

FINDING OF EMERGENCY
CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE (CDLAC)

Finding of Emergency

Pursuant to Section 8869.94 of the California Government Code (the “Code”), the regulations being amended by the California Debt Limit Allocation Committee (the “Committee”) as emergency regulations (the “Emergency Regulations”) are, by legislative mandate, necessary for the immediate preservation of the public peace, health and safety, and general welfare.

The California Debt Limit Allocation Committee has complied with the requirements to provide notice of proposed rulemaking action pursuant to Government code section 11346.1(a) (2).

Authority and Reference

Authority: Section 8869.94, California Government Code. Section 8869.94 of the Code authorizes the Committee to adopt regulations relating to an allocation system to administer the state unified volume ceiling as emergency regulations and instructs the Office of Administrative Law to consider such regulations to be “necessary for the immediate preservation of the public peace, health and safety or general welfare.”

Reference: California Government Code Sections 8869.80-8869.94 8869.82, 8869.84, 8869.84(c), 8869.85(a), 8869.85(b), and 8869.87.

Statement of Reasons/Informative Digest

List of regulations to be modified:

- Title 4, Section 5000. Definitions
- Title 4, Section 5052. Forfeiture of Performance Deposit
- Title 4, Section 5060. Minimum Requirements
- Title 4, Section 5141. Notification of Bond Issue
- Title 4, Section 5144. Annual Applicant Public Benefits and On-Going Compliance Self Certification
- Title 4, Section 5170. Definitions
- Title 4, Section 5190. Readiness
- Title 4, Section 5230. Evaluation Criteria
- Title 4, Section 5233. Allocation Limits
- Title 4, Section 5250. Application Requirements

The Committee is authorized to adopt regulations relating to an allocation system to administer the state unified volume ceiling as emergency regulations (California Government Code 8869.94).

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Pursuant to Title 4, § 5000 “Restricted Rental Units” means tenant occupied units within a Qualified Residential Rental Project that are restricted to households earning 60% or less of the applicable median family income pursuant to a Bond Regulatory Agreement or a CTCAC regulatory agreement for a minimum of thirty (30) years.

For CDLAC purposes, the definition of “Restricted Rental Units” applies only to bond requirements. CTCAC’s definition would be different and would include income averaging and up to 80% AMI units. For this reason, we have also removed the reference to the CTCAC regulatory agreement in the definition of Restricted Rental Unit as that complicates the issue.

Pursuant to Title 4, § 5052 applicants 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.

On February 18, 2020 it was decided that CDLAC would follow its regulations and rank order projects using CDLAC score and approve up to the allocation limit for the round, it was understood that there may be some joint applications on the TCAC waiting list that may be unable to obtain state tax credits. This provision allows the issuer to fill the financing gap or can return the allocation within 90 days to the committee without penalty.

Pursuant to Title 4, § 5060 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.

As CDLAC takes steps to implement a bond recycling program, CDLAC will 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.

Pursuant to Title 4, § 5141 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. CDLAC is including Qualified Residential Rental Projects to meet the same requirements set forth in section 5060.

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CDLAC is correcting a referred citation in Title 4, § 5144 to Tax Credit Allocation Committee (TCAC) Compliance Manual section VI to IV.

CDLAC is correcting a referred citation in Title 4, § 5170, 10325(g)(5)(B)(i)(v) to only 10325(g).

CDLAC is adding definitions of New Construction, Preservation, and Other Affordable Pool to Title 4, § 5170. On January 15th, 2020, the CDLAC board approved breaking out the Multifamily General pool into 3 sub-pools: New Construction, Preservation, and Other Affordable. Given the competitive nature of CDLAC rounds in the drive to build new units, it was decided, in order to preserve allocation, new construction projects compete in their own pool. It was also discussed, that while there is a need to preserve affordability for acquisition/rehabilitation projects, these projects should be considered and compete but with an at-risk status.

Pursuant to Title 4, § 5190(c) The Project Sponsor's CTCAC Certificate of Previous Participation and a CTCAC Schedule A form may be submitted as collective experience of project sponsor and all partners in lieu of the CDLAC form. CDLAC and TCAC went through the references to various TCAC regulations within CDLAC regulations and found sections that required an update so the reference to the current TCAC regulation would be valid.

CDLAC is correcting a referred citation in Title 4, § 5230 of Tax Credit Allocation Committee (TCAC) to only refer to § 10325 (c).

CDLAC is increasing its current allocation limits of bond allocation on a per unit basis (adjusted by the number of bedrooms) in the General and Rural Multifamily Pools. Current limits are as follows:

Studio and SRO:	\$402,500
One-bedroom:	\$420,000
Two-bedroom:	\$447,500
Three-bedroom:	\$492,500
Four or more bedroom:	\$517,500

The current allocation limits in CDLAC regulations were developed in 2016. Construction costs have increased in the past couple of years. The adjustment is based on the change in total development costs between December 2016 applications and December 2019 projects (typically a high-volume month for CDLAC).

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Pursuant to Title 4, § 5250 (1) A Capital Needs Assessment report may combine information for all Project sites in one report. (2) 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. CDLAC is inserting clarification language allowing for New Construction to be in accordance with TCAC. TCAC has been allowing new construction scattered site projects as well as acquisition/rehabilitation scattered site projects. There is a need for clarification in CDLAC regulations as it does not explicitly exclude new construction scattered site projects. For clarification, consistency, and joint application alignment with TCAC, clarification language is suggested to include both types of scattered site projects.

**Other Matters Prescribed by Statutes Applicable to the Specific State Agency
or to any Specific Regulation or Class of Regulations**

No other matters are prescribed by statute applicable to the Committee or to any specific regulation or class of regulation pursuant to Section 11346.1(b) or 11346.5(a)(4) of the California Government Code pertaining to the Emergency Regulations or to the Committee.

Mandate on Local Agencies or School Districts

The Executive Director of the Committee has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts.

Fiscal Impact

The Executive Director of the Committee has determined that the Emergency Regulations do not impose any additional cost or savings requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the California Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted.

Application for and participation in CDLAC's Programs is discretionary and the proposed revisions pertain to program eligibility, compliance and administration issues. Neither the proposed revisions nor the CDLAC Regulations as a whole require any person or entity to take any action, make any monetary expenditure, or refrain from taking any action or making any expenditure. The proposed revisions will not have an effect on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business within the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses.

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Creation or Elimination of Jobs within the State of California

The proposed revisions will not have an effect on the creation or elimination of jobs within the State of California. Application for and participation in CDLAC's Programs is discretionary and the proposed revisions pertain to program eligibility, compliance and administration issues. Neither the proposed revisions nor the CDLAC Regulations as a whole require any person or entity to take any action, make any monetary expenditure, or refrain from taking any action or making any expenditure.

Creation of New or Elimination of Existing Businesses Within the State of California

The proposed revisions will not have an effect on the creation of new businesses or the elimination of existing business within the State of California, the expansion of businesses currently doing business within the State of California, or on small businesses. The California School Financing Authority maintains that its facility funding programs do not have any private sector cost impacts.

Benefits of the Regulations

The benefits derived by these proposed regulations include the fair, efficient and equitable administration of the Qualified Residential Rental Project (QRRP) Program in compliance with state and federal law.

Fiscal Impact Estimates

Cost or savings to any State agency: **None**

Cost to any local agency or school district that is required to be reimbursed Part 7 (commencing with Section 17500) of Division 4: **None**

Other nondiscretionary cost or savings imposed on local agencies: **None**

Cost or savings in federal funding to the State: **None**