



CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

901 P Street, Suite 213A
Sacramento, CA 95814
p (916) 653-3255
f (916) 653-6827
cdlac@treasurer.ca.gov
www.treasurer.ca.gov/cdlac

MEMBERS

FIONA MA, CPA, CHAIR
State Treasurer

GAVIN NEWSOM
Governor

MALIA M. COHEN
State Controller

INTERIM EXECUTIVE DIRECTOR
MARINA WIA NT

DATE: August 4, 2025

TO: California Debt Limit Allocation Committee Stakeholders

FROM: Marina Wiant, Interim Executive Director

RE: Emergency Rulemaking Final Proposed Changes, Response to Comments, and Statement of Reasons

On July 22, 2025, the California Debt Limit Allocation Committee (CDLAC) published a Notice of Proposed Emergency Rulemaking and opened a public comment period. Any emergency rules or regulations adopted by the Committee pursuant to Chapter 11.8 of the Government Health and Safety Code shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning or purposes of Section 11346.1 of the Government Code.

CDLAC accepted written comments on the initial proposed regulation changes through Tuesday, July 29, 2025. Numerous individuals, organizations, and groups formally commented on the proposed emergency rulemaking. CDLAC staff reviewed all comments received and finalized the recommendations for consideration and adoption to be presented to the Committee on Tuesday, August 5, 2025.

This memo includes the final proposed emergency rulemaking, statement of reasons explaining why the changes are necessary, the initial proposed regulation amendments, a summary of the comments received, staff's responses to comments, and the final proposed regulation amendments.

**List of Proposed Emergency Regulation Changes with Statement of Reasons,
Summary of Comments Received, and Response to Comments
August 4, 2025**

1. Section 5033. Minimum Application Requirements.

Reason: CDLAC is increasing the filing fee from \$1,200 to \$1,500 per applicant for increased costs related to necessary staffing to process the additional application workload anticipated by changes to the tax-exempt bond program recently enacted under the One Bill Beautiful Bill Act (P.L. 119-21). Specifically, CDLAC anticipates the reduced bond funding threshold necessary to qualify for 4% low-income housing tax credits will result in CDLAC being able to fund more projects with tax-exempt bonds. This will result in CDLAC needing to increase staffing capacity to meet the application review demand on the same timeline as it currently completes its work.

Initial Proposed Emergency Changes:

(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 or designee 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), except that for Qualified Residential Rental Projects, an Applicant shall provide the certification and evidence within 20 calendar days following an award of an Allocation

(2) A non-refundable first installment of the filing fee of ~~\$1,200~~ \$1,500 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, unless excepted herein.

NOTE: Authority cited: Section 8869.94, Government Code. Reference: Sections 8869.84(c), 8869.84(e), 8869.85(a), 8869.85(b) and 8869.90, Government Code.

Comments Received: Staff received four comments supporting the increase in fees as a necessary measure to enhance CDLAC's internal capacity and application processing efficiency in light of the new federal requirements.

Responses to Comments: Staff appreciates the support from commenters. No changes are made to the final proposed language.

Final Proposed Emergency Changes: Proceed as initially proposed.

2. Section 5101. Extensions to Expiration Dates.

Reason: Amendments to Section 5101 are necessary to incorporate recent changes to federal law. Prior to July 4, 2025, in order to access federal 4% low-income housing tax credits, federal law required qualified residential rental projects to finance 50% or more of the aggregated depreciable basis plus land basis with tax-exempt private activity bonds, the "50% test" (26 USC § 42, subd. (h)(4)(B)). On July 4, 2025, federal law changed and reduced the amount of tax-exempt private activity bonds required for a qualified residential rental project to receive federal 4% low-income housing tax credits from 50% to 25% of the aggregated depreciable basis plus land basis provided at least five percent of the aggregate basis is financed by tax-exempt bonds issued after December 31, 2025 and the project is placed in service after December 31, 2025, the "25% test" (Pub. L. 119-21, 139 Stats. 234).

Because the federal changes were made in between the Round 2 application due date and award meeting, CDLAC will not require projects to reduce their allocation to meet the new 25% test. However, if a project that was previously required to meet the 50% test is requesting an extension of the bond issuance deadline to December 31, 2025 or later, CDLAC is proposing to require the project to lower their allocation to comply with the 25% test or demonstrate to the Executive Director's satisfaction why the project cannot be restructured to meet the reduced allocation limits.

In addition to these emergency regulations, CDLAC is proposing to adopt a resolution at its August 5, 2025, meeting to further incentivize bond recipients from Rounds 1 and 2 of 2025 to voluntarily reduce their allocation by August 31, 2025 to meet the 25% test in exchange for an automatic extension of their bond issuance deadline and either a tiebreaker benefit for a future project or developer fee increase to offset the additional

costs of using taxable debt. CDLAC is strongly encouraging all projects that are not anticipating that they will be able to issue bonds by December 31, 2025 take advantage of this incentive in the interest of maximizing the impact of the volume cap in California.

In furtherance of CDLAC's goals and consistent with representations bond awardees made in their applications regarding project readiness, CDLAC is also proposing that any project awarded an allocation in Round 2 of 2025 that received maximum readiness to proceed points and receives an extension after November 18, 2025 will be assessed negative points. Round 2 projects receiving extensions after this date that are required to reduce their bond request will make it more challenging for CDLAC to manage carryforward allocation.

Proposed Emergency Change:

(a) Except as provided in Section 5132, the Executive Director may grant an extension of up to ninety (90) days for all allocations upon demonstration that the circumstances necessitating the extension were entirely outside the Project Sponsor's control.

(b) Any project awarded an allocation subject to the limit set forth in Section 5233(c) and requesting an expiration date extension to January 1, 2026 or later is required to reduce the project's allocation to comply with the limits set in Section 5233(d) or demonstrate to the Executive Director's satisfaction why the project cannot be restructured to meet the reduced allocation limits.

(c) Negative points under Section 5230(n)(1)(E) must be assessed to any project awarded an allocation in Round 2 of 2025, that received maximum points under Section 5230(i), and receives an expiration date extension after November 19, 2025, at the time such request is granted by the Executive Director or the Committee.

~~(bd)~~ Any extension granted by the Executive Director under subdivision (a) shall constitute a waiver of performance deposit forfeiture under Section 5052, as applicable.

~~(ee)~~ A project Sponsor may appeal any extension denial under this provision by submitting a written appeal to the Committee within five (5) calendar days following the transmittal date of the Executive Director's decision letter. The appeal shall be heard at the next regularly scheduled Committee meeting for which the appeal can be properly noticed.

~~(df)~~ The Committee may grant any additional extension requests beyond the extension granted under subdivision (a).

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

Comments Received: Staff received four comments requesting an option to bifurcate the bond closing to enable starting construction in 2025 then close on a small portion of the issuance in 2026 to make the 25% test apply.

Staff also received two comments requesting projects be allowed to request extensions without assessing negative points. Commenters cited market uncertainties beyond the developer's control.

One commenter asked for clarification regarding 5101(a) authorizing the executive director to grant up to 90-day extension, but the final phrase of that provision seems to indicate that 5101(a) doesn't apply to 5101(b).

One commenter expressed concern and does not recommend extensions to expiration dates. However, should the Department move forward with the extensions, the proposed methodology has been thoughtfully put forward to strike a reasonable balance between flexibility and accountability.

Responses to Comments: Bifurcated closing are not prohibited by the regulations, so long as the closing occur prior to the bond issuance deadline. Staff will issue additional guidance on this upon adoption of this rulemaking.

Regarding extensions, all extensions would be subject to sections 5101(a) and (b). Additionally, projects may request extensions prior to November 19 and would not receive negative points. Projects scheduled to close prior to January 1, 2026, should proceed as such, and any project seeking an extension will not be subject to negative points unless requested after November 19, 2025.

Final Proposed Emergency Changes: Proceed as initially proposed.

3. Section 5233. Allocation Limits.

Reason: CDLAC's second funding round of 2025 began on May 20, 2025. At that time, the 50% test was in place. This change clarifies that projects awarded up to the second round of 2025 may request up to 55% of the aggregate basis plus land. In order to meet the 25% test and avoid supplemental allocations, CDLAC is proposing that projects awarded after the second funding round of 2025 may request up to 30% of the aggregate basis plus land.

Additionally, there may be circumstances where a project's financing structure supports a higher percentage. Staff recommends that those projects may request up to 40% of the aggregated depreciable basis plus land basis if the request demonstrates this need as described in the regulation text below.

Proposed Emergency Change:

(a) Limit CDLAC bond allocation on all units in the QRRP Pools 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

(b) The Committee may waive this maximum per unit allocation amount if total allocation does not exceed eighty million dollars (\$80,000,000) and 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 the per unit maximum must demonstrate the need for a larger allocation is necessary for project feasibility or to meet the 50% aggregate depreciable basis plus land test.

(c) Private Activity Bond allocation awards made in or before Round 2 of 2025 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.

(d) Private Activity Bond allocation awards made after Round 2 of 2025 cannot exceed 30% of the aggregated depreciable basis plus land basis, except the Executive Director may grant a request for an allocation award up to 40% of the aggregated depreciable basis plus land basis if the request demonstrates to the Executive Director's satisfaction that (1) the project's permanent financing supports the larger allocation award, and (2) the project is unable to obtain recycled bonds from the applicant. In determining compliance with this provision, 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.

Comments Received: Staff received three comments in general support of the new limits but had suggestions for adjustments.

Two commenters stated the maximum allocation should be 27.5% rather than 30% as the 2.5% cushion is the equivalent of the previous 5% cushion on the 50% test. Another commenter suggested incentivizing projects to voluntarily return excess bonds up to

40% of the project's aggregated depreciable basis plus land basis if an explicit exception applies. Another commenter suggested a maximum of 35% stating the 5% gap from 25% to 30% was too narrow.

One commenter requested clarification if the statement that CDLAC staff may rely on the legal or tax opinion submitted with the application was the current exhibit provided with applications or a new document.

Responses to Comments: Staff encourages projects to request 30% of aggregate basis plus land basis to avoid multiple supplemental allocation requests. This balances efficient use of limited bond resources and staff time.

The legal or tax opinion provided is the existing required documentation.

Final Proposed Emergency Changes: Proceed as initially proposed.

4. Section 5240. Supplemental Allocation Process.

Reason: Current regulations grant the Executive Director authority to award supplemental bond allocations up to a limit based on the 50% test. The regulation change clarifies this only applies to projects that issue bonds prior to January 1, 2026. Projects receiving a bond allocation prior to Round 3 of 2025 with bond issuance dates in 2026 will not need supplemental allocations since they were awarded enough bonds to meet the 50% test but will only need to meet the 25% test.

For projects receiving a bond allocation beginning in Round 3 of 2025, CDLAC encourages applicants to request up to the 30% limit to avoid supplemental requests. Projects with increased construction costs when the project places in service will still have the option to receive a supplemental allocation from the Committee.

Initial Proposed Emergency Change:

(a) Requests for Supplemental Allocations may be submitted throughout the year. Except as provided in subdivision (b), staff shall review each request for Supplemental Allocation and make a recommendation to the Committee regarding any possible award of additional Allocation. Awards of Supplemental Allocations pursuant to this subdivision shall be memorialized in a Committee Resolution. All applicable requirements imposed on the associated initial project Allocation, including, but not limited to, the expiration of Allocation, Bond issuance deadlines, extensions, transfers of Allocation, carryforward elections and reporting shall be equally applicable to Supplemental Allocations.

(b) The Committee may delegate authority to the Executive Director to award Supplemental Allocation to projects awarded an allocation subject to the limit set in Section 5233(c) and that issued Bonds prior to January 1, 2026, where the total delegated supplemental requests are both of the following:

(1) No more than 10% of the project's Committee approved allocation; and

(2) No more than 52% of the aggregate depreciable basis plus land basis.

(c) For projects awarded Supplemental Allocation where the original allocation was awarded in Round 2 of 2022 or later, no increase in the developer fee shall be permitted in association with the increase in costs related to the project, and the Project Sponsor shall be subject to reduction in its tiebreaker calculation determined by the Committee for a period of one round following the award of Supplemental Allocation.

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

Comments Received: Staff received one comment supporting the changes. One commenter proposed that if a project were to voluntarily return excess bonds, but subsequently require a supplemental allocation, the developer fee limit in Section 5240(c) would not apply. The commenter stated it is very unlikely any Round 2 2025 projects that do not return excess bonds would need a supplemental allocation and makes no sense to potentially subject those projects to a financial penalty in the future if they voluntarily return bonds, have overruns, and then need a small supplemental allocation later.

Another commenter requested more flexibility stating uncertainty regarding the market's willingness to absorb additional volume and projects required to meet the 25% possibly needing additional allocation to meet requirements.

Responses to Comments: Staff determine the existing language restricting developer fee increases is unnecessary. Developer fee increases are already governed by CTCAC regulations section 10327(c)(2). Any additional restrictions could discourage projects from voluntarily returning allocation to comply with the 25% test.

Final Proposed Emergency Changes:

(a) Requests for Supplemental Allocations may be submitted throughout the year. Except as provided in subdivision (b), staff shall review each request for Supplemental Allocation and make a recommendation to the Committee regarding any possible award of additional Allocation. Awards of Supplemental Allocations pursuant to this subdivision

shall be memorialized in a Committee Resolution. All applicable requirements imposed on the associated initial project Allocation, including, but not limited to, the expiration of Allocation, Bond issuance deadlines, extensions, transfers of Allocation, carryforward elections and reporting shall be equally applicable to Supplemental Allocations.

(b) The Committee may delegate authority to the Executive Director to award Supplemental Allocation to projects awarded an allocation subject to the limit set in Section 5233(c) and that issued Bonds prior to January 1, 2026, where the total delegated supplemental requests are both of the following:

(1) No more than 10% of the project's Committee approved allocation; and

(2) No more than 52% of the aggregate depreciable basis plus land basis.

(c) For projects awarded Supplemental Allocation where the original allocation was awarded in Round 2 of 2022 or later, ~~no increase in the developer fee shall be permitted in association with the increase in costs related to the project, and~~ the Project Sponsor shall be subject to reduction in its tiebreaker calculation determined by the Committee for a period of one round following the award of Supplemental Allocation.

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

5. Section 5241. Realignment of Expiration Dates.

Reason: This change adjusts the alignment of pending bond issuance expiration dates to the original allocation expiration. This change is necessary to ensure that all projects requesting a supplemental allocation prior to December 31, 2025 would still be subject to the proposed change in Section 5101.

Initial Proposed Emergency Change:

Projects awarded a Supplemental Allocation for which no Bonds were issued from the original award, or any prior Supplemental Allocation, shall have the expiration date of the most recent original allocation.

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

Comments Received: Staff received three comments supporting the change in alignment of expiration dates. One of the comments suggested clarifying the in the

regulations the change will be effective when the regulations are adopted. This was deemed unnecessary as the changes will be effective immediately upon adoption.

Responses to Comments: Staff appreciates the support from commenters. No changes are made to the final proposed language.

Final Proposed Emergency Changes: Proceed as initially proposed.