (10 points maximum)

(A) Five (5) points will be awarded to Projects that utilize designs, materials or techniques to reduce energy usage by at least fifteen (15%) on the part of the Project Sponsor compared to the following benchmarks:

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(i) For building construction or rehabilitation, the most recent California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; and  
(ii) For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Project Sponsor. Evidence should include a utility company letter indicating that energy savings are projected or a written certification from an energy efficiency consultant.

(B) Five (5) points will be awarded to Projects that involve the installation and use of Renewable Energy equipment to power the production process. The Project Sponsor must provide written documentation from its utility company which specifies the installation or planned installation of Renewable Energy equipment.

(4) Manufacturer of Certified Environmentally Friendly Products (5 points)

Five (5) points will be awarded to projects which produce or will produce environmentally friendly products certified by an ANSI Accredited Standards Developing Organization (e.g., Green Seal, Inc.) or by a widely-recognized and reputable organization accredited as a certifier by an ANSI Accredited Standards Developing Organization or by a Forest Stewardship Council (e.g., Scientific Certification Systems, Inc.). The Project Sponsor must provide the current, official documentation of the certification and must provide the percentage of the overall output that is comprised of the certified products.

(5) U.S. Green Building Council (USGBC) LEED-Certified Manufacturing Facility (5 points)

Five (5) points will be awarded to Projects for which bond proceeds will be used to construct U.S. Green Building Council (USGBC) LEED-certified facilities, or to make improvements to existing facilities that will qualify it for a LEED-certificate. The Project Sponsor must provide either:

(A) Official documentation of its registration (including evidence of payment of the registration fee) with the USGBC to obtain LEED certification in cases where the project involves the construction of a new facility and construction has not begun or is not complete at the time of application; or  
(B) Official documentation of receipt of a Silver, Gold or Platinum LEED Certification in cases where construction or improvements and the certification process are completed.

(g) Leverage (5 points maximum)

Points will be awarded to Applications for Small-Issue Industrial Development Bond Projects for which taxable debt, a taxable loan, and/or private funds or equity will supplement the use of the tax-exempt bond financing. The Project Sponsor must provide overall project costs and certify that one or more of these other sources of financing will be used for projects expenses, with points awarded for achieving the following levels:

(1) Greater than twenty percent (20%) of total project costs will be paid from one or more of these other sources of financing. (5 points).

(2) Greater than ten percent (10%) and up to twenty percent (20%) of total project costs will be paid from one or more of these other sources of financing. (3 points).

(h) Ranking Applications

If two or more Applications are awarded the same number of points pursuant to this **section**, the Executive Director will divide the Allocation amount requested by each such Application by the number of jobs created by the related project, and will rank the Applications based on the lowest amount of requested Allocation per job created.

Section 521. Enterprise/Empowerment Facility Bond Projects. For a proposed Enterprise/Empowerment Zone Facility Bond Project for which the Applicant has determined that job creation is the project's major public benefit, the Applicant shall apply for Allocation under this Section 20, and the criteria under this Section 20 shall be used to evaluate the Application.

#### Article 4. Small Business Program

Section 530. Small Business Program. The Committee may award an Allocation to CIDFAC for purposes of administering a Small Business Program. In awarding the Allocation to CIDFAC, the Committee will authorize CIDFAC to transfer portions of the Allocation to Local Issuers and the CIEDB for purposes of issuing bonds under the Program on behalf of qualified Small Businesses. An Applicant may submit an Application to the Small Business Program or the Small-Issue

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Industrial Development Bond Program; however, an Applicant may not submit Applications for the same project to both programs concurrently.

Section 531 Minimum Requirements. The Minimum Requirements of the Small Business Program shall include, but are not limited to, the following:

- (a) Bonds will be privately placed with Qualified Institutional Investors as defined by Securities and Exchange Commission guidelines Rule 144A, or issued as a public offering with bond documents approved by CIDFAC.
- (b) A Project Sponsor shall be a Small Business as defined by CIDFAC.
- (c) The maximum amount of tax-exempt financing shall be \$4 million annually per Small Business.
- (d) CIDFAC shall determine the percentage of Small Business Projects funded on an annual basis that will be located in a Distressed Community, to be calculated separately for CIDFAC and CIEDB Projects.
- (e) CIDFAC shall determine the minimum ratio of jobs created or retained to Allocation requested.
- (f) Project Sponsors shall be subject to a prevailing wage requirement. The definition of prevailing wage is contained in California Government Code Section 91533(l).
- (g) The Applicant must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed project at the time of Application.

Section 532. Specific Evaluation Criteria of the Small Business Program. CIDFAC will implement a system to evaluate, rank, and award Allocation points to eligible Small Business projects that are competing for an Allocation. The point allocation criteria shall include, but are not limited to, the following:

- (a) Project Sponsor's participation in a Welfare-to-Work Plan.
- (b) Project Sponsor's payment of employee and dependent medical, dental, and vision costs.
- (c) Project Sponsor's average hourly wage of new jobs created exceeding the average hourly general manufacturing wage of the area in which the project is located.
- (d) Project Sponsor's participation in community development/energy efficiency efforts that include the following:
  - (1) Project Sponsor's reuse of vacant or developed land and buildings within existing urbanized or rural areas.
  - (2) Project Sponsor's location of the project within a Public Transit Corridor.
  - (3) Project Sponsor's location of the project in an area with an unemployment rate that exceeds the statewide average by the amount expressed as a percentage.
  - (4) Project Sponsor's use of materials, to improve energy efficiency.
  - (5) Project Sponsor's use of Taxable Debt to leverage the Allocation.

Section 533 Transfer of Allocation by CIDFAC. CIDFAC will transfer, by resolution, Allocation to local issuers based on the total scores of the Small Business Program projects competing in the same month. The Allocations will be awarded in order of high score to low score. CIDFAC may establish a minimum point threshold for receiving Allocation. CIEDB may submit Small Business Program projects to CIDFAC for Allocation provided CIEDB certifies to the CIDFAC Executive Director that the projects are in compliance with all of the Small Business Program Minimum Requirements and Point Allocation Criteria as set forth by CIDFAC. Upon receipt of the CIEDB request for Allocation and certification of compliance, CIDFAC will authorize the transfer of Allocation to CIEDB.

Section 534 Reporting the Transfer and Use of Allocation by CIDFAC. CIDFAC will report each transfer of Allocation to the Executive Director. Applicants receiving Allocation under the Program shall comply with the reporting requirements contained in Article 11, Chapter 1.

## Chapter 6. Exempt Facility Bond Program

### Article 1. Definitions

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Section 550. "California Environmental Quality Act Review Process" means a process of environmental review as defined by California Public Resources Code Sections 21000, et seq.

Section 551. "First Tier Business" means (1) a business that (a) is primarily engaged in the collection, recycling, transportation, and/or disposal of solid waste, (b) is a privately-held or employee-owned entity whose ownership interests are not available to members of the public, and (c) has fewer than 3,000 employees (together with affiliates), based on the average employees per pay period during the most recent twelve (12) months before submittal of an Application; or (2) a business which is not primarily engaged in the collection, recycling, transportation, and/or disposal of solid waste that is classified as a small business under regulations of the California Pollution Control Financing Authority (Title 4, California Code of Regulations, Sections 8001-8083).

Section 552. "Regulatory Mandate" means a local, state or federal government mandate including, but not limited to, Public Resources Code, Section 40000 et seq. ("AB 939"), a local public health department notice and order, a Regional Water Quality Control Board issued cease and desist order, or similar directive.

#### Article 2. Allocation to the California Pollution Control Financing Authority (CPCFA)

Section 560. The Committee may award an Exempt Facility Allocation to CPCFA for the purposes of administering the Exempt Facility Project Pool. In awarding the Allocation to CPCFA, the Committee will authorize CPCFA to allocate portions of the award to Project Sponsors for purposes of issuing bonds.

#### Article 3. Application Procedure.

Section 570. An Application for an Exempt Facility Project must demonstrate that there will be more public benefits (e.g. a reduction in fees to the consumer) if the project is financed with tax-exempt bond financing than with any other means of financing available to the Project Sponsor. At a minimum, documentation must compare tax-exempt bond financing with other means of financing available to the Project Sponsor, such as conventional bank loans, lines of credit, taxable bonds, and other instruments.

Section 571. The Applicant must have commenced the California Environmental Quality Act Review Process at the time of Application, if applicable to the Exempt Facility Project proposed. The notice of decision required under Public Resources Code Section 21152 for the Exempt Facility Project must have been published at the time of Application and the statute of limitations as defined by Public Resources Code Section 21167 for filing an appeal to the decision must have expired prior to the Allocation Round during which the Application will be considered. If an appeal has been filed, the Executive Director may consider factors including, but not limited to, the following in determining whether this requirement has been met:

- (a) Whether the appellant has posted a bond.
- (b) Whether the appellant has sought injunctive relief.
- (c) The outcome of the litigation at the trial court level.

Section 572. The Applicant must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed project at the time of Application. Applicants are not required to have obtained ministerial approvals at the time of Application.

Section 573. For Applicants other than the California Pollution Control Finance Authority, the Committee will perform a formal policy review prior to award of Allocation to new industries that apply for Exempt Facility bond authority. The Committee will establish a process for evaluating requests for Allocation for technologies that are unfamiliar to the Committee and for industries

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that have not previously requested an award of Allocation from the Committee. Upon receipt of an Application involving unfamiliar technologies or for industries that have not previously made application the Committee will conduct a review of the technology, the industry, and the state of environmental or other regulations. The Committee may request assistance of other federal, state, and local agencies when conducting this review. The Applicant or Project Sponsor may be asked to provide additional information relevant to the Committee's review. The review process shall result in a written policy concerning the advisability of awarding allocation generally to the technologies or industry.

#### Article 4. Evaluation Criteria

Section 580. The Application will be reviewed for a determination whether the project, as a whole, promotes or protects environmental quality in connection with the construction and operation of the Exempt Facility Project. Specific factors include:

- (a) Whether the Exempt Facility Project is designed to minimize impact to or may result in an improvement of air quality.
- (b) Whether the Exempt Facility Project is designed to minimize impact to or may result in an improvement of water quality.
- (c) Whether the Exempt Facility Project will result in an improvement in energy efficiency.
- (d) Whether the Exempt Facility Project will result in the recycling of commodities (glass, aluminum and other marketable materials) and green waste (composting and other organic wastes).
- (f) Whether the Exempt Facility Project achieves its environmental goals on a cost effective basis to the consumer.

Section 581. No award of allocation shall be made to any project that does not comply with all applicable state and federal environmental regulations regarding the safe disposal of solid waste.

Section 582. The Application will be reviewed for a determination whether the Project will use taxable bond financing or other forms of financing (not including the minimum cash equity required by the Credit Enhancer) in addition to tax-exempt bond financing in a manner such that the taxable bond financing or other forms of financing (not including the minimum cash equity required by the Credit Enhancer) will supplant the use of tax-exempt bond financing.

Section 583. The Application will be reviewed for a determination of whether documentation submitted by local regulatory agencies or local government demonstrates support of the Project and whether the Project supports and contributes to local waste management policy and planning. Examples of such support may include the identification of the Exempt Facility Project in the applicable elements of an approved County Integrated Waste Management Plan or Regional Agency Integrated Waste Management Plan.

Section 584. Applications for Exempt Facility Projects or programs, other than solid waste disposal facilities, not otherwise included regulations, but eligible for consideration for Qualified Private Activity Bond Allocation as an Exempt Facility Project will be considered under Section 573. Projects may include, but are not limited to, bonds issued by a government agency to acquire any property from an investor-owned utility, sewage facilities, facilities for the furnishing of water, facilities for the local furnishing of electric energy or gas, qualified hazardous waste facilities, mass commuting facilities, local district heating or cooling facilities, environmental enhancements of hydroelectric generating facilities, high-speed inter-city rail facilities, and the Equipment Only Purchase Programs administered by the California Pollution Control Financing Authority. Applications shall be reviewed on a project-by-project basis considering the public benefits proposed.

Section 585. The Committee may approve Projects that convert taxable debt to tax exempt debt as economic conditions and annual demand for the State Ceiling allow.

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#### Article 5. Allocation Procedure

Section 590. Upon a determination that an Application has met the minimum requirements set forth in Article 3 and Article 4, Allocations from the Exempt Facility Project Pool will be ranked using the following criteria:

(a) Allocations will be first awarded to Applications in which the Project Sponsor is a First Tier Business, and the Exempt Facility Project proposed by the Application is in direct response to a Regulatory Mandate.

(b) If any part of the Exempt Facility Project Pool remains unallocated after the Committee makes the Allocations under subsection (a), the Committee will then consider other Applications in which the Project Sponsor is a First Tier Business, but the proposed Exempt Facility Project is not in response to a Regulatory Mandate.

(c) If any part of the Exempt Facility Project Pool remains unallocated after the Committee makes the Allocations pursuant to subsections (a) and (b), the Committee will then consider Applications in which the Project Sponsor is not a First Tier Business, but the Exempt Facility proposed by the Application is in direct response to a Regulatory Mandate.

(d) If any part of the Exempt Facility Project Pool remains unallocated after the Committee makes the Allocations pursuant to subsections (a), (b), or (c), the Committee will then consider all other Applications for Exempt Facility Projects.

#### Chapter 7. Student Loan Programs

##### Article 1. Definitions

Section 600. "Student Loan Self Scoring Sheet" means the attached form provided in the Application for a Student Loan Program.

Section 601. "Direct Lender" means an entity that originates loans directly to eligible borrowers in the state and does not include loans made for the purpose of consolidating or otherwise combining existing student loans.

Section 602. "Program Sponsor" means for this Chapter, a California nonprofit corporation organized pursuant to Section 150(d) of the Internal Revenue Code of 1986, as amended, that possesses the authority to directly or indirectly make or finance student loans under the Higher Education Act of 1965, as amended, or a State Agency.

##### Article 2. Minimum Requirements

Section 620. In order to be considered for an Allocation for a Student Loan Program, an Applicant must meet the following minimum requirements:

(a) California Non-profit Status. Must be a California nonprofit corporation organized pursuant to Section 150(d) of the Internal Revenue Code of 1986, as amended, that possesses the authority to directly or indirectly make or finance student loans under the Higher Education Act of 1965, as amended, or be a State Agency.

(b) CEFA Requirement. Before applying to the Committee for allocation of a portion of the State Ceiling pursuant to Government Code Section 8869.82 and 8869.85, an entity that is seeking to issue Qualified Scholarship Funding Bonds must first obtain CEFA board approval, pursuant to Section 9073(a), unless such entity became a qualified scholarship funding corporation as defined in subsection (d) of Section 150 of Title 26 of the United States Code prior to January 1, 2006. The Authority may in its discretion determine not to grant approval to any entity regardless of whether the entity meets the threshold criteria as an Eligible Candidate as defined in Section 9072(b). The Authority will consult and coordinate with the Committee prior to making a final determination.

(d) A portfolio itemizing the total dollar amount and corresponding percentage of student loans originated by the Applicant which assist financially needy borrowers in California. The data relied upon may be direct or derived from sources deemed by the Executive Director to be accurate.

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(e) A proposal of interest rates and other discounts (time period is the next academic year commencing July 1 following the allocation), a description and dollar amount of discounts (i.e. interest rate, guarantee fee, origination fee, etc.). Note: Information will be used in analysis of application in the subsequent year.

(f) A description of marketing activities and status as a lender, anticipated total dollar amount and number of student loans made to two year, four year and other schools, the eligibility requirements for a loan, the benefits to student borrowers, the mechanism(s) or system(s) for the direct delivery of loans to eligible students and any other features unique to the Program.

(g) Demonstrate actual participation in the California Student Loan Market using the STUDENT MARKETMEASURE Standard Report 10D ("Report") or other sources deemed by the Executive Director to be accurate. Applicant must include information from the most recently completed Federal Fiscal Year with their application.

(h) Completion of the Student Loan Self-Scoring Sheet to show what they anticipate to receive in allocation.

### Article 3. Evaluation Criteria

Section 630. The following criteria will be used by to evaluate, rank, and award Allocations from the Student Loan Program Pool:

(a) Allocations from the Student Loan Program Pool will be first awarded to Applications in which the Applicant is a Direct Lender and evaluated based on the following criteria:

(1) The total dollar amount and number of student loans originated by the Applicant in California. The data relied upon will be derived from the STUDENT MARKETMEASURE Standard Report 10D or other sources deemed by the Executive Director to be accurate. The time period shall be the most recently completed Federal Fiscal Year. The Applicant's pro-rata share of the Student Loan Program Pool will in part be determined by the total dollar amount of student loans originated in California. The Committee will consider the incongruity between the Federal Fiscal Year and the Allocation Round when evaluating the data.

(2) Proposed total cost of borrowing per borrower for the next academic year. This cost estimate should include origination fees, interest costs, and all other fees or expenses incurred by a borrower.

(3) Previous year average interest rate. Information provided must refer to the time period of the current academic year. In addition, this information must include averages and weighted averages for the following figures for each student loan program:

(A) Statutory interest rate.

(B) Total discount

(C) Discounted interest rate.

For this time period, the Applicant must show the percentage breakdown of usage for all student loan programs: Subsidized Stafford, Unsubsidized Stafford, PLUS Parent and PLUS Graduate. This breakdown will be used to determine the weighted averages for the aforementioned figures.

(4) Comparison of Proposed and Actual Interest Rate. The weighted averages will be used to determine whether or not the Applicant was within 25% of the discounted interest rate that they proposed in the prior year. Based on the Committee's assessment, an Applicant could be rewarded and/or penalized for the actual discounted interest rate they provided during the current academic year.

(5) The extent to which the Applicant timely disburses student loans as evidenced by its use of previous and existing allocations from the Committee for direct lender student loan programs. The Committee will evaluate the impact of unused bond proceeds on the Applicant's present demand for Allocation.

(b) Subsequent to the determination made pursuant to subsection (a), Allocation that remains unallocated will then be considered for Applications in which the Applicant is a purchaser of student loans in the secondary market and evaluated based on the following criteria:

(1) The degree to which financially needy students benefit based on an evaluation of the percentage of borrowers with subsidized Stafford loans currently held in portfolio versus borrowers with only unsubsidized Stafford loans.



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(2) The use of recycled funds for additional programs that may benefit students other than loan purchase programs, such as grants, new loans, scholarships, student outreach, and borrower benefit programs offered by the Applicant.

(3) The leveraging of the tax-exempt private activity bond allocation awarded to the Applicant through the use of taxable bonds and other taxable securities.

(4) The extent to which the Applicant has timely and effectively used previous and existing allocations from the Committee for secondary market loan purchase programs.

#### Chapter 8. Recovery Zone Economic Development Bond (RZEDB) Program

##### Article 1. The American Recovery and Reinvestment Act of 2009 (ARRA)

Section 680. The American Recovery and Reinvestment Act of 2009 (ARRA) assigned U.S. Treasury Designated Recovery Zone Bond Allocations to counties and large municipalities (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and large municipalities that have been excluded by the ARRA are: Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities have been excluded:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia

##### Article 2. Minimum Requirements

Section 690. An entity utilizing Recovery Zone Economic Development Bond Program (RZEDB) must meet the following requirements:

(a) Counties and large municipalities assigned a Recovery Zone Economic Development Bond allocation must designate the area that bonds will be utilized in, as a Recovery Zone and shall include the basis for the designation per ARRA section 1400-1(b)B. The maximum face amount of bonds which may be designated by an issuer shall not exceed the amount of the recovery zone economic development bond limitation awarded to such issuer under section 1400U-1.

(b) The proposed use of bond proceeds must meet the following requirements per Section 1400U-2(b)(1):

(1) One-hundred (100%) percent of the available project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings), less the amount funding a reasonable reserve fund, must be used for one or more of the following qualified economic development activities:

(2) Capital expenditures paid with respect to property located within the zone.

(3) Expenditures for public infrastructure and construction of public facilities; or

(4) Three (3) expenditures for job training and education programs

##### Section 691. Reporting Requirements

(a) CDLAC will require a Report of Action Taken be submitted upon the issuance of bonds not more than three (3) days following the issuance of RZEDBs. This report shall include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.

(b) Counties and large municipalities receiving RZEDB allocation must provide CDLAC with a Plan of Issuance no later than January 31, 2010. The Plan should include a recovery zone bond resolution and a description of the projects to be funded. In addition, counties and large municipalities are required to include a project issuance timeline as part of the Plan of Issuance. Counties and large municipalities that do not submit a Plan of Issuance by January 31, 2010, will automatically have their allocation Deemed Waived and captured by CDLAC for re-allocation. If the Plan of Issuance does not support the full amount of the designated award, the excess amount of bond allocation will be Deemed Waived.

(c) Counties and large municipalities that have submitted a Plan of Issuance and have not issued their entire designated award are required to submit the following documentation, no later than August 15, 2010:

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(1) A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the project, which may take the form of a reimbursement resolution or an inducement resolution.

(2) A letter of support or approval from the municipality's appropriate governing body or elected officials with jurisdiction over the project area. This requirement will only be required when the issuer is an entity other than the municipality such as the county or a conduit issuer.

(3) A Recovery Zone Designation. The county or large municipality must designate the area that bonds will be utilized in as a Recovery Zone, and shall include the basis for the designation per ARRA section 1400U-1(b). This requirement is demonstrated by a resolution approved by the county or large municipality.

(4) A legal memo from bond counsel which states that based on a preliminary review, the proposed project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.

(5) A commitment letter outlining the bond sale structure pursuant to Article 6, Chapter 1. If the commitment is less than the anticipated amount of bonds being utilized, the difference will automatically be Deemed Waived.

(d) Counties and large municipalities that have submitted a Plan of Issuance but have not provided the above documentation by the August 15th deadline will have their allocation automatically Deemed Waived.

#### Article 3. Recovery Zone Economic Development Bond Reallocation Pool

Section 700. Applications from Qualified Recovery Zone Bond Issuers must include the following threshold requirements, and will be scored according to the criteria described below.

- a. Counties and large municipalities must be in full compliance with all applicable reporting requirements as provided in Article 2.
- b. An assignment letter or resolution (if applicable) from the county or large municipality stating that a portion of their Recovery Zone Bond allocation has been assigned to the project seeking supplemental allocation. The letter should include the amount and type of bonds committed, name of the project and the name of the department awarding allocation.
- c. A letter of support from the municipality's appropriate governing body or bodies or the elected official's approval of the project. This requirement will only be required when the issuer is an entity other than the municipality, such as the county or a conduit issuer.
- d. A Qualified Recovery Zone Bond Issuer requesting an Allocation for a RZEDB Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed project at the time of Application. Qualified Recovery Zone Bond Issuers are not required to have obtained ministerial approvals at the time of Application.
- e. The county or municipality must designate the area that bonds will be utilized in as a Recovery Zone, and shall include the basis for the designation per ARRA section 1400U-1 (b). This requirement is demonstrated by a resolution approved by the county or municipality.
- f. A request for an award that is project specific.
- g. The maximum face amount of bonds which may be re-allocated to a Qualified Recovery Zone Bond Issuer shall not exceed ten million dollars per project.
- h. In the event the round is undersubscribed, the Executive Director may recommend that an exception be granted to the maximum re-allocation limit.
- i. One-hundred percent (100%) of the available project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings), less the amount funding a reasonable reserve fund, must be used for one or more of the following qualified economic development activities:
  1. Capital expenditures paid with respect to property located in such zone;
  2. Expenditures for public infrastructure and construction of public facilities; and/or
  3. Expenditures for job training and education programs.
- j. A legal memo from bond counsel which states that based on a preliminary review, the proposed project qualifies for Recovery Zone Economic Development Bonds under the

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American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.

- k. The Qualified Recovery Zone Bond Issuer may request, in writing, an increase to the award of re-allocation not to exceed ten percent of the original re-allocation award. The increase will be at the discretion of the Executive Director. The total amount of the increase will be based on the availability of allocation and project need.
- l. The Committee may grant an extension of the expiration date of the re-allocation of up to thirty (30) calendar days; but in no event shall said extension be beyond December 31, 2010. The Committee may delegate its authority to grant extensions to the Executive Director.
- m. An estimate of the job impact that the proposed project would achieve. This should be done by estimating the number of construction, temporary, and permanent jobs that will be created by funding of the proposed project. These estimates will be used for reporting purposes only and will not be a factor in the evaluation of the proposed project.
- n. A county or large municipality that is only requesting all or a portion of re-allocation that was voluntarily waived need only provide a written request and documentation that the project is ready to issue Recovery Zone Economic Development Bonds prior to the expiration date of December 31, 2010.

Section 701. Re-Allocation Priority System. Upon a determination that an Application has met the minimum requirements set forth in Section 700 above, the following criteria will be used to evaluate, rank and award Allocations from the RZEDB Re-allocation Pool:

- a. Tier 1 Projects. Counties or large municipalities (population of more than 100,000) that voluntarily waived their award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have first priority in the reallocation application process. As the Committee's first priority (Tier 1 projects), the counties and large municipalities that waived their designated allocation may request up to their waived amount by providing the following documentation (no application will be required):
  - 1. A letter requesting the amount of allocation and a description of the proposed project.
  - 2. A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the project, which may take the form of a reimbursement resolution or inducement resolution.
  - 3. A letter of support or approval from the appropriate governing body or elected official's with jurisdiction over the project area. This requirement will only be required when the issuer is an entity other than the municipality, such as the county or a conduit issuer.
  - 4. A Recovery Zone Designation. The county or municipality must designate the area that bonds will be utilized in, as a Recovery Zone, and shall include the basis for the designation per ARRA section 1400-1U (b). This requirement is demonstrated by a resolution approved by the local government requesting an award of Recovery Zone Economic Development Bond allocation
  - 5. The Qualified Recovery Zone Bond Issuer must provide a legal memo from bond counsel which states that based on a preliminary review, the proposed project qualifies for Recovery Zone Economic Development Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.
  - 6. A commitment letter outlining the bond sale structure pursuant to Article 6, Chapter 1 for at least the amount of bonds requested.
- b. Tier 2 Projects. Counties or large municipalities (population of more than 100,000) which did not receive an award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have second priority (Tier 2 projects) in the reallocation application process. *The following counties will have second priority:* Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities will have second priority:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale and Visalia.

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- c. Tier 3 Projects. All other projects requesting Recovery Zone Economic Development Bonds shall be funded as Tier 3 projects. Those agencies that fall into the Tier 1 category but request an award of re-allocation beyond their waived amount will also fall into this category for their supplemental re-allocation request. A complete application will be required for the supplemental re-allocation request.
- d. Waiting list and Tier Priority. Projects that fall into the Tier 1 category will be funded prior to all other projects. Those projects that fall into the Tier 2 category will be funded based on relative score of the project's public benefits and prior to the funding of Tier 3 projects. All projects that do not fall into Tier 1 and 2 will be considered Tier 3 and will be funded based on score (see evaluation criteria below). If necessary and to fully utilize the Recovery Zone Economic Development Bonds, CDLAC will establish a waiting list for all projects that meet the minimum requirement and have provided an application. These projects will be funded as allocation is received by CDLAC.
- e. Ranking Applications. Where two or more Applications are awarded the same amount of points pursuant to Article 4, the Committee will divide the re-allocation request by the number of jobs created by the respective Project, and rank the Applications based on the lowest amount of requested re-allocation per job(s) created.

Section 702. If the initial Recovery Zone Economic Development Bonds application round is undersubscribed, CDLAC will accept Recovery Zone Economic Development Bond Applications for the next scheduled committee meeting, allowing for a minimum of thirty (30) days to review the Application. In the event the round is undersubscribed, the Executive Director may also recommend that an exception be granted to the maximum re-allocation limit.

#### Article 4. Specific Evaluation Criteria

Section 710. CDLAC staff will perform all calculations for confirmation of eligibility based on the census tract(s) provided by the applicant.

- a. Community Economic Need (30 points maximum). Applications will be awarded points for projects that are located in communities according to the following:
  1. Unemployment Rate of the Area In Which Project Site Is Located (10 points maximum). Based on data from the Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Recovery Zone Economic Development Bond Project(s) is/are located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded:
    - A. Ten (10) points to a project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.
    - B. Five (5) points to a project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.
  2. Project Area Poverty Rate (10 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the project site, the poverty rate of the census tract(s) will be divided by the statewide poverty rate and multiplied by 100. The following points will be awarded (if there is more than one tract, the poverty rates will be averaged):
    - A. Ten (10) points to a project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.
    - B. Five (5) points to a project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate.
  3. Special Designation Area (5 points maximum). Excluding the Recovery Zone designation, points will be awarded provided the following is demonstrated:

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- A. Evidence of applicable Special Designation Area characteristic(s). For redevelopment project areas, a description of blight conditions that exist in the subject area is required.
- B. A scaled-for distance map that is legible and clearly show the boundaries of the Special Designation Area and the location of the proposed project with the area boundaries.
4. Median Family Income (5 points maximum). Points will be awarded for a project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. If no city or Census Designated Place level data is available, or if the Qualified Recovery Zone Bond Issuer chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.
5. If a project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the Project's consistency with the intent of the aforementioned point categories pursuant to subsection (a). For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed project. The Executive Director shall have the authority to determine whether the alternate information meets intent of the point category for which such information has been submitted.
- b. Job Creation (15 points maximum)
  1. Applications will be awarded points where the Applicant proposes Job Creation pursuant to Section 27. The amount of the Allocation requested in the Application will be divided by the amount of Job Created as proposed by the Recovery Zone Economic Development Bond Project (s). Points will be awarded as follows:
    - A. Fifteen (15) points to projects creating or retaining one (1) job per \$35,000 or less of Allocation.
    - B. Ten (10) points to projects creating or retaining one (1) job per \$35,001 to \$50,000 of Allocation.
    - C. Five (5) points to projects creating or retaining one (1) job per \$50,001 to \$75,000 of Allocation.
- c. Welfare To Work Plan (5 points)

Points will be awarded where the Applicant proposes participation in a Welfare-to-Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization evidenced by a signed letter or documentation of demonstrating participation that includes, at minimum, the manner and extent of the participation.
- d. Payment of Employee and Dependent Medical, Dental, and Vision Costs (5 points maximum).

Applications will be awarded points where the Applicant contributes toward the cost of employee and dependent medical, vision, and dental benefits. Qualified Recovery Zone Bond Issuers must provide a certification letter from each of an Applicant's medical, dental, or vision providers certifying to the Applicant's average contribution per employee toward the provision of these benefits. This average will be computed by dividing the Applicant's total monthly aggregate contribution toward the provision of these benefits by the total number of participating employees. Points will be awarded based on the average dollar amount per participating employee contributed by the Applicant toward the cost of benefits as follows:

  1. Five (5) points will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$300 or more per month toward the cost of the medical, dental, or vision benefits for each employee and dependents of the employee of the Recovery Zone Economic Development Bond Project.
  2. Three (3) points will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$200 or more, but less than \$300, per month toward the cost of the medical, dental, or vision benefits for each employee and dependents of the employee of the Recovery Zone Economic Development Bond Project.

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3. One (1) point will be awarded to Applications that demonstrate that the Applicant will contribute an average of \$100, but less than \$200, per month toward the cost of the medical, dental, or vision benefits for each employee and dependents of the employee of the Recovery Zone Economic Development Bond Project.
- e. Average Hourly Wage (5 points maximum). Applications will be awarded points based on a comparison of (a) the average hourly wage of the jobs created by the Recovery Zone Economic Development Bond Project ("Project Wage") based on a letter from the Applicant certifying the amount of the Project Wage, to (b) the most recent average hourly general manufacturing wage for the Metropolitan Statistical Area in which the project is located ("Job Wage") based on the Bureau of Labor Statistics Series Code from the Employment Development Department. If a project is (1) not located in a Metropolitan Statistical Area for which the Employment Development Department keeps hourly wage data; or (2) not located in any Metropolitan Statistical Area, the Executive Director will set the Job Wage based upon the Job Wage of a comparable area. The Project Wage will be divided by the Job Wage and multiplied by 100. Points will be awarded as follows:
  1. Five (5) points for a Project Wage that is one hundred twenty-five percent (125%) or more of the Job Wage.
  2. Three (3) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty-five percent (125%) of the Job Wage.
  3. One (1) point for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.
- f. Land Use/Energy Efficiency (25 points maximum)
  1. Six (6) points will be awarded to projects that reuse the following:
    - A. Vacant or abandoned buildings; or
    - B. Vacant or abandoned land with developed infrastructure (excluding land whose immediate prior use was agricultural, open space or other similar use).
  2. Seven (7) points will be awarded to Applications with projects located within one-quarter ( $\frac{1}{4}$ ) mile of a Public Transit Corridor, or in areas where there is no public transportation system, the Applicant has an adopted transportation system management plan evidenced by a scaled-for-distance map showing the location of the project is within a one-quarter ( $\frac{1}{4}$ ) mile radius of a Public Transportation Corridor.
  3. Twelve (12) points will be awarded to Applications with projects that utilize designs, materials or techniques to reduce energy usage or generate on site energy by at least fifteen (15%) on the part of the local government agency compared to the following benchmarks:
    - A. For building construction or rehabilitation, the most recent California Energy Commission Energy Efficiency Standards for Residential and Non-Residential Buildings; and
    - B. For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Applicant. Evidence should include a utility company letter indicating that energy savings are projected or a written certification from an energy efficiency consultant.
- g. Leverage (15 points maximum). Applications will be awarded points where the Qualified Recovery Zone Bond Issuer demonstrates that the financing of the project will include Taxable Debt such that the Taxable Debt will supplant the use of tax-exempt bond financing. Examples of taxable debt may include but are not limited to Build America Bonds or other taxable bond options. The Qualified Recovery Zone Bond Issuer must provide documentation showing that the proceeds of the Taxable Debt will be used for project expenses directly related to job creation. In addition, the Committee will award points to Applicants in receipt of a direct RZFB Allocation and/or QECB. To receive points for utilizing the Qualified Energy Conservation Bonds (QECBs) or Recovery Zone Bonds, the Qualified Recovery Zone Bond Issuer must provide documentation that they have received an award from the county or large municipality evidenced by an assignment letter or are concurrently applying for the CDLAC QECB re-allocation pool.
  1. Ten (10) points for projects utilizing Taxable Debt or tax-exempt debt greater than twenty percent (20%) of total project costs.



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2. Five (5) points for projects utilizing Taxable Debt or tax-exempt debt greater than ten percent (10%) and up to twenty percent (20%) of total project costs.
3. Three (3) points for projects utilizing Taxable Debt or tax-exempt debt of up to ten percent (10%) of total project costs.
4. Five (5) bonus points for projects utilizing Qualified Energy Conservation Bonds in their project.

#### Chapter 9. Recovery Zone Facility Bond Program

##### Article 1. The American Recovery and Reinvestment Act of 2009 (ARRA)

Section 750. The American Recovery and Reinvestment Act of 2009 (ARRA) assigned U.S. Treasury Designated Recovery Zone Bond Allocations to counties and large municipalities (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and large municipalities that have been excluded by the ARRA are: Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities have been excluded:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.

##### Article 2. Minimum Requirements

Section 760. Counties and large municipalities assigned a Recovery Zone Facility Bond allocation must designate the area that bonds will be utilized in, as a Recovery Zone and shall include the basis for the designation per ARRA section 1400-1U (b).

##### Section 761. Reporting Requirements

- a. CDLAC will require a Report of Action Taken form be submitted upon the issuance of bonds not more than three days following the issuance of RZFBs. This report should include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.
- b. Counties and large municipalities receiving RZFB allocation must provide CDLAC with a Plan of Issuance no later than January 31, 2010. The Plan should include a recovery zone bond resolution and a description of the projects to be funded. In addition counties and large municipalities are required to include a project issuance timeline as part of the Plan of Issuance. Counties and large municipalities that do not submit a Plan of Issuance by January 31, 2010, will automatically have their allocation Deemed Waived and captured by CDLAC for re-allocation. If the Plan of Issuance does not support the full amount of the designated award, the excess amount of bond allocation will be Deemed Waived.
- c. Counties and large municipalities that have not issued all of their designated award are required to submit the following documentation, no later than August 15, 2010:
  1. A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the project, which may take the form of a reimbursement resolution or an inducement resolution.
  2. A resolution adopted by the governing body of the jurisdiction in which the proposed project will be located, documenting the public approval process as required by 26 U.S.C. Section 147(f) (TEFRA).
  3. A letter of support or approval from the municipality's appropriate governing body or elected officials with jurisdiction over the project area. This requirement will only be required when the issuer is an entity other than the municipality such as the county or a conduit issuer.
  4. A Recovery Zone Designation. The county or large municipality must designate the area that bonds will be utilized in as a Recovery Zone, and shall include the basis for the designation per ARRA section 1400-1U(b). This requirement is demonstrated by a resolution approved by the county or large municipality.



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5. A legal memo from bond counsel which states that based on a preliminary review, the proposed project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo.
6. A commitment letter outlining the bond sale structure pursuant to Article 6, Chapter 1 for the bonds being utilized. If the commitment is less than the anticipated amount of bonds being utilized, the difference will automatically be Deemed Waived.
7. Counties and large municipalities that have submitted a Plan of Issuance but have not provided the above documentation by the August 15<sup>th</sup> deadline will have their allocation automatically Deemed Waived.

### Article 3. Recovery Zone Facility Bonds Reallocation Pool

Section 770. Applications from Qualified Recovery Zone Bond Issuers must include the following threshold requirements, and will be scored according to the criteria described below.

- a. Counties and large municipalities must be in full compliance with all applicable reporting requirements as provided in Article 2.
- b. An assignment letter or resolution (if applicable) from the county or large municipality stating that a portion of their Recovery Zone Bond allocation has been assigned to the project seeking supplemental allocation. The letter should include the amount and type of bonds committed, name of the project and the name of the department awarding allocation.
- c. A letter of support from the municipality's appropriate governing body or bodies or the elected official's approval of the project. This requirement will only be required when the issuer is an entity other than the municipality, such as the county or a conduit issuer.
- d. A Qualified Recovery Zone Bond Issuer requesting an Allocation for a RZFB Project must provide documentation of the applicable discretionary use permits and approvals from federal, state or local planning agencies for the proposed project at the time of Application. Qualified Recovery Zone Bond Issuers are not required to have obtained ministerial approvals at the time of Application.
- e. The county and municipality must designate the area that bonds will be utilized in, as a Recovery Zone, and shall include the basis for the designation per ARRA section 1400-1U (b). This requirement is demonstrated by a resolution approved by the county or municipality.
- f. A request for an award that is project specific
- g. The maximum face amount of bonds which may be re-allocated to a Qualified Recovery Zone Bond Issuer shall not exceed twenty million dollars (\$20,000,000) per project.
- h. In the event a round is undersubscribed, the Executive Director may recommend that an exception be granted to the maximum re-allocation limit.
- i. A legal memo from bond counsel which states that based on a preliminary review, the proposed project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.
- j. The Qualified Recovery Zone Bond Issuer may request, in writing, an increase to the award of re-allocation not to exceed ten percent of the original re-allocation award. The increase will be at the discretion of the Executive Director. The total amount of the increase will be based on the availability of allocation and project need.
- k. The Committee may grant an extension of the expiration date of the re-allocation of up to thirty (30) calendar days; but in no event shall said extension be beyond December 31, 2010. The Committee may delegate its authority to grant extensions to the Executive Director.
- l. The Qualified Recovery Zone Bond Issuer is required to estimate the job impact that the proposed project would achieve. This should be done by estimating the number of construction, temporary, and permanent jobs that will be created by funding the Qualified Business project. These estimates will be used for reporting purposes only and will not be a factor in the evaluation of the proposed project.
- m. A county or large municipality that is only requesting all or a portion of re-allocation that was voluntarily waived need only provide a written request and documentation that the project is

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ready to issue the Recovery Zone Facility Bonds prior to the expiration date of December 31, 2010.

Section 771. Reallocation Priority System. Upon a determination that an Application has met the minimum requirements set forth in Section 770 above, the following criteria will be used to evaluate, rank and award Allocations from the RZFB re-allocation Pool.

- a. Tier 1 Projects. Counties or large municipalities (population of more than 100,000) that voluntarily waived their award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have first priority in the reallocation application process. As the committee's first priority (Tier 1 projects), the counties and large municipalities that waived their designated allocation may request up to their waived amount by providing the following documentation (no application will be required):
  1. A letter requesting the amount of allocation and a description of the proposed project.
  2. A resolution adopted by the governing body of the Qualified Recovery Zone Bond Issuer approving the project, which may take the form of a reimbursement resolution or an inducement resolution.
  3. A letter of support or approval from the municipality's appropriate governing body's or bodies or elected official's approval of the project. This requirement will only be required when the issuer is an entity other than the municipality, such as the county or a conduit issuer.
  4. A Recovery Zone designation. The county or large municipality must designate the area that bonds will be utilized in, as a Recovery Zone, and shall include the basis for the designation per ARRA section 1400-1 (b). This requirement is demonstrated by a resolution approved by the applicable county or large municipality.
  5. A legal memo from bond counsel which states that based on a preliminary review, the proposed project qualifies for Recovery Zone Facility Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel must cite relevant federal tax code in their memo.
  6. A commitment letter outlining the bond sale structure pursuant to Article 6, Chapter 1 for at least the amount of bonds requested.
- b. Tier 2 Projects. Counties or large municipalities (population of more than 100,000) which did not receive an award of allocation by the Department of Treasury in the American Recovery and Reinvestment Act of 2009 will have second priority (Tier 2 projects) in the re-allocation application process. *The following counties will have second priority:* Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities will have second priority:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale and Visalia.
- c. Tier 3 Projects. All other projects requesting Recovery Zone Facility Bonds are funded as Tier 3 projects. Those agencies that fall into the Tier 1 category but request an award of re-allocation beyond their waived amount will also fall into this category for their supplemental re-allocation request. A complete application will be required for the supplemental re-allocation request.
- d. Waiting list and Tier Priority. Projects that fall into the Tier 1 category will be funded prior to all other projects. Those projects that fall into the Tier 2 category will be funded based on relative score of the project's public benefits and prior to the funding of Tier 3 projects. All projects that do not fall into Tier 1 and 2 will be considered Tier 3 and will be funded based on score (see evaluation criteria below). If necessary and to fully utilize the Recovery Zone Facility Bonds, CDLAC will establish a waiting list for all projects that meet the minimum requirements and have provided an application. These projects will be funded as allocation is received by CDLAC.
- e. Ranking Applications. Where two or more Applications are awarded the same amount of points pursuant to Article 5, the Committee will divide the re-allocation request by the number of jobs created by the respective Project, and rank the Applications based on the lowest amount of requested re-allocation per job(s) created.

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Section 772. If the initial RZFB application round is undersubscribed, CDLAC will accept applications for the next scheduled committee meeting, allowing for a minimum of thirty (30) days to review the RZFB application. In the event the round is undersubscribed the Executive Director may also recommend that an exception be granted to the maximum re-allocation limit.

#### Article 4. Specific Evaluation Criteria.

Section 780. CDLAC staff will perform all calculations for confirmation of eligibility based on the census tract(s) provided by the applicant.

- a. Community Economic Need (25 points maximum). Applications will be awarded points for projects that are located in communities according to the following:
  1. Unemployment Rate of the Area in Which Project Site Is Located (10 points maximum). Based on data from the Employment Development Department, the average unemployment rate for the preceding calendar year of the county sub-area in which the Recovery Zone Facility Bond Project is located will be divided by the statewide unemployment rate for the preceding calendar year and multiplied by 100. The following points will be awarded:
    - A. Ten (10) points to a project located in an area with an unemployment rate that is one hundred seventy-five percent (175%) or more of the statewide average.
    - B. Five (5) points to a project located in an area with an unemployment rate that is one hundred twenty-five percent (125%) or more, but less than one hundred seventy-five percent (175%), of the statewide average.
  2. Project Area Poverty Rate (5 points maximum). Based on the most recent data from the United States Bureau of the Census, the estimated poverty rate of each federal census tract within a 1-mile radius area of the project site, the poverty rate of the census tract(s) will be divided by the statewide poverty rate and multiplied by 100. The following points will be awarded (if there is more than one tract, the poverty rates will be averaged):
    - A. Five (5) points to a project located in an area in which the poverty rate is over one hundred twenty-five percent (125%) of the statewide poverty rate.
    - B. Three (3) points to a project located in an area in which the poverty rate is over one hundred ten percent (110%) but not more than one hundred twenty-five percent (125%) of the statewide poverty rate.
  3. Special Designation Area (5 points maximum). Excluding the Recovery Zone Area designation, points will be awarded provided the following is demonstrated:
    - A. Evidence of applicable Special Designation Area characteristic(s). For redevelopment project areas, a description of blight conditions that exist in the subject area is required.
    - B. A scaled-for distance map that is legible and clearly show the boundaries of the Special Designation Area and the location of the proposed project with the area boundaries.
  4. Median Family Income (5 points maximum). Points will be awarded for a project located in an area with a median family income of less than eighty percent (80%) of the statewide average based on the most recent census data available for cities or Census Designated Places. (If no city or Census Designated Place level data is available, or if the Qualified Recovery Zone Bond Issuer chooses to identify a project benefit area that is smaller than a city or Census Designated Place, such as census tract or tracts, smaller areas will be used.)
  5. If a project is located in an area for which there is no available economic data, the Qualified Recovery Zone Bond Issuer may submit alternate information to establish the project's consistency with the intent of the aforementioned point categories pursuant to subsection (a). For example, a Qualified Recovery Zone Bond Issuer may submit unemployment and/or median family income data for a neighboring area that is a sub-area, a city, or a Census Designated Place that is in close proximity to the proposed project. The Executive Director shall have the authority to determine

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whether the alternate information meets intent of the point category for which such information has been submitted.

- b. Job Creation (25 points maximum).
  1. Applications will be awarded points where the Applicant proposes Job Creation pursuant to Section 27. The amount of the Allocation requested in the Application will be divided by the amount of Job Created proposed by the Recovery Zone Facility Bond Project and verified by the appropriate city or county official. Points will be awarded as follows:
    - A. Twenty-five (25) points to projects creating one (1) job per \$35,000 or less of Allocation.
    - B. Fifteen (15) points to projects creating one (1) job per \$35,001 to \$50,000 of Allocation.
    - C. Five (5) points to projects creating one (1) job per \$50,001 to \$75,000 of Allocation.
- c. Welfare To Work Plan (5 points). Points will be awarded where the Qualified Business proposes participation in a Welfare-to-Work Plan in conjunction with a local governmental agency, educational agency, or non-profit organization evidenced by a signed letter or documentation of such participation that includes, at minimum, the manner and extent of the participation.
- d. Payment of Employee and Dependent Medical, Dental, and Vision Costs (5 points maximum). Applications will be awarded points where the Qualified Business contributes toward the cost of employee and dependent medical, vision, and dental benefits. Qualified Recovery Zone Bond Issuers must provide a certification letter from each of a Qualified Business' medical, dental, and vision providers certifying to the Qualified Business' average contribution per employee toward the provision of these benefits. This average will be computed by dividing the Qualified Business' total monthly aggregate contribution toward the provision of these benefits by the total number of participating employees. Points will be awarded based on the average dollar amount per participating employee contributed by the Qualified Business toward the cost of benefits as follows:
  1. Five (5) points will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$300 or more per month toward the cost of the medical, dental, or vision benefits for each employee and dependents of the employee of the Recovery Zone Facility Bond Project.
  2. Three (3) points will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$200 or more, but less than \$300, per month toward the cost of the medical, dental, or vision benefits for each employee and dependents of the employee of the Recovery Zone Facility Bond Project.
  3. One (1) point will be awarded to Applications that demonstrate that the Qualified Business will contribute an average of \$100, but less than \$200, per month toward the cost of the medical, dental, or vision benefits for each employee and dependents of the employee of the Recovery Zone Facility Bond Project.
- e. Average Hourly Wage (5 points maximum). Applications will be awarded up to five (5) points based on a comparison of (a) the average hourly wage of the jobs created by the Recovery Zone Facility Bond Project ("Project Wage") based on a letter from the Qualified Business certifying the amount of the Project Wage, to (b) the most recent average hourly general manufacturing wage for the Metropolitan Statistical Area in which the project is located ("Job Wage") based on the Bureau of Labor Statistics Series Code from the Employment Development Department. If a project is (1) not located in a Metropolitan Statistical Area for which the Employment Development Department keeps hourly wage data; or (2) not located in any Metropolitan Statistical Area, the Executive Director will set the Job Wage based upon the Job Wage of a comparable area. The Project Wage will be divided by the Job Wage and multiplied by 100. Points will be awarded as follows:
  1. Five (5) points for a Project Wage that is one hundred twenty-five percent (125%) or more of the Job Wage;
  2. Three (3) points for a Project Wage that is one hundred fifteen percent (115%) or more but less than one hundred twenty-five percent (125%) of the Job Wage;

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3. One (1) point for a Project Wage that is one hundred five percent (105%) or more but less than one hundred fifteen percent (115%) of the Job Wage.
- f. Land Use/Energy Efficiency (20 points maximum)
  1. Six (6) points will be awarded to projects that reuse the following:
    - A. Vacant or abandoned buildings; or
    - B. Vacant or abandoned land with developed infrastructure (excluding land whose immediate prior use was agricultural, open space, or other similar use.
  2. Seven (7) points will be awarded to Applications with projects located within ¼ mile of a Public Transit Corridor, or in areas where there is no public transportation system, the Applicant has an adopted transportation system management plan evidenced by a scaled-for-distance map showing the location of the project is within a one-quarter (¼) mile radius of a Public Transit Corridor.
  3. Seven (7) points will be awarded to projects that 1) utilize designs, materials or techniques to reduce energy usage by at least fifteen percent (15%) or 2) generate at least fifteen percent (15%) of the project's total usage through Renewable Energy sources. Reduced energy usage shall be compared to the following benchmarks:
    - A. For building construction or rehabilitation, the most recent California Energy Commission Energy Efficiency Standards for Non-Residential Buildings; and
    - B. For equipment to be purchased and installed, the current per energy unit output of equipment currently in use by the Qualified Business. Evidence should include a utility company letter indicating that energy savings are projected or a written certification from an energy efficiency consultant.
- g. Leverage (15 points maximum). Applications will be awarded where the Qualified Recovery Zone Bond Issuer demonstrates that the financing of the project will include Taxable Debt such that the Taxable Debt will supplant the use of tax-exempt bond financing. The Qualified Recovery Zone Bond Issuer must provide documentation showing that the proceeds of the Taxable Debt will be used for project expenses directly related to job creation. In addition, the Committee will award points to Applicants in receipt of a direct RZFB Allocation and/or QECB. To receive points for utilizing the Qualified Energy Conservation Bonds (QECBS), the Qualified Recovery Zone Bond Issuer must provide documentation that they have received an award from the county or municipality evidenced by a letter or they must be concurrently applying for the CDLAC QECB re-allocation pool.
  1. Ten (10) points for projects utilizing Taxable Debt or tax-exempt debt greater than twenty percent (20%) of total project costs.
  2. Five (5) points for projects utilizing Taxable Debt or tax-exempt greater than ten percent (10%) and up to twenty percent (20%) of total project costs.
  3. Three (3) point for projects utilizing Taxable Debt or tax-exempt debt of up to ten percent (10%) of total project costs.
  4. Five (5) **bonus points** for projects utilizing Qualified Energy Conservation Bonds in their project.

## Chapter 10. Qualified Energy Conservation Bond Program

### Article 1. Definitions

Section 790. "Carbon Footprint" means for the purposes of the Qualified Energy Conservation Bond Program, the measure of Greenhouse Gas Emissions.

Section 791. "Energy Efficient Publicly Owned Buildings" means a publicly owned building that has incurred capital expenditures for the purpose of reducing energy consumption by at least twenty (20) percent pursuant to 26 U.S.C. Section 54D(f)(1)(A)(i).

Section 792. "Demonstration Project" means a Project that satisfies the requirements of 26 U.S.C. Section 54D(f)(a)(C).

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Section 793. "Large Local Government" means for the purposes of the Qualified Energy Conservation Bond Program, a county or municipality with a population of 100,000 or more as defined in Section 54D(e)(2)(C) of the Internal Revenue Code, or an Indian tribal government as defined in Section 54D(h) of the Internal Revenue Code.

Section 794. "Mass Commuting Facility and/or Related Facility" means a facility satisfying the requirements of 26 U.S.C Section 54D(f)(1)(C) that reduce the consumption of energy to reduce pollution from vehicles used for mass commuting.

Section 795. "Public Education Campaign" means a campaign to promote energy efficiency pursuant to 26 U.S.C. Section 54D(f)(1)(E).

Section 796. "Qualified Conservation Purposes" means for the purposes of the Qualified Energy Conservation Bond Program, means conservation purposes that are permitted pursuant to 26 U.S.C. Section 54D(f).

Section 797. "Qualified Energy Conservation Bond Private Activity Maximum Usage" means that no more than 30 percent of the Qualified Energy Bond allocation to the State that is allocated to issuers within the State may be used to issue private activity bonds.

Section 798. "Qualified Energy Conservation Bond Governmental Minimum Usage"- means any Qualified Energy Conservation Bond allocation to the State shall be allocated in turn by the State to issuers within the State in a manner that results in the use of not less than 70 percent of the allocation to such issuers to designate bonds that are not private activity bonds as stated in Section 54D(e)(3) of the Internal Revenue Code.

Section 799. "Qualified Facility Project" means a facility satisfying the requirements of 26 U.S.C. Section 45(d) without regards to paragraphs (8) and (10) thereof and without regard to any placed in service date.

Section 80. "Rural Development Electricity from Renewable Resources" means rural development involving the production of electricity from Renewable Energy resources pursuant to 26 U.S.C. Section 54D(f)(1)(A)(3).

### Article 2. U.S. Treasury Direct QECB Allocation Reporting Requirements

Section 820. (a) CDLAC will have no immediate role in the administering of the U.S. Treasury Direct QECB Allocation, however, the following shall apply to all recipients of U.S. Treasury Direct QECB allocation:

1. Following the issuance of QECBs, the appropriate Report of Action Taken must be submitted no more than three (3) days from the date of issuance. This report shall include the date and amount of the issuance and the designated locality in which proceeds will be used.
2. Large local governments that do not submit a Plan of Issuance by January 31, 2010, will automatically have their allocation Deemed Waived and captured by CDLAC for reallocation.
3. Large local governments receiving U.S. Treasury Direct QECB Allocation must provide the Committee with a Plan of Issuance no later than January 31, 2010. The Plan should include a description of the projects to be funded. In addition, large local governments are required to include a project issuance timeline as part of the Plan of Issuance. Large local governments that do not submit a Plan of Issuance by January 31, 2010, will automatically have their allocation Deemed Waived and captured by the Committee for reallocation. If the Plan of Issuance does not support the full amount of the designated award, the excess amount of bond allocation will be Deemed Waived.

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4. Large Local Governments that have submitted a Plan of Issuance and have not issued their designated award are required to submit the following documentation, no later than August 15, 2010:
    - A. A resolution of the issuer approving the project, which may take the form of a reimbursement resolution and/or inducement resolution.
    - B. Documentation of the appropriate governing body's or bodies or elected officials' approval of the project.
    - C. A legal memo from bond counsel which states that based on a preliminary review, the proposed project or program qualifies for Qualified Energy Conservation Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant tax code in their memo.
    - D. A commitment letter from the purchaser or underwriter of the bonds being utilized. If the commitment is less than the anticipated amount of bonds being utilized the excess will automatically revert to the committee.
  5. Large Local Governments that have submitted a Plan of Issuance but have not provided the above documentation will be deemed to have automatically waived allocation.
- (b) Usage of initial allocation must comply with the federal requirements laid out in IRS Notice 2009-29.

### Article 3. Qualified Energy Conservation Bond Reallocation Pool

Section 830. Applications for a reallocation of QECB Allocation shall be required to comply with the following:

- a. The Applicant must be an Eligible QECB Reallocation Applicant as defined in Section 20.
- b. The Issuer must be an Eligible QECB Reallocation Issuer as defined in Section 21.
- c. The Project Sponsor and/or Eligible QECB Reallocation Applicant must provide a description of the proposed use of the bond proceeds with a description of the project.
- d. The Issuer must describe the financing plan, including whether the bonds will be issued as a public offering or a private placement.
- e. One hundred (100%) percent of proceeds are to be used for a "qualified conservation purpose" pursuant to 26 U.S.C. Section 54(D)(f).
- f. The Applicant must provide the following readiness information as applicable:
  1. Estimated date of issuance;
  2. The estimated beginning date and ending date of project construction;
  3. The estimated funding of grants for research and research facilities;
  4. The estimated beginning of public education campaigns;
  5. The estimated implementation of demonstration projects;
  6. The estimated date that site control will be established.
- g. Applications where the Applicant is a private entity shall include evidence that all required public entitlements have been acquired. Applications where the Applicant is a government entity do not require documentation of public entitlements.

### Article 4. Specific Evaluation Criteria



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Section 840. Applications will be evaluated with the following criteria:

- a. Allocation waived by a county or municipality, or Deemed Waived, shall be re-allocated by CDLAC to individual qualifying projects on a competitive basis. As the Committee's first priority, Large Local Governments that waived their designated allocation may request up to their waived amount by providing the following documentation (no Application will be required):
  1. A letter requesting the amount of allocation and a description of the proposed project
  2. A resolution that the issuer has approved the project, which may take the form of a reimbursement resolution or an inducement resolution;
  3. For Qualified Private Activity Bonds, documentation of the appropriate governing body's or bodies or elected official's approval of the project;
  4. A legal memo from bond counsel which states that based on a preliminary review, the proposed project or program qualifies for Qualified Energy Conservation Bonds under the American Recovery and Reinvestment Act of 2009 and federal tax law. Bond counsel will need to cite relevant federal tax code in their memo;
  5. A commitment letter from the purchaser or underwriter for the amount of allocation requested.
- b. Large Local Government Applicants seeking an Allocation amount above their initial Allocation award or any other non-priority Eligible QECB Applicants will have their Applications scored according to the criteria described below. In addition, individual Applications may only apply to one pool. For all Applications, the Committee will establish a process for evaluating requests for Allocation for technologies that are unfamiliar to the Committee and for industries that have not previously or recently requested an award of Allocation from the Committee. When such Applicants request Allocation, the Committee will conduct a review of the technology, the industry, and the state of environmental or other regulations. The Committee may request assistance of other federal, state, and local agencies when conducting this review. The Applicant and/or Project Sponsor may be asked to provide additional information relevant to the Committee's review. The review process shall result in a written policy concerning the new area of business. All estimates of project performance must be supported by documentation from a qualified third party or a qualified "in-house" professional. Upon a determination that an Application has met the minimum requirements set forth in **subsection (a)** above, the following criteria will be used to evaluate, rank and award Allocations from the Qualified Energy Conservation Bond Reallocation Pool within their particular project and/or program pool.
- c. Capital Expenditures Pool
  1. Qualified Facilities (Private Activity Use and Governmental Use) (10 point maximum).
    - A. All Qualified Facility Projects must be in compliance with the Renewable Portfolio Standard Eligibility Requirements of the California Energy Commission.
    - B. Ten points will be awarded to the wind facility, closed-loop or open-loop biomass facility, geothermal or solar energy facility, small irrigation power facility, landfill gas facility, trash combustion facility or qualified hydropower facility that produces the highest amount of kilowatt hours of electricity. (First place)

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- C. Five points will be awarded to the wind facility, closed-loop or open-loop biomass facility, geothermal or solar energy facility, small irrigation power facility, landfill gas facility, trash combustion facility or qualified hydropower facility that produces the second highest amount of kilowatt hours of electricity. (Second place)
  - D. Two points will be awarded to the wind facility, closed-loop or open-loop biomass facility, geothermal or solar energy facility, small irrigation power facility, landfill gas facility, trash combustion facility or qualified hydropower facility that produces the third highest amount of kilowatt hours of electricity. (Third place)
  - E. No points will be awarded to the project that produces the lowest amount of kilowatt hours of electricity.
  - F. Qualified Facility Projects that include Energy Efficient Publicly Owned Buildings may apply for bonus points as provided in subsection (4).
2. Energy Consumption Reduction and Pollution Reduction of Mass Commuting Facilities and Related Facilities (Private Activity Use and Governmental Use) (12 point maximum).
- A. Twelve points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in the lowest amount of energy consumption and/or highest amount of pollution reduction. (First place)
  - B. B. Eight points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in the second lowest amount of energy consumption and/or second highest amount of pollution reduction. (Second place)
  - C. Four points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in the third lowest amount of energy consumption and/or third highest amount of pollution reduction. (Third place)
  - D. No points will be awarded to the Mass Commuting Facility and/or Related Facility that will result in a highest energy consumption and/or lowest pollution production.
  - E. Mass Community Facility and/or Related Facility projects that include Energy Efficient Publicly Owned Buildings may apply for bonus points as provided in subsection (4).
3. Rural Development Electricity from Renewable Resources (Private Activity Use and Governmental Use) (12 point maximum).
- A. Twelve points will be awarded to the rural project that will produce the highest amount of kilowatt hours of electricity from renewable resources. (First place)
  - B. Eight points will be awarded to the project that will produce the second highest amount of kilowatt hours of electricity from renewable resources. (Second place)
  - C. Four points will be awarded to the project that will produce the third highest amount of kilowatt hours of electricity from renewable resources. (Third place)
  - D. No points will be awarded to the project that produces the lowest amount of kilowatt hours of electricity.

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- E. Elective: Two additional points will be awarded to a rural project that delivers electricity to a population of 10,000 (or more) that are not on the electricity grid at the time of application.
  - F. Projects that include Energy Efficient Publicly Owned Buildings may apply for additional bonus points as provided in subsection (4).
4. Energy Efficient Publicly Owned Buildings (Governmental Use Only) (10 point maximum). One point will be awarded to projects for every percentage point beyond the minimum required (20%) that energy consumption is reduced in a *publicly owned building*. *This information must be certified by a licensed mechanical engineer or architect.*
- d. Energy Program Pool.
- 1. Effectiveness of Research Investments (10 point maximum)
    - A. Ten points will be awarded to the research that will result in technology with the lowest Carbon Footprint in terms of greenhouse gas emissions. (First place)
    - B. Five points will be awarded to the research that will result in technology with the second lowest Carbon Footprint. (Second place)
    - C. Two points will be awarded to the research that will result in technology with the third lowest Carbon Footprint. (Third place)
    - D. No points will be awarded to the research that will result in technology with the highest Carbon Footprint.
  - 2. Demonstration Projects (10 point maximum).

The criteria used to evaluate the approach of the Demonstration Project will include, but will not be limited to the following: the size, experience and capacity of the demonstration client base, the verification of the practicality and marketability of the demonstrated technology by a third party, and the overall degree of environmental benefit of the demonstrated technology. Overall degree of environmental benefit of the technology will be measured by reductions in energy consumption measured in kWh saved and/or the amount of greenhouse gas emissions measured in MMTCO<sub>2e</sub> (million metric tons of CO<sub>2</sub> equivalent). Applicants will be required to document their previous success with the introduction, marketing and production of a new technology.

    - A. Ten points will be awarded to the Demonstration Project that has the most comprehensive and impactful approach to the commercialization of green technologies. (First place)
    - B. Five points will be awarded to the Demonstration Project that has the second most comprehensive and impactful approach to the commercialization of green technologies. (Second place)
    - C. Two points will be awarded to the Demonstration Project that has the third most comprehensive and impactful approach to the commercialization of green technologies. (Third place)
    - D. No points will be awarded to the Demonstration Project that has the least comprehensive and impactful approach to the commercialization of green technologies.

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3. Public Education Campaign (10 point maximum)

The following criteria will be used to evaluate a Campaign's approach: number and size of target groups willing to host or facilitate public education activities (authenticated by target groups); potential diffusion of potential public education activities in the energy community; dollars of allocation per activity.

- A. Ten points will be awarded to the Public Education Campaign with the most comprehensive approach to increasing public awareness of energy efficient technologies, energy conservation funding sources, etc. (First place)
- B. Five points will be awarded to the Public Education Campaign with the second most comprehensive approach to increasing public awareness of energy efficient technologies, energy conservation funding sources, etc. (Second place)
- C. Two points will be awarded to the Public Education Campaign with the third most comprehensive approach to increasing public awareness of energy efficient technologies, energy conservation funding sources, etc. (Third place)
- D. No points will be awarded to Public Education Campaign with the least comprehensive approach to increasing public awareness of energy efficient technologies, energy conservation funding sources, etc.

4. Loan / Grant Program Pool (10 point maximum).

- A. Two points will be awarded for every loan that will be funded per \$10,000 of allocation used. One point will be awarded for every grant that will be funded per \$10,000 of allocation used.
- B. Loans and Grants can be used for capital expenditures associated with implementing green community programs, research grants for promoting green technologies demonstration projects and public education campaigns.
- C. Applicants will be asked to provide the following information: description of what is being funded with the loans and/or grants; capacity of the funding (i.e. the number and size of the loans and/or grants); loan criteria and award process; compliance measures that will be imposed on recipients of loans and/or grants.

Article 5. Reporting Requirements

Section 850. (a) CDLAC will require a Report of Action Taken form be submitted to CDLAC upon the issuance of bonds not more than three days following the issuance of QECBs. This report should include the date and amount of the issuance and the designated locality in which proceeds will be used.

(b) Federal tax law mandates that one-hundred percent (100%) or more of the available Project proceeds be spent for one or more qualified purposes within the three (3) year period beginning on such date of issuance. Hence, CDLAC will require Applicants to provide ongoing documentation evidencing their initial usage of bond proceeds as detailed in the QECB Reallocation Application.

Chapter 11. Appeals

Section 860. At least twenty-five (25) calendar days prior to any meeting at which the Committee will award Allocations, the Executive Director will post a preliminary list of Applicants for which the

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Executive Director expects to recommend an Allocation (and the amount of those Allocations) in ranked order. The list will be posted on the Committee's website as provided in Section 230. For the Qualified Residential Rental Program, the list will identify the points earned by each Applicant in all categories for which points are awarded, including the Applicant's aggregate total points.

Section 861. Any Applicant who wishes to appeal the recommendation or ranking pertaining to that Applicant's Application shall file an appeal within five (5) business days of the date on which the preliminary list is posted. The appeal must set forth in reasonable detail the factual basis for the appeal. No new or additional information beyond that provided in the original Application may be provided to or considered in connection with the appeal. All appeals shall be made in writing and delivered to the Committee, no later than 5:00 p.m. (Pacific Time) on the last day specified for filing an appeal.

Section 862. After deciding all appeals, each Applicant who appealed will be notified of the decision on the appeal. At least ten (10) calendar days before the Committee meeting at which Allocations will be made, the final list of Applicants for which Allocations will be recommended (and the amounts of those Allocations) in ranked order will be posted. This list will reflect changes, if any, in ranking resulting from the appeals. The list shall be posted on the Committee's website as provided in Section 230. Any Applicant who timely appealed the preliminary determination and is dissatisfied with the final recommendation in connection with the Application, may present its case to the Committee at the meeting at which the Application is considered, provided that the Applicant gives notice, in writing, of its intention to do so at least five (5) business days prior to the meeting. An Applicant's written notification must be delivered to the Committee, no later than 5:00 p.m. (Pacific Time) on the last day specified for providing notice. An Applicant may only appeal the recommendation or ranking of its own Application(s).