

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE
October 21, 2015

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 and Public Comment Matrix for submittal to the Office of Administrative Law for emergency and regular rulemaking consideration.

BACKGROUND

The following proposed regulations are consistent with the regulations recently proposed by the California Tax Credit Allocation Committee (“TCAC”). CDLAC and TCAC recently held a 45-day public comment period and Public Hearings on July 29, 2015 in San Diego, July 30, 2015 in Los Angeles, August 3, 2015 in Sacramento and August 5, 2015 in Oakland for their respective proposed regulations that, among other items, included the following regulation changes. As required, TCAC plans to request approval of these changes to the TCAC regulations at the October 21, 2015 TCAC meeting while CDLAC will submit a request for emergency approval of the proposed regulation changes to the Office of Administrative Law on October 29, 2015 with an anticipated approval and adoption date of November 9, 2015.

Currently, California does not utilize its entire private activity tax-exempt bond authority and accordingly does not access the 4% low-income housing tax credits to the fullest extent possible. CDLAC and TCAC are committed to increasing the supply of affordable housing which can best be achieved by better utilization of the available tax exempt bonds and 4% tax credits. CDLAC and TCAC have worked collaboratively in an effort to coordinate programmatic changes with an aim to encourage production and accountability. The following are the proposed revisions to the CDLAC Regulations:

1. Revision of CDLAC Regulations for Minimum Application Requirements. (Section 5033 (b)(5)(A))

Applicants are currently required to provide proof of TEFRA no less than five (5) calendar days prior to the first public posting of Committee recommendations. Due to CDLAC’s meeting schedule, this due date typically falls on a Monday. Most local governments hold meetings on Tuesdays. Reducing the number of days prior to posting that proof of TEFRA must be received from five (5) to four (4) will make it easier for issuers to submit proof of TEFRA. The additional day will provide one extra local government meeting prior to the submission deadline at which TEFRA approval may be obtained.

2. Revision of CDLAC Regulations for Forfeiture of Performance Deposit (Section 5052(a))

CDLAC receives a very large number of bond issuance extension requests including multiple requests for the same project. Processing the requests diverts limited resources away from CDLAC’s primary mission. It is anticipated that the proposed forfeiture will significantly reduce requests. The proposed forfeiture in such circumstances is designed to reduce such requests and close a potential forfeiture loophole applicable to Competitive Application Process awards that are converted to carryforward allocations. Where a waiver of forfeiture has been granted pursuant to the proposed subsection 5052(e), subsequent extensions not granted a waiver will be subject to performance deposit forfeiture. The delay in the implementation of the proposed regulation to March 16, 2016 will ensure that all projects receiving an allocation award in 2015 are subject to the same extension request standards. Specifically, the delayed implementation will permit projects receiving an allocation at the December, 16, 2015 CDLAC meeting will have a sufficient opportunity to determine whether an issuance extension will be needed and, if so, to request an extension without performance deposit forfeiture. CDLAC’s first 2016 allocation meeting will take place on or after March 16, 2016. All projects receiving an

allocation on or after that date will be held to the proposed forfeiture provisions for receiving an issuance expiration date extension. With the insertion of a new subsection (a), the subsequent subsections (a – d) will be designated subsections (b – e).

3. Revision of CDLAC Regulations for Forfeiture of Performance Deposit (Section 5052(b))

The phrase “unless the Committee determines there is good cause to return all or part of the deposit” will be deleted. The proposed subsection (e) sets forth standardized waiver procedures and standards. The current subsection (a) will be designated subsection (b)

4. Revision of CDLAC Regulations for Forfeiture of Performance Deposit (Section 5052 (e))

The proposed new subdivision creates procedures and standards for requesting and granting performance deposit forfeiture in situations where the underlying circumstances are unforeseen and beyond the control of a Project’s sponsor and development team. Although the request must come from the Applicant (the issuer of the bonds), scrutiny is placed on the sponsor and developer because they most closely control the timing of a project’s readiness for closing and bond issuance. The proposed deadline is easily-discernable and based on the date contained on the fee forfeiture invoice. Copies of the invoice and cover letter are sent via e-mail contemporaneously with the mailing of the original documents. As a result, there should be little or no delay in notice to the parties that the running of the waiver request period has begun. Timing the running of the waiver period to the date on the invoice will preclude costs associated with certified mailings and will eliminate uncertainties attributable to mail delivery. The granting of a waiver will not preclude performance deposit forfeiture for future expiration date extensions. A separate waiver must be sought for each subsequent extension subject to forfeiture.

5. Revision of CDLAC Regulations for Program Expiration Dates (Section 5100(a))

The proposed re-numbering of the subsections tracks the numeration used in the CDLAC Regulations, making Section 5100 easier to understand.

6. Revision of CDLAC Regulations for Program Expiration Dates (Section 5100(a))

The proposed subsection (a) will make the provisions contained therein easier to understand and discern from the provisions of the proposed subsection (b). A Non-substantive change is proposed to correct a grammatical error, making the subsection easier to understand.

7. Revision of CDLAC Regulations for Program Expiration Dates (Section 5100(b))

The proposed subsection (b) will make the provisions contained therein easier to understand and discern from the provisions of the proposed subsection (a). Non-substantive grammatical changes have been made to eliminate superfluous and redundant verbiage to make the subsection easier to understand.

The proposed added reference to section 5101 is consistent with the proposed deletion of the current Section 5101 and the inclusion of its dictates, as revised, in section 5100 as subsection (b)(3). With the deletion of the current Section 5101, the current sections 5102, 5103 and 5104 will be renumbered as sections 5101, 5102 and 5103, respectively.

The proposed added reference to “the limitations prescribed by section 5104” is consistent with the proposed deletion of the current Section 5101. With the deletion of the current Section 5101, the current Section 5105 will be renumbered as section 5104. The dictates of the current section 5105 operate to shorten the otherwise applicable bond issuance expiration dates set forth in the proposed items (1-3) of subsection (b). Making explicit reference to an exception to the standard expiration dates will minimize reversions and ensure that bonds do not lose their tax-exempt status.

The phrase “no more than the following” is being deleted as superfluous.

8. Revision of CDLAC Regulations for Program Expiration Dates (Section 5100(b)(1))

The lists of bond types subject to a 90-day expiration date, contained in the current subsections 5100(2) and (3), will be consolidated into the proposed subsection (b)(1) to eliminate excess verbiage from the regulations and make the expiration date for the bonds easier to discern.

9. Revision of CDLAC Regulations for Program Expiration Dates (Section 5100(b)(2))

The renumbering from 5100(5) to 5100(b)(2) is consistent with the larger renumbering of section 5100. No substantive changes have been made. The proposed grammatical changes and removal of stray punctuation make the subsection easier to understand.

10. Revision of CDLAC Regulations for Program Expiration Dates (Section 5100 (b)(3))

The proposed subsection places the lottery provisions for Qualified Residential Rental Bond issuance, contained in the current section 5101, in section 5100. It is anticipated that placing the expiration date provisions for all bond types under a single section will make expiration dates easier to discern and the regulations as a whole easier to reference and read.

The 110 day expiration date for Qualified Residential Rental Bonds is being deleted and replaced with the lottery system contained in the current section 5101. In practice, the lottery procedures are the standard for issuing expiration dates and the flat 110 day expiration date contained in the current section 5100(1) is not utilized. It is anticipated that the proposed revision will make the procedure for assigning bond issuance expiration dates for Qualified Residential Rental Bonds easier to reference and discern.

In practice, the Committee does not conduct the expiration date lottery. Since its inception, conducting the lottery has been delegated to the Executive Director. Assigning this ministerial function to the Executive Director on a permanent basis clarifies and solidifies, in pertinent part, the duties of the Executive Director and will make the operations of the Committee, and its staff, more efficient.

11. Revision of CDLAC Regulations for Program Expiration Dates (Section 5100 (b)(3)(i))

The lottery expiration dates for Qualified Residential Rental Bonds currently contained in section 5101 (90, 100 or 110 days) will continue to be applicable to projects receiving allocations during a “Competitive Application Process” (as defined in section 5000). During a Competitive Application Process, demand exceeds available allocation under the state cap. It is anticipated that the shorter expiration dates during a Competitive Allocation Process (compared to the longer periods proposed for Open Application Process), combined with the performance deposit forfeiture of section 5132, will increase focus on project readiness; thus ensuring maximum utilization of scarce tax-exempt funding for the construction of affordable housing and preventing reversions.

12. Revision of CDLAC Regulations for Program Expiration Dates (Section 5100 (b)(3)(ii))

Necessity: The lottery expiration dates currently contained in section 5101 will be extended to 180 and 194 days for projects receiving allocations during an “Open Application Process” (as defined in section 5000). The proposed revisions are designed to reduce expiration date extension requests, minimize performance deposit forfeitures under the proposed revisions to Section 5052(a) and prevent reversions of allocations by providing more time after an allocation award to finalize project financing, resolve other issues and to issue bonds. Additionally, the proposed deadlines for Open Application Process allocations are in alignment with proposed revised readiness dates in the California Tax Credit Allocation Committee (TCAC) Regulations Section 10325(c)(8). Having one date for tax credits and tax-exempt bonds will simplify project financing and closing and will likely reduce issuance extension requests when competitive TCAC state tax credits are involved.

13. Revision of CDLAC Regulations for Program Expiration Dates (Section 5100(b)(3)(iii))

In recognition of the potential risk associated with longer closing timeframes, CDLAC will allow applicants to request bond issuance timeframes shorter than 180 days.

14. Deletion of CDLAC Regulations for Lottery for Qualified Residential Rental Bonds (Section 5101)

The lottery provisions for Qualified Residential Rental Bond issuance, contained in the current section 5101, will be deleted and moved, as revised, to section 5100(b)(3). It is anticipated that placing the expiration date provisions for all bond types under a single section will make expiration dates easier to discern and the regulations as a whole easier to reference and read.

15. Revision of CDLAC Regulations Extensions to Expiration Dates (Section 5102)

With the proposed deletion of Section 5101, sections 5102 through 5107 will be renumbered. Section 5102 will be renumbered 5101. The proposed substantive revisions will provide the Executive Director with the permanent authority to approve extension requests of up to 90 days. This proposed revision will streamline the current procedure wherein the Executive Director may approve extension requests up to the next Committee meeting and the Committee approves extensions up to 90 days. The Executive Director already has the authority to approve extensions and the authority to approve extensions of up to 90 days may be delegated under the existing regulation. As a result, the Committee sees no negative impact from permanently authorizing the Executive Director to undertake this procedural function; thus, permitting the Committee to focus on substantive issues and matters. The proposed grammatical revisions provide clarity and increases understanding of the regulation by replacing the undefined term "Open Allocation Round" with the term "Open Application Process", as defined in section 5000.

16. Revision of CDLAC Regulations for Recovery Zone Bond Extensions (Section 5103)

With the proposed deletion of Section 5101, sections 5102 through 5107 will be renumbered. Section 5103 will be renumbered 5102.

17. Revision of CDLAC Regulations for Five Day Hardship Extensions (Section 5104)

With the proposed deletion of Section 5101, sections 5102 through 5107 will be renumbered. Section 5104 will be renumbered 5103.

18. Revision of CDLAC Regulations for Year-End Allocations (Section 5105)

With the proposed deletion of Section 5101, sections 5102 through 5107 will be renumbered. Section 5105 will be renumbered 5104.

The phrase "For Allocations awarded after October 15," will be deleted because it is inconsistent with the issuance expiration dates contained in section 5100 and conflicts with the dictates of 26 USC Section 146(d) which defines the State Ceiling. The word "may" will be substituted for "shall" to clarify that the intent of the regulation, in pertinent part, is to assign a December 31st bond issuance expiration date to any allocation where the issuance date prescribed by section 5100 would be after December 31 and not just to allocations awarded after October 15th. The word "may" will be substituted for "shall" to take into account that not all awards will be impacted by year-end expiration, just those awards where the standard issuance deadlines would extend beyond December 31st. The proposed revision accurately states: "The pending year-end expiration may result in the assignment of expiration dates shorter than as prescribed in section 5100."

19. Revision of CDLAC Regulations for Reversion to Committee (Section 5106)

With the proposed deletion of Section 5101, sections 5102 through 5107 will be renumbered. Section 5106 will be renumbered 5105.

20. Revision of CDLAC Regulations for Veterans Home Loan Programs (Section 5107)

Necessity: With the proposed deletion of Section 5101, sections 5102 through 5107 will be renumbered. Section 5107 will be renumbered 5106.

21. Revision of CDLAC Regulations for Expiration of Carryforward Allocations (Section 5132)

The proposed revision corrects a capitalization error.

22. Revision, addition and deletion of CDLAC Regulations for Definitions Applicable to Chapter 2, Qualified Residential Rental Projects (Section 5170)

Revision of “Community Revitalization Plan” definition

The proposed revision removes the requirement that a Plan be “adopted by a public entity” in order to meet the definition. It is anticipated that this revision will increase point’s eligibility under Section 5230(i); which will likely stimulate revitalization of blighted areas, including an increase in new or rehabilitated affordable housing units in such areas.

Addition of “Federal Promise Zone” definition

The Federal Promise Zone designation is the successor to Federal Empowerment Zones and Enterprise Communities. Designation as a Federal Promise Zone provides enhanced resources to distressed geographies. The definition is being added because Projects located within a “Federal Promise Zone” are being added to the list of Projects eligible for points under Section 5230(i); which will likely stimulate community revitalization efforts, including an increase in new or rehabilitated affordable housing units in such areas.

Addition of “High Quality Transit” definition

The definition is based upon one developed by the Strategic Growth Council and is being added to enable Projects located within one-half (1/2) mile of a High Quality Transit stop or station to be eligible for Transit Amenities points under the proposed Section 5230(j)(2)(A). The definition focuses on longer-range inter-city commuter-type transportation as opposed to intra-city public transportation. It is anticipated that this will encourage construction of affordable housing outside of urban core areas (where real estate and property prices tend to be cheaper), while also providing residents with the ability to travel to employment and services located in urban areas. The proposed definition and point’s category will likely increase the number of affordable housing units based on increased point’s eligibility.

Deletion of “HOPE VI Project” definition

The definition is being deleted because proposed revisions to subsection 5230(b) eliminate point’s eligibility for HOPE VI Projects. HOPE VI was a HUD-administered Federal program providing funding for severely distressed public housing projects. Congress ceased funding for HOPE VI in FY 2010 and it is anticipated that no additional HOPE VI grants will be made. The Regulations do not contain any other references to HOPE VI Projects.

Addition of “HUD Acknowledgement Letter” definition

The definition is being added due to revisions to Section 5255 that will permit an award of allocation during an Open Allocation Process to Federal Housing Administration (FHA) Projects having, among other things, a HUD Acknowledgement letter. HUD officials have agreed to the contents of the letter and to provide the letter in in appropriate circumstances. It is anticipated that the Section 5255 revisions will enable FHA financed projects to receive allocations faster and more easily which will likely result in an increased number of affordable housing units.

Addition of “Native American Lands” definition

The definition is being added due to proposed revisions to Section 5192 that will limit the term of restrictions applicable to Projects located on Native American Lands. The proposed definition is consistent with the dictates of 25 USC Section 4211.

Addition of “Scattered Site Project” definition

Scattered site projects are referred to in various places in the regulations. This change defines a scattered site project within the definition section of the regulations, clearly establishes the minimum parameters at which a project is considered to be a scattered site project instead of a regular project, and alters maximum parameters of what may be a scattered site project. With respect to the minimum parameters, the proposed change mirrors federal tax-exempt bond regulations (Treasury Regulation Section 1.103-8(b)(4)) by considering a project to be a scattered site project when the parcels of land are not contiguous except for the interposition of a road, street, stream or similar property. With respect to the maximum parameters, the proposed change 1) limits the number of sites to five (5) (except for existing project-based Section 8 projects), for At-Risk or projects that otherwise have a regulatory agreement or rental or operating subsidy 1) maintains the city or 10 mile diameter within a county, 2) creates an option for cities of less than 500,000 or unincorporated county areas projects to be within county boundaries, for new construction and acquisition and/or rehabilitation projects that are not subject to a rental assistance or operating agreement, a 1 mile diameter within the same county. These changes will encourage scattered site projects that are already affordable to pool financing costs and operating expenses, but will limit the number of properties to ensure adequate oversight.

Deletion of “Scattered Site Project - Competitive Round” definition

The definition is being deleted due to the proposed new “Scattered Site Project” definition that encompasses scattered site projects in competitive rounds.

Deletion of “Scattered Site Project - Non-Competitive Round” definition

The definition is being deleted due to the proposed new “Scattered Site Project” definition that encompasses scattered site projects during an open allocation process.

Addition of “Residential Rental Regulatory Agreement” definition

The term, currently undefined, is used in a number of places throughout the CDLAC Regulations. The term is being defined to provide clarity and consistency and to reduce confusion.

Revision of “Standard QRRP Competitive Application” definition

The Application’s revised date has been updated to reflect the most recent edition of the Application.

Revision of “Standard QRRP Non-Competitive Application” definition

The proposed revision updated the term to “Standard QRRP Open Application”. Use of the word “open” will be consistent with the term “Open Application Process” contained in Section 5000. It is anticipated that the use of consistent locution will enhance understanding of the Regulations. The Application’s revised date has also been updated to reflect the most recent edition of the Application.

Addition of “Substantial Renovation Project” definition

The definition is being added because Projects meeting the definition will be eligible for ten (10) points pursuant to proposed revisions to Section 5230(m). The intent is to encourage rehabilitation Projects to spend more than the minimum amount required for per-unit hard construction costs and to reward Projects that do so. It is anticipated that the proposed point’s eligibility will result in both a higher quality and quantity of rehabilitated affordable housing units.

“Universal Competitive Addendum”

Necessity: The Application’s revised date has been updated to reflect the most recent edition of the Application.

“Universal Non-Competitive Addendum”

Necessity: The proposed revision, “Universal Open Addendum”, is consistent with the term “Open Application Process” contained in Section 5000 and should make the regulations easier to understand. The Application’s revised date has also been updated to reflect the most recent edition of the Application.

23. Revision of CDLAC Regulations for Readiness (Section 5190(a))

25 USC Section 4211, in pertinent part, permits the development for residential purposes of “trust lands that the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians”. There are no title reports for trust lands. To facilitate the construction of affordable housing units on trust lands, readiness for such Projects may be demonstrated via a Land Title Status Report from the Bureau of Indian Affairs or an attorney’s opinion regarding chain of title and current title status. This alternative will remove a hurdle to development and will likely encourage construction of affordable housing units for Native Americans on tribal lands.

The proposed grammatical revision will permit proof of readiness documentation to be “dated” rather than “completed” no more than ninety (90) days prior to Application deadline. The use of “dated” will provide an easier to discern, objective deadline, as opposed to the more subjective term “completed”. It is anticipated that the revision will make it easier to comply with 5190(a).

24. Revision of CDLAC Regulations for Readiness (Section 5190 (b))

Requiring evidence to be provided no later than the application due date creates a standardized and easily discernable deadline, while permitting revisions or additions to the proof where an application is submitted prior to the application deadline. It is anticipated that the proposed revision will reduce deficient applications.

The proposed public appeals provision is designed to allow Projects having land use approvals that are subject to a public appeal procedure to proceed with the application process pending the lapsing of the appeals period. In practice, a very small number of Projects are subject to appeals procedures and appeals are uncommon. In recognition of these factors, and to maximize the construction of affordable housing units, projects will not automatically be precluded from allocation eligibility where proof is provided at least five (5) days prior to initial posting that an appeals period has lapsed.

In this section, it is also clarified that Design Review does not need to be approved at the time of application. In most instances Design review is a ministerial process and related directly to the design of a building not it’s zoning, footprint, height, or parking rations. Excluding projects from the requirement will facilitate more projects meeting the readiness requirements.

25. Revision of CDLAC Regulations for Income and Rent Restrictions (Section 5190(b))

The proposed revision creates an exception for projects subject to an existing Residential Rental Regulatory Agreement from the general requirements that all projects establish that the proposed tenant paid rents will be at least 10% below the weighted average rent for comparable market rate units, that each Restricted Rental Unit’s value ratio (dollars per square foot) be at or below the weighted average unit value ratio for comparable market rate units and that the affordability and value ratios be demonstrated in a Rent Comparability Matrix meeting the requirements of Article 4 of the CDLAC Regulations. Staff believes that currently affordable developments with low vacancy rates have shown sufficient demand and that, absent rent increases of more than five percent (5%), will not face hurdles remaining occupied after rehabilitation. Furthermore, eliminating the 10% below market rate requirement will create an incentive for developers to re-syndicate though the bond and tax credit programs

which will ensure extended affordability. Staff also believes that currently affordable projects meeting the aforementioned criteria need only meet the minimum market study requirements required by federal law and not the additional requirements required by Article 4 of the CDLAC Regulations.

26. Chapter 2, Article 3, Section 5192. Revision of CDLAC Regulations for Minimum Terms of Restrictions (Section 5192(c))

25 USC Section 4211 limits leases for residential purposes on Native American Trust lands to 50 years from the effective date of the lease. This limitation on the term of restrictions is contained in the proposed revision. Limiting the term of restrictions applicable to Projects on Native American Lands will remove a hurdle to development will likely encourage construction of affordable housing units for Native Americans on tribal lands.

27. Revision of CDLAC Regulations for Minimum Requirements (Section 5200(c))

The proposed revision closes a loophole in the existing subsection by prohibiting allocation awards for projects in rural areas where a similar project is under construction or is about to be constructed. The proposed revision is designed to control rural project vacancy rates and ensure that tax-exempt bonds are utilized for affordable housing construction in areas having the highest need.

28. Revision of CDLAC Regulations for Minimum Requirements (Section 5200 (d))

The proposed revision clarifies that a revised market study must be undertaken when more than 180 days have elapsed between the first inspection date and the application due date for the round in which the Project is seeking an allocation. It is anticipated that the proposed revisions will ensure the reporting of accurate, up to date information.

29. Revision of CDLAC Regulations for Minimum Requirements (Section 5200 (e))

The proposed changes create a streamlined market study process for acquisition and/or rehabilitation projects which meet all of the following criteria:

All of the buildings in the projects are subject to existing federal or state rental assistance or operating subsidies, and/or an existing regulatory agreement with a federal, state, or local public entity.

The proposed rents and income targeting levels shall not increase by more than five percent (5%) (except that proposed rents and income targeting levels for units subject to a continuing state or federal project-based rental assistance contract may increase more and proposed rents and income targeting levels. The project shall have a vacancy rate of no more than five percent (5%) (ten percent (10%) for Special Needs and SRO projects) at the time of the tax credit application.

The streamlined process entails a certification from a third party market analyst stating that the affordability criteria has been met; or copies of contracts showing present and future operating or rental assistance contracts. In the absence of an contract for future operating or rental assistance, a letter from the contractor's senior official may be submitted detailing the efforts undertaken to effectuate a contract, the expected duration of the contract and the expected contract execution date. Staff believes that currently affordable developments with low vacancy rates have shown sufficient demand and that, absent rent increases of more than five percent (5%), will be able to lease up, particularly after rehabilitation. Streamlining the market study requirements, on the other hand, saves costs. It is anticipated that the streamlined requirements will increase the number of applications for allocation awards which, in turn, will increase construction of affordable housing units.

30. Revision of CDLAC Regulations for Minimum Requirements (Section 5205(a))

The current regulations require a statement of intent to utilize landscaping and construction materials compatible with the proposed project's neighborhood and that the architectural design and construction materials will provide for low maintenance and durability, as well as be suited to the environmental conditions to which the project will be subjected. While these objectives are important, staff believes that these statements are so subjective as to be

unenforceable and that such determinations are appropriately and more practically the function of local design review boards or other reviewing agencies. As a result, the proposed changes eliminate this subjective statement of intent. Additionally, the proposed revisions are consistent with proposed changes to TCAC Regulations Section 10325(f)(7).

31. Revision of CDLAC Regulations for Minimum Requirements (Section 5205(a)(1))

The current regulations require new construction projects to attain energy efficiency that is at least 30% above the 2008 California Building Standards Code requirements or a 20% Zero Net Energy Standard. Many developers have stated that attaining efficiencies significantly above California's already stringent energy codes adds significant cost to projects. These costs are partly in materials but also in the consulting and verification costs. At a time when tax-exempt bond authority is significantly underutilized, and developers are struggling to make new construction projects financially feasible, applying California's already aggressive energy codes to new construction is sufficient as a minimum standard. Applying code to new construction will reduce projects' costs and will likely increase construction of new affordable housing units. Additionally, the proposed revisions are in line with proposed changes to TCAC Regulations Section 10325(f)(7)(A).

With respect to rehabilitation projects, the proposed revision maintains the current requirement to attain a ten percent (10%) post-rehabilitation improvement over the project's existing energy efficiency. However, the ten percent (10%) requirement will be applied to the project as a whole, as opposed to at each individual building. Scattered site projects would need to show at least a five percent (5%) improvement at each location in addition to attaining a ten percent (10%) post-rehabilitation improvement over the project as a whole. Allowing a per project improvement, as opposed to a per building improvement, and for scattered sites allowing a per location minimum, will result in the same energy efficiency benefit while providing flexibility in meeting the improvement standard. The proposed revisions are in line with proposed changes to TCAC Regulations Section 10325(f)(7)(A).

In addition, with respect to projects that have undergone recent energy efficiency improvements, the proposed revisions allow a five (5) year look-back as opposed two (2) years. Furthermore, in an effort to expand the scope of the proposed revisions, the subsection will permit the inclusion of prior energy improvements made pursuant to governmental programs (such as HUD efficiency programs). The proposed revisions will expand the eligibility of recent energy improvements towards the ten percent (10%) requirements and will encourage the implementation of efficiency improvements prior to seeking a tax-exempt bond allocation. The proposed revisions are in line with proposed changes to TCAC Regulations Section 10325(f)(7)(A).

32. Revision of CDLAC Regulations for Minimum Requirements (Section 5205 (a)(7))

Where units have individual tank-type water heaters, the current subsection requires minimum water heater tank sizes of 30 gallons for one-bedroom and two-bedroom units and 40 gallons for three-bedroom and larger units. High-efficiency water heaters having slightly smaller tank sizes are now available. The proposed revisions reduce the minimum tank sizes to 28 gallons for one-bedroom and two-bedroom units and 38 gallons for three-bedroom and larger units to permit the use of the more efficient heaters without discernable impact to tenants. The proposed revisions are consistent with proposed changes to TCAC Regulations Section 10325(f)(7)(G).

33. Revision of CDLAC Regulations for Minimum Requirements (Section 5205(a)(8))

The current subsection requires all non-kitchen and non-bath areas to have carpet, cork, bamboo, linoleum, or hardwood flooring unless a waiver is granted by the Executive Director. CDLAC has received and granted numerous waiver requests to the flooring requirement (the majority of the requests are for vinyl flooring). Flooring types may reasonably be left to building codes and need not be determined by CDLAC. The proposed revisions remove the explicit list of allowed flooring types and state generally that a hard, water resistant, cleanable surface is required for all kitchen and bath areas and that any carpet shall comply with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D. The proposed revisions will

permit flexibility and cost-effectiveness, within the parameters of local building codes, in the use of flooring. The proposed revisions are in line with proposed changes to TCAC Regulations Section 10325(f)(7)(H).

34. Revision of CDLAC Regulations for Minimum Requirements (Section 5205(b))

Energy Efficiency improvements rarely are noted in Capital Needs Assessments. As a result, the existing waiver language provides insufficient criteria for staff to evaluate waivers to the energy efficiency requirements of subsection (1)(a). The proposed language creates standardized criteria for an energy efficiency waiver and ensures that the request is based on analysis and recommendations made by an energy-efficiency professional. It is anticipated that identification and review of possible improvements, the cost of improvements and an explanation of why the improvements are unnecessary or excessively costly will provide an objective and reasoned approach to considering and granting energy efficiency waivers.

35. Revision of CDLAC Regulations for Minimum Requirements (Section 5205(c))

The current subsection, in pertinent part, requires all projects receiving a tax-exempt bond allocation to provide evidence of compliance with Section 5205 to CDLAC as an attachment to its first Certification of Compliance. The Proposed revision will require projects that receive low income housing tax credits and a bond allocation to submit the required proof of compliance to TCAC. Projects that only receive a bond allocation, and that do not receive tax credits, will be required to submit the required proof to CDLAC. TCAC has a sizable staff dedicated to compliance, whereas CDLAC has a much smaller staff and does not have staff solely dedicated to compliance. Inasmuch as projects receiving both tax credits and bond allocation must submit proof of compliance to TCAC, it is a far more efficient use of limited resources to have TCAC staff perform compliance verification for these projects. TCAC has agreed to conduct the compliance reviews for projects receiving both tax credits and a bond allocation. This proposed approach will also eliminate the need for applicants to provide duplicate information to CDLAC and TCAC.

36. Revision of CDLAC Regulations for Minimum Requirements (Section 5205(c)(1))

The proposed revisions delete the evidentiary submission requirements for new construction projects consistent with the proposed revisions to subsection (a)(1).

37. Revision of CDLAC Regulations for Minimum Requirements (Section 5205(c)(2))

Necessity: The proposed revisions are non-substantive grammatical changes designed to make the subsection easy to read and understand. With the removal of the energy efficiency requirements for new construction projects, the reference to “Applicants with rehabilitation projects” is superfluous and potentially confusing.

38. Revision of CDLAC Regulations for Minimum Requirements (Section 5205(c)(3))

Necessity: The reference to subsections “(2) through (11)” is updated to “(2) through (9)” to reflect prior revisions and resulting re-numbering of subsections. This subsection was erroneously not updated during the prior revisions.

39. Revision of CDLAC Regulations for Minimum Expenditures (Section 5210(a))

The existing language requires projects to include a minimum of \$10,000 per unit in hard construction costs. The \$10,000 minimum has been in place for a number of years. Given the increase in construction pricing, the 55-year regulatory period, and the desire to keep the projects well maintained, CDLAC and TCAC are proposing an increase. CDLAC and TCAC want to ensure all Projects are adequately capitalized. The proposed revisions raise the minimum hard construction cost to \$15,000 per unit for rehabilitation projects. The proposed revision is in line with proposed changes to TCAC Regulations Section 10325(g)(7).

40. Revision of CDLAC Regulations for Minimum Expenditures (Section 5210(c))

The term “amount” will be replaced with the term “sum” to provide clarity and enhance understanding of the subsection

41. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(a))

The proposed addition of the phrase “unless otherwise stated in this section” corrects a conflict between the current subsection (a) and subsections (h)(1) and (2). Subsections (h)(1) and (2) require rounding to the nearest whole number for leveraging points, an exception to the general rule contained in subsection (a).

42. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(b))

The proposed revisions eliminate eligibility for HOPE VI Projects. HOPE VI was a HUD-administered Federal program providing funding for severely distressed public housing projects. Congress ceased funding for HOPE VI in FY 2010 and it is anticipated that no additional HOPE VI grants will be made. References to HOPE VI Project point’s eligibility have been removed from the subsection. The term “Federally Assisted At-Risk Projects” is also being omitted because such projects are subject to regulatory agreements or rental or operating assistance agreements. As a result the term is being deleted as superfluous. The proposed revisions make the point’s eligibility criteria applicable to projects subject to a current residential regulatory agreement or local, state or federal rental or operating assistance agreement or an expired residential rental agreement that continues the rental structure prescribed by the expired residential rental agreement.

In addition, the proposed revisions create new subsections (b) (1), (2) and (3). The renumbering is designed to enhance understanding of subsection (b). Subsection (b)(1) sets forth the basic eligibility standards for ten (10) points. Subsection (b)(2) contains new points eligibility criteria for ten (10) additional points for Projects eligible for points under subsection (b)(1). Subsection (b)(3) contains existing eligibility criteria for ten (10) additional points for Projects eligible for points under subsection (b)(1).

43. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(b)(1))

Subsection (b)(1) retains the existing eligibility points eligibility for Federally Assisted At Risk Projects and creates points eligibility for a project subject to a current residential regulatory agreement or local, state or federal rental or operating assistance agreement or an expired residential rental agreement that continues the rental structure prescribed by the expired residential rental agreement. The expansion of this point category is aimed at preserving and improving California’s existing stock of affordable housing by providing rehabilitation Projects additional points.

For the reasons set forth above, references to HOPE VI Projects have been removed. The renumbering is designed to enhance understanding of subsection (b).

44. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(b)(2))

The proposed point’s category is designed to encourage and reward Projects that provide housing for very low income individuals. It is anticipated that the point category will increase rehabilitation of existing very low income housing units.

The renumbering is designed to enhance understanding of subsection (b).

45. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(b)(3))

Subsection (b)(3) contains existing eligibility criteria for ten (10) additional points for Projects eligible for points under subsection (b)(1). The renumbering is designed to enhance understanding of subsection (b).

46. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(g))

In order to receive five (5) points, the current subsection requires that at least 30% of the units in a Project contain three (3) or more bedrooms. The proposed revision reduces from 30% to 25% the number of three-bedroom or larger units required in large family projects for point’s eligibility. Staff has received feedback that three-bedroom units can be difficult to lease in many markets given recent changes in household sizes and structures.

Larger units are also more costly to construct. It is anticipated that reducing the threshold percentage for three-bedroom or larger units will strike a balance between providing sufficient numbers of large family units, reducing demand and cost containment. It is anticipated that the reduced eligibility percentage will make more Projects eligible for large units points; thus increasing the number of Projects eligible for allocation awards which, in turn, will increase construction of affordable housing units. The proposed revisions are in line with proposed changes to TCAC Regulations Section 10325(g)(1)(A).

The proposed revisions also entail a non-substantive renumbering. As there is no subsection (g)(2), subsection (g)(1) is superfluous. Subsection (g)(1) will be deleted and the provisions contained therein will be contained in subsection (g). This revision will reduce confusion and enhance understanding of subsection (g).

47. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(i))

Projects seldom seek points in this category, likely due to the complexity of the proof requirements and the elimination of Redevelopment Areas that were widely used to establish point's eligibility in this category. The proposed revisions seek to simplify and streamline the eligibility process to obtain points. It is anticipated that the revisions will stimulate revitalization of blighted areas, including an increase in new or rehabilitated affordable housing units in such areas.

The proposed changes make eligible projects that are part of a community revitalization plan within a Qualified Census Tract in which at least 50% of the households have an income of less than 60% of the area median income or a Federal Promise Zone. Staff believes that all these of these area types would benefit from a community revitalization effort and that projects supporting those goals should be recognized.

The available points in this category are being reduced from fifteen (15) to five (5) due to the reduced evidentiary requirements for point's eligibility. It is believed that the proposed point's reduction strikes a balance between the proof required and the available points.

The renumbering of the section is designed to reduce confusion and enhance understanding of the subsections.

48. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(i)(1))

Necessity: The proposed new language seeks to reduce the amount and complexity of information required to be submitted to prove a Project is in a Community Redevelopment Area.

49. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(i)(1)(A))

The proposed revision will add a new category of Projects eligible to Community revitalization Area points: Projects located within "any census tract or equivalent geographic area defined by the Census Bureau in which at least fifty percent (50%) of the households have an income of less than sixty percent (60%) AMI." Such an area is easily identifiable and the proposed AMI requirements will encourage the construction of affordable housing in high need areas. The proposed revision will likely increase the construction of affordable housing in disadvantaged areas subject to community revitalization efforts that would presently not be eligible for points because they have not been formally designated Community Revitalization Areas. The proposed revision shifts focus from a formal designation to existing conditions and revitalization efforts.

50. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(i)(1)(B))

The proposed revision will add a new category of Projects eligible to Community revitalization Area points: Projects located within "a Federal Promise Zone". Federal Promise Zones are disadvantaged areas designated by HUD. Such areas are easily identified and the proposed requirement will encourage the construction of affordable housing in high need areas.

51. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(i)(2))

The proposed new language seeks to reduce the amount and complexity of the proof required showing the Project's contribution to the area. Also, it is anticipated that obtaining the proof will be an easier process inasmuch as the required letter may be submitted by "a local government official".

52. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(i)(2)(A-C))

Subsections A through C mirror the point categories of the current regulation subsection (i)(2). Unlike the current regulation, applicants may meet the requirements of subsection (i)(2) by meeting one or more of the proposed criteria, thus providing Projects with flexibility in obtaining points.

53. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(i)(2)(D))

The proposed new language requires a description of how the Project will contribute to revitalization, as opposed to providing a map showing the Project's location within a revitalization area. It is anticipated that this requirement will ensure that the Project is part of revitalization efforts and does not merely benefit from its location without contributing to revitalization efforts.

54. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(j)(2)(A))

Necessity: The proposed new subsections (1-3) are the result of creating two (2) new transit amenity points' categories. The renumbering will increase understanding of the subsection.

55. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(j)(2)(A)(1))

In response to public comments, the maximum distance for Transit amenities is being increased from one-fourth (1/4) mile to one-third (1/3) mile. It is anticipated that the proposed revision will increase point's eligibility thus increasing construction of affordable housing in California. Most tenants are able to walk 1/3 of a mile and will continue to benefit from transit corridors located within 1/3 of a mile from their residences.

The renumbering of the provisions of the current subsection into a new subsection (j)(2)(A)(1) is the result of the creation of two (2) new points categories within subsection (j)(2)(A).

56. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(j)(2)(A)(2))

The proposed addition of point's eligibility for a Project's proximity to a High Quality Transit stop or station will likely provide point's eligibility to Projects outside of urban areas and areas lacking dial-a-ride service, but that have access to regional commuter rail and bus lines. Staff has received feedback that the current transit proximity distances are overly restrictive. The proposed changes seek to respond to this feedback and increase point's eligibility for Projects located in more rural areas within 1/2 mile of regional public transit centered on the use of freeways and rail right of ways. It is anticipated that this revision will increase transit amenity point's eligibility for Projects not in urban areas which, in turn, will result in increased construction of affordable housing units in such areas.

57. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(j)(2)(A)(3)(i-ii))

For projects receiving transit amenity points pursuant to subsection (i)(2)(A)(1) or(2), the proposed new language will provide additional points to Projects providing transit passes at no more than half of the retail cost for a period of at least fifteen (15) years. Projects providing at least one (1) pass per restricted unit receive three (3) points. Applicants providing at least one (1) pass for each two (2) restricted units will receive 1.5 points. The additional transit amenity point's category seeks to maximize the impact of proximity to mass transit and to encourage and reward the provision of a significant tenant benefit. The proposed revisions are in line with proposed changes to TCAC Regulations Section 10325(c)(5)(A).

58. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(j)(2)(E)(ii))

The proposed revision will increase the maximum distance a Project may be located from a hospital in a non-rural area for point's eligibility. Staff has received feedback that the current proximity distances are overly restrictive,

which increases land prices. The proposed change seeks to respond to this feedback and reduce overall project costs while maintaining a significant role for proximity to hospital amenities that benefit tenants and create opportunity. Additionally, it is anticipated that increasing the distance limit will make more Projects eligible points; thus increasing the number of Projects eligible for allocation awards which, in turn, will increase construction of affordable housing units. The proposed revisions are in line with proposed changes to TCAC Regulations Section 10325(c)(5)(A).

59. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(j)(2)(E)(iii))

The proposed revision will increase the maximum distance a Project may be located from a pharmacy for point's eligibility. Staff has received feedback that the current proximity distances are overly tight which increases land prices. The proposed change seeks to respond to this feedback and reduce overall project costs while maintaining a significant role for proximity to pharmacy amenities that benefit tenants and create opportunity. Additionally, it is anticipated that increasing the distance limit will make more Projects eligible points; thus increasing the number of Projects eligible for allocation awards which, in turn, will increase construction of affordable housing units. The proposed revisions are in line with proposed changes to TCAC Regulations Section 10325(c)(5)(A).

60. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(j)(2)(G))

The proposed increase from ten (10) to fifteen (15) years is based upon the fact that Projects are typically refinanced after fifteen (15) years, at which time there is usually a change in ownership structure. A fifteen (15) year requirement ensures that the service amenity will be provided for the life of the partnership benefitting from the allocation award.

61. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k))

The subsection's heading is being revised to reflect the inclusion of additional point's categories that do not involve increases in efficiencies (e.g., non-smoking buildings points) to avoid confusion regarding the scope of the subsection.

62. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(3))

The proposed revisions will add a new points category for Projects irrigating (except for community gardens) only with reclaimed water, greywater, or rainwater. This point's category recognizes the current drought conditions, the long-term water reliability concerns facing California and encourages water-efficient Projects. Additionally, it is anticipated that creating this new point's category will increase the number of Projects eligible for allocation awards which, in turn, will increase construction of affordable housing units. The proposed revisions are in line with proposed changes to TCAC Regulations Section 10325(c)(6).

63. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(4))

The proposed revisions will add a new category for Projects providing non-smoking units. This point's category recognizes the health hazards of smoking and seeks to minimize or eliminate exposure thereto. Additionally, it is anticipated that creating this new point's category will increase the number of Projects eligible for allocation awards which, in turn, will increase construction of affordable housing units.

The existing subsection (k)(4) will be deleted and a revised category will be inserted as subsection (k)(8).

64. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(5)(A) & (B))

The proposed revisions will add a new points category for Projects that limit parking ratios to 1 stall per single room occupancy or 1-bedroom unit (subsection (k)(5)(A)) or 1.5 stalls per 2-bedroom or larger units. This points category seeks to limit Project costs attributable to parking-related land and construction costs, increase the amount of funds available for the construction of tenant units and reduce automobile-related pollution. Additionally, it is anticipated that creating this new point's category will increase the number of Projects eligible for allocation awards which, in turn, will increase construction of affordable housing units.

65. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(6))

The existing subsection (k)(3) will be renumbered (k)(6) due to the proposed addition of the new points categories as subsections (k)(3), (k)(4) and (k)(5).

66. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(7))

The existing subsection (k)(5) will be renumbered (k)(7), and the reference to subdivision (k)(3) will be revised to (k)(6), due to the proposed addition of the new points categories as subsections (k)(3), (k)(4) and (k)(5). An additional non-substantive revision will correct a punctuation error in order to make the subsection easier to understand.

67. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(K)(8))

The proposed revisions moves the existing subsection (k)(4) to (k)(8). Projects receiving points under the proposed subsection (k)(6) (which is the existing subsection (k)(3)) are eligible for additional points under the proposed subsection (k)(7) (the existing subsection (k)(5)). The points under the proposed (k)(8) (which is the existing (k)(4)) are only available to Projects not receiving points under the proposed subsection (k)(6). To reduce confusion, the existing subsections (k)(3) and (5) will be grouped together as revised subsections (k)(6) and (7), respectively, and the existing subsection (k)(4) will be re-designated as subsection (k)(8).

There will be overlap between the standards in the proposed subsections (k)(6) and (k)(8). Limiting points eligibility under the proposed subsection (k)(8) to Projects not eligible for points under the proposed subsection (k)(6) will prevent potential double counting of points.

68. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(8)(A))

The proposed revisions limit point eligibility to Projects not eligible for points under the revised (k)(6) and updates the energy efficiency point's thresholds to reflect the 2013 building code amendments. Many developers have stated that attaining efficiencies significantly above California's already stringent energy codes adds significant cost to projects. The percentage increases were recalibrated as a result of increases in the 2013 standards, and the 40% category eliminated, in an effort to encourage cost effective energy efficiency. It is anticipated that the proposed points recalibration creates an attainable balance between the points benefits to Projects and the costs associated with attaining the increases. The proposed revisions track changes in TCAC Regulations Section 10325(c)(6)(B)(i).

69. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(8)(B))

The proposed revisions to the existing subsection (k)(4)(B) recalibrate the zero net energy solar offset percentages so they are comparable to the revised energy efficiency scoring. Projects offsetting tenant energy loads by 20% would receive three (3) points, by 30% would receive four (4) points, and by 40% would receive five (5) points. The percentage offsets were recalibrated as a result of the 2013 increased standards, and the 50% category eliminated, in an effort to encourage cost efficiency. It is anticipated that assigning three (3) points for a 20% offset, four (4) points for a 30% offset and five (5) points for a 40% offset creates an attainable balance between the points benefits to Projects and the costs associated with attaining the offsets. The proposed revisions track changes in TCAC Regulations Section 10325(c)(6)(B)(ii).

70. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(9))

The proposed revisions allow a five (5) year look-back as opposed two (2) years. Furthermore, in an effort to expand the scope of the proposed revisions, the subsection will permit the inclusion of prior energy improvements made pursuant to governmental programs (such as HUD efficiency programs). The proposed revisions will expand the eligibility of recent energy improvements towards point's eligibility and will encourage the implementation of efficiency improvements prior to seeking a tax-exempt bond allocation. Additionally, it is anticipated increasing the points in this category will increase the number of Projects eligible for allocation awards which, in turn, will increase construction of affordable housing units. The proposed revisions are in line

with similar proposed changes to CDLAC Regulations Section 5205(a)(1), regarding minimum energy efficiency, and TCAC Regulations 10325(c)(6)(D).

The existing subsection (k)(6) will be renumbered (k)(9) due to the proposed addition of the new points categories as subsections (k)(3), (k)(4) and (k)(5).

71. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(10))

The existing subsection (k)(7) will be renumbered (k)(10), and the reference to subdivision (k)(6) will be revised to (k)(9), due to the proposed addition of the new points categories as subsections (k)(3), (k)(4) and (k)(5).

72. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(10)(B))

The proposed reduction in points from three (3) to two (2) reflects the lessening of requirements in this category. The proposed revisions are in line with similar proposed changes to TCAC Regulations 10325(c)(6)(G)(2).

73. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230 (k)(10)(B)(ii))

The proposed revisions eliminate the requirement and associated verification protocols to certify building management staff in sustainable building operations per BPI Multifamily Building Operator or an equivalent training program. Given the high turnover rate among management staff, CDLAC and TCAC staff are concerned about the on-going cost of keeping employees certified. In addition, CDLAC and TCAC staffs are uncomfortable with referring only to one (1) training provider, given that no equivalent training programs have been identified. The proposed revisions are in line with similar proposed changes to TCAC Regulations 10325(c)(6)(G)(2).

74. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230 (k)(10)(B)(iii))

The existing subsection (iii) will be renumbered (ii) due to the proposed deletion of the current subsection (ii).

75. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230 (k)(11))

The current subsection, in pertinent part, requires all projects receiving a tax-exempt bond allocation to provide evidence of compliance to CDLAC as an attachment to its first Certification of Compliance. The Proposed revision will require projects that receive low income housing tax credits and a bond allocation to submit the required proof of compliance to TCAC with the Placed in Service Application. Projects that only receive a bond allocation, and that do not receive tax credits, will be required to submit the required proof to CDLAC. TCAC has a sizable staff dedicated to compliance, whereas CDLAC has a much smaller staff and does not have staff solely dedicated to compliance. Inasmuch as projects receiving both tax credits and bond allocation must submit proof of compliance to TCAC, it is a far more efficient use of limited resources to have TCAC staff perform compliance verification for these projects. TCAC has agreed to conduct the compliance reviews for projects receiving both tax credits and a bond allocation. This proposed approach will also eliminate the need for applicants to provide duplicate information to CDLAC and TCAC.

The existing subsection (k)(8) will be renumbered (k)(11) due to the proposed addition of the new points categories as subsections (k)(3), (k)(4) and (k)(5).

76. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230 (k)(11)(A))

The existing references to subdivisions (k)(3) and (k)(5) will be revised to (k)(6) and (k)(8), respectively, due to the proposed addition of the new points categories as subsections (k)(3), (k)(4) and (k)(5).

77. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(11)(B))

The existing references to subdivisions (k)(4) will be revised to (k)(7) due to the proposed addition of the new points categories as subsections (k)(3), (k)(4) and (k)(5).

78. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(11)(C))

The existing references to subdivisions (k)(6) will be revised to (k)(9) due to the proposed addition of the new points categories as subsections (k)(3), (k)(4) and (k)(5).

79. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230 (k)(11)(D))

The existing references to subdivisions (k)(7) will be revised to (k)(10) due to the proposed addition of the new points categories as subsections (k)(3), (k)(4) and (k)(5).

80. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(11)(D)(ii))

Necessity: The proposed revisions delete the requirement of annual submission of staff training and certification. The proposed revision to subsection (k)(10)(B)(ii) negates this requirement.

81. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(k)(12))

The existing subsection (k)(9) will be renumbered (k)(12), and the reference to subdivision (8) will be revised to (11), due to the proposed addition of the new points categories as subsections (k)(3), (k)(4) and (k)(5).

82. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230 (l)(1)A)

The proposed increase from ten (10) to fifteen (15) years is based upon the fact that Projects are typically refinanced after fifteen (15) years, at which time there is usually a change in ownership structure. A fifteen (15) year requirement ensures that the service amenities will be provided for the life of the partnership benefitting from the allocation award.

83. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(l)(1)(B))

In response to public comment, service amenity points will be available for off-site services more than (½) mile of the Project (one and one-half (1½) miles for Rural projects) where, in pertinent part, free of charge round-trip transportation is provided to tenants. The Committee agrees that developments that provide no cost transportation to off-site services should be eligible for service amenity points. The proposed revision will likely increase points eligibility and increase the number of affordable housing units in California, while also providing tenants with valuable services that may not otherwise be provided on-site.

84. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(m))

The proposed revisions make “Substantial Rehabilitation Projects” eligible for ten (10) points. Previously, points eligibility under this subsection was reserved for new construction or adaptive reuse Projects. Pursuant to the proposed new definition in section 5170, “Substantial Rehabilitation Projects” have hard costs of rehabilitation, including overhead, profit and general conditions, of at least \$35,000 per tenant unit. The intent is to encourage rehabilitation Projects to spend more than the minimum amount required for per-unit hard construction costs. It is anticipated that the proposed points eligibility will result in higher quality rehabilitated affordable housing units that, hopefully, increase tenants’ quality of life.

85. Addition of CDLAC Regulations for Evaluation Criteria (Section 5230(n))

TCAC is currently proposing regulations that will remove the developer fee cap. Increasing developer fees increases the amount of eligible basis in a project and accordingly increases the amount of tax credit equity a project can access. This creates an additional source of funding that would otherwise be unavailable. Given the abundance of allocation and the limited amount of funding sources for multifamily projects, the developer fee increase will create sources necessary for project feasibility in some instances. To the extent that allocation becomes competitive and there are more feasible projects than allocation available, CDLAC would like to provide incentive for projects to reduce their developer fee. This, in turn, will reduce overall project costs and likely will reduce the allocation requested. Limiting the category to a maximum of 10 points will create an incentive for forgone developers fees without placing an over emphasis on the category for points accumulation purposes.

86. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(o))

The existing subsection (n) will be re-designated subsection (o) due to the proposed addition of a new point's category as subsections (n). Two new subsections, (2) and (3) will be added and the existing subsection (2) will be re-designated subsection (4).

87. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230(o)(2))

Affordable housing Projects seeking tax-exempt bond allocations also typically seek tax credits from TCAC. The proposed revision seeks to eliminate situations where a Sponsor or related party is subject to negative points for a common Project in the TCAC application process but not the CDLAC application process. TCAC and CDLAC have encountered significant numbers of common Projects having the same sponsors and related parties that are not providing evidence of compliance. It is anticipated that the proposed revision will increase the rate of compliance.

88. Revision of CDLAC Regulations for Evaluation Criteria (Section 5230 (o)(3))

Affordable housing Projects seeking tax-exempt bond allocations also typically seek tax credits from TCAC. The proposed revision seeks to eliminate situations where a Sponsor or related party in a common project is barred from receiving tax credits in the TCAC application process but is able to procure an allocation of tax-exempt bonds in the CDLAC application process. TCAC and CDLAC have encountered significant numbers of common Projects having the same sponsors and related parties that are not providing evidence of compliance. It is anticipated that the proposed revision will increase the rate of compliance.

89. Revision of CDLAC Regulations for Competitive Application Process Maximum Allocation Amount (Section 5232)

For many years, the tax-exempt bond cap administered by CDLAC has been under-subscribed by billions of dollars and there is a dire need for affordable housing in California. The proposed revisions will remove the pre-project and yearly per-sponsor and related party limits on allocations awarded during an Open Application Process (*i.e.*, when available allocation exceeds demand). It is anticipated that removing the current \$30,000,000 per-project allocation cap during an Open Allocation Process may reduce unused cap. Removing allocation limitations during an Open Allocation Process will likely stimulate affordable housing construction by permitting allocations for larger projects, whose financial viability will benefit from economies of scale. Removing the allocation limitations will likely also increase the financial viability of Projects that would otherwise have to be developed in phases in order to meet the current cap requirements. Without the allocation limitations, such Projects may be developed as a cohesive whole, in shorter periods of time and with a greater portion of funding budgeted to housing construction; thus increasing the construction of affordable housing units. In addition, removing the allocation limitations during an Open Allocation Process will likely enable construction of Projects that would not be financially viable if developed in phases under the current or revised allocation limits. Furthermore, improving economic conditions in California have spurred construction which has resulted in increased real estate and construction costs (labor, materials and services). Removing the allocation limitation takes these increased costs into account in the financing of affordable housing projects.

90. Revision of CDLAC Regulations for Competitive Application Process Maximum Allocation Amount (Section 5232(a))

The proposed revisions increases the limit on awards made during a Competitive Application Process from \$30,000,000 to \$50,000,000. Increasing the allocation limitations will likely increase the financial viability of Projects that would otherwise have to be developed in phases in order to meet the current cap requirements and will enable construction of Projects that would not be financially viable if developed in phases of less than \$50,000,000. With a higher cap, Projects may be developed as a cohesive whole, in shorter periods of time and with a greater portion of funding budgeted to housing construction; thus increasing the construction of affordable housing units. Furthermore, improving economic conditions in California have spurred construction which has

resulted in increased real estate and construction costs (labor, materials and services). Increasing the allocation limitation takes these increased costs into account in the financing of affordable housing projects. A cap will be maintained to ensure the equitable distribution of allocations during a Competitive Application Process.

91. Revision of CDLAC Regulations for Competitive Application Process Maximum Allocation Amount (Section 5232(b))

The proposed revision increases the amount for which a waiver must be sought to awards in excess of \$50,000,000 during a Competitive Allocation Process and is consistent with the above-mentioned reasoning.

92. Revision of CDLAC Regulations for Competitive Application Process Maximum Allocation Amount (Section 5232(b)(2))

The proposed revision revises the reference from \$30,000,000 to \$50,000,000 and is consistent with the above-mentioned reasoning.

93. Revision of CDLAC Regulations for Application Requirements (Section 5250(a)(3))

The proposed changes replace existing market study requirements for scattered site projects with revised criteria. The proposed revisions remove the distinctions between Competitive and Open Allocation Process and create an alternative streamlined market study process applicable to all Scattered Site Projects. The proposed revision will make the current criteria applicable to Open Application Process Projects applicable to all Projects. It is anticipated that the streamlined requirements will increase the number of applications for allocation awards which, in turn, will increase construction of affordable housing units.

94. Addition of CDLAC Regulations for Application Requirements (Section 5250 (a)(4) (A-B))

The proposed new subsection applies the criteria contained in the proposed subsection 5200(e) to projects meeting the criteria contained therein that are also scattered-sites. The proposed changes create a streamlined market study process for acquisition and/or rehabilitation projects which meet all of the following criteria: All of the buildings in the projects are subject to existing federal or state rental assistance or operating subsidies, and/or an existing regulatory agreement with a federal, state, or local public entity.

The proposed rents and income targeting levels shall not increase by more than five percent (5%) (except that proposed rents and income targeting levels for units subject to a continuing state or federal project-based rental assistance contract may increase more and proposed rents and income targeting levels. The project shall have a vacancy rate of no more than five percent (5%) (ten percent (10%) for Special Needs and SRO projects) at the time of the tax credit application.

The streamlined process entails a certification from a third party market analyst stating that these criteria have been met. Staff believes that currently affordable developments with low vacancy rates have shown sufficient demand and that, absent rent increases of more than five percent (5%), will be able to lease up, particularly after rehabilitation. Streamlining the market study requirement, on the other hand, saves costs. It is anticipated that the streamlined requirements will increase the number of applications for allocation awards which, in turn, will increase construction of affordable housing units.

95. Revision of CDLAC Regulations for Application Requirements (Section 5250(a)(5))

With the addition of the new subsection (a)(4), the existing subsections (a)(4-5) will be renumbered (a)(5-6).

96. Revision of CDLAC Regulations for Application Requirements (Section 5250(a)(6))

With the addition of the new subsection (a)(4), the existing subsections (a)(4-5) will be renumbered (a)(5-6).

97. Addition of CDLAC Regulations for Application Requirements (Section 5250(b))

The proposed additional language creates a waiver mechanism for the 5 location limit for scattered-site projects contained in the Section 5170 definition of “Scattered Site Project” where it can be shown that the project would benefit from waiver of the numerical limit.

98. Revision of CDLAC Regulations for Forward Commitment Applications for Federal Housing Administration (FHA) Financed Projects-in Non-Competitive Application Years (Chapter 2, Article 11)

Necessity: The Article title is being revised to “Open Application Process for Federal Housing Administration (FHA Financed Projects” in order to replace the undefined term “Non-Competitive Application Years” with the proposed term “Open Application Process”, to be defined in section 5000. Additionally, the term “Forward Commitment” will be removed because Section 5255 is being revised to include an alternative means of obtaining an allocation award for FHA-financed Projects that previously would have been subject to the Forward Commitment provisions of the current Section 5255. The revised Article title makes it clear that the provisions contained therein are applicable to all FHA-financed Projects and not just Projects eligible for a forward commitment letter under the revised Section 5255(a).

99. Revision of CDLAC Regulations for Application Requirements (Section 5255(a))

The proposed revisions will create a new subsection (a) containing the forward commitment provisions of the current Section 5255 (a – f). The current subsections (a) through (f) will be re-designated as subsections (1) through (6) due to the inclusion of the new subsection (a). No substantive changes are being made to the forward commitment provisions.

The term “Non-Competitive Qualified Residential Rental Pool Application” is being revised to “Open Qualified Residential Rental Pool Application” so that it is consistent with the term “Open” used in the proposed Section 5000 definition “Open Application Process” and proposed “Standard QRRP Open Application” definition revision in Section 5170.

100. Addition of CDLAC Regulations for Application Requirements (Section 5255(b))

The proposed new subsection (b) will create a new process for FHA-financed Projects that have not yet received a final financing approval from FHA, but where such approval is expected to be provided prior to the Project’s bond issuance expiration date. The potential for allocation reversion is offset by assurances of imminent financing approval, to be provided in the documentation set forth in subsections (1) through (3).

The proposed submission deadline is necessary because the application, if sufficient, will receive an allocation award. The awards are made at regularly-scheduled Committee meetings. Accordingly, sufficient time for staff review of the application is required in advance of a Committee meeting.

101. Addition of CDLAC Regulations for Application Requirements (Section 5255 (b)(1))

The proposed subsection limits the proposed allocation process to applications received during an Open Application Process when allocation exceeds demand. It is expected that this will reduce or eliminate unused bond cap and will increase construction of affordable housing units. The limitation of the subsection during an Open Application Process mirrors such requirement currently required for forward commitments. The fee is required for all applications.

102. Addition of CDLAC Regulations for Application Requirements (Section 5255 (b)(2))

The proposed subsection will require a MAP Lender Commitment letter. This document will commit the Project’s lender to providing financing at specified terms.

103. Addition of CDLAC Regulations for Application Requirements (Section 5255 (b)(3))

The proposed subsection will require a HUD Acknowledgement Letter (see proposed definition in Section 5170 and discussion contained above). The HUD Acknowledgement Letter commits HUD to process a Project's firm commitment within the bond issuance timeframe and provides assurances that the Project will be ready to close on or before the issuance deadline.

104. Addition of CDLAC Regulations for Application Requirements (Section 5255(c))

The proposed subsection permits the awarding of an allocation to Projects that received a forward commitment upon the Project receiving a HUD Acknowledgement letter. In such a situation, the Project would meet the criteria for receiving an allocation pursuant to the proposed subsection (b).

105. Addition of CDLAC Regulations for Eligibility Retention (Article 12. Section 5258)

Difficult to Developer Area Status (DDA) entitles a TCAC applicant to 130% basis boost for federal tax credit purposes. This is often vital for a project to be feasible. Historically, DDA status has been updated annually but in 2016 the federal government intends to overhaul the applicable DDA geography shifting it from a countywide designation to a zip code specific designation. This change is anticipated to cause many projects' DDA status to expire at years end. Creating a concise process to preserve the existing status is important to ensure project remain feasible. The proposed changes are consistent with guidance providing in the Federal Register regarding DDA 2015 designations and with CDLAC's historic handling of expiring projects.

106. Revision of CDLAC Regulations for Definitions Applicable to Chapter 3, Single Family Housing (Section 5260)

"MCC Application"

Necessity: The Application's revised date has been updated to reflect the most recent edition of the Application.

"MRB Application"

Necessity: The Application's revised date has been updated to reflect the most recent edition of the Application.

107. Revision of CDLAC Regulations for Consistency with Adopted Housing Elements (Section 5267(a))

In an effort to support the Department of Housing and Community Development's (HCD) goal of Housing Element compliance, any Single Family Housing Applicant requesting allocation must demonstrate the geography in which they propose to issue has submitted to HCD the required annual performance report detailing its progress in meeting its Fair Share of the region's housing need and has a currently compliant Housing Element as been determined by HCD. The additional provision clarifies that MCC allocation is a reward to those jurisdictions that have adopted compliant Housing Elements.

108. Addition of CDLAC Regulations for Allocation Method (Section 5271)

Currently, a Single Family Housing Program Applicant may only request up to its Fair Share in allocation which has no relationship to actual demand. Fair Share is the amount of allocation each Single Family Applicant receives which is a proportionate share of the amount of the reserved Single Family Allocation Pool based on population of the Applicant's county relative to the state's total population. If an Applicant exhausts its Fair Share within the same calendar year of its award, the Applicant may submit a request for Bonus Pool Allocation. However, the Applicant is only eligible for a Bonus Pool award if it meets a point threshold minimum which reflects a reward system going above and beyond the standard requirements on the Single Family Program. This is administratively time intensive and at times also causes an interruption in the Applicant's program activity due to lack of available allocation. To allow awards to be granted beyond the Fair Share cap, as proposed, an

Applicant's request in excess of its Fair Share allocation would be awarded when CDLAC has available allocation in the Undesignated Reserve Pool. This proposed change would eliminate the requirement to reapply for additional allocation in the same year and provide both cost savings and certainty to an Applicant's program.

109. Addition of CDLAC Regulations for Income and Purchase Price Certification (Section 5271)

An Applicant's bond or tax counsel is expected to have working knowledge of all drafted federal guidance pertaining to the determination of income and sales prices for Single Family Programs utilizing Private Activity Volume Cap (CDLAC Allocation). Responsibilities include the monitoring of the release of HUD and IRS data necessary to perform the income limit and purchase price limit calculations; understanding the methodology for determining income limits and sales prices; and performing the necessary calculations. It has come to CDLAC's attention that federal guidance outlining the calculation of Sales Price and Income Limits for Single Family Programs, given changing regulations, is complex and accordingly can result in the calculation of differing limits in the same geography by different Applications. This can cause disparity between the marketability of a particular program. To ensure that the appropriate limits are being utilized and eliminate program disparity, CDLAC proposes that the Applicant's bond or tax counsel certify that the income and purchase price limits outlined in each new CDLAC application were established in accordance with a methodology authorized by the Internal Revenue Code.

The Proposed Emergency CDLAC Regulations and Public Comment Matrix are attached.

DISCUSSION

Should the Committee approve these revisions; staff will conduct both a 5-day pre-notice and a 5-day public comment period to provide all interested parties with the opportunity to review the proposed regulations. All consequential comments will be considered by staff and may result in reevaluation of the proposed regulations. Should this occur, staff will provide updated proposed regulations to the Committee on **December 16, 2015** for additional consideration. Should staff receive only minor or no comments, then the emergency rulemaking package will be submitted to OAL immediately following the 5-day pre-notice public comment period. A 5-day public comment period will commence on the day of submittal, with possible enactment of the regulations within 5 days thereafter. If approved as scheduled, the Emergency Regulations would be in-place in time for the **January 20, 2016** Application Round and the Permanent Regulations would be in place in time for the **March 16, 2016** Application Round.

RECOMMENDATION

Staff recommends approval of the proposed CDLAC Regulations and Public Comment Matrix for submittal to the Office of Administrative Law for emergency and regular rulemaking consideration.

Prepared by: Brian Clark

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

Section 5033. Minimum Application 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 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) Unless specifically exempted, the following items must accompany all Applications:

(1) Performance Deposit Certification and evidence of the performance deposit as provided in section 5050(a).

(2) A non-refundable first installment of the filing fee of \$600 made payable to the California Debt Limit Allocation Committee as provided in section 5054(a).

(3) Proof of the Bond sale structure requirements pursuant to article 6 of this chapter, if applicable, (for all Applications other than Applications relating to a Mortgage Credit Certificate Program pursuant to chapter 3).

(4) An inducement or reimbursement 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.

(5) For all Applications other than those relating to a Mortgage Credit Certificate Program pursuant to chapter 3, a Recovery Zone Economic Development Bond Project, or a Qualified Energy Conservation Bond Project (governmental bond only), 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 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 less than ~~four (4) five (5)~~ calendar days prior to the first public posting of Committee recommendations as provided in section 5035.

(B)(i) In the event that a copy of an adopted TEFRA Resolution cannot be provided within the timeframes set forth in subdivision (b)(5)(A) of this section, 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 thirty (30) calendar days following the application deadline. Applicants shall submit the signed TEFRA Resolution no later than the date on which they submit a Report of Action Taken, as required by section 5142.

Section 5052. Forfeiture of Performance Deposit. (a) For Projects receiving an allocation award on or After March 16, 2016, an extension of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132 will result in forfeiture of the Project's performance deposit to the extent that the performance deposit has not previously been forfeited.

~~(b)~~ **(a)** If less than 80% of the Allocation is used to issue Bonds or issue at least one (1) Mortgage Credit Certificate prior to the expiration date, 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 ~~unless the Committee determines there is good cause to return all or part of the deposit~~. If 80% or more of the Allocation is used to issue bonds prior to the expiration date or issue at least one (1) Mortgage Credit Certificate prior to the expiration date, a full refund of the performance deposit will be authorized.

~~(c b)~~ 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/or timeframes set forth in the Committee Resolution.

~~(d e)~~ The Applicant shall remit all forfeited performance deposits to the Committee within thirty (30) days of receipt of an invoice issued by the Committee.

~~(e) An Applicant may request waiver of a performance deposit forfeiture by submitting a written request to the Executive Director within 30 days of the date of the Committee's Forfeiture Fee Invoice. The Committee shall grant a forfeiture waiver upon a showing that the circumstances prompting the forfeiture were unforeseen and entirely beyond the control of the Project's sponsor and development team. The granting of a waiver pursuant to this subsection will not preclude performance deposit forfeiture for subsequent extensions of the expiration date for Qualified Residential Rental Bonds granted pursuant to Section 5101 or 5132.~~

Section 5100. Program Expiration Dates. ~~(a)~~ The expiration date of the Allocation ~~shall will~~ be specified in the Committee Resolution and shall start from the date on which the Committee awards the Allocation.

~~(b)~~ Notwithstanding extensions as provided in sections ~~5101, 5102, or 5103; 5104~~ ~~the limitations prescribed by section 5104;~~ or Allocations awarded on a carry-forward basis as provided in section 5131; ~~;~~ the ~~initial~~ expiration dates for ~~to issuing issue~~ Bonds or ~~converting~~ Bonds to Mortgage Credit Certificate authority shall be ~~no more than the following:~~

~~(1) Ninety (90) days for the issuance of Beginning Farmer Bonds, Mortgage Revenue Bonds, Small-Issue Industrial Development Bonds, Exempt Facility Bonds, Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, Qualified Energy Conservation Bonds and the conversion of Bonds to Mortgage Credit Certificate authority.~~

~~(2) One-hundred twenty (120) days for the issuance of Student Loan Bonds and for the issuance of at least one (1) Mortgage Credit Certificate.~~

~~(3) For Qualified Residential Rental Project Bonds, the following expiration dates shall be assigned randomly by a lottery drawing conducted by the Executive Director within five (5) business days following each Allocation Round:~~

~~(i) Projects receiving an allocation during a Competitive Application Process shall be assigned an expiration date of ninety (90) days, one-hundred (100) days or one-hundred ten (110) days.~~

~~(ii) Projects receiving an allocation during an Open Application Process shall be assigned an expiration date of one-hundred eighty (180) days or one-hundred ninety-four (194) days.~~

~~(iii) A project's applicant may request an expiration date of less than one-hundred eighty (180) days by submitting a written request to the Executive Director. The request shall be submitted no later than the final posting date for the round in which the project is seeking an allocation.~~

~~(1) One-hundred ten (110) days for the issuance of Qualified Residential Rental Bonds, except as provided in section 5101.~~

~~(2) Ninety (90) days for the issuance of Mortgage Revenue Bonds, Small-Issue Industrial Development Bonds, and Exempt Facility Bonds, or conversion of Bonds to Mortgage Credit Certificate authority.~~

~~(3) Ninety (90) days for the issuance of Recovery Zone Facility Bonds and Recovery Zone Economic Development Bonds.~~

~~(4) Ninety (90) days for the issuance of Qualified Energy Conservation Bonds.~~

~~(5) One-hundred twenty (120) days, for the issuance of at least one (1) Mortgage Credit Certificates, and Student Loan Bonds.~~

~~**Section 5101. Lottery for Qualified Residential Rental Bonds.** 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. 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 co-ordination of low income housing tax credits. The Committee may delegate this authority to the Executive Director.~~

Section ~~5101~~ 5102. Extensions to Expiration Dates. Excluding Recovery Zone Facility Bonds, Recovery Zone Economic Development Bonds, and Mortgage Credit Certificates, Allocations awarded during an Open ~~Application Process, Allocation Round~~ the Executive Director ~~may be extended up to the next regularly scheduled meeting at which time the Committee may elect to~~ grant ~~an additional~~ extensions of up to ninety (90) days. ~~The Committee may delegate this authority to the Executive Director.~~

Section ~~5102~~ 5103. Recovery Zone Bond Extensions. 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 ~~5104~~ 5105. Year-End Allocations. Unless the Committee authorizes the carry-forward of an Allocation pursuant to article 10 of this chapter, the expiration date of all Allocations shall be no later than December 31 of the same calendar year pursuant to 26 U.S.C. section 146(d), which defines the State Ceiling. ~~For Allocations awarded after October 15, The~~ the pending year-end expiration may shall result in the assignment of expiration dates shorter than as prescribed in section 5100.

Section ~~5105~~ 5106. Reversion to Committee. Upon the 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 ~~5106~~ 5107. Veterans Home Loan Programs. Carryforward Allocations made pursuant to article 10 of this chapter to a Veterans Home Loan Program are not subject to expiration except as set forth in 26 U.S.C section 146(f)(3).

Section 5132. Expiration of ~~Carryforward~~ CarryForward Allocations. The Committee will specify the expiration date of the carryforward Allocation in the Committee Resolution memorializing the grant of the Allocation. If any amount of the carryforward Allocation has not been used to issue Bonds or convert Bonds 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 the carryforward Allocation to another approved Project by the same Issuer in accordance with section 5120. If the Committee does not require a transfer of the carryforward Allocation, the expiration date may be extended with the approval of the Executive Director until the Allocation expires pursuant to 26 U.S.C. section 146(f)(3) or to each subsequent deadline for submitting Applications to the Committee. At that time, the Committee may require the Issuer to transfer the carryforward Allocation to another approved Project by the same Issuer.

Section 5170. Definitions

“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.

Federal Promise Zone means any area with a continuous boundary and a population of not more than 200,000 that is nominated by a local government or Indian tribe and designated by the U.S. Department of Housing and Urban Development to receive priority for Federal funding on the basis of its unemployment, poverty, vacancy, and crime rates.

High Quality Transit means a transit line with service seven days per week that operates on a railway, dedicated right-of-way or contains at least one of the following characteristics for at least a portion of its route: use of a High Occupancy Vehicle (HOV) or High Occupancy Toll (HOT) lane, middle of the road boarding alignment, signal prioritization or use of limited stop service including express service and skip-stopping.

“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 Acknowledgement Letter” means HUD correspondence outlining that a project has submitted an application for FHA financing, that the application has been deemed complete and that HUD is committed to providing the project with a Firm Commitment Letter prior to the issuance expiration date of the project’s Allocation.

“Native American Lands” means real property located within the State of California that meets both the following criteria:
(a) is trust land for which the United States holds title to the tract or interest in trust for the benefit of one or more tribes or individual Indians, or is restricted Indian land for which one or more tribes or individual Indians holds fee title to the tract or interest but can alienate or encumber it only with the approval of the United States.
(b) the land may be leased for housing development and residential purposes under federal law.

“Residential Rental Regulatory Agreement” means a covenant recorded against the title of a subject property by a government entity limiting the property’s use to rental housing and restricting tenant incomes and rents to no more than 80% Area Median Income of the County in which the property is located.

“Scattered Site Project” means multiple location Projects that:
(a) except where a single existing project-based Section 8 contract is in effect that covers all locations, consist of no more than five (5) locations; and
(b) are not contiguous except for the interposition of a road, street, stream or similar property; and
(c) are proposed to be financed through a single pooled bond transaction; and
(d) all locations are:
(1) subject to a Residential Rental Regulatory Agreement or subject to a federal, state or local rental or operating assistance agreement:
(A) within the boundaries the same city, or
(B) within a 10-mile diameter circle within the same county, or

(C) within the same county if no location is within a city having a population of five-hundred thousand (500,000) or more; or

(2) All projects not described within (d)(1) must be within a one (1) mile diameter.

~~“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) mile diameter circle; or Non Federally Assisted At Risk Projects within a one (1) mile diameter circle.~~

~~“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 10-20-15 01-21-15), which is hereby incorporated by reference.

“Standard QRRP Open 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 10-20-15 01-21-15), which is hereby incorporated by reference.

Substantial Renovation Project means a multifamily residential rental project where the hard costs of rehabilitation, including overhead, profit and general conditions, are at least \$35,000 per tenant unit.

“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 10-20-15 01-21-15), which is hereby incorporated by reference.

“Universal Open 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 10-20-15 01-21-15), which is hereby incorporated by reference.

Section 5190. 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, or for projects that will be located on Native American Trust Lands, a Land Title Status Report from the Bureau of Indian Affairs or an attorney's opinion regarding chain of title and current title status, dated completed no more than ninety (90) days prior to Application deadline as provided in section 5030, 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 for the length of time the Project will be regulated under this program between the Project Sponsor and a public agency; or

(D) A valid, current, and 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 the 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.

(b) Local Approvals and Zoning. The Project Sponsor shall provide evidence, no later than the application due date for the allocation round in which the Project is seeking an allocation 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 and/or subject to public appeal have been obtained. Additionally, if any land use approval is subject to public appeal, within no less than 5 calendar days prior to the first public posting of the Committee, the applicant must provide proof that either no appeals were received, or that any appeals received during that time period were resolved and the project is ready to proceed. Examples of such approvals include, but are not limited to, general plan amendments, re-zonings, and conditional use permits; and do not include design review approvals. The Applicant may include a completed 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. Those Qualified Residential Rental Pool Projects with redevelopment-related project financing that is subject to the approval of the Department of Finance (DOF) are required to have obtained a Final and Conclusive Determination Letter, or other written communication from DOF stating that DOF does not issue, or concludes is unnecessary, a Final and Conclusive Determination for this form of redevelopment financing obligation, prior to submitting an application to the Committee.

Section 5191. 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 AMI. 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. Except for projects subject to an existing Residential Rental Regulatory Agreement that propose rents that will not exceed one hundred-five percent (105%) of the current rents and operate with a vacancy rate of no more than five percent (5%), for single room occupancy and special needs

housing a vacancy rate of no more than ten percent (10%) as demonstrated by a market study completed pursuant to Section 42 (m)(1)(A)(iii); proposed tenant paid rents for each Restricted Rental Unit type (defined by bedroom count) in the proposed development shall be at least ten percent (10%) below the weighted average rent for comparable market rate units and each Restricted Rental Unit's value ratio (dollars per square foot) shall be at or below the weighted average unit value ratio for comparable market rate units as demonstrated in a Rent Comparability Matrix meeting the requirements of article 4 of this chapter.

Section 5192. 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 subdivision (a) or subdivision (c) of this section, unless a Project is intended for eventual tenant homeownership, in which case evidence of a financially feasible program must be submitted in the Application. The program shall include but is not limited to, 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 round in which an Application is being considered has been established under an Open Application Process, 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; Projects located on Native American Lands shall have a term of restriction of 50 years from the property lease effective date.

Section 5200. Minimum Requirements. The Market Study must meet the current guidelines as required by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10322(h)(10).

(a) A full Market Study with a Rent Comparability Matrix for each applicable unit type 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.

(b) The study must establish both need and demand for the proposed Project. If the Market Study does not support sufficient need and demand for the Project, the Application may be considered ineligible to receive an award of Allocation.

(c) Except where a waiver is obtained from the Executive Director in advance of a submitted application, CDLAC shall not award an allocation to a rural new construction project if a tax-exempt bond, tax credit, or other publicly assisted project housing the same population is currently under construction or has received an allocation of bonds within the same market area. The Executive Director may grant a waiver where newly constructed housing would be replacing specific existing housing, or where extraordinary demand warrants an exception to the prohibition. The Executive Director may also grant a waiver for subsequent phases of a single new construction project where those phases are described in the application of the initial phase,

(d) A market study shall be updated when either proposed subject project rents change by more than five percent (5%), or the distribution of higher rents increased by more than 5% or 180 days have elapsed between the earliest site inspection date for the subject property or comparable properties and the application submission deadline for the round in which the Project is seeking an allocation. ~~passed since the first site inspection date of the subject property and comparable properties.~~ CDLAC shall not accept an updated market study when more than twelve (12) months have passed since the earliest listed site inspection date of either the subject property or any comparable property. In such cases, applicants shall provide a new market study.

(e) Acquisition/Rehabilitation projects subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Section 5200(a), a comprehensive market study consistent

with 26 U.S.C. Section 42 (m)(1)(A)(iii). The study must be a written statement certified by a third party market analyst and the project must meet at least one of the following requirements:

(1) as certified by a third-party market analyst, the proposed rents will not exceed one hundred-five percent (105%) of the current rents and a vacancy rate of no more than five percent (5%), for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%); or
(2) as evidenced by copies of executed contracts, that the Project has been receiving federal, state, or local operating or rental assistance and will continue to receive such assistance for at least five (5) additional years. If a contract demonstrating operating or rental assistance for an additional five (5) years is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract and the expected contract execution date.

Section 5205. Minimum Requirements.

(a) Applicants shall provide a certification ~~of their intent to utilize landscaping and construction materials which are compatible with the neighborhood in which the proposed project is to be located, and that the architectural design and construction materials will provide for low maintenance and durability, as well as be suited to the environmental conditions to which the project will be subjected. Additionally, the certification of intent shall note~~ that the following minimum specifications will be incorporated into the project design for all new construction and rehabilitation projects. The requirements of subsections (2) through (9) of this section are only applicable when investment in such elements is proposed in the Project's scope of work and/or the Capital Needs Assessment:

(1) Energy Efficiency. ~~All new construction buildings shall be thirty percent (30%) better than the 2008 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24). Alternatively, new construction buildings may meet the 20 percent (20%) Zero Net Energy (ZNE) standard established at Section 5230(k)(4)(B).~~ All rehabilitation projects rehabilitated buildings shall have improved energy efficiency above the modeled energy consumption ~~of the building(s)~~ based on existing conditions, with at least a ten percent (10%) post-rehabilitation improvement over existing conditions. energy efficiency achieved for each building Scattered-site rehabilitation projects shall also have at least a five percent (5%) improvement over existing conditions at each location. In the case of projects in which energy efficiency improvements have been completed within ~~five two~~ years prior to the application date pursuant to a government program or a public or regulated utility program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements.

(2) Landscaping. A variety of plant and tree species that require low water use shall be provided in sufficient quantities based on landscaping practices in the general market area and low maintenance needs. Projects shall follow the requirements of the State's Model Water Efficient Landscape Ordinance (Title 23, California Code of Regulations, Section 490 et seq.) (<http://www.water.ca.gov/wateruseefficiency/landscapeordinance/>) unless a local landscape ordinance has been determined to be at least as stringent as the current model ordinance.

(3) Roofs. Roofing shall carry a three-year subcontractor guarantee and at least a 20-year manufacturer's warranty.

(4) Exterior Doors. Insulated or solid core, flush, paint or stain grade exterior doors shall be made of metal clad, hardwood faces, or fiberglass faces; with all six sides factory primed and subject to a standard one-year guarantee.

(5) Appliances. Refrigerators, dishwashers, clothes washers and clothes dryers provided or replaced within low-income units and/or in on-site community facilities shall be ENERGY STAR rated appliances unless waived by the Executive Director. All waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline

(6) Window Coverings. Window coverings shall be provided and may include fire retardant drapes or blinds.

(7) Water Heater. For units with individual tank-type water heaters, minimum capacities are to be ~~28 30~~ gallons for one-bedroom and two-bedroom units and ~~38 40~~ gallons for three-bedroom ~~units or~~ and larger units.

- (8) Floor Coverings. A hard, water resistant, cleanable surface shall be required for all kitchen and bath areas. All Carpeting shall comply with U.S. Department of Housing and Urban Development/Federal Housing Administration UM44D, or alternatively, cork, bamboo, linoleum, or hardwood floors shall be provided in all other floor spaces unless this requirement is specifically waived by the Executive Director. All waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline.
- (9) Insulation. All fiberglass-based insulation shall meet the requirements as established by the California Tax Credit Allocation Committee, Title 4, Division 17, Chapter 1, Section 10325 (f)(7)(I).
- (b) If a rehabilitation project's Applicant does not propose to meet the requirements of this section, its capital needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive. If item 5205(a)(1) specifically is not being met, a qualified energy consultant shall provide documentation stating what energy improvements would achieve the 10% improvement, the cost of such improvement(s) and a statement describing why the improvements would be unnecessary and/or excessively expensive.
- (c) Compliance and Verification. Evidence of compliance is to be submitted Projects that receive an award of low income housing tax credits (LIHTC) shall submit evidence of compliance to TCAC with the Placed in Service Application. Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit evidence of compliance 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.
- (1) Under subdivision (a)(1), Projects that have been newly constructed or rehabilitated must submit the appropriate California Energy Commission evidence for the Project that shows the necessary percentage improvement better than the Title 24 standards.
- (2) Projects subject to Under subdivision (a)(1), Applicants with rehabilitation projects must submit the California Energy Commission HERS II energy consumption and analysis report, which shows the pre-rehabilitation and post-rehabilitation HERS II estimated annual energy use demonstrating the required improvement, with the their first annual certification of compliance.
- (3) For subdivisions (a)(2) through (a)(~~9~~ 14), Applicants shall submit third party documentation from one of the following sources confirming the existence of items, measures, and/or project characteristics:
- A. A certified HERS Rater;
 - B. A certified GreenPoint Rater; or
 - C. A US Green Building Council Certification.
- (4) Failure to produce appropriate and acceptable third party documentation for subdivisions (a) (1) through (a)(~~9~~ 14) of this section may result in negative points.

Section 5210. Minimum Expenditures. (a) Except as set forth in subdivision (b) of this section, Qualified Residential Rental Projects involving the rehabilitation of existing buildings must complete a minimum of \$15,000 \$40,000 in hard construction costs per unit;

(b) Federally Assisted At Risk Projects that receive only an award of Bond authority and do not receive low income housing tax credits, 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 sum amount of the structure costs plus on-site and off-site costs.

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 unless otherwise stated in this section. Each of the items in this section shall be memorialized in the Committee Resolution.

(b) Preservation Projects. Projects meeting the following criteria shall receive the following points, up to a maximum of 20 points:

(1) a project subject to a Residential Rental Regulatory Agreement or a local, state or Federal rental or operating assistance contract; or a project subject to an expired residential rental agreement that continues the rental structure prescribed by the expired residential rental agreement, as demonstrated by a copy of the executed agreement or contract, shall receive ten (10) points;

(2) a Project eligible for points under subdivision (b)(1) shall receive an additional ten (10) points if it receives state or Federal rental assistance or a state, Federal or local operating subsidy and, as a result, the rents are limited in at least fifty percent (50%) of the Project's tenant units to no more than thirty percent (30%) of each such unit's tenants' income, as demonstrated by a copy of the executed agreement or contract;

(3) a Project eligible for points under subdivision (b)(1) shall receive an additional ten (10) points if it has income restricted tenant paid rents for each Restricted Rental Unit type that on average are at least twenty percent (20%) below rents for the same unit types in comparable market rate rental properties, as demonstrated in a market study meeting the requirements of section 5200(e) and in a table utilizing three (3) market comparable properties for each restricted unit type in the Project.

~~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.

(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. The Applicant must indicate which components of the utility allowance schedule apply to the Project. 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 Analyst (CEA). 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. Use of the CUAC is limited to new construction projects and existing tax credit projects with Multifamily Affordable Solar Housing (MASH) program awards that offset tenant area electrical load.

(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. When family comparables are used in addition to senior comparables (outside the 1-mile radius) points will be calculated using the family matrices. 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).

~~(4)~~ Five (5) points will be awarded to those Projects where at ~~thirty percent (30%)~~ twenty-five percent (25%) 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 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 (5 points). Projects meeting the following criteria will receive 5 points:

(1) The Project is located within:

(A) any Qualified Census Tract or equivalent geographic area defined by the Census Bureau in which at least fifty percent (50%) of the households have an income of less than sixty percent (60%) AMI; or

(B) a Federal Promise Zone; and

(2) The development will contribute to a concerted Community Revitalization Plan as demonstrated by a letter from a local government official. The letter must delineate the community revitalization efforts, including but not limited to:

(A) community enhancement services in the neighborhood, including but not limited to, job training or after-school enrichment programs;

(B) funds, not including funds for the proposed Project, that have been expended in the past three (3) years, that are being expended or that 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) projects, including but not limited to, retail, office and housing that contributes to community revitalization that have been completed within the past three (3) years, are underway or are committed to be completed; and

(D) how the project would contribute to the community's revitalization.

~~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 33000 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) Points will be awarded for the following Transit amenities:

(1) Two and one-half (2 ½) points for Projects located within one-third (1/3) 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; or
(2) Two and one-half (2 ½) points for Projects located within one-half (1/2) mile of a High Quality Transit stop or station.

(3) Projects eligible for points in subsection (A)(1) or (2) will receive the following additional points for committing to provide to residents monthly passes for the transit amenity for which the project received points at

no cost or priced at no more than half of retail cost. Passes shall be made available on a first-come-first-served basis to all tenants of rent-restricted units for at least 15 years:

(i) three (3) points for at least one pass per rent-restricted unit

(ii) one and one-half points (1½) for at least one pass per each 2 Rent-Restricted units.

~~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 1/2) points will be awarded to Projects located within:

(i) 1/2 mile (for Rural set-aside projects, 1 mile) of a medical clinic:

(I) that has a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, and

(II) that accepts Medi-Cal and Medicare payments, or Health Care for the Homeless for projects housing homeless populations, or that has an equally comprehensive subsidy program for low-income patients; or
(ii) 1 3/4 mile (for Rural set-aside projects, 1.5 miles) of a hospital (not merely a private doctor's office); or
(iii) 1/2 1/4 mile (for Rural projects, 1 1/2 mile) of a pharmacy.

(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 15+0 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) Five (5) points will be awarded to Projects that commit to irrigate only with reclaimed water, greywater, or rainwater (excepting water used for Community Gardens).~~

~~(4) Two (2) points will be awarded to Projects that commit to having at least one (1) nonsmoking building. If the proposed Project contains only one (1) building, the Project is subject to a policy developed by the Sponsor that prohibits smoking in contiguous designated units. In both circumstances these restrictions shall be incorporated into the lease agreements for the appropriate units.~~

~~(5) Two (2) points will be awarded to Projects that commit to a parking ratio equivalent to or less than 1 parking stall per single room occupancy or one-bedroom restricted rental unit and 1.5 parking stalls per two-bedroom or larger restricted rental unit.~~

~~(6) 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 projects receiving points under subdivision (k)(3) of this section, additional points for energy efficiency shall be awarded according to one of the following:~~

~~(A) 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 the 2008 Title 24, Part 6, of the California Building Code (the 2008 Standards), shall be awarded as follows:~~

Percentage better than the 2008 Standards	Low-Rise Multifamily (3 or fewer habitable stories)	High-Rise Multifamily (4 or more habitable stories)
32.5 percent	2 points	3 points
35 percent	3 points	5 points
40 percent	5 points	

~~(B) Energy Efficiency with renewable energy that provides the following percentages of project tenants’ energy loads:~~

Offset of Tenants’ Load	Low-Rise Multifamily (3 or fewer habitable stories)	High-Rise Multifamily (4 or more habitable stories)
20 percent	2 points	3 points
30 percent	3 points	4 points
40 percent	4 points	
50 percent	5 points	

~~The percentage Zero Net Energy (ZNE) solar offset of a project's tenant energy loads is to be calculated using the California Utility Allowance Calculator (CUAC) with kilowatt hours (kWh) consumed to be balanced by kilowatts generated on-site. Gas use is to be converted to kWh for percentage ZNE offset calculations, assuming 1 Therm = 29.3 kWh, and 100,100 British Thermal Units (BTUs) = 29.3 kWh. Residential energy loads modeled by the CUAC shall include all energy used by tenants, both gas and electric, regardless of whether the energy load is billed to the owner or the tenants. This calculation excludes non-residential energy uses associated with the community building, elevators, parking lot lighting, and similar end uses, but includes domestic hot water and Heating, Ventilation, and Air Conditioning (HVAC) loads, regardless of whether they are central or distributed.~~

~~(7.5)~~ For ~~projects~~ ~~project's~~ receiving points under subdivision (k)~~(6.3)~~ 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)~~(6.3)~~ of this section:

LEED	Silver	Gold
GreenPoint Rated	Silver	Gold
	3 points	5 points

(8) New Construction or Adaptive Reuse Projects not eligible for points under subdivision (k)(6) of this section, shall be awarded energy efficiency points according to one of the following:

(A) 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 the 2013 Title 24, Part 6, of the California Building Code (the 2013 Standards), shall be awarded as follows:

<u>Percentage better than the 2013 Standards</u>	<u>Low-Rise Multifamily (3 or fewer habitable stories)</u>	<u>High-Rise Multifamily (4 or more habitable stories)</u>
<u>9 percent</u>	<u>3 points</u>	<u>4 points</u>
<u>15 percent</u>	<u>5 points</u>	<u>6 points</u>
<u>24 percent</u>	<u>8 points</u>	<u>9 points</u>
<u>30 percent</u>	<u>10 points</u>	<u>10 points</u>

(B) Energy Efficiency with renewable energy that provides the following percentages of project tenants' energy loads:

<u>Offset of Tenants' Load</u>	<u>Low-Rise Multifamily (3 or fewer habitable stories)</u>	<u>High-Rise Multifamily (4 or more habitable stories)</u>
<u>20 percent</u>	<u>3 points</u>	<u>4 points</u>
<u>30 percent</u>	<u>4 points</u>	<u>5 points</u>
<u>40 percent</u>	<u>5 points</u>	

The percentage Zero Net Energy (ZNE) solar offset of a project's tenant energy loads is to be calculated using the California Utility Allowance Calculator (CUAC) with kilowatt hours (kWh) consumed to be balanced by kilowatts generated on-site. Gas use is to be converted to kWh for percentage ZNE offset calculations, assuming 1 Therm = 29.3 kWh, and 100,100 British Thermal Units (BTUs) = 29.3 kWh. Residential energy loads modeled by the CUAC shall include all energy used by tenants, both gas and electric, regardless of whether the energy load is billed to the owner or the tenants. This calculation excludes non-residential energy uses associated with the

community building, elevators, parking lot lighting, and similar end uses, but includes domestic hot water and Heating, Ventilation, and Air Conditioning (HVAC) loads, regardless of whether they are central or distributed.

(9 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. In the case of projects in which energy efficiency improvements have been completed within ~~two~~ five years prior to the application date pursuant to a public or regulated utility program or other governmental program that established existing conditions of the systems being replaced using a HERS Rater, the applicant may include the existing conditions of those systems prior to the improvements. 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

(10 7) Additional Rehabilitation Project Measures.

(A) For projects receiving points under subdivision (k)(9 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)(9) of this section, Applicants may be awarded ~~two three~~ (32) 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~~
- ~~(ii 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.

(11 8) Compliance and Verification. Projects that receive an award of low income housing tax credits (LIHTC) shall submit evidence of compliance to TCAC with the Placed in Service Application. Projects that receive a Qualified Residential Rental Bond allocation, and do not receive a LIHTC award, shall submit 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)(6 3) and (k)(8 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)(7 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 Analyst (CEA). 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)(~~9~~ 6), the Applicant must submit the California Energy Commission HERS II energy consumption and analysis report, completed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA), 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)(~~10~~ 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~~ 6)(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 and; 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.

(~~12~~ 9) Failure to produce the appropriate documentation for subdivisions (1) through (~~11~~ 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)~~ fifteen (15) 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-half (½) mile of the Project (one and one-half (1½) miles for Rural projects) 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. Projects may use off-site services located more than one-half (½) mile from the Project (one and one-half (1½) miles for Rural projects) 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, and a written agreement at the time of Application demonstrating that tenants will be provided with free of charge round-trip transportation between the development and the off-site services. 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. Evidence 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 services program.

(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 (FTE) 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 minimum number of hours per year for the full time-equivalent service coordinator/social worker will be calculated based on the formula: 1) the number of bedrooms X 0.0017 = FTE multiplier; then 2) FTE Multiplier X 2,080 = minimum number of hours per year (up to a maximum of 2,080 hours). 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 and Substantial Rehabilitation Projects (10 points). Ten (10) points will be awarded to new construction, substantial renovation or adaptive re-use Projects with Restricted Rental Units.

(n) For projects subject to the Competitive Application Process, one (1) point will be awarded for each one percent (1%) of forgone eligible developer fee, as determined by TCAC Regulation section 10327, up to a maximum of ten (10) points.

(o) 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 unforeseen and 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 unforeseen and

entirely outside of the Project Sponsor's control. This deduction will be assessed against the Project Sponsor for a period of two (2) succeeding years (10 points each year) following the year 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 unforeseen and 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 unforeseen and 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) Where TCAC has determined an Application for tax credits involving a Project Sponsor that has been or is a Related Party to a Project Sponsor who is subject to negative points under its regulations, CDLAC will deduct an equal amount of points for an equal period of time from tax exempt bond applications involving the Project Sponsor or a Related Party to the Project Sponsor.

(3) Where TCAC has determined an Applicant for tax credits involving a Project Sponsor that has been a Related Party to a Project sponsor who is subject to any type of determination of ineligibility, CDLAC will recognize the length of ineligibility and apply it to the tax exempt bond applications involving the Project Sponsor or Related Party to the Project Sponsor.

(4 ~~2~~) Multiple or repeated failures of subdivisions (n)(1) or (3) of this section may result in the Committee finding Applications involving the Project Sponsor ineligible for consideration of an Allocation.

Section 5232. Competitive Application Process Maximum Allocation Amount. (a) For projects subject to the Competitive Application Process, the ~~The~~ Committee will allocate no more than fifty million dollars (\$50,000,000) ~~\$30,000,000~~ 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 fifty million dollars (\$50,000,000) ~~\$30,000,000~~ 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 fifty million dollars (\$50,000,000) ~~\$30,000,000~~ may seek a waiver from the Committee based on the following factors:

- (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 fifty million dollars (\$50,000,000) ~~\$30,000,000~~ 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.

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.

~~(3) For a Scattered Site Project Competitive Round, a~~ A 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 state or federal project-based rental assistance or a state or federal operating subsidy for a minimum of the last five (5) years.~~

~~(4) Acquisition/Rehabilitation Projects where each location is subject to an existing Residential Rental Regulatory Agreement or a federal, state, or local operating or rental assistance agreement may provide, as an alternative to providing a market study and affordability matrices consistent with Sections 5200(a) Section 5250 (a)(3), a comprehensive market study consistent with 26 U.S.C. Section 42 (m)(1)(A)(iii). The study must be a written statement certified by a third party market analyst and the the project must meet at least one of the following requirements:~~

~~(A) as certified by a third-party market analyst, the proposed rents will not exceed one hundred-five percent (105%) of the current rents and a vacancy rate of no more than five percent (5%), for single room occupancy and special needs housing a vacancy rate of no more than ten percent (10%); or~~

~~(B) as evidenced by copies of executed contracts, that the Project has been receiving federal, state, or local operating or rental assistance and will continue to receive such assistance for at least five (5) additional years. If a contract demonstrating operating or rental assistance for an additional five (5) years is not available, a letter signed by the contractor's senior official may be submitted that describes the efforts undertaken to effectuate an operating or rental assistance contract, the expected duration of the contract and the expected contract execution date.~~

~~(5 4) Evidence of site control shall be required for each site.~~

~~(6 5) Any maps provided shall include each site.~~

~~(b) An Applicant may seek a waiver of the Scattered Site five (5) location limit. A written request describing how the Project will benefit from waiver of the location limit must be submitted no later than the application due date for the allocation round in which the Project is seeking an allocation.~~

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

Section 5255. Application Requirements. ~~(a)~~ 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 ~~Open Non-Competitive~~ Qualified Residential Rental Pool Application may be submitted when the Project meets the following requirements:

~~(1 a)~~ Applications must meet the requirements of a Qualified Residential Rental Project, as described in Chapter 2.

~~(2 b)~~ Applications may be submitted at any time with an expected staff review period of at least thirty (30) days.

~~(3 e)~~ The Applicant must disclose upon application that the Project is a FHA financed development.

~~(4 d)~~ In lieu of a HUD Firm Commitment letter, a MAP Lender commitment letter outlining the FHA financing must accompany the Application.

~~(5 e)~~ All awards of allocation following a CDLAC Forward Commitment must occur prior to the last day of the calendar year.

~~(6 f)~~ Proof of HUD Firm Commitment Application Submittal will be due within thirty (30) days of CDLAC Forward Commitment Approval.

~~(b) The Committee shall make an award of allocation for a new Application if the following is submitted no later than the application due date for the allocation round in which the Project is seeking an allocation:~~

~~(1) a complete Standard QRRP Open Application and application fee;~~

~~(2) a MAP Lender commitment letter outlining the FHA financing; and~~

~~(3) a HUD Acknowledgement Letter~~

~~(c) The Committee shall make an award of allocation for an existing Applicant who has received a CDLAC Forward Commitment upon submission of a HUD Acknowledgement Letter no later than four (4) days before the first public posting of Committee recommendations as provided in section 5035.~~

Article 12. Expiring Projects in Difficult Development Areas

Section 5258. Eligibility Retention. (a) An Applicant seeking to confirm that its application is complete to retain current year Difficult Development Area (DDA) status must submit to CDLAC a Project's completed application, identifying the round in which the Applicant intends to seek an allocation, by December 15th together with an Applicant's written request to CDLAC to confirm that the Application is complete.

(b) Upon determining that the Application is complete, CDLAC will provide the Applicant with a letter stating that the Application is complete no later than December 31st of the calendar year in which the application described in subsection (a) was received.

(c) The confirmation letter in subsection (b) shall be void and of no effect unless the bond issuances for the project occurs within one calendar year following CDLAC's issuance of such confirmation.

Section 5260. Definitions.

* * * *

"MCC Application" means the Application titled "Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Mortgage Credit Certificate Program" (revised 10-20-15 1-11-11), which is hereby incorporated by reference.

"MRB Application" means the Application titled "Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Single-Family Housing Bond Program" (revised 10-20-15 1-11-11), which is hereby incorporated by reference.

* * * *

Section 5267. Consistency with Adopted Housing Elements. (a) 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. Furthermore the jurisdiction's adopted housing element must have has been found to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, and the jurisdiction submitted to the department the annual progress report required under Section 65400 of the Government Code for the preceding 12-month calendar year.

(b) Applicants requesting Allocation to implement a new Mortgage Credit Certificate Program shall submit the following:

- (1) Copies of the publicly-adopted documents required by section 5031(b); and
- (2) Copies of the program or operational manual.

(c) Applicants requesting Allocation for an existing Mortgage Credit Certificate Program shall submit the following:

- (1) A certification that the previously publicly-adopted documents required in section 5031(b) are valid and remain in force; or
- (2) Provide copies of newly publicly adopted documents.

Section 5271. Allocation Method. Applicants for the Single Family Housing Program Pool will be awarded an Allocation on a Fair Share Basis. If a request exceeds an Applicant's Fair Share, additional funding can be provided to the extent allocation is available in the Undesignated Reserve Pool in the allocation year the funding is requested.

Section 5273. Income and Purchase Price Certification. The Applicant's bond or tax counsel must certify that the income and purchase price limits outlined in the CDLAC application for the program were established in accordance with a methodology authorized by the Internal Revenue Code.

ATTACHMENT B

PUBLIC COMMENT MATRIX FOR PUBLIC COMMENTS RECEIVED DURING PUBLIC HEARINGS AND 45-DAY COMMENT PERIOD

CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

September 2, 2015

Written public comments were received during the 45-day Public Comment Period, June 16, 2015 through August 31, 2015. Public hearings were held on July 29, 2015 in San Diego, July 30, 2015 in Los Angeles, August 3, 2015 in Sacramento and August 5, 2015 in Oakland. The comments received at each of the public hearings and the written comments received during the Public Comment Period are set forth below.

Item #	Section	Public Comments	Commentator	Staff Comments/Recommendations	Accept / Reject (A/R)
	5170	The proposed definition of “Scattered Site Project” should not include language requiring distance thresholds.	Thomas E. Erickson, Mohannad H. Mohanna & Michael A. Costa Vicky Ramirez Vanessa Luna Ray Pearl	The proposed revision seeks encourage the preservation and rehabilitation of existing low-income properties by expanding existing distance thresholds and applying them to all projects while also seeking to minimize the grouping of random and/or far-flung locations under a single pooled bond transaction. Removing distance requirements may result in financing plans that do not take into consideration the unique financing needs of individual projects. Additionally, the comment is outside the scope of the proposed rulemaking. The comment advocates elimination of all distance limits and does not address the proposed revisions to existing distance limits.	R
	5120(a)	The proposed increase from \$10,000 to \$15,000 in per-unit hard construction costs for rehabilitation projects arbitrarily mandates project cost increases	Thomas E. Erickson, Mohannad H. Mohanna & Michael A. Costa	There has not been an increase in minimum per-unit hard construction expenditures in 8 years. The proposed increase recognizes the continuing increases in construction costs in California. The increase	R

		<p>that may not be supported by a physical needs assessment and will not reduce project costs or close financial gaps proposed increase will increase financial gaps. The proposed revision will cause property owners to unnecessarily discard or replace perfectly performing building products to adhere to the proposed increased per-unit hard construction costs.</p> <p>It is suggested that either: (1) the current \$10,000 minimum be retained and the physical needs assessment be relied upon to determine rehabilitation costs; or, (2) that the following staggered per-unit increases be utilized: \$10,000 for projects 15 to 17 years old, \$15,000 for projects 18 to 20 years old and \$20,000 for projects more than 20 years old.</p>		<p>seeks to ensure that low-income housing projects and units continue to have sufficient amenities in the face of rising costs. Staff disagrees that the proposed revisions are arbitrary or will result in the discarding or replacement of perfectly performing building products. The proposed increase does not require any specific type of repair/replacement and it is anticipated that the proposed increase will result in a reduction in deferred maintenance. Our experience indicates that the vast majority of projects re-syndicate between years 15-17, making that period the most critical for repairs/replacement. A uniform increase applicable to all projects is the most equitable approach to ensuring that a sufficient amount of hard construction costs are dedicated to all projects, with the overarching goal of increasing the quality of low-income housing.</p>	
	5210(a)(2)	<p>The proposed minimum \$20,000 per-unit hard construction costs for resyndication projects arbitrarily mandates project cost increases that may not be supported by a physical needs assessment and will not reduce project costs or close financial gaps To the contrary, the proposed increase will increase financial gaps.</p>	<p>Thomas E. Erickson, Mohannad H. Mohanna & Michael A. Costa</p>	<p>The proposed revisions applicable to resyndication projects are being withdrawn. All rehabilitation projects will be held to the proposed \$15,000 in per-unit hard construction costs for the reasons described above.</p>	R

		<p>The proposed revision will cause property owners to unnecessarily discard or replace perfectly performing building products to adhere to the proposed increased per-unit hard construction costs. Buildings that are 15 years old, where replacement and operating reserves have been wisely spent, do not need \$20,000 per unit in improvements.</p> <p>It is suggested that either: (1) the current \$10,000 minimum be retained and that the physical needs assessment be relied upon to determine rehabilitation costs; or, (2) that the following staggered per-unit increases be utilized: \$10,000 for projects 15 to 17 years old, \$15,000 for projects 18 to 20 years old and \$20,000 for projects more than 20 years old.</p>			
	<p>5230(j)(2)(F)</p>	<p>Supportive of the proposed distance increases for site amenities</p>	<p>Vicky Ramirez Vanessa Luna Patrick Sabelhaus William Leach Peter Armstrong Jeanne Peterson</p>	<p>CDLAC will proceed with the proposed revision.</p>	<p>A</p>

			Pascal Sisich		
	5230(j)(2)(E)	The proposed change requiring projects to be near a public school having a score of 7 on the statewide Academic Performance Index is overly restrictive	Vanessa Luna	CDLAC will not pursue the proposed change due to pending changes in the school rating system. CDLAC may revisit the issue once the rating system is revised	A
	5230(k)(5)	The proposed restrictions on the number of parking spaces will have a significant negative impact while doing little or nothing to reduce parking requirements imposed by municipal bodies.	Vanessa Luna	The proposed revision does not restrict the number of parking spaces, it provides optional points for projects that do. There are no mandatory limits on parking under the CDLAC Regulations.	R
	5205; 5230(k)	Supportive of the proposed changes relating to sustainable building methods	Vicky Ramirez William Leach Jeanne Peterson	CDLAC will proceed with the proposed revision	A
	5100, 5101,	Supportive of the proposed changes to bond issuance deadlines	Vicky Ramirez Jeanne Peterson	CDLAC will proceed with the proposed revision	A
		The point's threshold for tax-exempt bond allocation eligibility should be reduced from 55 to 30 points.	Patrick Sabelhaus	The comment is outside the scope of the proposed rulemaking. It does not address a specific proposed revision. Threshold is set annually by the Committee, not by regulation.	R
	5170	Supportive of proposed expansion of "Scattered Site" projects	Patrick Sabelhaus	CDLAC will proceed with the proposed revision	A
	5230(g)	Supportive of proposed reduction of 3-bedroom units for points eligibility from 30% to	Patrick Sabelhaus Patrick	CDLAC will proceed with the proposed revision	A

		25%	Armstrong Jeanne Peterson		
		All impediments relative to current regulations should be removed for the purpose of stimulating additional production of affordable units at 60% or less of median income.	Patrick Sabelhaus	The comment is outside the scope of the proposed rulemaking. It does not address a specific proposed revision.	R
		Create a table of contents for the Regulations.	Robert P. Feyer	The comment is outside the scope of the proposed rulemaking. . It does not address a specific proposed revision.	R
	Chapters 9 -10	The regulations continue to contain obsolete provisions for bond programs enacted by the 2009 federal stimulus bill (ARRA), which are no longer used. It would significantly shorten and simplify the regulations to eliminate this unnecessary language	Robert P. Feyer	The comment is outside the scope of the proposed rulemaking. . It does not address a specific proposed revision.	R
		The entire CDLAC allocation procedure needs to be reviewed and revised, to eliminate unnecessary burdens on developers and project proponents. A bottom up review taking a “clean slate” approach would be advisable.	Robert P. Feyer	The comment is outside the scope of the proposed rulemaking. . It does not address a specific proposed revision.	R

		The current regulations embody an elaborate system of points assigned to each applicant. The process should be revised so that there is an easy to understand, baseline determination of public benefit for each category of private activity bonds. As long as this threshold test is met, an applicant should be confident that it will receive cap.	Robert P. Feyer	The comment is outside the scope of the proposed rulemaking. . It does not address a specific proposed revision.	R
	5100, 5101	Regardless of when an allocation award is made, Applicants should have until the end of the year in which the award was made to issue bonds.	Robert P. Feyer	Proposed revisions will increase issuance deadlines to at least 180 days. CDLAC believes this is sufficient time to issue bonds after an allocation award. If more time to issue is anticipated, the project's application should be submitted in a later round and the regulations permit a project to seek an extension to the issuance deadline. Also, the proposal is contrary to the goal of reducing the time between an award and issuance.	R
	5200(e)	The proposed changes and clarifications regarding when market studies are required are common sense and have the benefit of a streamlined approach to preservation and acquisition/rehab projects that will reduce third-party soft costs on some projects.	David C. Gatzke	CDLAC will proceed with the proposed revision.	A
	5205(a)(1)	Applying the 10% post-rehab energy improvement by project, instead of by building, is also a very common sense and practical approach and will	David C. Gatzke	CDLAC will proceed with the proposed revision.	A

		facilitate applicant's ability to comply with these regulations. We also appreciate extending the "look back" period for recent improvements that the property may have funded without the benefit of tax credits and believe this removes a potential disincentive to current owners to take advantage of new energy efficiency opportunities prior to resyndication.			
	5205(a)(2)	Support the addition to minimum requirements and also strongly prefer CDLAC's proposed language that focuses on the remaining useful life of a roof, and not the Manufacturer's Warranty that may have little bearing on the usefulness left in a roof.	David C. Gatzke	The proposed revision is being withdrawn. Based on public comments received by CDLAC and TCAC, and further review of the issue; it has been determined that reliance on the Capitol Needs Assessment for roofing replacement is the best course of action.	R
	5230(g)	Support the lowering of the standards in the CDLAC 4% LIHTC program because the 4% program is more often used for acquisition/rehab. This will provide an important incentive for the rehabilitation and preservation of existing three-bedroom units.	David C. Gatzke	CDLAC will proceed with the proposed revision.	A
	5230(m)	Support the addition of a Substantial Rehab category for scoring eligibility.	David C. Gatzke	CDLAC will proceed with the proposed revision.	A
	5258	Support the Committee's efforts to assist projects that may be losing Difficult to Develop Area status and strongly support the new section 5258.	David C. Gatzke Jeanne Peterson	CDLAC will proceed with the proposed revision.	A

	5170	<p>The proposed definition of “High Quality Transit” should be revised to include the following underlined language:</p> <p>High Quality Transit means a transit line with service at least seven days per week that operates on a railway, dedicated right-of-way <u>for at least a portion of its route</u> or contains at least one of the following characteristics: use of a High Occupancy Vehicle (HOV) or High Occupancy Toll (HOT) lane <u>for at least a portion of its route</u>, middle of the road boarding alignment, <u>signal prioritization</u>, or use of limited stop service including express service and skip stopping.</p> <p>This clarifies that a route that may have local service at the start or stop of its route, but provides high-quality and travel-time reducing measures on part of its route still qualifies. The committee may also want to adopt frequency during peak hours as a qualifying element.</p>	David C. Gatzke	CDLAC recognizes the benefits of the proposed additional language and will update the proposed revision as recommended in the comment.	A
	5170, 5230(b)(1)	In the proposed definition of “Scattered Site Project”, the word “or” should follow “Federally Assisted At-Risk” under (d)(1) of this subsection to clarify	David C. Gatzke	CDLAC will remove the term “Federally Assisted At-Risk” from the subsection, as it is encompassed within the remaining language. This will resolve the potential ambiguity discussed in the public	R

		that projects without federal assistance but meeting the other two criteria of this subsection are eligible. A <i>similar edit is also warranted at §5320(b)(1)</i> .		comment.	
	5230(b)	Projects with expiration anytime within the fifteen-year investment cycle of a tax credit project should also be eligible for Preservation points. TCAC currently allows a five-year look forward. We recommend that projects that are expired, or expiring within five years of award, should be eligible for the full 10 points under 5320(b)(1), and that projects with expiration between five and ten years from award should receive 7 points, and projects with expiration between ten and fifteen years from award should receive 4 points.	David C. Gatzke	Under the proposed revisions, a project will be eligible for points if, at the time of application, the project is subject to a residential rental regulatory agreement or a local, state or Federal rental or operating assistance contract; or if the project was subject to an expired residential rental agreement and continues the rental structure prescribed by the expired residential rental agreement. Accordingly, no look forward is necessary.	R
	5230(j)(2)(A)(1)	The 1/4 mile radius for transit amenities is too restrictive. In this same cycle of regulation changes TCAC has expanded the smallest eligible radius for transit proximity to 1/3 mile, CDLAC should adopt that same standard.	David C. Gatzke	CDLAC will update its proposed revision so that it is in alignment with TCAC.	A
	5320(j)(2)(F)(ii)	We fail to understand why pedestrian distance to a hospital – not a daily necessity of life – scores the same as much more important regular amenities like schools and grocery stores. We would encourage	David C. Gatzke	Proposed revisions expand the maximum distance from a hospital from 3/4 mi to 1 mi for non-rural projects. CDLAC believes that there would be little value to tenants resulting from an expansion of the maximum distance to 3-5 miles because tenants not having	R

		expanding the radius for hospital proximity to three to five miles.		transportation would be unlikely to walk 3-5 miles to a hospital.	
5230(k)		The CDLAC regulations should follow TCAC's lead and reduce the overall scoring in this category from ten points to five, and reduce the minimum scoring required by five points. Under the proposed regulations, a new construction project under the CDLAC rules must do a higher level of LEED than a 9% LITHC project, and choose additional energy efficiency factors – increasing costs – to get to ten points. Since most developers participate in both programs, more parallel requirements eliminate confusion and streamline implementation.	David C. Gatzke	Unlike TCAC requirements, the CDLAC sustainable methods point categories are optional. Also, reducing the number of available points for sustainable methods would be contrary to the goal of expanding point's eligibility.	R
5230(k)(8)		We question why the regulations continue to exclude appliances from the energy efficiency analysis. The inclusion of more costly Energy Star appliances should be recognized. This is especially important for coastal projects without air conditioning where it is very challenging to improve over the 2013 standard because the climate leads to naturally low energy use buildings due to limited heating and cooling days. The Committee should also consider some additional	David C. Gatzke	Use of energy star appliances for new construction, or where the scope of rehabilitation encompasses new appliances, are mandatory requirements under Section 5202. Prior revisions to the CDLAC regulations created an optional Zero Net Energy point category in consideration of coastal projects with limited heating and cooling needs	R

		scoring/incentive for projects in appropriate climate zones that are not air-conditioned.			
5230(k)(9)		Rather than a five-year rolling lookback, the timeline date should be certain, (i.e. “since 2011”). Many of these upgrades such as domestic solar hot water, solar photovoltaics, new windows, or new cool roofs are significant capital expenditures that have long product life cycles. Such investments should be recognized and rewarded as adding value to the property for longer than just five years.	David C. Gatzke	CDLAC believes that a 5-year lookback is a reasonable and manageable time period. Using a set date does not take into account that, as more time passes, systems will degrade to the point where they will have little or no benefit to the project and will need replacing. Also, with a set date, the regulations will need to be subsequently revised to keep the time frame current and relevant.	R
5210		Support the increase of minimum hard construction costs.	David C. Gatzke	CDLAC will proceed with the proposed revision.	A
5210(c)		Oppose the elimination of offices, parking facilities, or landscaping costs from the calculation of “hard construction costs”. Landscaping upgrades are an important component of rehabilitation efforts as owners look to respond to drought conditions and improve operational efficiencies. Water-wise landscaping improvements are encouraged elsewhere in the regulation changes, and this change could be a disincentive. Additionally, the segmenting of certain costs creates a requirement for	David C. Gatzke Holly Benson	The proposed revisions are being withdrawn.	A

		additional monitoring and oversight and could lead to gaming of the system in how costs are categorized in construction contracts.			
5230(b)(3)		The intent of the proposed regulation should be kept, but broadened so that 10 points are awarded if the average rents are 20% below market rents or if some substantial percentage, such as 75%, are at least 20% below market rents.	Holly Benson	That is the intent of the proposed language. CI	A
5170		In the proposed “Scattered Site Project” definition, replace “an” with “one” to make the intent of the language explicitly clear.	Holly Benson	CDLAC agrees that the proposed revision should be clearer, but will utilize the term “single” as more concise.	R
5230(j)		Distances for all site amenities should be increased	Peter Armstrong	The comment is outside the scope of the proposed rulemaking. It does not address a specific proposed revision. Furthermore, distance increases are proposed for transit corridor, hospital and pharmacy site amenities.	R
5230(j)(2)(F)		Site amenities points should be given for projects that provide transportation to/from health care services, regardless of distance from the project.	Peter Armstrong	The proposed revision will be added to the service amenities contained under section 5230(l), including the health and wellness programs points’ category. The proposed additional revision will provide point’s eligibility to projects that provide no-cost, round-trip transportation to off-site service amenities, including health care services, regardless of distance. The proposed revised distance limitations under 5230(j)(2)(F) will not be changed in order to	R

				encourage projects within walking distance of health care services for tenants not provided with transportation.	
5205; 5230(k)	The proposed changes to sustainable building methods requirements and points misrepresent the cost of energy efficiency and sustainability requirements	Travis Sage		Title 24 applies regardless of any CDLAC requirements and the optional point categories encourage energy efficiency increases. There are other point categories available to a project in order to meet threshold. Projects are not required to exceed Title 24 requirements.	R
5205; 5230(k)	The proposed regulations incentivize new construction and larger scale projects, which will result in the construction of mid and high-rise buildings.	Travis Sage		The comment is outside the scope of the proposed rulemaking. It does not address a specific proposed revision.	R
5205; 5230(k)	The existing energy code has different standards for low-rise and high-rise buildings and the proposed mandatory and optional energy efficiency standards do not reflect the different standards..	Travis Sage		The current regulations and proposed revisions differentiate between low-rise & high-rise buildings.	R
5230(k)	Exceeding Title 24 requirements adds significant costs and is a barrier to construction of new units.	Ken Litzinger		Title 24 applies regardless of any CDLAC requirements and the optional point categories encourage energy efficiency increases. There are other point categories available to a project in order to meet threshold. Projects are not required to exceed Title 24 requirements.	R

	5205; 5230(k)	Continue to prioritize sustainability, there is a misconception that it is expensive.	Tara Barauskas	The comment is outside the scope of the proposed rulemaking. It does not address a specific proposed revision.	R
	5100	Large jurisdictions should get an additional 30 days, in addition to the proposed 180 day bond issuance deadline. The extra time is needed to obtain various project approvals required by municipalities.	Tara Barauskas	In CDLAC's collective experience, projects in large jurisdictions do not take longer to issue bonds, and do not request issuance extensions more than projects in smaller jurisdictions. This is an issue best addressed coordination and consultation between the issuer and sponsor/developer. It is anticipated that the proposed increase in issuance deadlines to a minimum of 180 days will minimize any problems described by the commenter.	R
	5230(j)(2)(F)	Distances for health care amenities should be increased	Pascal Sisich	The maximum distances for hospitals and pharmacies have been increased. It is believed that any further increases would reduce their utilization by low-income individuals. The maximum distance for medical clinics have not been increased as CDLAC believes that maintaining the maximum distance for primary medical care services is in the best interest of tenants who may have to walk to such services.	R