

CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY

Second Amendment to Resolution Number 2011-05

Cal Loan Program

**Resolution Authorizing Amendments to Program Documents Regarding the Collection,
Enforcement, and Extension of Defaulted Student Loans (Action Item)**

December 5, 2013

ISSUE:

At the December 6, 2012 Authority meeting, the Authority approved an Amendment to Resolution No. 2011-05, reinstating the provisions of the Letter Amendment and extending the expiration date to December 5, 2013. (“Amended Staff Report” attached as Exhibit A) The Letter Amendment, Exhibit A to the Amended Staff Report, authorized the Administrator, or its agents, to utilize the modified rehabilitation and settlement loan provisions. The modified rehabilitation and settlement loan provisions were put in place for a limited period of time in order to evaluate their effectiveness. As shown below, the modified rehabilitation and settlement loan provisions have led to an increase in collection results. Staff now requests the Authority approve the reinstatement of Sections 7(F) and 7(G) of the Second Amended and Restated Administration Agreement, to operate until the date the Administration Agreement shall terminate.

Enhanced Procedure Activity:

As of October 31, 2013, twelve borrowers with 20 loans have completed the settlement program with payments totaling \$177,322. Two borrowers with three loans have successfully rehabilitated their accounts with payments totaling \$15,575. These two borrowers are now in current repayment status

RECOMMENDATION:

Staff recommends the Authority approve a Second Amendment to Resolution Number 2011-05 to reinstate the collection procedures in the Second Amended and Restated Administration Agreement, as amended, to operate until the date the Administration Agreement shall terminate.

For your reference, staff has included the following document:

Exhibit A - Amendment Staff Report dated December 6, 2012

CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY

**Amendment to Resolution Number 2011-05
Cal Loan Program
Revised Collection Procedures**

December 6, 2012

ISSUE:

At the December 1, 2011 Authority meeting, the Authority approved Resolution No. 2011-05 which authorized a letter amendment (“Letter Amendment”, attached as Exhibit A) to the Second Amended and Reinstated Administration Agreement (the “Administration Agreement”) between CEFA and ALL Student Loan, the administrator of the Cal Loan Program (“ALL”) to modify the collection procedures for borrowers with defaulted loans. The Letter Amendment authorized collection agencies that subcontract directly with ALL to use enhanced loan settlement and rehabilitation (“rehab”) tools that would provide the collection agencies with greater flexibility and opportunity to take a more active approach with borrower repayments and that would provide borrowers with increased repayment options and incentives.

The Letter Amendment modified the settlement and rehab sections of the Administration Agreement as follows:

Settlement Modifications: The collection agencies received more flexibility in the settlement of outstanding student loan balances with the removal of certain procedural barriers to successful settlement negotiations with the borrowers. The following modifications were made to the Administration Agreement:

1. Allow up to six months for a student loan borrower in default to remit the agreed-upon settlement amount. The collection agencies try to collect as much cash in as short amount of time as possible. This change is designed to give the collection agents flexibility to tailor settlement provisions based on each borrower’s circumstances. The collection agents will still target receiving the full settlement amount within 30 days (or the shortest possible period). Further, for those settlements structured to be paid over time with up to a six month window, the collection agents would require a material first installment (no less than 20% of the agreed upon balance). The six month window should be viewed as an outside parameter rather than a provision to be offered to every borrower considering settlement.
2. Allow the collection agencies to immediately offer either the rehab or the settlement option, rather than keep to the strict, scripted rehab first, then settlement at the 5% incremental reduction.
3. Allow the settlement amount to be reduced to no less than 50% of the outstanding balance of principal, interest, and fees with ALL’s pre-approval. The pre-approval is to ensure that the collection agencies are not settling the majority of accounts less than the prescribed 75% of the balance. Settlements below 75% should be reserved for situations where ALL determines that the exception is warranted given the borrower’s circumstances and ability to pay.
4. In all settlement cases, if the borrower fails to meet the agreed-upon settlement repayment terms, the agreement will be null and void, and the agency may collect the remaining balance in full.

Rehab Modifications:

The Letter Amendment also clarified that rehabilitated borrowers would not be eligible for deferments or forbearances, but would be eligible for loan discharge due to death or permanent and total disability. In addition, if ALL reasonably determines that a borrower is unable to follow an aggressive repayment schedule, ALL may offer a rehab program where the student loan account is re-amortized for the remaining term or an extended term not to exceed March 2019, the final maturity of CEFA's 2001 Student Loan Revenue Bonds.

The modified settlement and rehab provisions in the Letter Amendment authorized by Resolution 2011-05 expired on June 29, 2012.

At this time, CEFA, MBIA (the bond insurer for the CEFA 2001 Series Bonds), and ALL support the reinstatement of the collection procedures in the Letter Amendment. As of September 30, 2012, six borrowers with 12 loans have completed the settlement program with payments totaling \$132,067. Two borrowers with three loans have successfully rehabilitated their accounts with payments totaling \$15,575. These two borrowers are now in current repayment status.

RECOMMENDATION:

Staff recommends the Authority approve an amendment to Resolution Number 2011-05 to reinstate the collection procedures in the Second Amended and Restated Administration Agreement, as amended, between CEFA and ALL with an expiration date of December 5, 2013.

For your reference, staff has included the following document:

- **Exhibit A** – Letter Amendment

**AMENDMENT TO
SECOND AMENDED AND RESTATED ADMINISTRATION AGREEMENT**

This Amendment dated as of January 26, 2012 by and between the California Educational Facilities Authority, a public instrumentality and authority of the State of California (together with any successor to its functions under the laws of such State, the "Authority"); and ALL Student Loan Resources Corporation (formerly known as California Alternative Loan Marketing Association), a nonprofit public benefit corporation organized and existing under the laws of the State of California (together with any successor, the "Administrator") amends that certain Second Amended and Restated Administration Agreement dated as of January 3, 2011 (the "Agreement").

RECITALS

WHEREAS, the parties hereto desire to amend the Agreement to modify the procedures for the enforcement of payment on delinquent and defaulted student loans as provided herein;

WHEREAS, the Authority has determined, with the concurrence of the Administrator, that the amendments effected hereby will not adversely affect the interests of the Bondholders.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. Subsection 7(F) is hereby amended and restated in its entirety as follows:

"(F) Rehabilitation of Accounts. The Administrator is hereby authorized and directed, in its capacity as Administrator, to rehabilitate, or to cause its agents to rehabilitate, defaulted Student Loan accounts on the terms and conditions described in this Subsection (F). The Administrator will first determine the reasons for non-payment and assess the debtor's ability to pay on the Student Loan account. If the Administrator reasonably determines that the debtor is able to repay 100% of the Student Loan account balance, the Administrator shall schedule an aggressive repayment schedule. If the Administrator reasonably determines that the debtor is unable to follow an aggressive repayment schedule, the Administrator may offer a rehabilitation program to the debtor where the Student Loan account is reamortized for the remaining term (or a remaining term not to exceed a final maturity date of March, 2019, at the discretion of the Administrator). Debtors may also be eligible for an extension of the remaining term of their promissory note subject to the guidelines attached hereto as Exhibit C. Debtors must execute a rehabilitation agreement in the form attached hereto as Exhibit D. Once the debtor makes nine consecutive scheduled on-time payments, the status of the Student Loan account is updated to current and returned to the Servicer for servicing. Rehabilitated debtors will not be eligible for deferments and forbearances, but will be eligible for loan discharge due to death or permanent and total disability as listed on Schedule B-2 of the Amended and Restated Servicing Agreement. At the time the debtor enters rehabilitation, the debtor's interest rate on any rehabilitated Student Loans will revert to the interest rate charged to such debtor prior to default. If the debtor fails to make any of the nine consecutive scheduled payments on time, the interest rate on the Student Loan will revert to the default rate. The debtor's credit report shall be updated as appropriate. This Section 7(F) shall expire on June 29, 2012 unless extended in writing by CEFA.

2. Subsection 7(G) is hereby amended and restated in its entirety as follows:

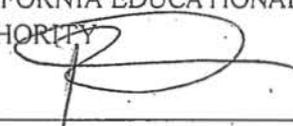
“(G) Settlement. The Administrator is hereby authorized and directed, in its capacity as Administrator, to settle, or cause its agents to settle, defaulted Student Loan accounts on the terms and conditions described in this Subsection (G). The Administrator shall have the authority to waive up to 50% of the outstanding balance of defaulted Student Loan account submitted to a debt collection agency. The Administrator will first determine the reasons for non-payment and assess the debtor’s ability to pay on the Student Loan account. If the Administrator reasonably determines that the debtor is unable to repay 100% of the Student Loan account balance (or otherwise has elected not to make payments on their loan), the Administrator may offer to settle the account by waiving a percentage of the account balance in an amount not to exceed 50% of the outstanding balance of the Student Loan account. Upon securing a verbal agreement with the debtor, the Administrator shall demand that the settlement amount be paid within a commercially reasonable time period not to exceed 6 months. Upon request of the debtor, the Administrator shall confirm the agreement in writing. Upon payment of the settlement amount, the debtor’s account shall be paid in full and the debtor’s credit report shall be updated as appropriate. In the event the debtor fails to comply with either the verbal or written settlement agreement, the agreement shall be deemed breached and the Administrator shall be authorized to collect the remaining balance in full. The Administrator agrees to provide the certificate in Exhibit B for each debtor at the end of each month. This Section 7(G) shall expire on June 29, 2012 unless extended in writing by CEFA.”

Except as amended hereby, the Administration Agreement shall remain in full force and effect and is hereby ratified and confirmed.

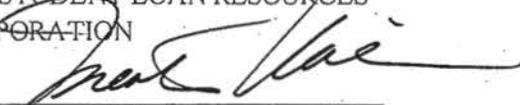
The Authority has obtained the consent of the Credit Enhancer to this letter amendment as required by the terms of the Indenture

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed in their respective corporate names, all as of the date first written above.

CALIFORNIA EDUCATIONAL FACILITIES
AUTHORITY

By: 
Executive Director

ALL STUDENT LOAN RESOURCES
CORPORATION

By: 
Quentin Wilson
President and CEO

**SECOND AMENDMENT TO RESOLUTION NO. 2011-05 OF THE
CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY
TO REINSTATE COLLECTION PROCEDURES
IN ADMINISTRATION AGREEMENT
RELATING TO THE CAL LOAN STUDENT LOAN PROGRAM**

WHEREAS, on December 1, 2011, the California Educational Facilities Authority (Authority) approved Resolution No. 2011-05 entitled, "Resolution of the California Educational Facilities Authority Authorizing Amendments to Program Documents Regarding the Collection and Enforcement of Delinquent and Defaulted Student Loans (Cal Loan Student Loan Program)" (Original Resolution);

WHEREAS, the Original Resolution authorized an amendment, dated as of January 26, 2012, to the Second Amended and Restated Administration Agreement, dated as of January 3, 2011, between ALL Student Loan (Administrator) and the Authority;

WHEREAS, Section 7(F) of the Administration Agreement, which describes a loan rehabilitation process for Cal Loan borrowers who have defaulted on their student loans, expired on June 29, 2012;

WHEREAS, Section 7(G) of the Administration Agreement, which describes a settlement process for Cal Loan borrowers who have defaulted on their student loans, expired on June 29, 2012;

WHEREAS, Sections 7(F) and 7(G) of the Administration Agreement permit the Authority to extend the expiration dates of the respective Sections in writing;

WHEREAS, on December 6, 2012, the Authority approved an Amendment to Resolution No 2011-05 reinstating the provisions of Section 7(F) and Section 7(G) of the Administration Agreement and extending the expiration date to December 5, 2013; and

WHEREAS, staff recommends that the Authority reinstate the provisions of Section 7(F) and Section 7(G) of the Administration Agreement to operate until the date the Administration Agreement shall terminate;

NOW, THEREFORE, BE IT RESOLVED by the California Educational Facilities Authority as follows:

Section 1. The Authority ratifies and approves all of the provisions of the Original Resolution, which remains in full force and effect and are incorporated by reference herein.

Section 2. The Original Resolution is hereby amended to authorize the Executive Director to reinstate the provisions of Section 7(F) and Section 7(G) of the Administration Agreement to operate until the date the Administration Agreement shall terminate.

Section 3. Each officer of the Authority is hereby authorized and directed to do any and all things which he or she may deem necessary or advisable in order to effectuate the purposes of this Resolution.

Section 4. The Authority hereby approves and ratifies each and every action taken by its officers, agents and employees prior to the date hereof in furtherance of the purposes of this Resolution.

Section 5. This Resolution shall take effect from and after the date of adoption.

Date Approved: _____