

**FINDING OF EMERGENCY
OF THE
OFFICE OF THE TREASURER
CALIFORNIA DEBT LIMITATION ADVISORY COMMITTEE
CALIFORNIA CODE OF REGULATIONS
TITLE 4. BUSINESS REGULATION
DIVISION 9.5. CALIFORNIA DEBT LIMITATION ALLOCATION COMMITTEE
CHAPTERS 1 AND 2
SECTIONS 5000-5250, NONCONSECUTIVE SECTIONS**

**Required Notice of Proposed Emergency Action
(Cal. Code Regs, Title 1, Section 48)**

Government Code section 11346.1, subdivision (a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. The Committee has provided that notice to all such persons at least five days before submitting the emergency regulations to the Office of Administrative Law by virtue of the proposed Emergency Action being on the agenda of September 29, 2021, Committee meeting. Upon receiving the proposed emergency regulation, OAL shall allow interested persons five (5) calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6

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, deemed emergency regulations and are necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Pursuant to Government Code section 11346.5(a)(3)(D) the Committee must provide “An evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.” During bond allocation processes during the last twelve months, CDLAC received numerous comments from applicants regarding specific existing regulations. After performing an internal examination and search on specific regulations on this topic CDLAC concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

Authority and Reference for Emergency Regulations

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) and (e), 8869.85(a), 8869.85(b), 8869.86(c), 8869.87, 8669.89, and 8869.94.

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Background

California has been allocated \$4.3 billion in bond authority for 2021 of which \$3.9 billion is allocated by the Committee for the Qualified Residential Rental Project Program (QRRP). The schedule for awards includes a Committee meeting on December 8, 2021 by which time these emergency regulations must be in effect in order to allocate the prescribed \$1.5 billion subject to allocation at that meeting in a manner that complies with all statutory requirements and also provides fair and consistent requirements for applicants. The timely allocation of these funds will address the existence of an affordable housing crisis in California as proclaimed by the Governor and the State Legislature. The amendments proposed by this promulgation will assist the Committee to meet those goals.

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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Informative Digest

Amend Title 4, Section 5000, “Mixed Income Project”.

Pursuant to Title 4, §5000, “Mixed Income Project” 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. CDLAC’s proposed regulation changes to Section 5000 (Definitions) provide a clearer definition of “Mixed-Income Project” which supports the Qualified Residential Rental Project (QRRP) Program and aligns with the California Tax Credit Allocation Committee (CTCAC) regulations as it relates to joint applications. Amending this regulation will eliminate joint application ambiguity while allowing for more applications to be completed without rejection or modification by the applicants.

This amendment was part of emergency filings 11/14/2019 2019-1025-01 and 5/26/2020-5014-03, but expired and reverted 12/5/2020.

Amend Title 4, Section 5000, “Restricted Rental Units”.

Congress applied income averaging only to the Low Income Housing Tax Credit Program and not the bond program, resulting in a mismatch regarding 4% bond-financed projects. Thus the applicant/borrower must make two elections: either 20/50 or 40/60 on the bond side and this or income averaging on the tax credit side. The borrower must comply with both elections. 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.

This amendment was part of emergency filing 5/22/20: 2020-0514-02 which expired and reverted on 3/19/21.

Amend Title 4, Section 5052: “Forfeiture of Performance Deposit”.

Pursuant to Title 4, § 5052 applicants receiving an allocation award on or after March 16, 2016, any 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 the Committee decided that CDLAC would follow its regulations and rank order projects using only CDLAC score and approve up to the allocation limit for the round. However it was understood that there might be some joint applications on the CTCAC waiting list that may be unable to obtain state tax credits. This provision allows the issuer to fill the financing gap without state tax credits or it can return the allocation within 90 days to the Committee without penalty.

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This amendment was part of emergency filing 5/22/20: 2020-0514-02 which expired and reverted on 3/19/21.

Amend Title 4, Section 5060: “Minimum Requirements”.

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 allocations incorporate language in their bond documents that will facilitate the preservation of volume cap through bond recycling by incorporating favorable provisions such as continued principal payments or repayments. The proposed regulation also requires at least thirty days’ notice to CDLAC and the applicant prior to redemption of bonds at conversion to permanent financing to facilitate project financing and CDLAC processing. These provisions will greatly simplify recycling transactions once these projects undergo permanent conversion.

This amendment was part of emergency filing 5/22/20: 2020-0514-02 which expired and reverted on 3/19/21.

Amend Title 4, Section 5100: “Program Expiration Dates”.

CDLAC’s proposed regulation amendments to Section 5100 (a)(3)(i)(ii) (Program Expiration Dates) which delete the existing subparagraph (i) and renumber and amend the former subparagraphs (ii) and (iii) provide uniformity in expiration dates for projects receiving an allocation. Amending this section aligns expiration dates during a Competitive Application process with Non-Competitive Application process. Thus all expiration dates will be the same no matter if the application submitted is involved in a Competitive Application process or Non-Competitive Application process. It has been noted in the past that the bond issuance has taken longer than 90 days. Therefore to accommodate for larger allocation demands due to priorities of the current administration, amending this section assists more successful projects being placed into service.

This amendment initially was part of emergency filings 11/14/2019 2019-1025-01 and 5/26/20 2020-5014-03, which expired and reverted on 12/5/2020.

Amend Title 4, Section 5141: “Notification of Bond Issue”.

Pursuant to Title 4, Section 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 must notify the Committee of such use of the Allocation via the e-mail address or facsimile number as provided in section 5140. The notification must identify the Applicant, the Project or program, the date the Allocation was used, and the

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amount of the Allocation used. CDLAC is adding “Qualified Residential Rental Projects” to this section’s requirements in order to be consistent with the same requirements set forth in section 5060.

This amendment was in an amendment filed 5-22-2020 as an emergency pursuant to Government Code section 8869.94; operative 5-22-2020 (Register 2020, No. 21). An additional emergency filed 5-22-2020 extended 60 days pursuant to Executive Order N-40-20 and an additional 60 days pursuant to Executive Order N-66-20 (Register 2020, No. 21). No Certificate of Compliance was recorded by 3-22-2021 and the language expired and section reverted.

Amend Title 4, Section 5144, subsection (c): “Annual Applicant Public Benefits and On-Going Compliance Self Certification”.

CDLAC is correcting an erroneous citation in Title 4, Section 5144 to Tax Credit Allocation Committee (CTCAC) Compliance Manual section to change “VI” to “IV”.

This amendment was in an amendment filed 5-22-2020 as an emergency pursuant to Government Code section 8869.94; operative 5-22-2020 (Register 2020, No. 21). An additional emergency filed 5-22-2020 extended 60 days pursuant to Executive Order N-40-20 and an additional 60 days pursuant to Executive Order N-66-20 (Register 2020, No. 21). No Certificate of Compliance was recorded by 3-22-2021 and the amendment expired and subsection reverted.

Adopt and Amend Title 4, Section 5170: “Definitions”.

The definition of “Federally Assisted At-Risk Project” previously existed within this section. A prior emergency amendment in emergency action 2020-5014.02 for which CDLAC did not file the Certificate of Compliance prior to expiration of the emergency period included two amendments to this definition, changing a reference to “10325(g)(5)(B)(i)(v)” to only “10325(g)” and changing the trigger date for expiration from within two (2) years of the application to within five (5) years of the application.

This entire “Federally Assisted At-Risk Project” definition was repealed by a later CDLAC emergency package, 2021-0120-01E, (which added a new “At-Risk Project” definition) and is being repealed again in this emergency package to ensure that OAL does not revert the definition as a result of the prior emergency package not receiving its Certificate of Compliance and therefore becoming void. NOTE: A new definition of “At-Risk Project” adopted by 2021-0120-01E is not affected by this emergency package.

CDLAC is repealing the existing definition of “New Construction” adopted by emergency action 2020-0514-02 and further amended prior to its reverting by emergency action 2021-0120-01E and the definition of “New Construction Pool” as adopted by emergency action 2020-0514-02 and further amended in emergency action 2021-0120-01E prior to its reverting (now referred to as “New Construction Project”). The failure to file a Certificate of Compliance caused the original language adopted by emergency action 2020-0514-02 and further amended prior to its reverting by emergency action 2021-

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0120-01E raises questions as to the viability of the latter amendments. Therefore CDLAC seeks to permanently delete this definition which will be replaced by “New Construction Project”.

CDLAC is adopting the current definition of “New Construction Project” as amended by emergency action 2021-0120-01E without further amendment

CDLAC is repealing the existing definition of “Other Restricted Units” as adopted by emergency action 2020-0514-02 and further amended by emergency action 2021-0120-01E prior to its reverting and “Other Affordable Pool” as adopted by emergency action 2020-0514-02 and further amended by emergency action 2021-0120-01E prior to its reverting (now referred to as “Other Rehabilitation Project”). The failure to file a Certificate of Compliance caused the original language adopted by emergency action 2020-0514-02 and further amended prior to its reverting by emergency action 2021-0120-01E raises questions as to the viability of the latter amendments. Therefore CDLAC seeks to permanently delete this definition which will be replaced by “Other Rehabilitation Project”.

CDLAC is adopting the current definition of “Other Rehabilitation Project” as amended by emergency action 2021-0120-01E without further amendment.

CDLAC is repealing the definition of “Preservation Pool,” as adopted by emergency action 2020-0514-02 and further amended by emergency action 2021-0120-01E prior to its reverting (now referred to as “Preservation Project”) The failure to file a Certificate of Compliance caused the original language adopted by emergency action 2020-0514-02 and further amended prior to its reverting by emergency action 2021-0120-01E raises questions as to the viability of the latter amendments. Therefore CDLAC seeks to permanently delete this definition which will be replaced by “Preservation Project”.

CDLAC is adopting the current definition of “Preservation Project” as amended by emergency action 2021-0120-01E without further amendment.

On January 15th, 2020, the CDLAC board approved separating the Multifamily General pool into three 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.

These amendments were included in two prior emergency filings, but no Certificate of Compliance was recorded for either and therefore the amendments were repealed by OAL.

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Amend Title 4, Section 5190, subsection (c): “Readiness”.

The amendment proposing a deletion in this section 5190 proposed by emergency action 2020-0514-02 failed to take effect. The section was extensively rewritten prior to its expiration date by subsequent emergency regulations. As a result, the language proposed for deletion cannot and should not be replaced in this section.

Amend Title 4, Section 5230): “Evaluation Criteria”.

The amendments proposing a deletion and amendments in this section 5230 proposed by emergency action 2020-0514-02 failed to take effect. The section was extensively rewritten by subsequent emergency regulations prior to its expiration date. As a result, the language proposed for deletion cannot and should not be replaced in this section, although the amended section should continue to be in effect.

Amend Title 4, Section 5233): “Allocation Limits”.

In subsection (a), 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 proposed new limits are as follows:

Studio and SRO:	\$522,000
One-bedroom:	\$544,000
Two-bedroom:	\$580,000
Three-bedroom:	\$638,000
Four or more bedroom:	\$671,000

The current allocation limits in CDLAC regulations were developed in 2016. Construction costs have greatly increased in the past five 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).

The addition of the last sentence, “In determining compliance with this test, CDLAC staff may rely on the legal or tax opinion submitted with the application.” was an amendment in the emergency action 2021-0120-01E but is not reflected in the official regulations. It is added to this emergency regulation in order to ensure that the authority is available to CDLAC.

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These cost cap amendments were in an amendment filed 5-22-2020 as an emergency pursuant to Government Code section 8869.94; operative 5-22-2020 (Register 2020, No. 21). An additional emergency filed 5-22-2020 extended 60 days pursuant to Executive Order N-40-20 and an additional 60 days pursuant to Executive Order N-66-20 (Register 2020, No. 21). A Certificate of Compliance was not transmitted to OAL by 3-22-2021 and the emergency language was repealed by operation of law on the following day.

Amend Title 4, Section 5250(a) (1)-(2): “Application Requirements”.

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 must have separate Rent Comparability Matrices for each site. CDLAC is proposing clarification language allowing for New Construction to be in accordance with CTCAC application requirements. CTCAC allows 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 CTCAC, clarification language added in subsection (a)(1) and (a)(2) is proposed to distinguish between the obligation for both types of scattered site projects.

These amendments were in an amendment filed 5-22-2020 as an emergency pursuant to Government Code section 8869.94; operative 5-22-2020 (Register 2020, No. 21). An additional emergency filed 5-22-2020 extended 60 days pursuant to Executive Order N-40-20 and an additional 60 days pursuant to Executive Order N-66-20 (Register 2020, No. 21). A Certificate of Compliance was not transmitted to OAL by 3-22-2021 and the emergency language was repealed by operation of law on the following day.

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.

Regulatory Compatibility (Gov. Code §11346.5, subd. (a)(3)(D).)

The Committee has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations. Application for bond allocations is a nonmandatory activity and these regulations ensure a fair and efficient process for allocations as to both applicants and the Committee

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Technical, Theoretical, or Empirical Studies, Reports, or Documents
Relied Upon (Gov. Code §11346.1)

None

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 are 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.

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. CDLAC maintains that its facility funding programs do not have any private sector cost impacts.

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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**

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EXPRESS TERMS
CALIFORNIA CODE OF REGULATIONS
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DIVISION 9.5. CALIFORNIA DEBT LIMITATION ALLOCATION COMMITTEE
CHAPTERS 1 AND 2
SECTIONS 5000-5250, NONCONSECUTIVE SECTIONS

Amend Section 5000, Definitions

"Mixed Income Project" means a Qualified Residential Rental Project having 50% or fewer of its total units designated as Restricted Rental Units or is part of the California Housing Finance Agency Mixed-Income Program.

"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 CTCAG regulatory agreement for a minimum of thirty (30) years.~~

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

Amend Title 4, Section 5052: "Forfeiture of Performance Deposit"

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) If less than 80% of the Allocation is used to issue Bonds, 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. If at least one (1) Mortgage Credit Certificate is not issued prior to the applicable expiration date, the entire performance deposit will be forfeited. If 80% or more of the Allocation is used to issue bonds prior to the expiration date, or at least one (1) Mortgage Credit Certificate is issued prior to the applicable expiration date, a full refund of the performance deposit will be authorized.

(c) 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) 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 extension upon a showing

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that the request aligns with an extended allocation and waiver upon showing 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.

(f) If the awarded project is from a joint CDLAC/CTCAC application and not awarded State Tax Credits and therefore is unable to fill the financing gap, the issuer may return the allocation to the Committee within 90 days after notice of failure to obtain State Tax Credits without forfeiture of the performance deposit or assessment of negative points.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.86(c)(3), Government Code.

Amend Title 4, Section 5060: "Minimum Requirements".

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 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. Section 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 the 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.

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(b) Applicants requesting an award of Allocation for pollution control projects administered by the California Pollution Control Financing Authority (CPCFA) should refer to CPCFA 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.

Amend Title 4, Section 5100: “Program Expiration Dates”.

Section 5100 Program Expiration Dates.

(a) The expiration date of the Allocation shall 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 or 5103; the limitations prescribed by section 5104; or Allocations awarded on a carry-forward basis as provided in section 5131; the expiration dates for issuing Bonds or converting Bonds to Mortgage Credit Certificate authority shall be:

(1) One-Hundred Eighty (180) days for the issuance of Beginning Farmer Bonds, Mortgage Revenue Bonds, Small-Issue Industrial Development Bonds, Exempt Facility 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 Allocation 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 a Competitive Allocation Process shall be assigned an expiration date of one-hundred eighty (180) days or one-hundred ninety-four (194) days.~~

~~(iii)~~ (ii) 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.

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Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e) and 8869.89, Government Code.

Amend Title 4, Section 5141: “Notification of Bond Issue”.

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: Sections 8869.84(c) and 8869.86(c), Government Code.

Amend Title 4, Section 5144, subsection (c): “Annual Applicant Public Benefits and On-Going Compliance Self Certification”.

(c) For all QRRP projects receiving allocations after December 31, 2016, Sponsors will be required to utilize CTCAC's Compliance Manual specifically Section ~~VI~~ IV: Qualify Tenants for Low Income Housing Tax Credit Units, to verify tenant income in conjunction with initial occupancy. No less than every three years after the project is completed, the Sponsor must collect and retain the following income and verification documentation related to all the Federally Bond-Restricted units identified in the Committee Resolution or Restricted Rental Units as defined in Section 5000: CTCAC Tax Income Calculation (TIC) or equivalent documentation, all associated source income documentation, and evidence of the verifying income computation. Additionally Project Sponsors will be required to prepare and forward a CTCAC Project Status Report (PSR) or equivalent documentation to the Applicant annually in conjunction with the Annual Applicant Public Benefits and On-going Compliance Self Certification. Sponsors must retain information pertaining to the income verification process for 10 years.

Note: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.85(a), 8869.85(b) and 8869.86(c), Government Code

Adopt and Amend Title 4, Section 5170: “Definitions”.

~~“Federally Assisted At-Risk Project” means a property that is at-risk of conversion as defined by Revenue and Taxation Code section 17058(c)(4) and by section 10325(g)(5)(B)(1) of Title 4 of the California Code of Regulations, or a property that otherwise meets all requirement of Revenue and Taxation Code section 17058(c)(4)~~

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and section 10325(g) of Title 4 of the California Code of Regulations, except that the federal assistance due to expire within five (5) calendar years of application to the Committee may include a tax-exempt private activity Bond regulatory agreement.

....

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

~~“New Construction Pool” means QRRP projects applying for an allocation of tax-exempt private activity bonds who meet at least one of the following: (1) the definition of “New Construction” in Section 5170, (2) projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater or (3) adaptive reuse of non-residential structures.~~

~~“New Construction Project” means QRRP projects applying for an allocation of tax-exempt private activity bonds who meet at least one of the following: (1) 100% of its units constitute new units to the market, (2) involves the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater or (3) adaptive reuse of non-residential structures including hotels and motels that were converted to residential use within the previous five years from the date of the application.~~

“New Construction Project” means QRRP projects applying for an allocation of tax-exempt private activity bonds that meet at least one of the following: (1) 100% of its units constitute new units to the market, (2) involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 units or (ii) 50% of the existing units, whichever is greater or (3) adaptive re-use of non-residential structures, including hotels and motels that were converted to residential use within the previous five (5) years from the date of the application.

~~“Other Restricted Units” means units that are not Federally Bond-Restricted Units but are affordable and identified in the CDLAC resolution as being subject to the long-term rent and income restrictions.~~

...

~~“Other Affordable Pool” means QRRP Projects applying for an allocation of tax-exempt private activity bonds from the General Pool that are no eligible for New Construction or Preservation Projects. This would include but not be limited to acquisition/rehabilitation projects or projects which involve both acquisition/rehabilitation and new construction.~~

“Other Rehabilitation Project”: means a QRRP Project applying for an allocation of tax-exempt private activity bonds from the General Pool that is not eligible for treatment as a New Construction or a Preservation Project. In a Competitive Application Process, a rehabilitation project or an acquisition and rehabilitation project must meet all of the following criteria:

1. Will complete at least \$60,000 in hard construction costs per unit, as defined in CTCAC Regulation Section 10320(u); and,

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2. At least 60% of hard construction costs shall be expended only on immediate health and safety improvements, seismic and accessibility improvements and/or the replacement of major systems with a remaining useful life of less than ten years, as evidenced by a CTCAC Capital Needs Assessment.

~~“Preservation Pool” means QRRP Projects applying for an allocation of tax-exempt private activity bonds preserving affordability through items such as but not limited to the HUD RAD Program, HUD Section 18 projects, and pre-FY 2000 AB 1699 projects funded on former IRS Code guidelines, projects meeting the definition of an At-Risk project as defined in TCAC regulation 10325(g).~~

“Preservation Project” means a QRRP project applying for an allocation of tax-exempt bonds that is not a New Construction Project and meets at least one of the following: (1) has a pre-1999 HCD loan that is being restructured pursuant to Section 50560 of the Health and Safety Code (AB 1699 projects) (2) any replacement or rehabilitation project approved by HUD pursuant to a Section 18 or Section 22 Demolition/Disposition authorization; (3) an At-Risk project that is not subject to a regulatory agreement imposing a rent restriction with a remaining term that is greater than five years from the year in which the application is filed that restricts income and rents on the residential units to an average no greater than 60% of the area median income; (4) any project being rehabilitated under the HUD Rental Assistance Demonstration (RAD) Program, or (5), a project that meets all of the following: (A) the project (or projects, if more than one) is not currently encumbered with an existing CDLAC (via bond issuer), CTCAC, or other affordability regulatory agreement, with the exception of a regulatory agreement associated with a HUD Project-Based Section 8 or USDA Rental Assistance contract; (B) the project (or projects, if more than one) is subject to an existing project-based contract under Section 8 of the United States Housing Act of 1937 or any comparable rental assistance program that provides rental assistance to at least 50% of the units; and (C) the project (or projects, if more than one) shall be required to complete rehabilitation work at a minimum of \$60,000 in hard construction costs per unit, as defined in CTCAC Regulation Section 10302(u), subject to the provisions of IRC Section 42(e)(3)(A)(ii)(I).

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

Amend Title 4, Section 5190, subsection (c): “Readiness”.

No Amendment: See Informative Digest

Amend Title 4, Section 5230): “Evaluation Criteria”.

No Amendment: See Informative Digest

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Amend Title 4, Section 5233): “Allocation Limits”.

Section 5233 Allocation Limits

(a) Limit CDLAC bond allocation on a per unit basis (adjusted by the number of bedrooms) in the QRRP Pools as follows:

Studio and SRO	\$402,500	<u>\$522,000</u>
One bedroom	\$420,000	<u>\$544,000</u>
Two-bedroom	\$447,500	<u>\$580,000</u>
Three-bedroom:	\$492,500	<u>\$638,000</u>
Four or more bedroom	\$517,500	<u>\$671,000</u>

(b) Private Activity Bond allocation awards cannot exceed 55% of the aggregated depreciable basis plus land basis. In determining compliance with this test, CDLAC staff may rely on the legal or tax opinion submitted with the application.

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

Amend Title 4, Section 5250: “Application Requirements”.

Section 5250 Application Requirements

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

(1) A For acquisition and rehabilitation projects, a Capital Needs Assessment report may combine information for all Project sites in one report.

(2) A For new construction projects and acquisition/rehabilitation projects, 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.

(3) 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) and 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 project must meet at least one of the following requirements:

(A) as certified by a third-party market analyst, the proposed tenant paid rents and income targeting will not exceed one hundred-five percent (105%) of the current rents and targeting 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, 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

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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.

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

(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.

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