

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE**

**July 18, 2012**

**Consideration and Approval of Proposed CDLAC Regulations for Submittal to the Office of Administrative Law for Emergency and Regular Rulemaking Consideration**  
**(Agenda Item No. 4)**

**ACTION**

Approve proposed CDLAC Regulations for submittal to the Office of Administrative Law for emergency and regular rulemaking consideration.

**BACKGROUND**

In the interests of reducing project costs and simplifying project administration, developers and/or owners may consider financing the new construction and/or rehabilitation of multiple project sites through a single QRRP bond issuance. In recent times, affordable housing stakeholders have highlighted to CDLAC staff that as the existing affordable housing inventory throughout the state ages, there is an increasing need for developers and/or owners to rehabilitate their existing housing portfolios in the most cost efficient manner possible. Additionally, there are increasing opportunities to purchase existing multi-site market rate housing developments and transform them into affordable housing resources; thereby continuing to increase the availability of affordable units in California's communities.

Historically, the previous CDLAC Procedures and current CDLAC Regulations have permitted this under very limited circumstances. In competitive application periods, these restrictions act to prevent project sites that may not achieve a winning score individually from being able to still receive allocation because of the greater score achieved from the other site(s) (as a blended score). However, particularly in non-competitive application periods, this is not an issue. Moreover, there is a benefit during such periods to facilitating existing housing portfolio transactions and scattered site acquisition/rehabilitation projects within a reasonable distance from each other. Particularly where the CDLAC Application involves fully-leased existing affordable housing with a federal rent subsidy and/or where the project is not proposing a substantial rent increase, it is not necessary to fully justify the rent levels through a new market study. Staff is proposing modifications to the CDLAC Regulations to facilitate these types of transactions.

The anticipated cost savings to qualifying projects will not only make them more cost efficient, but may also reduce the amount of public subsidy needed to complete the development project. This in-turn may allow those saved public subsidies to be applied to other worthy projects; increasing the production of affordable units in a given community.

Since 2009, CDLAC has maintained a cooperative policy with HUD whereby QRRP applications for HUD-assisted projects are permitted to receive a Staff Recommendation Letter (i.e. a 'Forward Commitment') in advance of a final HUD Firm Commitment. Once received from HUD, the application is then agendized for consideration by the Committee at the next available CDLAC Meeting. Staff is also proposing that this policy be permanently adopted through the CDLAC Regulations during non-competitive periods.

The following are the proposed revisions not previously considered by the Committee members:

- *Qualified Residential Rental Program: Scattered Site*
- *Qualified Residential Rental Program: Site Amenities*

- *Qualified Residential Rental Program: Service Amenities*
- *Qualified Residential Rental Program: Forward Commitment*
- *Qualified Residential Rental Program: Redevelopment Agency*
- *Qualified Energy Conservation Bond Program: Green Community Program*

1. Revision of CDLAC Regulations for Scattered Site

To enable tenant-established acquisition/rehabilitation projects with common financing to take advantage of an expedited application preparation and staff review process.

- a) The terms “FHA”, “FHA Financed Project”, “HUD”, “HUD Firm Commitment Letter”, “MAP Lender”, and “Scattered Site Project-Non-Competitive Round”, are being added and defined in the list of definitions.
- b) The term “Scattered Site Project” is being modified to “Scattered Site Project-Competitive Round”.
- c) Adding language to clarify when a market study and set of rent comparability matrices are not required.

2. Revision of CDLAC Regulations for Site Amenities

To clarify the types of evidence required for earning points for proximity to a grocery store and public schools:

- a) For a grocery store, acceptable forms of evidence shall include, but are not limited to, the following: a signed letter from the county assessor or city planner for that jurisdiction certifying the square footage of the grocery store, a letter from the store manager, or a letter from the Project’s architect. The letter must state the square footage of the grocery market.
- b) For a public school, acceptable forms of evidence shall include, but are not limited to, the following: a signed letter from the school district with the appropriate Project address stating said address is within the boundaries of the school, or documentation from an internet-based school locator tool.

3. Revision of CDLAC Regulations for Service Amenities

To realign CDLAC regulations with TCAC regulations:

- a) Projects that offer off-site services must be within one-half (1/2) of the service.
- b) Projects that offer a bona fide service coordinator/social worker must provide a full time coordinator/social worker.

4. Revision of CDLAC Regulations for Forwarding Commitment

A new article and sections are being added to clarify the process for Forward Commitment Applications and the evaluation criteria:

- a) Details the requirements of an application and the timing of submittal.

5. Revision of CDLAC Regulations for Redevelopment Agency

A new application question is being added to address any public funding related to Redevelopment Agencies.

6. Addition of Green Community Programs Definition

The definition of Green Community Programs is being added as reflected in IRS Notice 2012-44

Proposed Emergency CDLAC Regulations are attached.

**DISCUSSION**

Should the Committee approve these revisions, staff plans to then submit the emergency rulemaking package to OAL immediately thereafter. A 5-day public comment period will commence on the day of submittal, with

possible enactment within 10 days thereafter. If approved as per schedule, the Emergency Regulations would be in-place in time for the November 14<sup>th</sup> Application Round.

**RECOMMENDATION**

Staff recommends approval of the proposed CDLAC regulations for submittal to the Office of Administrative Law for emergency and regular rulemaking consideration.

*Prepared by: Annie Ong*

**ATTACHMENT A**  
**Proposed Regulations Changes**  
(Proposed new language is underlined and deleted language is struck)

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

**Chapter 2. Qualified Residential Rental Projects**

**Article 1. Definitions.**

**Section 5170. Definitions.** In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as used in this chapter are defined as follows:

“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.

“AMI” or “Area Median Income” means the median family income of a county as set by the U.S. Department of Housing and Urban Development

“Capital Needs Assessment” means a document containing the information defined in section 5212.

“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.

“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.

“Energy Star” means the certification satisfying the requirements of 42 U.S.C. section 6294(a).

“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.

“FHA” means Federal Housing Administration.

“FHA Financed Project” means a project financed under 221(d)3, 221(d)4, 223(f) Federal Housing Administration insurance program, or the Section 202 or 811 Capital Advance program, or any HUD-sponsored capital financing pilot program.

“Gross Rent” means gross rent as defined by 26 U.S.C. 42(g)(2)(B). Utility allowances, as provided by 26 U.S.C. section 42(g)(2)(B)(ii), will be included for purposes of this calculation. Projects that are Federally Assisted At Risk Projects or Projects that request low income housing tax credits are required to use Gross Rents for the calculation of restricted rents.

Agenda Item No. 4  
July 18, 2012

“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)).

“HUD” means the United States Department of Housing and Urban Development.

“HUD Firm Commitment Letter” means a HUD loan commitment for FHA financing.

“MAP Lender” means a HUD-qualified lender that prepares FHA forms and performs preliminary underwriting for certain FHA loan applications.

“New Construction” means a Qualified Residential Rental Project in which 100% of its units constitute new units to the market, and expressly excludes any Project that involves rehabilitation or any construction affecting existing residential rental units.

“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.

“Qualified Project Period” shall mean the same as defined in 26 U.S.C. section 142(d)(2)(A) and regulations promulgated thereunder, except that the minimum term shall be 30 years.

“Rent Comparability Matrix” means the form by which the third party that has completed the Market Study provides information comparing the Project to comparable properties in the Project’s market area and evidences that each of the Project’s unit types has met the requirements of Section 5191(b).

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

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

“Standard QRRP Competitive Application” means the Application for an Allocation of the Qualified Residential Rental Project Pool titled “Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)” (revised 10-1-11), which is hereby incorporated by reference.

“Standard QRRP Non-Competitive Application” means the Application for an Allocation of the Qualified Residential Rental Project Pool titled “Non-Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP)” (revised 10-1-11), which is hereby incorporated by reference.

“Supplemental Allocation” means the award of Allocation to a Qualified Residential Rental Program Applicant for a Project that received previous Allocation.

“Supplemental Allocation Request Letter” means the written request for Supplemental Allocation for Projects having been awarded Allocation within the last thirty six (36) months that may be submitted in lieu of a complete Application. The letter must be signed and include information about the Project including the date and amount of prior Allocation, the current status of the Project, revised sources and uses of funds, justification for the request for additional Allocation, and any additional information the Committee or Executive Director deems necessary.

"Sustainable Building Methods" means any method or materials 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 in Part 6 (commencing with section 10101) 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%.

"Table 1" means the table included in the Applications for a Qualified Residential Rental Project that itemizes the proposed number of units, square footage, rent, utility allowance, and the income restriction each unit or other characteristics deemed appropriate by the Committee for the subject Project.

"Table 2" means the table included in the Applications 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.

"State of California Universal Application for the Development of Affordable Rental Housing" means the State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool (revised 8-13-10), which is hereby incorporated by reference.

"Universal Competitive Addendum" means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool titled "Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum" (revised 10-1-11), which is hereby incorporated by reference.

"Universal Non-Competitive Addendum" means the application addendum submitted along with a State of California Universal Application for the Development of Affordable Rental Housing as provided by the California Department of Housing and Community Development, the California Housing Finance Agency, the California Tax Credit Allocation Committee, and the California Debt Limit Allocation Committee for an Allocation of the Qualified Residential Rental Project Pool titled "Non-Competitive Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project (QRRP) Universal Application Addendum" (revised 10-1-11), which is hereby incorporated by reference.

"VOC" means a volatile organic compound.

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

**Section 5230. Evaluation Criteria.** (a) The following criteria will be used to evaluate and rank all Applications whether for Mixed Income Projects, Rural Projects or other Qualified Residential Rental Projects. Any points awarded in this section shall be rounded to the nearest one-tenth decimal place. 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 ten (10) points. Projects that are Federally Assisted At Risk Projects or HOPE VI Projects and have income restricted tenant paid rents for each Restricted Rental Unit that is at least twenty percent (20%) below rents for the same unit types in comparable market rate rental properties will receive ten (10) additional points.

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

Agenda Item No. 4  
July 18, 2012

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

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

(d) Gross Rents (5 points).

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

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

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

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

(ii) A current utility allowance estimate consistent with 26 CFR section 1.42-10. 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 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 the highest rental rate of each. Restricted Rental Unit type (defined by bedroom count) is more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rent Comparability Matrix. The average of all Restricted Rental Unit type percentage points beyond 20% will be used to determine the number of awarded points. All unit types must be more than twenty percent (20%) below the average adjusted rental rates of comparable units as demonstrated by each applicable Rental Comparability Matrix to qualify for points under this category. Where sizes (defined by square footage) vary among those units with the highest rent, the smallest of these units shall be the basis for this comparison. Applications receiving points under subdivision (b) of this section shall be ineligible to receive points under this subdivision.

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

(g) Large Family Units (5 points).

(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).

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

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

Agenda Item No. 4  
July 18, 2012

will be awarded for every dollar of Public Funds committed as a percentage of total development costs (minus developer fees) rounded to the nearest whole number.

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

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

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

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

(B) Identification of which Distressed Community characteristic(s) is applicable to the CRA. If the applicable characteristic is pursuant to California Health and Safety Code sections 33030 et seq., a description of the blighted conditions that exist in the subject area must be included.

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

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

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

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

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

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

(j) Site Amenities (10 points maximum)

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

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

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

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

(C) Points will be awarded under 1 of the 2 following categories: i) Two and one-half (2 ½) points will be awarded to Projects located within one-half (½) mile (1 mile for Rural Projects) of a full service grocery store of at least 25,000 gross interior square feet; or; ii) Two and one-half (2 ½) points will be awarded to Projects located within one-fourth (1/4) mile (one-half (½) mile for Rural Projects) of a full service grocery store of at least 5,000 gross interior square feet. Evidence shall include, but is not limited to, the following: a signed letter from a



county assessor or city planner for that jurisdiction certifying the square footage of the grocery store, a letter from the store manager, or a letter from the Project's architect. The letter must state the square footage of the grocery market.

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

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

(E) Two and one-half (2 ½) points will be awarded to Projects located within 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital (not merely a private doctor's office). Only Projects where all units are 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.

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

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

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

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

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

(4) For project's receiving points under subdivision (k)(3) of this section, additional points for energy efficiency (including heating, cooling, fan energy, and water heating but not the following end uses: lighting, plug load, appliances, or process energy) beyond the requirements in Title 24, Part 6, of the California Building Code under which the project is constructed, shall be awarded as follows:

Percentage better than the current Standards	Low-Rise Multifamily (3 or fewer habitable stories)	High-Rise Multifamily (4 or more habitable stories)
17.5 percent	2 points	3 points
20 percent	3 points	5 points
25 percent	5 points	

(5) For project's receiving points under subdivision (k)(3) of this section, Applicants may be awarded points for committing to developing their project beyond the minimum requirements of the green building program chosen in subdivision (k)(3) of this section:

LEED	Silver	Gold
GreenPoint Rated	100	125
	3 points	5 points

(6) Rehabilitation Projects: The project will be rehabilitated to improve energy efficiency above the modeled energy consumption of the building(s) based on existing conditions. Points are awarded based on the building(s) percentage decrease in estimated annual energy use (or improvement in energy efficiency) in the building's Home Energy Rating System II (HERS II) rating post rehabilitation:

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

(7) Additional Rehabilitation Project Measures.

(A) For project's receiving points under subdivision (k)(6) of this section, Applicants may be awarded three (3) points for committing to developing, and/or managing, their project with one or more of the following:

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

(B) For projects receiving points under subdivision (k)(6) of this section, Applicants may be awarded three (3) points for projects that implement sustainable building management practices including:

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

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

(8) Compliance and Verification. Evidence of Compliance is to be submitted to CDLAC as an attachment to the first Certification of Compliance (the form of which is attached to the project resolution and which is required to be submitted on March 1 of each year). For projects under construction or rehabilitation, the information is due following receipt of the verification, but in no event shall this documentation be submitted more than two years after the issuance of bonds. Compliance will be demonstrated as follows:

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

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

(C) For Applications that receive points under subdivision (k)(6), the Applicant must submit the California Energy Commission HERS II energy consumption and analysis report, developed using the Home Energy Retrofit

Agenda Item No. 4  
July 18, 2012

Coordinating Committee's multifamily protocols, which shows the pre- and post- rehabilitation HERS II estimated annual energy use demonstrating the required improvement and is signed by a qualified HERS Rater.

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

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

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

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

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

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

(B) Services must be provided on-site except that Projects may use off-site services within a ~~one-quarter~~ one-half ( $\frac{1}{4}$   $\frac{1}{2}$ ) mile of the Project 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. Documentation must be provided for each category of services for which the Applicant is claiming service amenity points and must state the name and address of the organization or entity that will provide the services; describe the services to be provided; state annual value of the services; commit that services will be provided for a period of at least one (1) year; and name the project to which the services are being committed. Evidenced shall take the form of a contract for services, Memorandum of Understanding (MOU), or commitment letter on agency letterhead. Services delivered by the on-site Property Manager or other property management staff will not be eligible for points under any category. All organizations providing services for which the project is claiming points must document that they have at least 24 months of experience providing services to the project's target population. Experience of individuals may not be substituted for organizational experience.

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

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

(A) Five (5) points to family Projects with after school programs of an ongoing nature. Programs shall include, but are not limited to: tutoring, mentoring, homework club, art and recreation activities. Programs shall be provided on weekdays throughout the school year for at least 10 hours per week.

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

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

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

(E) Five (5) points to Projects with a full time-equivalent bona fide service coordinator/social worker available, provided that the experience of the coordinator, the duties of the coordinator and a budget to pay for the coordinator are included in the Application. The responsibilities must include, but are not limited to: (a) providing tenants with information about available services in the community, (b) assisting tenants to access services through referral and advocacy, and (c) organizing community-building and/or enrichment activities for tenants (such as holiday events, tenant council, etc.)

(m) New Construction 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).

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

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

(B) Ten (10) points will be deducted for each failure to issue Bonds that results in the full amount of the Allocation reverting back to the Committee, unless it can be demonstrated that the failure was entirely outside of the Project Sponsor's control. This deduction will be assessed against the Project Sponsor for a period of two (2) calendar years (10 points each year) from the date on which 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 not material, or the deviation from the terms and conditions of the Committee Resolution is not material. This deduction will be assessed against the Project Sponsor for a period of three (3) calendar years (10 points each year) from the date of determination of failure to spend proceeds.

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

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

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

## **Article 10. Scattered Site Applications**

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

(1) Data in Table 1 and Table 2, as defined in section 5170, shall be provided for each site and as a combined total. Each site must independently meet the Committee's income and rent restriction requirements as required in section 5191.

(2) A Capital Needs Assessment report may combine information for all Project sites in one report.

~~(2) (3) For a Scattered Site Project-Competitive Round, a Capital Needs Assessment report and Market Study may combine information for all Project sites in one report; however the Market Study shall have separate Rent Comparability Matrices for each site.~~ For a Scattered Site Project Non-Competitive Round, a market study and set of rent comparability matrices are not required if the proposed rents do not exceed one hundred and ten

percent (110%) of the current rent levels, or if the property has been receiving and will continue to receive HUD project-based rental assistance or a HUD operating subsidy for a minimum of the last five (5) years.

~~(3)~~ (4) Evidence of site control shall be required for each site.

~~(4)~~ (5) Any maps provided shall include each site.

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

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

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

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

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

### **Section 5256. Evaluation Criteria.**

- a) Applications will be reviewed according to the Multi-Family Housing criteria, as referenced in Chapter 2, Article 8, Section 5230.
- b) Applications meeting the requirements of Chapter 2, Article 8, Section 5230 will be provided a Forward Commitment in lieu of an award of allocation.
- c) Upon receipt of a HUD Firm Commitment letter, CDLAC will present an allocation recommendation to the Committee for formal approval. The CDLAC closing timeframe will commence once the Committee grants the allocation.

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

## **Chapter 10. Qualified Energy Conservation Bond Program**

### **Article 1. Definitions**

**Section 5560. Definitions.** In addition to the definitions set forth in Government Code section 8869.82 and unless otherwise required by the context, the following terms as in this chapter are defined as follows:

“Carbon Footprint” means for the purposes of the Qualified Energy Conservation Bond Program, the measure of Greenhouse Gas Emissions.

“Demonstration Project” means a Project that satisfies the requirements of 26 U.S.C. section 54D(f)(a)(C).

“Designated Allocation” means Allocation received directly from the federal government pursuant to the American Recovery and Reinvestment Act of 2009.

“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).

“Green Community Program” means a program that meets the following two requirements: (1) a program that promotes one more of the purposes of energy conservation, one or more of the purposes of energy conservation, energy efficiency, or environmental conservation initiatives relating to energy consumption, broadly construed. Eligible program purposes include, among others, promotion of energy savings through retrofitting initiatives for heating, cooling, lighting, water-saving, storm-water reducing, or other efficiency measures; distributed generation initiatives; or transportation initiatives that conserve energy and/or support alternative fuel infrastructure (which may include, for example, improvements to public bicycle paths or mass transit systems) (2) A green community program must: (i) involve property that is available for general public use (using standards similar to standards for distinguishing general public use from private business use under § 1.141-3(c)); or (ii) involve a loan (or other repayment mechanism) or grant program that is broadly available to members of the general public, including individuals or businesses. A green community program need not affect the entire geographical area or all the residents and businesses within the jurisdiction of the State or local governmental unit that implements the program, provided that the program broadly benefits the general public, residents, or businesses in the affected area of the State or local governmental unit.

“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.

“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.

“Public Education Campaign” means a campaign to promote energy efficiency pursuant to 26 U.S.C. section 54D(f)(1)(E).

“QECB Application” means the Application titled “Application for American Recovery and Reinvestment Act (ARRA) Qualified Energy Conservation Bonds (QECB)” (revised 1-11-11), which is hereby incorporated by reference.

“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).

“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 seventy (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.

“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.

“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.

“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).

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

### **Article 3. Evaluation Criteria**

**Section 5580. Evaluation Criteria.** Upon a determination that an Application has met the minimum requirements set forth in article 2 of this chapter, Applications will be evaluated with the following criteria. All estimates of Project performance as it relates to points must be supported by documentation from a qualified third party or a qualified “in-house” professional.

(a) Capital Expenditures Pool

(1) Qualified Facilities (Private Activity Use and Governmental Use) (10 point maximum). Qualified Facility Projects must be in compliance with the renewable portfolio standard eligibility requirements of the California Energy Commission.

(A) Ten (10) 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)

(B) Five (5) 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)

(C) Two (2) 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)

(D) No points will be awarded to the Project that produces the lowest amount of kilowatt hours of electricity.

(E) Qualified Facility Projects that include Energy Efficient Publicly Owned Buildings may apply for bonus points as provided in subdivision (a)(4) of this section.

(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 (12) 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) Eight (8) 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 (4) 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 subdivision (a)(4) of this section.

(3) Rural Development Electricity from Renewable Resources (Private Activity Use and Governmental Use) (12 point maximum).

(A) Twelve (12) 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 (8) 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 (4) 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.

(E) Elective: Two (2) 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 subdivision (a)(4) of this section.

(4) Energy Efficient Publicly Owned Buildings (Governmental Use Only) (10 point maximum). One (1) 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.

(b) Energy Program Pool.

(1) Effectiveness of Research Investments (10 point maximum)

(A) Ten (10) 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)

Agenda Item No. 4  
July 18, 2012

(B) Five (5) points will be awarded to the research that will result in technology with the second lowest Carbon Footprint. (Second place)

(C) Two (2) 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>2</sub>e (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 (10) 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 (5) 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 (2) 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.

(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 (10) points will be awarded to the Public Education Campaign with the most comprehensive approach to increasing public awareness of energy efficient technologies or energy conservation funding sources. (First place)

(B) Five (5) points will be awarded to the Public Education Campaign with the second most comprehensive approach to increasing public awareness of energy efficient technologies or energy conservation funding sources. (Second place)

(C) Two (2) points will be awarded to the Public Education Campaign with the third most comprehensive approach to increasing public awareness of energy efficient technologies or energy conservation funding sources. (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 or energy conservation funding sources.

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

(A) Two (2) points will be awarded for every loan that will be funded per \$10,000 of allocation used. One (1) 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 gGreen eCommunity pPrograms, 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.

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