

Suggested Emergency Regulations – Bond Recycling and Noticing

Section 5060. Minimum Requirements. (a) Applicants, other than Applicants for a Mortgage Credit Certificate Program, shall provide evidence of a plan to privately place or publicly sell the proposed Bonds with or without Credit Enhancement for an amount no less than the amount requested in the Application. **All relevant bond documents for Qualified Residential Rental Projects must permit principal payments or prepayments on the underlying loan(s) as transferred proceeds in a bond preservation and recycling program as permitted by 26 U.S.C. 146(i)(6) and shall require no less than thirty (30) days notice to CDLAC and to the applicant prior to the redemption of bonds at conversion to permanent financing.** Bond sale structures that include a credit rating shall be subject to the following:

- (1) Governmental Bond issued with full recourse to, or guaranteed by a general obligation of a governmental entity with taxing authority or Qualified Private Activity Bonds with recourse to the corporate parent entity of the Project Sponsor via a corporate guarantee must have an investment grade credit rating for the Project or the source of the aforementioned guarantee for the Project.
 - (2) Qualified Private Activity Bonds without a governmental or corporate guarantee shall provide a credit rating specifically for the transaction.
 - (3) Governmental Bond issues with limited recourse (i.e. lease revenue Bonds, project-specific recourse, or certificates of participation) may provide either a credit rating specifically for the transaction or provide evidence of a current credit rating for an existing outstanding Bond with the same source of debt repayment.
 - (4) All Bond ratings shall include evidence that the credit rating has been provided within the last six (6) months, or that the current credit rating for outstanding Bond(s) has been substantiated via the most recent updated surveillance review completed by a rating agency within the last thirty six (36) months.
- (b) Applicants requesting an award of Allocation for pollution control projects administered by the California Pollution Control Financing Authority (CPCFA) should refer to CPCFA or CIDFAC regulations for additional requirements.
- (c) Notwithstanding the requirements set forth in article 6 of this chapter, the Committee may apply more stringent requirements and thresholds for a given Project based upon factors such as, but not limited to the size of the Bond issue and/or the specific ratings of the Applicant and/or Project Sponsor. Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a) and 8869.85(b), Government Code.

Section 5141. Notification of Bond Issue. Within twenty-four (24) hours of using the Allocation to issue Bonds or to convert Bond authority to Mortgage Credit Certificate authority, an Applicant or its counsel shall notify the Committee of such use of the Allocation via the e-mail address or facsimile number as provided in section 5140. The notification shall identify the Applicant, the Project or program, the date the Allocation was used, **and** the amount of the Allocation used, **and for Qualified Residential Rental Projects, the estimated date of conversion to permanent financing and confirmation that the bond documents meet the requirements set forth in section 5060.**

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c) and 8869.86(c), Government Code.

Rationale

As we take steps to implement a bond recycling program, CDLAC should prospectively require that projects receiving new volume cap incorporate language in their bond documents that will facilitate the

preservation of volume cap through bond recycling. These provisions will greatly simplify recycling transactions once these projects undergo permanent conversion.

a. Include bond document language that permits principal payments or prepayments, on the underlying loans, as transferred proceeds in a bond preservation and recycling program.

b. Include bond document language that requires borrowers to provide CDLAC and the Issuer applicants with a minimum of 30 days' notice of bond refunding at permanent conversion.