

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

December 12, 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

The Internal Revenue Code (IRC) authorizes government entities to issue Mortgage Revenue Bonds (MRB) and Mortgage Credit Certificates (MCC). MRBs are used to back below market interest rate mortgages for eligible households and uses. MCCs provide eligible borrowers with a federal income tax credit equal to a specified percentage (10-50%, as determined by the locality) of the mortgage interest paid each year on a qualified loan. Both MRBs and MCCs are available to households earning at or below 115% of the Area Median Income (or 140% in federally designated target areas and high cost areas), and can be used for one of three qualified loan types: Qualified First-Time Homebuyer loans, Qualified Home Improvement loans, and Qualified Rehabilitation loans. MRBs and MCCs cannot be used together.

- *First-Time Homebuyer loans* assist households, who have not owned a home in the three years prior to application, to purchase a primary residence. The purchase price cannot exceed 90% of the average area purchase price over the past 12 months unless the home is located in a federally-defined target area.
- *Qualified Home Improvement loans* can be used to finance alterations to an existing owner-occupied residence “to protect or improve the basic livability or energy efficiency of the property.” Home Improvement loans are subject to a \$15,000 maximum.
- *Qualified Rehabilitation loans* provide owner-financing for a qualified rehabilitation (or the acquisition of a recently rehabilitated property if the mortgagor is the first resident after rehabilitation). To qualify as a rehabilitation loan, the property must be at least 20 years old, a specified percentage of interior and exterior walls must remain intact after rehabilitation, and the loan amount must be at least 25% of the mortgagor’s adjusted basis, but cannot exceed 90% of the average area purchase price over the past 12 months (or 110% if the property is located in a federally-defined target area).

CDLAC currently administers a First-Time Homebuyer MRB/MCC Program. The proposed Home Improvement and Rehabilitation MRB/MCC Program (Program) was, in part, modeled after the First-Time Homebuyer program. Staff also held and incorporated feedback from two stakeholders meetings.

The attached proposed emergency CDLAC regulations outlining the Program were posted on the website on November 16, 2012 for public comment and a public comment hearing was held on November 28, 2012. To date, no public comments have been received.

DISCUSSION

Through the creation of this new Program, CDLAC hopes to support low and moderate income households seeking to better their quality of life by improving and/or rehabilitating their primary residence. Issuer/Applicants to the Program will be evaluated based upon the effective and efficient usage of the allocation given by CDLAC, and will be required to report the measurable public benefits of their underlying home improvement and/or

rehabilitation programs. In CDLAC Staff's discussions with the stakeholders, it is believed that the allocation distributed through the Program will help various existing and proposed Energy Efficiency programs to more effectively serve low and moderate income households throughout California. Other publicly-supported foreclosure rehabilitation programs such as the Neighborhood Stabilization Program (NSP) may also be able to leverage this Program's allocation as well.

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.

Staff will accept the first round of Home Improvement and Rehabilitation MRB/MCC Program Applications on January 11, 2013 for consideration at the March 13, 2013 Allocation Meeting.

RECOMMENDATION

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

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

DRAFT CDLAC REGULATIONS
FOR A HOME IMPROVEMENT AND REHABILITATION MCC/MRB PROGRAM

Chapter 5. Single Family Housing Home Improvement and Rehabilitation Program

Article 1. Definitions.

Section 5342. 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:

“Home Improvement and Rehabilitation MCC Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Home Improvement and Rehabilitation Mortgage Credit Certificate Program” (revised x-xx-xx), which is hereby incorporated by reference.

“Home Improvement and Rehabilitation MRB Application” means the Application titled “Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Home Improvement and Rehabilitation Mortgage Revenue Bond Program” (revised x-xx-xx), which is hereby incorporated by reference.

“Qualified Home Improvement Loan” means a loan as defined by U.S.C. section 143(k)(4)

“Qualified Rehabilitation Loan” means a loan as defined by U.S.C. section 143(k)(5)

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

Article 2. Eligibility Requirements

Section 5343. Application Process. Applications for an Allocation of Home Improvement and Rehabilitation MCCs or MRBs shall be considered in accordance with the provisions of Chapter 1 and the submission of a Home Improvement and Rehabilitation MCC Application or a Home Improvement and Rehabilitation MRB Application. The maximum requested amount of Allocation per Application shall not exceed \$20 million. Should the Application round be deemed non-competitive, the Executive Director may waive this cap.

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

Section 5344. Minimum Requirements. (a) An Applicant requesting an Allocation for a Home Improvement and Rehabilitation Program must commit to a minimum of twenty

percent (20%) of the participants in the Home Improvement and Rehabilitation Program being:

(1) Households located in a Qualified Census Tract; or

(2) Households earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located. Applicants may use the high-cost area adjustment set forth in 26 U.S.C. section 143(f)(5) to meet this minimum requirement.

(b) For Home Improvement and Rehabilitation Mortgage Revenue Bond Programs, in order to be eligible for a new Home Improvement and Rehabilitation Program Allocation, the Applicant shall:

(1) Demonstrate that all proceeds from a Bond issuance in the calendar year three (3) years prior to the current year (other than amounts that are insufficient to fund one Home Improvement and Rehabilitation loan) 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 (2) 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 for such prior funds.

(c) For Home Improvement and Rehabilitation Mortgage Credit Certificate programs, in order to be eligible for a new Home Improvement and Rehabilitation Program Allocation, the Applicant must:

(1) Demonstrate that all remaining Bond authority in the calendar year two (2) years prior to the current year (other than amounts that are insufficient to fund one Home Improvement and Rehabilitation MCC) have been issued.

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

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

Section 5345. Exceptions to Minimum Requirements. With respect to subsections (b) and (c) of section 5344, the Committee may consider exceptions to the minimum requirements based upon detailed information submitted by the Applicant stating the reasons for the underachievement and explaining why 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 of the Committee or to the Executive Director. To be granted an exception, an Applicant must demonstrate its need to use new Allocation even if unused Mortgage Revenue Bond Allocation or Mortgage Credit Certificate authority totals over \$1 million from prior years.

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

Article 3. Evaluation Criteria.

Section 5346. Past Performance. Applicants must demonstrate that Home Improvement and Rehabilitation Mortgage Credit Certificate Program Allocation from the past year has been used or are designated to be used to issue Mortgage Credit Certificates.

The Committee may consider exceptions to the Past Performance requirement based upon detailed information submitted by the Applicant stating the reasons for the underachievement and explaining why 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 of the Committee or to the Executive Director. To be granted an exception, an Applicant must demonstrate its need to use new Allocation even if unused Mortgage Revenue Bond Allocation or Mortgage Credit Certificate authority totals over \$1 million from prior years.

Section 5347. Potential Public Benefits Calculation. For each Allocation round, programs will be evaluated and ranked based on how effectively they will achieve the following public benefits relative to their competitor's performance: Serving the maximum number of households earning eighty percent (80%) or less of the Applicable Median Family Income of the area in which the program is located; ensuring the lowest interest rates to borrowers; and serving the maximum number of households with the allocation.

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

Article 4. Reporting Requirements.

Section 5348. Program Performance Monitoring. Applicants will be required to track the information identified in Exhibits 1 and 2 of their applicable Home Improvement and Rehabilitation MCC or MRB Application and report that information to the Committee by March 1 of each calendar year.