



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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MARINA WIANT

DATE: December 4, 2025

TO: Low-Income Housing Tax Credit Stakeholders

FROM: Marina Wiant, Executive Director

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

On October 17, 2025, the California Tax Credit Allocation Committee (“CTCAC”) released proposed regulation changes for a regular rulemaking for the Federal and State Low-Income Housing Tax Credit (LIHTC) programs and opened the 21-day public comment period. CTCAC staff subsequently held an in-person and virtual public hearing in Sacramento on October 29, 2025.

CTCAC accepted written comments on the initial proposed regulation changes through Monday, November 10, 2025. Numerous individuals, organizations, and groups formally commented on the proposed regulation changes in both oral and written form. CTCAC staff reviewed all comments received and finalized the recommendations for consideration and adoption to be presented to the Committee on Wednesday, December 10, 2025.

This memo includes the final proposed regulation changes, the initial statement of reasons, a brief summary of the comments received, staff’s responses to comments, including explanations to any proposed revisions to the initially proposed changes, and the final proposed changes. CTCAC staff also received comments on regulation changes outside the scope of this regular rulemaking and will consider those comments for a future possible regulation change package. Those additional comments outside the scope of this regular rulemaking are not included in the document.

**List of Final Proposed Regulation Changes, Statement of Reasons, Comments
Received, and Responses to Comments
December 4, 2025**

1. Section 10300: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 2)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

2. Section 10302(b): Adaptive reuse definition

Reason: The proposed change clarifies that conversion of various types of group quarters, including congregate care facilities and military barracks, into rental housing would qualify as adaptive reuse. (Page 2)

Initial proposed change:

(b) Adaptive Reuse. Adaptive Reuse means retrofitting and repurposing of existing buildings that create new residential rental units, and expressly excludes any project that involves rehabilitation of any construction affecting existing residential housing units, as defined by the U.S. Census Bureau. Adaptive Reuse may include retrofitting and repurposing of existing hotels or motels if the hotel or motel is not currently a place of residence for the occupants, and/or sites that received a Project Homekey allocation.

Comments received: None

Final proposed change: Proceed as initially proposed

3. Section 10302(qqq): Transfer event definition

Reason: The proposed change updates the cross-reference to the new Section 10338(c). (Page 9)

Initial proposed change:

(qqq)“Transfer Event” shall mean (i) a transfer of the ownership of a project, (ii) the sale or assignment of a partnership interest in a project owner and/or (iii) the refinancing of secured debt on a project. The following shall not be deemed a Transfer Event: (i) the transfer of the project or a partnership or membership interest in a project owner in which reserves remain with the project and the debt encumbering the project is not increased, refinanced or otherwise modified, (ii) the refinancing of project debt which does not increase the outstanding principal balance of the debt other than in the amount of the closing costs and fees paid to the project lender and third parties as transaction costs, provided that reserves remain with the project, (iii) the replacement of a general partner by a limited partner upon the occurrence of a default by a general partner in accordance with partnership agreement of the project owner, (iv) a transfer pursuant to a foreclosure or deed in lieu of foreclosure to a non-related party, (v) a “Subsequent Transfer” pursuant to Section 103~~38(c)~~~~20(b)(4)(B)~~ hereof, (vi) a transfer of the ownership of a project subject to an existing tax credit regulatory agreement with a remaining term of five (5) or less years if the transfer is made in connection with a new reservation of 9% or 4% tax credits, or (vii) the sale of a project, or the sale or assignment of a partnership interest in a project owner, to an unrelated party for which the parties entered into a purchase agreement prior to October 9, 2015. Notwithstanding the foregoing, the term “Transfer Event” shall be applicable only to projects in which at least 50% of the units are Tax Credit Units.

Comments received: None

Final proposed change: Proceed as initially proposed

4. Section 10302: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 10)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

5. Section 10305: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 11)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

6. Section 10310(a): Reservation of Tax Credits

Reason: In an effort to consolidate rules for changes of ownership, transfer events, management changes, and transfer rules impacting resyndications, the proposed change moves language from Section 10320 to other sections in the regulations, adds new section, Section 10338, and the removes Section 10320. The proposed change moves language from Section 10320(a) to Section 10310(a). (Page 11)

Initial proposed change:

- (a) Reservation cycles. The Committee shall reserve Tax Credits on a regular basis in accordance with H. & S Code Section 50199.14(a), pursuant to these regulations and the QAP, incorporated by reference in full. Except for reservations made pursuant to Section 10325(h) of these Regulations, Reservations of Tax Credits shall occur only at scheduled meetings of the Committee, which shall announce application-filing deadlines and the approximate dates of reservation meetings as early in the year as possible.

Comments received: None

Final proposed change: Proceed as initially proposed

7. Section 10310: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 12)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

8. Section 10315(b)(1)(A): Nonprofit Homeless Assistance Priority

Reason: The proposed change reduces the requirement for rental subsidies and aligns the minimum percentage of Low-Income units required with rental subsidy to the percentage required for Homeless units adopted by the Committee in 2024.

(Page 12)

Initial proposed change:

- (A) Qualified Homeless assistance projects with 1) McKinney-Vento Homeless Assistance Act, HCD Multifamily Housing Program (MHP), HCD Veterans Housing and Homeless Prevention Program (VHHP), HCD Homekey, Mental Health Services Act (MHSA), CalHFA Local Government Special Needs Housing Program, Governor's Homeless Initiative, Housing for a Healthy California, or HCD No Place Like Home development capital funding committed of at least \$500,000 or \$10,000 per unit for all Low-Income Units in the project, whichever is greater; or 2) projects with rental or operating assistance funding commitments from federal, state, or local governments where the rental assistance is sponsor-based or project-based and the remaining term of any project-based assistance contract is no less than one (1) year and applies to no less than ~~fifty~~twenty-five percent (~~50~~25%) of the Low-Income Units in the proposed project. For local government funding sources, ongoing assistance may be in the form of a letter of intent from the governmental entity.

Comments received: Five commenters support the proposed change. Three of the commenters said the change is important to ensure that affordable housing projects are financially sustainable in the long term and can adequately serve residents given limited funding for rental subsidy and supportive services. One of the commenters appreciates the proposed change in light of the federal budget challenges facing many housing authorities and that in this funding environment, securing a voucher for 50% of the units is a difficult bar to clear.

Final proposed change: Proceed as initially proposed

9. Section 10315(c): At-Risk projects in the Rural set-aside

Reason: The proposed change will allow unsuccessful Rural set-aside projects to compete in At-Risk set-aside. (Page 13)

Initial proposed change:

- (c) Rural set-aside. Twenty percent (20%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set-aside for projects in rural areas as defined in H & S Code Section 50199.21 and as identified in supplemental application material prepared by CTCAC. For purposes of implementing Section 50199.21(a), an area is eligible under the Section 515 program on January 1 of the calendar year in question if it either resides on the Section 515 designated places list in effect the prior September 30, or is so designated in writing by the USDA Multifamily Housing Program Director. All Projects located in eligible census tracts defined by this Section must compete in the ~~R~~Rural set-aside and will not be eligible to compete in other set-asides or in the geographic areas unless they are not awarded in the Rural set-aside and they qualify to compete in the At-Risk set-aside by meeting the At-Risk housing type requirements under Section 10325(g)(4), in which case they will no longer be considered rural in that set-aside and will be evaluated as such for purposes of these regulations; or the Geographic Region in which they are located has had no other Eligible Projects for reservation within the current calendar year. In such cases the rural project may receive a reservation in the last round for the year, from the geographic region in which it is located, if any.

Within the ~~R~~Rural set-aside competition, the first tiebreaker shall be applied as described in Section 10325(c)(9), except that the Seniors, Large Family New Construction in Highest or High Resource Tract, and Acquisition and/or Rehabilitation housing type goals established by Section 10315(h) shall be calculated relative to the ~~R~~Rural set-aside dollars available each round, rather than against the total credits available statewide each round.

Comments received: 11 commenters support the proposed change. Additionally, seven of the commenters suggest allowing rural projects that compete in At-Risk set-aside to retain the Rural set-aside site amenity distances to ensure an even playing field for them to achieve full points. Two of the commenters suggest allowing rural projects unsuccessful in the Rural and At-Risk set-asides to compete in the geographic region where it is located if there are no applications in the region “in that round,” versus the existing language of “within the current calendar year” to better facilitate the success of needed rural projects.

Two commenters oppose the proposed change. One of the commenters states the proposed change could create an unintended imbalance between rural and urban at-risk projects because rural projects typically have significantly lower total development costs (TDCs) resulting in higher tie-breaker scores because the tie-breaker heavily favors lower credit-per-unit requests and cost efficiency allowing rural projects to consistently outscore high-cost urban projects, leaving urban at-risk projects with little opportunity for funding and would undermine the original policy

intent of the At-Risk set-aside, which is to prevent the loss of existing affordable housing stock at immediate risk of market-rate conversion—an issue far more severe in high-cost urban markets. Instead, the commenter suggests creating an At-Risk sub-pool within the Rural Set-Aside to provide rural at-risk projects with a clear funding path, while ensuring that the primary At-Risk set-aside continues to prioritize preservation efforts in high-cost markets where affordability loss poses the greatest threat. The other commenter states that non-rural projects will likely not be competitive when the rural projects that generally have higher tiebreakers get moved into the At-Risk set-aside.

One commenter was not opposed to the change but asked for consideration to increase the allocation amount in the At-Risk set aside to accommodate the impact of the proposed change.

Response to comments: While staff appreciate the comments to allow Rural projects in the At-Risk set-aside to retain Rural set-aside distances, the intent of the proposed change is to allow unsuccessful Rural projects to access the At-Risk set-aside should any credit remain in that set-aside. Some of the comments misconstrued the intention that the At-Risk set-aside credits be equally available to non-Rural and Rural At-Risk projects. To ensure that Rural At-Risk projects do not bump non-Rural At-Risk projects for which the set-aside is intended for, staff has clarified the intention in Section 10315(d). While staff understands the commenters' perspective to allow rural projects unsuccessful in the Rural and At-Risk set-asides to compete in the geographic region where it is located if there are no applications in the region "in that round," staff remain convinced that each geographic region should retain the credits designated through the calendar year as intended.

Final proposed change: Proceed as initially proposed

10. Section 10315(d): At-Risk projects in the Rural set-aside

Reason: The proposed change allows unsuccessful Rural set-aside projects to compete in At-Risk set-aside. (Page 13)

Initial proposed change:

- (d) "At-Risk" set-aside. After accounting for the second supplemental set-aside described in (g), five percent (5%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set aside for projects that qualify and apply as an "At risk" housing type pursuant to subsection (h) below. Any proposed project that applies and is eligible under the Nonprofit set-aside or Rural set-aside but is not awarded credits from that set-aside shall be eligible to be considered under this At-Risk set-aside if the project meets the housing type requirements in Section 10325(g)(4). Rural projects

competing in the At-Risk set-aside that are not awarded from the At-Risk set-aside are not eligible to compete in other set-asides or in the geographic areas the Geographic Region in which they are located has had no other Eligible Projects for reservation within the current calendar year. In such cases, the rural project may receive a reservation in the last round for the year, from the geographic region in which it is located, if any.

Comments received: 11 commenters support the proposed change. Additionally, seven of the commenters suggest allowing rural projects that compete in At-Risk set-aside to retain the Rural set-aside site amenity distances to ensure an even playing field for them to achieve full points. Two of the commenters suggest allowing rural projects unsuccessful in the Rural and At-Risk set-asides to compete in the geographic region where it is located if there are no applications in the region “in that round,” versus the existing language of “within the current calendar year” to better facilitate the success of needed rural projects.

Two commenters oppose the proposed change. One of the commenters states the proposed change could create an unintended imbalance between rural and urban at-risk projects because rural projects typically have significantly lower total development costs (TDCs) resulting in higher tie-breaker scores because the tie-breaker heavily favors lower credit-per-unit requests and cost efficiency allowing rural projects to consistently outscore high-cost urban projects, leaving urban at-risk projects with little opportunity for funding and would undermine the original policy intent of the At-Risk set-aside, which is to prevent the loss of existing affordable housing stock at immediate risk of market-rate conversion—an issue far more severe in high-cost urban markets. Instead, the commenter suggests creating an At-Risk sub-pool within the Rural Set-Aside to provide rural at-risk projects with a clear funding path, while ensuring that the primary At-Risk set-aside continues to prioritize preservation efforts in high-cost markets where affordability loss poses the greatest threat. The other commenter states that non-rural projects will likely not be competitive when the rural projects that generally have higher tiebreakers get moved into the At-Risk set-aside.

One commenter was not opposed to the change but asked for consideration to increase the allocation amount in the At-Risk set aside to accommodate the impact of the proposed change.

Response to comments: While staff appreciate the comments to allow Rural projects in the At-Risk set-aside to retain Rural set-aside distances, the intent of the proposed change is to allow unsuccessful Rural projects to access the At-Risk set-aside should any credit remain in that set-aside. Some of the comments misconstrued the intention that the At-Risk set-aside credits be equally available to non-Rural and Rural At-Risk projects. To ensure that Rural At-Risk projects do not bump non-Rural At-Risk projects for which the set-aside is intended for, staff has

clarified the intention in the highlighted text below. While staff understands the commenters' perspective to allow rural projects unsuccessful in the Rural and At-Risk set-asides to compete in the geographic region where it is located if there are no applications in the region "in that round," staff remain convinced that each geographic region should retain the credits designated through the calendar year as intended.

Staff noted a typo in the initially proposed change that has since been corrected in the highlighted text below.

Final proposed change:

- (d) "At-Risk" set-aside. After accounting for the second supplemental set-aside described in (g), five percent (5%) of the Federal Credit Ceiling for any calendar year, calculated as of February first of the calendar year, shall be set aside for projects that qualify and apply as an "At-Risk" housing type pursuant to subsection (h) below. Any proposed project that applies and is eligible under the Nonprofit set-aside or Rural set-aside but is not awarded credits from that set-aside shall be eligible to be considered under this At-Risk set-aside if the project meets the housing type requirements in Section 10325(g)(4). Rural projects competing in the At-Risk set-aside shall be only be considered if credits remain after awarding all eligible non-rural projects. Rural projects competing in the At-Risk set-aside that are not awarded from the At-Risk set-aside are not eligible to compete in other set-asides or in the geographic areas unless the Geographic Region in which they are located has had no other Eligible Projects for reservation within the current calendar year. In such cases, the rural project may receive a reservation in the last round for the year, from the geographic region in which it is located, if any.

11. Section 10315: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 15)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

12. Section 10317(b): IRC Reference

Reason: The proposed change corrects a cross-reference to the Internal Revenue Code. (Page 16)

Initial proposed change:

- (b) Allocation of Federal Tax Credits required. State Tax Credit recipients shall have first been awarded Federal Tax Credits, or shall qualify for Tax Credits under Section 42(h)(4)(~~bB~~) ~~of the IRC~~, as required under H & S Code Section 50199.14(e) and the R & T Code Section 12206(b)(1)(A). State Farmworker Credits are exempt from this requirement.

Comments received: None

Final proposed change: Proceed as initially proposed

13. Section 10317(c)(2): Voluntary Basis Reduction

Reason: The proposed change removes exception to reduce basis to stay below the geographic region because the calculation of credits for the geographic regions is based on a combination of Federal and State Tax Credits, which has created confusion in the past. In cases where projects are requesting State Tax Credits, they may only voluntarily reduce basis to stay below the threshold basis limit or the per project award limit. (Page 16)

Initial proposed change:

- (2) An applicant requesting state credits shall not reduce basis related to federal tax credits except to reduce requested basis to the project's threshold basis limit or the credit request to the ~~amount available in the project's geographic region or the~~ limits described in Section 10325(f)(9)(C). CTCAC shall revise the basis and credit request if the applicant fails to meet this requirement.

Comments received: None

Final proposed change: Proceed as initially proposed

14. Section 10317(d)(1)-(3): 130% Boost and State Credits

Reason: The proposed change simplifies the language in paragraphs (1) through (3). (Page 16-17)

Initial proposed change:

- (d) (1) ~~Under authority granted by Revenue and Taxation Code Sections~~

~~12206(b)(2)(E)(ii), 17058(b)(2)(E)(ii), and 23610.5(b)(2)(E)(ii), a~~Applications for projects located within a QCT or DDA and ~~Special Needs projects~~ with at least 50% of the Low-Income Units designated as ~~s~~Special ~~n~~Needs units ~~and within a QCT or DDA~~ may request both the federal 130% basis boost and ~~may also request~~ State credits, ~~provided that the applicant does not reduce basis related to federal tax credits except to reduce requested basis to the project's threshold basis limit or the credit request to the amount available in the project's geographic region or the limits described in Section 10325(f)(9)(C). CTCAC shall revise the basis and credit request if the application fails to meet this requirement. Under authority granted by Internal Revenue Code Section 42(d)(5)(B)(v), CTCAC designates Special Needs housing type applicants for credit ceiling credits as Difficult Development Area projects, regardless of their location within a federally designated QCT or DDA.~~

- (2) ~~Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(E)(iii), 17058(b)(2)(E)(iii), and 23610.5(b)(2)(E)(iii), a~~Applications for projects requesting 4% federal tax credits plus State Farmworker Credits within a QCT or DDA may request both the federal 130% basis boost and ~~may also request~~ State credits.
- (3) ~~Under authority granted by Revenue and Taxation Code Sections 12206(b)(2)(E)(iii), 17058(b)(2)(E)(iii), and 23610.5(b)(2)(E)(iii), n~~New construction applications for projects requesting 4% federal tax credits plus State Credits pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code within a QCT or DDA may request both the federal 130% basis boost and ~~may also request~~ State credits.

Comments received: Two commenters support the proposed change as it provides additional clarity. One of the commenters suggested reducing the number of Special Needs units in paragraph (1) from 50% to align with the 25% requirement in the Special Needs housing type.

Response to comments: Given the 50% Special Needs requirement is a statutory requirement in Revenue and Taxation Code Sections 12206(b)(2)(E)(ii), 17058(b)(2)(E)(ii), and 23610.5(b)(2)(E)(ii), staff is unable to make the change in the CTCAC regulations without a change in state law.

Final proposed change: Proceed as initially proposed

15. Section 10317(f): Revenue and Taxation Code reference

Reason: The proposed change corrects a cross-reference to Revenue and Taxation Code. (Page 17)

Initial proposed change:

- (f) Acquisition Tax Credits. State Tax Credits for acquisition basis are allowed only for projects meeting the definition of a project “at risk of conversion,” pursuant to Section 42 and R & T Code Section 17058(c)(~~46~~).

Comments received: None

Final proposed change: Proceed as initially proposed

16. Section 10317(g)(1) and (2): IRC Reference

Reason: The proposed change corrects a cross-reference to the Internal Revenue Code. (Page 17)

Initial proposed change:

(g) Tax-Exempt Bond Financing.

- (1) Projects financed under the tax-exempt bond financing provisions of Section 42(h)(4)(~~bB~~) of the IRC, subsection (g)(1)(A) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code and Section 10326 of these regulations may apply for State Tax Credits if the following conditions are met:
- (A) the project is comprised of 100% Tax Credit Units. Excepted from this rule are projects proposed for acquisition and rehabilitation that were developed under the HUD Section 236 or 202 programs, and are subject to those programs’ use restrictions. Projects under those circumstances may propose a lesser percentage of Tax Credit Units to accommodate existing over-income residents who originally qualified under Section 236 or 202 income eligibility;
 - (B) one or more buildings is not eligible for the 130% basis adjustment, in which case the State Tax Credits shall be available only for the buildings not eligible for the 130% basis adjustment. This paragraph shall not apply to projects referenced in Section 10317(d);
 - (C) State Tax Credits will not be available to projects that have already received a reservation of 4% credit in the previous year; and
- (2) For projects financed under the tax-exempt bond financing provisions of Section 42(h)(4)(~~bB~~) of the IRC, subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code and Section 10326 of these regulations applying for State Tax Credits. State Tax Credits will not be available to projects that have already received a reservation of 4% credit in a previous year.

Comments received: None

Final proposed change: Proceed as initially proposed

17. Section 10317(i)(2): State Credits

Reason: The proposed change updates the cross-reference to the proposed change to the ranking section in the CDLAC regulations. (Page 18)

Initial proposed change:

- (2) The project will be competitively scored by CDLAC according to the CDLAC scoring and ranking system delineated in Section ~~52305~~5106 of the CDLAC Regulations. Notwithstanding the foregoing, existing tax credit projects must comply with the requirements of Section 10326(g)(8)(A);

Comments received: None

Final proposed change: Proceed as initially proposed

18. Section 10317(k)(1): Certificated state credits

Reason: Assembly Bill No. 480 (AB 480) was signed into law on October 10, 2025 amending language regarding the election to sell ("certificate") state credits. The proposed changes incorporate the amendments in state statute allowing more flexibility on when the election may be made. (Page 19)

Initial proposed change:

- (1) ~~In the initial application, a~~ Applicants requesting state credits shall make an election to sell ("certificate") ~~or not sell~~ all or any portion of the state credit, as allowed pursuant to Revenue and Taxation Code Sections 12206(o), 17058(q), and 23610.5(r). The applicant for a certificated credit shall be a non-profit entity and the state credit price shall not be less than eighty (80) cents per dollar of credit. The applicant may ~~make the, only once, revoke an~~ election to sell at any time before CTCAC issues the Form(s) 3521A for the project, at which the point the election shall become irrevocable.

Comments received: Two commenters support the proposed change allowing for greater flexibility when the election to sell ("certificate") state credits can be made.

Final proposed change: Proceed as initially proposed.

19. Section 10317: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 19)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

20. Section 10320: Actions by the Committee

Reason: In an effort to consolidate rules for changes of ownership, transfer events, management changes, and transfer rules impacting resyndications, the proposed change moves language from Section 10320 to other sections in the regulations, adds new section, Section 10338, and the removes Section 10320. Most of the language from Section 10320 is moved to Section 10338 some with minor amendments. (Page 19-23)

Initial proposed change:

~~Section 10320. Actions by the Committee.~~

- ~~(a) Meetings. Except for reservations made pursuant to Section 10325(h) of these Regulations, Reservations of Tax Credits shall occur only at scheduled meetings of the Committee, which shall announce application-filing deadlines and the approximate dates of reservation meetings as early in the year as possible.~~
- ~~(b) Approvals required by this Section 10320(b) shall not be unreasonably withheld if all of the following requirements, as applicable, are satisfied:~~
 - ~~(1) No allocation of the Federal or State Credits, or ownership of a Tax Credit project, may be transferred without prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points pursuant to section 10325(c)(2)(M), in addition to other remedies. Subparagraphs (A) through (C) apply to all ownership or Tax Credit transfers requested after January 31, 2014. Subparagraphs (A) through (E) apply to all ownership or Tax Credit transfers requested after April 3, 2024:—~~
 - ~~(A) Any transfer of project ownership (including changes to any general partner, member, or equivalent responsible party), or allocation of Tax Credits shall be evidenced by a written agreement between the parties to the transfer, including agreements entered into by the transferee and the Committee.~~
 - ~~(B) The entity replacing a party or acquiring ownership or Tax Credits shall be subject to a “qualifications review” by the Committee to determine if sufficient project development and management experience is present for owning and operating a Tax Credit project. Information regarding the~~

~~names of the purchaser(s) or transferee(s), and detailed information describing the experience and financial capacity of said persons, shall be provided to the Committee. Any general partner change during the 15-year federal compliance and extended use period must be to a party earning equal capacity points pursuant to Section 10325(c)(1)(A) as the exiting general partner. At a minimum this must be three (3) projects in service more than three years, or the demonstrated training required under Section 10326(g)(5). Two of the three projects must be Low Income Housing Tax Credit projects in California. If the new general partner does not meet these experience requirements, then substitution of general partner shall not be permitted. The requirements of this paragraph apply to a change to any general partner, member, or equivalent responsible party where an exiting party meets the experience capacity and the remaining party does not have experience equal to the minimum stated above.~~

~~(C) The transferor shall deliver all tenant files, inspection records, financial statements, and reserve balances to the transferee prior to or concurrent with the transfer. Failure to deliver such records may subject the transferor to negative points or a fine.~~

~~(D) The Executive Director shall not approve a transfer if, in any of the five calendar years prior to the transfer date or in the year to date of the transfer but not earlier than April 3, 2024, the owner has increased the rent for any low income household in excess of the amounts described in Section 10336(a).~~

~~(E) The transferee shall annually certify that they have not increased the rent for any low income household in excess of the amounts described in Section 10336(a).~~

~~(2) In addition to any applicable requirements set forth in Section 10320(b)(1), all Transfer Events shall be subject to the prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points pursuant to section 10325(c)(2)(M), in addition to other remedies. The following requirements apply to all Transfer Events for which approval is requested on or after October 21, 2015:~~

~~(A) Prior to a Transfer Event, the owner of the project shall submit to the Executive Director a Qualified Capital Needs Assessment. In the case of a Transfer Event in which a third-party lender is providing financing, the Qualified Capital Needs Assessment shall be commissioned by said third-party lender.~~

~~(B) The entity which shall own the project subsequent to the Transfer Event (the "Post Transfer Owner") shall covenant to the Committee (the "Capital Needs Covenant") that the Post Transfer Owner (and any assignee thereof) shall:~~

~~(i) set aside at the closing of the Transfer Event adequate funds to perform the Short Term Work (the "Short Term Work Reserve Amount");~~

~~(ii) perform the Short Term Work within three (3) years from the date of the Transfer Event;~~

- ~~(iii) — make deposits to reserves as are necessary to fund the Long Term Work, taking into account any balance in replacement reserve accounts upon the conclusion of the Transfer Event beyond those required by clause (i). Notwithstanding the foregoing, the Post Transfer Owner shall have no obligation to fund any reserve amount from annual operations to the extent that the funding of the reserve causes the project to have a debt service coverage ratio of less than 1.00 to 1.00. In calculating the debt service coverage ratio for the purposes herein, the property management fee shall not exceed the greater of (a) 7% the project's effective gross income, or (b) such amount approved by HUD or USDA, as applicable. Any property management fee in excess of these limitations shall be subordinate to the funding of the required reserves and shall not be considered when calculating the debt service coverage ratio; and~~
 - ~~(iv) — complete the Long Term Work when required, or prior thereto, pursuant to the Qualified GNA.~~
 - ~~(C) — The Executive Director may waive or modify the requirements of this Section 10320(b)(2)(A) and (B) if the owner can demonstrate that the Transfer Event will not produce, prior to any distributions of Net Project Equity to parties related to the sponsor, developer, limited partner(s) or general partner(s), sufficient Net Project Equity to fund all or any portion of the work contemplated by the Qualified GNA. There shall be a presumption that a Transfer Event has insufficient Net Project Equity (and the requirements of this Section 10320(b)(2)(A) and (B) shall be waived) if no Net Project Equity from the Transfer Event is distributed to parties related to the sponsor, developer, general partner(s) or limited partner(s) of the owner other than a distribution or a payment to the limited partner(s) of the selling entity in the amount equal to, or less than, all federal, state, and local taxes incurred by the limited partner(s) as a result of the Transfer Event.~~
- ~~(3) — The Capital Needs Covenant shall at all times be subordinate to any deed of trust given to any third party lender to a project. The owner of a project subject to a Capital Needs Covenant shall certify compliance with the terms of said Capital Needs Covenant to CTCAC annually for the term of the Capital Needs Covenant on a form to be developed by the Executive Director. Failure to comply with the terms of the Capital Needs Covenant may subject the owner to negative points and/or a ban on buying or receiving future properties.~~
- ~~(4) — If a project seeks to receive a new reservation of 9% or 4% tax credits concurrently with a Transfer Event or during the time that the project is subject to a Capital Needs Covenant, the following provisions shall apply in lieu of paragraph (2):~~
 - ~~(A) — The applicant shall submit a Qualified CNA. In cases in which a third party lender is providing financing, the Qualified CNA shall be commissioned by said third party lender.~~
 - ~~(B) — The rehabilitation scope of work shall include all of the Short Term Work. The applicant may receive eligible basis for the costs of the Short Term~~

Work only if the applicant can demonstrate that the Short Term Work was funded by one of the following:

- ~~(A) a credit from the seller of the project equal to the costs of Short Term Work.~~
- ~~(B) a reduction in the purchase price of the project as compared to the purchase price of the project had the project not been subject to the Transfer Event requirement, as shown by an appraisal that calculates the impact of the Short Term Work requirement on value.~~
- ~~(C) general partner equity.~~
- ~~(D) developer fee contributed to the project (a deferred developer fee does not qualify).~~

~~(C) After the Transfer Event giving rise to the covenant required pursuant to Section 10320(b)(2)(B) (the "Initial Transfer"), if the project will be subsequently transferred in connection with the closing of the new reservation of 9% or 4% credits (a "Subsequent Transfer"), any increase in acquisition price (if the Initial Transfer was a sale) or the project valuation (if the Initial Transfer was a refinancing) between the Initial Transfer and the Subsequent Transfer which is attributable to a reduction in the amount of annual deposits into the replacement reserve account from those required pursuant to Section 10320(b)(2)(B)(iii) because all or a portion of the Long Term Work will be performed in connection with the new reservation of 9% or 4% credits, must be evidenced in the form of (i) a seller carryback note or (ii) a general partner equity contribution.~~

~~(D) Upon the closing of the syndication of the new 9% or 4% credits reserved for the project, any Capital Needs Covenant shall automatically terminate without any further action of the project owner and/or the Committee.~~

~~(E) The Executive Director shall waive or modify the requirements of this Section 10320(b)(4) if the owner can demonstrate that the Transfer Event will not produce, prior to any distributions of Net Project Equity to parties related to the sponsor, developer, limited partner(s) or general partner(s), sufficient Net Project Equity to fund all or any portion of the work contemplated by the Qualified CNA. There shall be a presumption that a Transfer Event has insufficient Net Project Equity if no Net Project Equity from the Transfer Event is distributed to parties related to the sponsor, developer, general partner(s) or limited partner(s) of the owner other than a distribution or a payment to the limited partner(s) of the selling entity in the amount equal to, or less than, all federal, state, and local taxes incurred by the limited partner(s) as a result of the Transfer Event.~~

~~(F) Sections 10320(b)(4)(B) and 10320(b)(4)(C) shall not be applicable to any project with an existing tax credit regulatory agreement with a remaining term of five (5) or less years.~~

~~(5) No management company of an existing or new tax credit project shall be replaced without prior written approval of the Executive Director. In the event that prior written approval is not obtained, the Executive Director may assess negative points or a fine. With respect to 4% tax credit projects, management companies ineligible for at least two management company experience points pursuant to Section 10325(c)(1)(B) shall obtain training in project operations, on-site certification, Fair~~

Housing Law, and manager certification in IRS Section 42 program requirements from CTCAC or a CTCAC-approved, nationally recognized entity. The out-going management company shall deliver all tenant files, inspection records, financial statements, and reserve balances to the in-coming management company prior to or concurrent with the transfer. Failure to deliver such records may subject the out-going management company to negative points or a fine.

- (6) — Except for resyndication applications without a distribution of Net Project Equity, if a project seeks to receive a new reservation of 9% or 4% tax credits, any uncorrected Form(s) 8823 for life and safety violations (life-threatening and non-life-threatening) and for Uniform Physical Condition Standards violations that are in existence at the time of the CTCAC application must be corrected by the project owner that received the Form(s) 8823. The resyndication application shall not include any costs to correct these Form(s) 8823.
- (7) — An applicant seeking to (1) demolish or similarly alter any of the existing structures currently subject to CTCAC regulatory restrictions when seeking a new reservation of 9% and/or 4% tax credits; and/or (2) separate an existing project currently subject to CTCAC regulatory restrictions into multiple projects must request and receive prior written approval of the Executive Director. Projects that involve the demolition of existing residential units or separating an existing project must increase the unit count by (i) 25 or (ii) 50% of the existing demolished units, whichever is greater, unless, for existing SRO projects, waived by the Executive Director provided that the applicant demonstrates that full compliance would be impractical.
- (8) — A project owner seeking to sell a portion of vacant or unused land must request and receive prior written approval of the Executive Director. The sales proceeds must either: 1) be contributed (not loaned) to a new multifamily affordable housing restricted project; or 2) reduce rents at the existing property by the aggregate amount of the proceeds. The project owner must request and receive prior written approval of the Executive Director.
- (c) — CTCAC shall initially subordinate its regulatory contract to a permanent lender but thereafter shall not subordinate existing regulatory contracts to acquisition or refinancing debt, except in relation to new Deeds of Trust for rehabilitation loans, FHA insured loans, restructured public loans, or as otherwise permitted by the Executive Director. At the request of the owner, CTCAC shall enter into a stand-still agreement permitting the acquisition or refinance lender 60 days to work with the owner to remedy a breach of the regulatory contract prior to CTCAC implementing any of the remedies in the regulatory contract, except that CTCAC shall not enter into a stand-still agreement related to a Transfer Event requested on or after October 21, 2015 unless the conditions of Section 10320(b)(2) have been satisfied. If CTCAC enters into a stand-still agreement related to a Transfer Event, Sections 10320(b)(2), (b)(3) and (b)(4) shall apply to the project.
- (d) — False information. Upon being informed, or finding, that information supplied by an applicant, any person acting on behalf of an applicant, or any team member identified in the application, pursuant to these regulations, is false or no longer true, and the applicant has not notified CTCAC in writing, the Committee may take appropriate action as described in H & S Code Section 50199.22(b) and in section 10325(c)(2) of these regulations. Additionally the Executive Director may assess negative points to any or all members of the development team as described in Section 10322(h)(5).
- (e) — CTCAC shall not enter into a qualified contract, as defined in IRC Section 42(h)(6)(F).

~~Note: Authority cited: Section 50199.17, Health and Safety Code.
Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.~~

Comments received: None

Final proposed change: Proceed as initially proposed

21. Section 10322(h)(2)(V): Current title report

Reason: The proposed change moves the requirement to provide a current title report from the site control requirements to the standard application documents. (Page 26)

Initial proposed change:

- (2) The Application form. Completion of all applicable parts of Committee-provided application forms which shall include, but not be limited to:
 - (A) General Application Information
 - (i) Credit amounts requested
 - (ii) minimum set-aside election
 - (iii) application stage selection
 - (iv) set-aside selection
 - (v) housing type
 - (B) Applicant Information
 - (i) applicant role in ownership
 - (ii) applicant legal status
 - (iii) developer type
 - (iv) contact person
 - (C) Development Team Information
 - (D) Subject Property Information
 - (E) Proposed Project Information
 - (i) project type
 - (ii) Credit type
 - (iii) building and unit types
 - (F) Land Use Approvals
 - (G) Development Timetable
 - (H) Identification and Commitment Status of Fund Sources
 - (I) Identification of Fund Uses
 - (J) Calculation of Eligible, Qualified and Requested Basis

- (K) Syndication Cost Description
- (L) Determination of Credit Need and Maximum Credit Allowable
- (M) Project Income Determination
- (N) Restricted Residential Rent and Income Proposal
- (O) Subsidy Information
- (P) Operating Expense Information
- (Q) Projected Cash Flow Calculation
- (R) Basic Threshold Compliance Summary
- (S) Additional Threshold Selection
- (T) Tax-exempt Financing Information
- (U) Market Study
- (V) Current title report or preliminary title report
 - (i) within 90 days of application, except as provided in Section 10322(h)(35), showing the titleholder holds fee title
 - (U)(ii) for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status

Comments received: None

Final proposed change: Proceed as initially proposed

22. Section 10322(h)(9): Appraisals

Reason: The proposed change removes the appraisal requirement to provide the “as if vacant” land value for rehabilitation or adaptive reuse projects not requesting acquisition basis or new construction projects on vacant land with no improvements. The additional requirement does not add any value in cases where the proportion of land to improvements is not being evaluated. (Page 27-28)

Initial proposed change:

- (9) Appraisals. Appraisals are required for: 1) all rehabilitation applications except as noted in subsection (A), below, 2) all adaptive reuse applications, 3) all competitive applications, except for new construction projects that are on tribal trust land or that have submitted a third party purchase contract with, or evidence of a purchase from, an unrelated third party, 4) all applications seeking tiebreaker credit for donated or leased land, or land with a soft loan and 5) all new construction

applications involving a land sale from a related party. For purposes of this paragraph only, a purchase contract or sale with a related party shall be deemed to be a purchase contract or sale with an unrelated party if the applicant demonstrates that the related party is acting solely as a pass-through entity and the tax credit partnership is only paying the acquisition price from the last arms-length transaction, plus any applicable and reasonable carrying costs. Appraisals shall not include the value of favorable financing.

Appraisals must be prepared by a California certified general appraiser having no identity of interest with the development's partner(s) or intended partner or general contractor, acceptable to the Committee, and include, at a minimum, the following:

- (i) the highest and best use of the proposed project as residential rental property, considering any on-going recorded rent restrictions;
- (ii) for rehabilitation applications, the Sales Comparison Approach and Income Approach valuation methodologies shall be used; for new construction applications, the Sales Comparison Approach shall be used; for adaptive reuse applications, the Cost Approach valuation methodology shall be used for adaptive reuse of office buildings, retail buildings, and similar, and the Sales Comparison and Income Approaches may be used for hotels, motels, and similar;
- (iii) the appraiser's reconciled value, in cases that require multiple methodologies;
- (iv) a value for the land of the subject property ("as if vacant") for all rehabilitation or adaptive reuse projects requesting acquisition basis and new construction projects with existing improvements that may or may not be demolished;
- (v) an on-site inspection; and
- (vi) a purchase contract verifying the sales price of the subject property.

Comments received: One commenter supports the proposed change to simplify and clarify the appraisal requirement.

Final proposed change: Proceed as initially proposed

23. Section 10322(h)(21): California Utility Allowance Calculator (CUAC)

Reason: The proposed change clarifies that the use of the CUAC can only take place once the field verification has been completed and the system is operable. The proposed change will ensure projects are able to use the correct utility allowances associated with the CUAC only after the system is in operation. (Page 30-31)

Initial proposed change:

- (21) Utility allowance estimates. Current utility allowance estimates consistent with 26 CFR Section 1.42-10. The applicant must indicate which components of the utility allowance schedule apply to the project. For buildings that are using an energy consumption model utility allowance estimate, the estimate shall be calculated using the most recent version of the California Utility Allowance Calculator (CUAC) developed by the California Energy Commission (CEC), and incorporated in the CEC's compliance program (CBECC). The CUAC estimate shall be signed by a California Association of Building Energy Consultants (CABEC) Certified Energy Analyst (CEA). Measures that are used in the CUAC that require field verification shall be verified by a certified HERS Rater, in accordance with current HERS regulations. Use of CUAC is limited to (i) new construction projects, (ii) rehabilitation projects applying for tax credits consistent with the requirements of Section 10325(f)(7)(A), and (iii) existing tax credit projects with new photovoltaics installed, which offsets tenants' electrical load, and which includes site installation verification by a qualified HERS Rater. Projects utilizing the CUAC are approved for use upon the field verifications being completed. For projects using the CUAC where the field verification has not been completed prior to occupancy, the project must use an approved utility allowance source per 26 CFR Section 1.42-10 until the field verification is completed and the system is operable. Owners shall provide the tenants with a 90 day notification prior to the effective date with an informative summary about the current utility allowance and the proposed CUAC allowances before the utility allowances can be used in determining the gross rent of rent-restricted units. For projects applying for tax credits, the CUAC with supporting documentation shall be submitted in the Placed-in-service application required in Section 10322(i). For existing tax credit projects not applying for tax credits, the CUAC with supporting documentation shall be submitted to CTCAC upon field verification completion for CTCAC approval.

Comments received: Six commenters oppose the proposed change. The commenters state that it is quite common for projects to experience substantial delays when turning on their solar systems because utility companies remain unresponsive and slow to act when attempting to activate their systems. The commenters state that mandatory use of an alternative to the CUAC will negatively impact the project's permanent financing because the delays produced by the utility companies often extend beyond the date when the permanent financing is ready to close. The commenters suggest that project owners be allowed to use a CUAC that does not include the solar energy when it is not yet operational to minimize the negative impact on the permanent financing. One of the commenters recommend allowing project owners use the approved-CUAC rent schedule at lease signing if the project has a permitted solar system whose size is consistent with the modeled solar system in the CUAC report. If the project owner can prove the system size is consistent between the permit set of drawings and the CUAC model, it can be expected that the solar energy output will be relatively accurate and as modeled. The commenter explains that project owners have no control of the utility companies willingness or timeliness for releasing Permission to Operate (PTO) but all too often,

the PTO is not released until months after final inspection, well after the solar system is, “operable.”

Response to comments: Staff are aware of the delays because of utility companies and will conduct additional research. Staff are withdrawing the proposed change and will consider the proposed change in a future regulation package.

Final proposed change: Proposed change withdrawn

24. Section 10322(h)(23): Commercial cash flow

Reason: The proposed change eliminates the need to specifically document commercial income and expenses. The applicant statement certifies the information provided in the application is true and correct, which includes the requirement in paragraph (23) and Section 10327(g)(7). (Page 31)

Initial proposed change:

- (23) Cash flow projection. A 15-year projection of residential project cash flow. ~~Separate cash flow projections shall be provided for residential and commercial space.~~ If a capitalized rent reserve is proposed to meet the underwriting requirements of Section 10327, it must be included in the cash flow projections. Use of a capitalized rent reserve is limited to Special Needs projects, projects applying under the Non-profit Homeless Assistance set-aside, HOPE VI projects, and Section 8 project based projects.

Comments received: Two commenters support the proposed change. One of the commenters stated the proposed change lessens the burden on applicants while still maintaining the accuracy of the residential financial projections and proper operation of the residential portion given the certifications from the applicant.

Response to comments: Staff proposes a clarifying change from the initial proposed change revising the reference from “capitalized rent reserve” to “capitalized operating reserve” to align with other references within the regulations. The proposed change is highlighted below.

Final proposed change:

- (23) Cash flow projection. A 15-year projection of residential project cash flow. ~~Separate cash flow projections shall be provided for residential and commercial space.~~ If a capitalized rentoperating reserve is proposed to meet the underwriting requirements of Section 10327, it must be included in the cash flow projections. Use of a capitalized rentoperating reserve is limited to Special Needs projects, projects applying under the Non-profit Homeless Assistance set-aside, HOPE VI projects, and Section 8 project based projects.

25. Section 10322(i): Place-in-Service applications

Reason: The proposed change simplifies the Placed-in-Service (PIS) application requirements in the regulations and provides flexibility to the required documents. Staff will continue to publish a checklist of required documents for PIS applications on the CTCAC website. (Page 33)

Initial proposed change:

- (i) ~~Placed-in-service aApplications and Issuance of Tax Forms. Prior to CTCAC issuing IRS Form 8609 and/or FTB Form 3521A, the project owner shall~~ Within one year of the last building placed-in-service date for new construction projects and within one year of the rehabilitation completion date for rehabilitation projects, the project owner shall submit the documents listed below. If conversion to permanent financing has not taken place, documents (2), (5), (6), (12) and (14) below shall be submitted within 60 days of the permanent financing conversion date. A regulatory agreement provided by CTCAC shall be executed and recorded in the County Recorder's Office for which the project is located and the compliance monitoring fee shall be submitted upon request from CTCAC as required by Section 10335. For projects subject to a lease rider pursuant to Section 10337(a)(4), a lease rider shall be executed and recorded in the County Recorder's Office for which the project is located. CTCAC shall determine if all conditions of the reservation have been met. Changes subsequent to the initial application, particularly changes to the financing plan and costs or changes to the services amenities, must be explained by the project owner in detail. If all conditions have been met, tax forms will be issued, reflecting an amount of Tax Credits not to exceed the maximum amount permitted by these regulations. The following must be submitted:
- (1) Submit a complete placed-in-service application containing all information and documents required by the Executive Director. The application shall explain any changes in information or documentation between the initial application and placed-in-service applicationcertificates of occupancy for each building in the project (or a certificate of completion for rehabilitation projects). If acquisition Tax Credits are requested, evidence of the placed-in-service date for acquisition purposes, and evidence that all rehabilitation is completed;
- (A) Complete placed-in-service applications for new construction projects shall be submitted within one year of the final certificate of occupancy date. In projects with multiple buildings, the placed-in-service date shall be the latest final certificate of occupancy date of any building.
- (B) Complete placed-in-service applications for rehabilitation projects shall be submitted within one year of the rehabilitation completion date.
- (2) Execute the CTCAC regulatory agreement and record the agreement in the official records of the county where the project is locatedan audited certification, prepared and signed by an independent Certified Public Accountant identified by name, under generally accepted auditing standards, with all disclosures and notes. The Certified Public Accountant (CPA) or accounting firm shall not have acted a manner that would impair independence as established by the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct Section 101 and the Securities and Exchange Commission (SEC) regulations 17 CFR Parts

~~210 and 240. Examples of such impairing services, when performed for the final cost certification client, include bookkeeping or other services relating to the accounting records, financial information systems design and implementation, appraisal or evaluation services, actuarial services, internal audit outsourcing services, management functions or human resources, investment advisor, banking services, legal services, or expert services unrelated to the audit. Both the referenced SEC and AICPA rules shall apply to all public and private CPA firms providing the final audited cost certification. In order to perform audits of final cost certifications, the auditor must have a peer review of its accounting and auditing practice once every three years consistent with the AICPA Peer Review Program as required by the California Board of Accountancy for California licensed public accounting firms (including proprietors); and make the peer review report publicly available and submit a copy to CTCAC along with the final cost certification. If a peer review reflects systems deficiencies, CTCAC may require another CPA provide the final cost certification. This certification shall:~~

- ~~(A) as identified by the certified public accountant, reflect all costs, in conformance with 26 CFR § 1.42-17, and expenditures for the project up to the funding of the permanent loan as well as all sources and amounts of all permanent funding. Projects developed with general contractors who are Related Parties to the developer must be audited to the subcontractor level;~~
- ~~(B) include a CTCAC provided Sources and Uses form reflecting actual total costs incurred up to the funding of the permanent loan;~~
- ~~(C) certify that the CPA has not performed any services, as defined by AICPA and SEC rules, that would impair independence; and~~
- ~~(D) certify permanent financing conversion date~~

- (3) If applicable, execute a lease rider agreement and record the agreement in the official records of the county where the project is located~~an itemized breakdown of placed-in-service dates, shown separately for each building, on a Committee-provided form. If the placed-in-service date(s) denoted are different from the date(s) on the certificate(s) of occupancy, a detailed explanation is required;~~
- ~~(4) photographs of the completed building(s);~~
- ~~(5) a request for issuance of IRS Form(s) 8609 and/or FTB Form(s) 3521A;~~
- ~~(6) a certification from the investor or syndicator of equity raised and syndication costs in a Committee-provided format;~~
- ~~(7) an updated application form;~~
- ~~(8) an owner signed certification documenting the Supportive Services currently being provided to the residents, including identifying service provider(s), describing services provided, stating services dollar value, and stating services funding source(s) (cash or in-kind), with attached copies of contracts and MOUs for services;~~
- ~~(9) a copy of the project owner limited partnership agreement;~~
- ~~(10) a list of all amenities provided at the project site including any housing type requirements of Section 10325(h) committed to in the Tax Credit application, and~~

~~color photographs of the amenities. If the list differs from that submitted at application, an explanation must be provided; housing type requirements must be completed. In addition, the project owner must provide a list of any project amenities not included in basis for which the property owner intends to charge an optional fee to residents;~~

- ~~(11) a description of any charges that may be paid by tenants in addition to rent, with an explanation of how such charges affect eligible basis;~~
- ~~(12) if applicable, a certification from a third party tax professional stating the percentage of aggregate basis (including land) financed by tax exempt bonds for projects that received Tax Credits under the provisions of Section 10326 of these regulations;~~
- ~~(13) all applicable documentation required pursuant to the Compliance and Verification requirements of Sections 10325(c)(5), 10325(f)(7), 10326(g)(6) and 10327(c)(5)(B);~~
- ~~(14) if seeking a reduction in the operating expenses used in the Committee's final underwriting pursuant to Section 10327(g)(1) of these regulations, the final operating expenses used by the lender and equity investor;~~
- ~~(15) a certification from the project architect or, in the case of rehabilitation projects, from an architect retained for the purpose of this certification, that the design of the development is in compliance with all applicable Housing and Accessibility Requirements;~~
- ~~(16) evidence that the project is in compliance with any points received under Section 10325(c)(8);~~
- ~~(17) a current utility allowance estimate as required by 26 CFR Section 1.42-10(c) and Section 10322(h)(21) of these regulations. Measures that are used in the CUAC that require field verification shall be verified by a certified HERS rater, in accordance with current HERS regulations; and~~
- ~~(18) for tribal trust land, the lease agreement between the Tribe and the project owner.~~
- ~~(19) evidence that the subject property is within the control of the project owner in the form of an executed lease agreement, a current title report within 90 days of application except as provided in section 10322(h)(35) (or preliminary title report, but not title insurance or commitment to insure) showing the project owner holds fee title, a grant deed, or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status.~~
- ~~(20) evidence that the project is in compliance with the provisions of the CDLAC resolution, if applicable.~~
- ~~(21) if the application includes a legal separation or subdivision of a building that is not a condominium plan;~~

~~(A) — a legal opinion of how the legal separation meets the IRS definition of a building. The opinion must include a summary of the common area and building access ownership structure and any shared use agreements; and~~

~~(B) — if the project owners are proposing any kind of proportionate cost where there is a single common area owner, a tax attorney must provide an opinion on how proportioning a cost and corresponding eligible basis to an entity that does not own the space is permissible under IRS LIHTC and/or tax law. The opinion must include an estimated cost breakdown and the methodology for how these shared area costs were proportioned and is subject to review and approved by CTCAC.~~

~~(22) — For multiphase projects proposing to share use of common areas and community space, a joint use agreement must be provided in the placed in service application. In addition, if there is any kind of proportionate cost for common area and community space to a project that does not own the area/space, a tax attorney must provide an opinion of how apportioning a cost and corresponding eligible basis to an entity that does not own the area/space is permissible under IRS LIHTC and/or tax law. The opinion must include an estimated cost breakdown and the methodology for how these shared area costs were apportioned and is subject to review and approval by CTCAC.~~

~~The Executive Director may waive any of the above submission requirements if not applicable to the project.~~

Comments received: One commenter supports the proposed change. The commenter does have concerns that the current two-part process is still available for projects placed in service that have not converted to permanent financing. The commenter suggests revising the proposed language to allow staff to accept permanent conversion documents in a deferred submittal.

One other commenter also suggested memorializing in the CTCAC regulations the two-part submittal process allowing projects that have not yet converted to permanent financing the flexibility needed while still providing crucial documentation needed to CTCAC.

Response to comments: Staff agree with the comments and have clarified in Section 10322(i)(C) that for projects that have not yet converted to permanent financing, documents relating to the permanent financing conversion be submitted within 60 days of permanent financing conversion date consistent with existing requirements.

Staff have also clarified that the required information and documents required by the Executive Director for the PIS application will be published on the CTCAC website.

Final proposed change:

- (i) Placed-in-service aApplications and Issuance of Tax Forms. Prior to CTCAC issuing IRS Form 8609 and/or FTB Form 3521A, the project owner shall~~Within one year of the last building placed-in-service date for new construction projects and within one year of the rehabilitation completion date for rehabilitation projects, the project owner shall submit the documents listed below. If conversion to permanent financing has not taken place, documents (2), (5), (6), (12) and (14) below shall be submitted within 60 days of the permanent financing conversion date. A regulatory agreement provided by CTCAC shall be executed and recorded in the County Recorder's Office for which the project is located and the compliance monitoring fee shall be submitted upon request from CTCAC as required by Section 10335. For projects subject to a lease rider pursuant to Section 10337(a)(4), a lease rider shall be executed and recorded in the County Recorder's Office for which the project is located. CTCAC shall determine if all conditions of the reservation have been met. Changes subsequent to the initial application, particularly changes to the financing plan and costs or changes to the services amenities, must be explained by the project owner in detail. If all conditions have been met, tax forms will be issued, reflecting an amount of Tax Credits not to exceed the maximum amount permitted by these regulations. The following must be submitted:~~

- (1) Submit a complete placed-in-service application containing all information and documents required by the Executive Director and published on the CTCAC website. The application shall explain any changes in information or documentation between the initial application and placed-in-service application~~certificates of occupancy for each building in the project (or a certificate of completion for rehabilitation projects). If acquisition Tax Credits are requested, evidence of the placed-in-service date for acquisition purposes, and evidence that all rehabilitation is completed;~~
- (A) Complete placed-in-service applications for new construction projects shall be submitted within one year of the final certificate of occupancy date. In projects with multiple buildings, the placed-in-service date shall be the latest final certificate of occupancy date of any building.
- (B) Complete placed-in-service applications for rehabilitation projects shall be submitted within one year of the rehabilitation completion date.
- (C) For projects where conversion to permanent financing has not taken place, documents related to permanent financing conversion, as identified on the CTCAC website, shall be submitted within 60 days of the permanent financing conversion date.
- (2) Execute the CTCAC regulatory agreement and record the agreement in the official records of the county where the project is located~~an audited certification, prepared and signed by an independent Certified Public Accountant identified by name, under generally accepted auditing standards, with all disclosures and notes. The Certified Public Accountant (CPA) or accounting firm shall not have acted a manner that would impair independence as established by the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct Section 101 and the Securities and Exchange Commission (SEC) regulations 17 CFR Parts 210 and 240. Examples of such impairing services, when performed for the final cost certification client, include bookkeeping or other services relating to the accounting records, financial information systems design and implementation, appraisal or evaluation services, actuarial services, internal audit outsourcing services, management functions or human resources, investment advisor, banking services, legal services, or expert services unrelated to the audit. Both the referenced SEC and AICPA rules shall apply to all public and private CPA firms~~

~~providing the final audited cost certification. In order to perform audits of final cost certifications, the auditor must have a peer review of its accounting and auditing practice once every three years consistent with the AICPA Peer Review Program as required by the California Board of Accountancy for California-licensed public accounting firms (including proprietors); and make the peer review report publicly available and submit a copy to CTCAC along with the final cost certification. If a peer review reflects systems deficiencies, CTCAC may require another CPA provide the final cost certification. This certification shall:~~

~~(A) as identified by the certified public accountant, reflect all costs, in conformance with 26 CFR § 1.42-17, and expenditures for the project up to the funding of the permanent loan as well as all sources and amounts of all permanent funding. Projects developed with general contractors who are Related Parties to the developer must be audited to the subcontractor level;~~

~~(B) include a CTCAC provided Sources and Uses form reflecting actual total costs incurred up to the funding of the permanent loan;~~

~~(C) certify that the CPA has not performed any services, as defined by AICPA and SEC rules, that would impair independence; and~~

~~(D) certify permanent financing conversion date~~

~~(3) If applicable, execute a lease rider agreement and record the agreement in the official records of the county where the project is located an itemized breakdown of placed-in-service dates, shown separately for each building, on a Committee-provided form. If the placed-in-service date(s) denoted are different from the date(s) on the certificate(s) of occupancy, a detailed explanation is required;~~

~~(4) photographs of the completed building(s);~~

~~(5) a request for issuance of IRS Form(s) 8609 and/or FTB Form(s) 3521A;~~

~~(6) a certification from the investor or syndicator of equity raised and syndication costs in a Committee-provided format;~~

~~(7) an updated application form;~~

~~(8) an owner signed certification documenting the Supportive Services currently being provided to the residents, including identifying service provider(s), describing services provided, stating services dollar value, and stating services funding source(s) (cash or in-kind), with attached copies of contracts and MOUs for services;~~

~~(9) a copy of the project owner limited partnership agreement;~~

~~(10) a list of all amenities provided at the project site including any housing type requirements of Section 10325(h) committed to in the Tax Credit application, and color photographs of the amenities. If the list differs from that submitted at application, an explanation must be provided; housing type requirements must be completed. In addition, the project owner must provide a list of any project amenities not included in basis for which the property owner intends to charge an optional fee to residents;~~

- ~~(11) a description of any charges that may be paid by tenants in addition to rent, with an explanation of how such charges affect eligible basis;~~
- ~~(12) if applicable, a certification from a third party tax professional stating the percentage of aggregate basis (including land) financed by tax exempt bonds for projects that received Tax Credits under the provisions of Section 10326 of these regulations;~~
- ~~(13) all applicable documentation required pursuant to the Compliance and Verification requirements of Sections 10325(c)(5), 10325(f)(7), 10326(g)(6) and 10327(c)(5)(B);~~
- ~~(14) if seeking a reduction in the operating expenses used in the Committee's final underwriting pursuant to Section 10327(g)(1) of these regulations, the final operating expenses used by the lender and equity investor;~~
- ~~(15) a certification from the project architect or, in the case of rehabilitation projects, from an architect retained for the purpose of this certification, that the design of the development is in compliance with all applicable Housing and Accessibility Requirements;~~
- ~~(16) evidence that the project is in compliance with any points received under Section 10325(c)(8);~~
- ~~(17) a current utility allowance estimate as required by 26 CFR Section 1.42-10(c) and Section 10322(h)(21) of these regulations. Measures that are used in the CUAC that require field verification shall be verified by a certified HERS rater, in accordance with current HERS regulations; and~~
- ~~(18) for tribal trust land, the lease agreement between the Tribe and the project owner.~~
- ~~(19) evidence that the subject property is within the control of the project owner in the form of an executed lease agreement, a current title report within 90 days of application except as provided in section 10322(h)(35) (or preliminary title report, but not title insurance or commitment to insure) showing the project owner holds fee title, a grant deed, or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status.~~
- ~~(20) evidence that the project is in compliance with the provisions of the CDLAG resolution, if applicable.~~
- ~~(21) if the application includes a legal separation or subdivision of a building that is not a condominium plan:
 - ~~(A) a legal opinion of how the legal separation meets the IRS definition of a building. The opinion must include a summary of the common area and building access ownership structure and any shared use agreements; and~~
 - ~~(B) if the project owners are proposing any kind of proportionate cost where there is a single common area owner, a tax attorney must provide an opinion on how proportioning a cost and corresponding eligible basis to an entity that does not own the space is permissible under IRS LIHTC and/or tax law. The~~~~

~~opinion must include an estimated cost breakdown and the methodology for how these shared area costs were proportioned and is subject to review and approved by CTCAG.~~

~~(23) — For multiphase projects proposing to share use of common areas and community space, a joint use agreement must be provided in the placed in service application. In addition, if there is any kind of proportionate cost for common area and community space to a project that does not own the area/space, a tax attorney must provide an opinion of how apportioning a cost and corresponding eligible basis to an entity that does not own the area/space is permissible under IRS LIHTC and/or tax law. The opinion must include an estimated cost breakdown and the methodology for how these shared area costs were apportioned and is subject to review and approval by CTCAG.~~

~~The Executive Director may waive any of the above submission requirements if not applicable to the project.~~

26. Section 10322: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 36)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

27. Section 10323: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 37)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

28. Section 10325(a): Concurrent applications

Reason: The proposed change clarifies that applications submitted for the same project overlapping 9% and 4% rounds will be considered concurrent applications. Given the limited resources available, it is not unusual that applications for the projects are submitted in multiple rounds. Staff propose that in cases where concurrent applications are submitted, the first application or earlier application will be deemed withdrawn when the second application is submitted unless that first application appears on the preliminary recommendations list. In that case, the second application or later application is deemed withdrawn. This eliminates the uncertainty of concurrent applications for both the applicants and the staff. (Page 37)

Initial proposed change:

- (a) General. All applications not requesting Federal Tax Credits under the requirements of IRC Section 42(h)(4)(~~bB~~) and Section 10326 of these Regulations (for buildings financed by tax-exempt bonds) shall compete for reservations of Credit Ceiling amounts during designated reservation cycles. ~~Further, projects that have pending applications for a private activity bond allocation or~~ Applications for projects that have previously received private activity bond allocations that have not been returned as of the application filing deadline are ineligible to compete under the Credit Ceiling competition for Federal Tax Credits. Applications submitted to both the Credit Ceiling Application competition under Section 10325 and the Tax-Exempt Bond Application competition under Section 10326 for the same project with overlapping rounds shall be considered concurrent applications. The first application of the concurrent applications shall be deemed withdrawn unless it appears on the applicable preliminary recommendation list. If the first application is included on the applicable preliminary recommendation list, the second application shall be deemed withdrawn.

Comments received: 10 commenters support the proposed change. Seven of the commenters suggest revising the language to clarify the specific list that would determine if the first application of concurrent applications is deemed withdrawn. Some of the commenters suggest adding language that makes it clear that the first application of concurrent applications will not be deemed withdrawn if the application appears on preliminary recommendation list but did not make it to the final recommendation list as the list sometimes changes. Some other commenters suggested allowing the first application of concurrent applications not be deemed withdrawn unless they appear on the final award list following Committee approval.

Response to comments: Staff are aware of cases where the preliminary recommendation list is different from the final recommendation list. The intent of proposed change is to provide applicants and staff certainty on which of the concurrent applications is being considered and which is being withdrawn. Staff has clarified in the highlighted text below that a project's appearance on the "final recommendation list" will determine which application will be withdrawn to address the concerns regarding the change from the preliminary recommendation list to the final recommendation list and still meet the intent of the proposed change.

Final proposed change:

- (a) General. All applications not requesting Federal Tax Credits under the requirements of IRC Section 42(h)(4)(~~b~~B) and Section 10326 of these Regulations (for buildings financed by tax-exempt bonds) shall compete for reservations of Credit Ceiling amounts during designated reservation cycles. ~~Further, projects that have pending applications for a private activity bond allocation or Applications for projects~~ that have previously received private activity bond allocations that have not been returned as of the application filing deadline are ineligible to compete under the Credit Ceiling competition for Federal Tax Credits. Applications submitted to both the Credit Ceiling Application competition under Section 10325 and the Tax-Exempt Bond Application competition under Section 10326 for the same project with overlapping rounds shall be considered concurrent applications. The first application of the concurrent applications shall be deemed withdrawn unless it appears on the applicable preliminaryfinal recommendation list. If the first application is included on the applicable preliminaryfinal recommendation list, the second application shall be deemed withdrawn.

29. Section 10325(c)(1): General partner/management company experience

Reason: The proposed change removes redundant language and aligns existing text with the text in Section 10338(f)(1). (Page 37-40)

Initial proposed change:

- (1) General Partner/Management Company Characteristics.

No one general partner, party having any fiduciary responsibilities, or related parties will be awarded more than 15% of the Federal Credit Ceiling, calculated as of February first during any calendar year unless imposing this requirement would prevent allocation of all of the available Credit Ceiling.

- (A) General partner experience. To receive points under this subsection for projects in existence for more than three years, a proposed general partner, or a key person within the proposed general partner organization, must meet the following conditions:

- (i) For projects in operation for more than three years, submit a certification from a third party certified public accountant that the projects for which it is requesting points have maintained a positive operating cash flow, from typical residential income alone (e.g. rents,

rental subsidies, late fees, forfeited deposits, etc.) for the year in which each development's last financial statement has been prepared and have funded reserves in accordance with the partnership agreement and any applicable loan documents. To obtain points for projects previously owned by the proposed general partner, a similar certification must be submitted with respect to the last full year of ownership by the proposed general partner, along with verification of the number of years that the project was owned by that general partner. To obtain points for projects previously owned, the ending date of ownership or participation must be no more than 10 years from the application deadline. This certification must list the specific projects for which the points are being requested. The certification of the third party certified public accountant may be in the form of an agreed upon procedure report that includes funded reserves as of the report date, which shall be dated within 60 days of the application deadline, unless the general partner or key person has no current projects which are eligible for points in which case the report date shall be after the date from which the general partner or key person separated from the last eligible project. If the certification is prepared for a first-round application utilizing prepared financial statements of the previous calendar year, the certification may be submitted in a second round application, exceeding the 60 day requirement above. Where there is more than one general partner, experience points may not be aggregated; rather, points will be awarded based on the highest points for which 1 general partner is eligible.

Three to four projects in service more than three years, of which one shall be in service more than five years and two shall be California Low-Income Housing Tax Credit projects 5 points

Five or more projects in service more than three years, of which one shall be in service more than five years and two shall be California Low-Income Housing Tax Credit projects 7 points

For special needs housing type projects only applying through the Nonprofit set-aside or Special Needs set-aside only, points are available as described above or as follows:

Three Special Needs projects in service more than three years and one California Low-Income Housing Tax Credit project which may or may not be one of the three special needs projects 5 points

Four or more Special Needs projects in service more than three years and one California Low-Income Housing Tax Credit project which may or may not be one of the four special needs projects 7 points

- (ii) General partners with fewer than two (2) active California Low Income Housing Tax Credit projects in service more than three years, and general partners for projects applying through the Nonprofit or Special Needs set-aside with no active California Low Income Housing Tax Credit projects in service more than three years, shall contract with a bona-fide management company currently managing two (2) California Low Income Housing Tax Credit projects in service more than three years and which itself earns a minimum total of two (2) points at the time of application.

- (iii) Tribal applicants may contract with a developer who will not be a general partner and receive points commensurate with the developer's experience pursuant to clauses (i) and (ii). The contract shall be in effect at least until the issuance of 8609 tax forms. Tribal applicants exercising this option, including the option in the next paragraph, shall also contract for asset management for at least the term of the 15-year federal compliance period with an entity that has asset managed at least two Low-Income Housing Tax Credit projects for more than three years.

For purposes of this clause only, a developer may include an entity pre-approved by CTCAC that has developed but not owned the requisite number of projects described in (i) and that provides the certification from a third party certified public accountant described above for the projects for which experience points are requested. If the projects for which the entity requests experience points do not include two (2) active California Low Income Housing Tax Credit projects in service more than three years, the applicant shall contract with a bona-fide management company pursuant to clause (ii). For this purpose only, "develop" shall mean developing the project scope and timeline, securing financing, hiring or performing the services of a general contractor, and overseeing completion of construction and placement in service as well as asset managing the project for at least three years after placed in service. When seeking pre-approval the entity shall provide copies of contracts demonstrating that the standards have been met.

~~In applying for and receiving points in this category, applicants assure that the property shall be operated by a general partner in conformance with Section 10320(b).~~

- (B) Management Company experience. To receive points under this subsection, the property management company must meet the following conditions. To obtain points for projects previously managed, the ending date of the property management role must be no more than 10 years from the application deadline. In addition, the property management experience with a project shall not pre-date the project's placed-in-service date.

- (i) Six to 10 projects managed more than three years, of which two shall be California Low-Income Housing Tax Credit projects 2 points

11 or more projects managed more than three years, of which two shall be California Low-Income Housing Tax Credit projects 3 points

For special needs housing type projects only applying through the Nonprofit set-aside or Special Needs set-aside only, points are available as described above or as follows:

Two to three Special Needs projects managed more than three years and one California Low-Income Housing Tax Credit project which may or may not be one of the special needs projects 2 points

Four or more Special Needs projects managed more than three years and one California Low-Income Housing Tax Credit project which may or may not be one of the special needs projects 3 points

- (ii) Management companies managing less than two (2) active California Low-Income Housing Tax Credit projects for more than three years, and management companies for projects requesting points under the special needs categories of subparagraph (i) above and managing no active California Low-Income Housing Tax Credit projects for more than three years, shall contract with a bona-fide management company currently managing two (2) California Low Income Housing Tax Credit projects for more than three years and which itself earns a minimum combined total of two (2) points at the time of application.

When contracting with a California-experienced property management company under the terms of paragraph (A)(ii) or (B)(ii) above, the general partner or property co-management entity must obtain training in: CTCAC ownership/management, project operations, on-site certification~~-training in,~~ federal Fair Housing Law, and manager certification in IRS Section 42 program requirements from a CTCAC-approved, nationally recognized entity. Additionally, the experienced property management agent or an equally experienced substitute, must remain for a period of at least three years from the placed-in-service date (or, for ownership transfers, three years from the sale or transfer date) to allow for at least one (1) CTCAC monitoring visit to ensure the project is in compliance with IRC Section 42. Thereafter, the experienced property manager may transfer responsibilities to the remaining general partner or property management firm following formal written approval from CTCAC. ~~In applying for and receiving points in these categories, applicants assure that the property shall be owned and managed by entities with equivalent experience scores for the entire 15-year federal compliance and extended use period, pursuant to Section 10320(b).~~ The experience must include at least two (2) Low Income Housing Tax Credit projects in California in service more than three years.

Points in subsections (A) and (B) above will be awarded in the highest applicable category and are not cumulative. For points to be awarded in subsection (B), an enforceable management agreement executed by both parties for the subject application must be submitted at the time of application. "Projects" as used in subsections (A) and (B) means multifamily rental affordable developments of over 10 affordable units that are subject to a recorded regulatory agreement, or, in the case of housing on tribal lands, where federal HUD funds have been utilized in affordable rental developments. General Partner and Management Company experience points may be given based on the experience of the principals involved, or on the experience of municipalities or other nonprofit entities that have experience but have formed single-asset entities for each project in which they have participated, notwithstanding that the entity itself would not otherwise be eligible for such points. For qualifying experience, "principal" is defined as an individual overseeing the day-to-day operations of affordable rental projects as senior management personnel of the General Partner or property management company.

Comments received: None

Final proposed change: Proceed as initially proposed

30. Section 10325(c)(2)(R):

Reason: The proposed change updates the health, safety, and functional requirements established by the U.S. Department of Housing and Urban Development (HUD) from the Uniform Physical Condition Standards (UPCS) to the National Standards for the Physical Inspection of Real Estate (NSPIRE). (Page 41-42)

Initial proposed change:

- (R) failure to correct serious noncompliance, including incorrect rents or income qualification, incorrect utility allowance, or other overcharging of residents. In assigning negative points, CTCAC shall consider the most recent monitoring results for each of the parties' projects in the most recent three-year monitoring cycle. CTCAC shall allow affected parties a reasonable period to correct serious noncompliance before assigning negative points. Negative points may be warranted when more than ten percent (10%) of the party's total portfolio has Level 3 deficiencies under the ~~Uniform Physical Conditions Standards~~National Standards for the Physical Inspection of Real Estate (NSPIRE) established by HUD. In addition, negative points may be warranted when more than ten percent (10%) of the tenant files most recently monitored resulted in findings of either household income above regulated income limits upon initial occupancy, or findings of gross rent exceeding the tax credit maximum limits.

Comments received: None

Final proposed change: Proceed as initially proposed

31. Section 10325(c)(2)(U):

Reason: The proposed change updates the cross-reference to the new Section 10338(b). (Page 42)

Initial proposed change:

- (U) failure to comply with a requirement of the regulatory agreement or of a covenant entered into ~~under 10320(b)(2)(B) or~~ Section 10337(a)(3)(B) or Section 10338(b).

Comments received: None

Final proposed change: Proceed as initially proposed

32.10325(c)(4)(A): Site Amenities

Reason: The proposed change in paragraph (A) clarifies the disruption of travel due to barriers is not specific to walking patterns and conforms with current practice and the CDLAC regulations. The proposed changes in paragraphs 3., 9., 10., and 11. are corrections to existing text. The final proposed change in this section adds paragraph 12. providing Farmworker Housing projects or Tribal Trust Land projects an additional 3 points in response to Assembly Bill No. 1439 (Garcia). Farmworker Housing projects or Tribal Trust Land projects routinely are generally located in areas that would not meet the proximity requirements for the amenities to warrant the maximum points. The proposed change places these projects at a level playing field with other competing projects. (Page 42-46)

Initial proposed change:

(4) Amenities beyond those required as additional thresholds

- (A) Site Amenities: Site amenities must be appropriate to the tenant population served. To receive points the amenity must be in place at the time of application except as specified in paragraphs 1, 5, and 8 below. In addition, an amenity to be operated by a public entity that is (i) being constructed within the project as part of the tax credit development, (ii) is receiving development funding for the amenity from the public entity, and (iii) has a proposed operations budget from the operating public entity, would be considered "in place" at the time of application. Distances must be measured using a standardized radius from the development site to the target amenity, unless that line crosses a significant physical barrier or barriers. Such barriers include highways, railroad tracks, regional parks, golf courses, or any other feature that significantly disrupts the ~~pedestrian walking pattern~~ travel between the development site and the amenity. The radius line may be struck from the corner of development site nearest the target amenity, to the nearest corner of the target amenity site. However, a radius line shall not be struck from the end of an entry drive or on-site access road that extends from the central portion of the site itself by 250 feet or more. Rather, the line shall be struck from the nearest corner of the site's central portion. Where an amenity such as a grocery store resides within a larger shopping complex or commercial strip, the radius line must be measured to the amenity exterior wall, rather than the site boundary. The resulting distance shall be reduced in such instances by 250 feet to account for close-in parking.

No more than 15 points will be awarded in this category. For purposes of the Native American apportionment only, no points will be awarded in this category. However, projects that apply under the Native American apportionment that drop down to the rural set-aside will be scored in this category. Applicants must certify to the accuracy of their submissions and will be subject to negative points in the round in which an application is considered, as well as subsequent rounds, if the information submitted is found to be inaccurate. For each amenity, color photographs, a contact person and a contact telephone must be included in the application. The

Committee may employ third parties to verify distances or may have staff verify them. Only one point award will be available in each of the subcategories (1-9) listed below, with exception of the transit pass option of subcategory 1. Amenities may include:

1. Transit Amenities

The project is located where there is a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop within 1/3 mile from the site with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday, and the project's density will exceed 25 units per acre. 7 points

The site is within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 6 points

The site is within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 5 points

The site is located within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. (For Rural set-aside projects, full points may be awarded where van or dial-a-ride service is provided to tenants, if costs of obtaining and maintaining the van and its service are included in the budget and the operating schedule is either on demand by tenants or a regular schedule is provided) 4 points

The site is located within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. 3 points

In addition to meeting one of the point categories described above, the applicant commits to provide to residents free transit passes or discounted passes priced at no more than half of retail cost. Passes shall be made available to each Low-Income Unit at the time a Low-Income Unit is leased to the tenant and shall be made available for at least 15 years. These points are not available for projects with van service. These points are only available to Rural set-aside projects with dial-a-ride service for free or discounted dial-a-ride passes.

At least one pass per Low-Income Unit 3 points

At least one pass per each 2 Low-Income Units 2 points

"Light rail station" or "commuter rail station" or "ferry terminal" includes a planned rail station or ferry terminal whose construction is programmed into a Regional or State Transportation Improvement

Program to be completed within one year of the scheduled completion and occupancy of the proposed residential development.

A private bus or transit system providing service to residents may be substituted for a public system if it (a) meets the relevant headway and distance criteria, and (b) if service is provided free to the residents. Such private systems must receive approval from the CTCAC Executive Director prior to the application deadline. Multiple bus lines may be aggregated for the above points, only if multiple lines from the designated stop travel to an employment center. Such aggregation must be demonstrated to, and receive prior approval from, the CTCAC Executive Director in order to receive competitive points.

2. The site is within 1/2 mile of a public park or a community center accessible to the general public (1 mile for Rural set-aside projects). A public park shall not include 1) school grounds unless there is a bona fide, formal joint use agreement between the jurisdiction responsible for the parks/recreational facilities and the school district or private school providing availability to the general public of the school grounds and/or facilities, 2) greenbelts or pocket parks, or 3) open space preserves or biking parkways unless there is a trailhead or designated access point within the specified distance. 3 points

or within 3/4 mile (1.5 miles for Rural set-aside projects) 2 points

3. The site is within 1/2 mile of a book-lending public library that also allows for inter-branch lending (when in a multi-branch system) (1 mile for Rural set-aside projects) 3 points

or within 1 mile (2 miles for Rural set-aside projects) 2 points

4. The site is within 1/2 mile of a full-scale grocery store/supermarket of at least 25,000 gross interior square feet where staples, fresh meat, and fresh produce are sold (1 mile for Rural set-aside projects). A large multi-purpose store containing a grocery section may garner these points if the application contains the requisite interior measurements of the grocery section of that multipurpose store. The "grocery section" of a large multipurpose store is defined as the portion of the store that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 5 points

or within 1 mile (2 miles for Rural set-aside projects) 4 points

or within 1.5 miles (3 miles for Rural set-aside projects) 3 points

The site is within 1/4 mile of a neighborhood market of 5,000 gross interior square feet or more where staples, fresh meat, and fresh produce are sold (1/2 mile for Rural Set-aside projects). A large multi-purpose store containing a grocery portion may garner these points if the application contains interior measurements of the grocery section of that multi-purpose store. The "grocery section" of a large multipurpose store is defined as the portion of the store primarily devoted to food stuffs that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 4 points

or within 1/2 mile (1 mile for Rural Set-aside projects) 3 points

The site is within 1/2 mile of a weekly farmers' market on the list of Certified Farmers' Markets maintained by the California Department of Food and Agriculture and operating at least 5 months in a calendar year 2 points

or within 1 mile 1 point

5. The site is within (1) mile of adult education campus of a school district, or community college (an additional 1/2 mile for Rural set-aside projects) 3 points

For a development wherein at least 25 percent (25%) of the Low-Income Units (or, for Special Needs housing type, at least 25% of the Large Family Low-Income Units) shall be three-bedroom or larger units, the site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school, (an additional 1/2 mile for each public school type for Rural set-aside projects) and that the site is within the attendance area of that school or campus. 3 points

or within an additional 1/2 mile for each public-school type (an additional 1 mile for Rural set-aside projects) 2 points

Public schools demonstrated, at the time of application, to be under construction and to be completed and available to the residents prior to the housing development completion are considered in place at the time of application for purposes of this scoring factor.

6. For a Senior Development, the site is within 1/2 mile of a daily operated senior center or a facility offering daily services specifically designed for seniors (not on the development site) (1 mile for Rural set-aside projects) 3 points

or within 3/4 mile (1.5 miles for Rural set-aside projects) 2 points

7. For a Special Needs development, the site is located within 1/2 mile of a facility that operates to serve the population living in the development 3 points

or within 1 mile 2 points

8. The site is within 1/2 mile (for Rural set-aside projects, 1 mile) of a qualifying medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital (not merely a private doctor's office). A qualifying medical clinic must accept Medi-Cal payments, or Medicare payments for Senior Projects, or Health Care for the Homeless for projects housing homeless populations, or have an equally comprehensive subsidy program for low-income patients. 3 points

The site is within 1 mile (for Rural set-aside projects, 1.5 miles) of a qualifying medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital
2 points

A hospital demonstrated at the time of application to be under construction and to be completed and available to the residents prior to the housing development completion is considered in place at the time of application for purposes of this scoring factor.

9. The site is within 1/2 mile of a pharmacy (for Rural set-aside projects, 1 mile) 2 points

or within 1 mile (2 miles for Rural set-aside projects) 1 point

10. High speed internet service, with a minimum average download speed of 25 megabits/second must be made available to each Low-Income Unit for a minimum of 15 years, free of charge to the tenants, and available within 6 months of the project's placed-in-service date. Documentation of internet availability must be included in the application. If internet is selected as an option in the application it must be provided even if it is not needed for points.
2 points (3 points for Rural set-aside projects)

11. The project is a new construction Large Family housing type project, except for an inclusionary project as defined in Section 10325(c)(9)(C), and the site is located in a census tract, or census block group as applicable, designated on the CTCAC/HCD Opportunity Area Map as Highest or High Resource-; 8 points

An application for a large family new construction project located in a High or Highest Resource area shall disclose whether or not the project includes any Low-Income Units that satisfy the obligations of an affordable housing ordinance or development agreement with the jurisdiction in which the project will be built and, if so, the number of such units and whether the contractual obligations derive solely from the Low-Income Units themselves.

An applicant may choose to utilize the census tract, or census block group as applicable, resource designation from the CTCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

12. Applications for Farmworker Housing projects or Tribal Trust Land projects. 3 points

Comments received: 22 commenters support the proposed change. One of the commenters states that the proposed change will help address the geographic disadvantage that these projects face in the scoring system and will remove real, recurring barriers to develop farmworker and tribal housing. 12 of the commenters suggest increasing the 3 points to 5 points to carry out the legislative intent of AB 1439 to ensure farmworker projects can compete equitably. Three of the commenters suggest adding a point option for nine points for at-risk projects initially funded with

USDA 515 funding as there are a significant number of units of USDA funded housing in rural and remote unincorporated communities that are at-risk of being lost to conversion to market rate in the next 10 years. One of the commenters suggests awarding these additional three points to any tribal project eligible to compete within the Native American Apportionment, whether on fee or trust land. The commenter recommends defining “Tribal Trust Land” to clarify the projects eligible to claim these points. One of the commenters suggested as an alternative or a supplemental approach to increase the amenity distances to further reduce the potential barrier.

Response to comments: Staff agree with the comment regarding eligibility for the Native American apportionment and is clarifying the language highlighted below that the additional point option is available to projects eligible for the Native American apportionment. Staff agree with the intent of AB 1439 and revised the point option from 3 points to 5 points for applications proposing Farmworker Housing projects or projects eligible for the Native American apportionment to further place these projects at a level playing field with other competing projects.

Staff appreciate the suggestions for additional modifications to the Site Amenities point category relating to USDA 515 At-Risk projects and increasing Rural set-aside distances. Those suggestions warrant additional discussion and may be considered in a future regulations package.

Final proposed change:

- (4) Amenities beyond those required as additional thresholds
 - (A) Site Amenities: Site amenities must be appropriate to the tenant population served. To receive points the amenity must be in place at the time of application except as specified in paragraphs 1, 5, and 8 below. In addition, an amenity to be operated by a public entity that is (i) being constructed within the project as part of the tax credit development, (ii) is receiving development funding for the amenity from the public entity, and (iii) has a proposed operations budget from the operating public entity, would be considered “in place” at the time of application. Distances must be measured using a standardized radius from the development site to the target amenity, unless that line crosses a significant physical barrier or barriers. Such barriers include highways, railroad tracks, regional parks, golf courses, or any other feature that significantly disrupts the ~~pedestrian walking pattern~~ travel between the development site and the amenity. The radius line may be struck from the corner of development site nearest the target amenity, to the nearest corner of the target amenity site. However, a radius line shall not be struck from the end of an entry drive or on-site access road that extends from the central portion of the site itself by 250 feet or more. Rather, the line shall be struck from the nearest corner of the site’s central portion. Where an amenity such as a grocery store resides within a larger shopping complex or commercial strip, the radius line must be measured to the amenity exterior wall, rather than the site boundary.

The resulting distance shall be reduced in such instances by 250 feet to account for close-in parking.

No more than 15 points will be awarded in this category. For purposes of the Native American apportionment only, no points will be awarded in this category. However, projects that apply under the Native American apportionment that drop down to the rural set-aside will be scored in this category. Applicants must certify to the accuracy of their submissions and will be subject to negative points in the round in which an application is considered, as well as subsequent rounds, if the information submitted is found to be inaccurate. For each amenity, color photographs, a contact person and a contact telephone must be included in the application. The Committee may employ third parties to verify distances or may have staff verify them. Only one point award will be available in each of the subcategories (1-9) listed below, with exception of the transit pass option of subcategory 1. Amenities may include:

1. Transit Amenities

The project is located where there is a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop within 1/3 mile from the site with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday, and the project's density will exceed 25 units per acre. 7 points

The site is within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 6 points

The site is within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop with service at least every 30 minutes (or at least two departures during each peak period for a commuter rail station or ferry terminal) during the hours of 7-9 a.m. and 4-6 p.m., Monday through Friday. 5 points

The site is located within 1/3 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. (For Rural set-aside projects, full points may be awarded where van or dial-a-ride service is provided to tenants, if costs of obtaining and maintaining the van and its service are included in the budget and the operating schedule is either on demand by tenants or a regular schedule is provided) 4 points

The site is located within 1/2 mile of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop. 3 points

In addition to meeting one of the point categories described above, the applicant commits to provide to residents free transit passes or discounted passes priced at no more than half of retail cost. Passes shall be made available to each Low-Income Unit at the time a Low-

Income Unit is leased to the tenant and shall be made available for at least 15 years. These points are not available for projects with van service. These points are only available to Rural set-aside projects with dial-a-ride service for free or discounted dial-a-ride passes.

At least one pass per Low-Income Unit	3 points
At least one pass per each 2 Low-Income Units	2 points

“Light rail station” or “commuter rail station” or “ferry terminal” includes a planned rail station or ferry terminal whose construction is programmed into a Regional or State Transportation Improvement Program to be completed within one year of the scheduled completion and occupancy of the proposed residential development.

A private bus or transit system providing service to residents may be substituted for a public system if it (a) meets the relevant headway and distance criteria, and (b) if service is provided free to the residents. Such private systems must receive approval from the CTCAC Executive Director prior to the application deadline. Multiple bus lines may be aggregated for the above points, only if multiple lines from the designated stop travel to an employment center. Such aggregation must be demonstrated to, and receive prior approval from, the CTCAC Executive Director in order to receive competitive points.

2. The site is within 1/2 mile of a public park or a community center accessible to the general public (1 mile for Rural set-aside projects). A public park shall not include 1) school grounds unless there is a bona fide, formal joint use agreement between the jurisdiction responsible for the parks/recreational facilities and the school district or private school providing availability to the general public of the school grounds and/or facilities, 2) greenbelts or pocket parks, or 3) open space preserves or biking parkways unless there is a trailhead or designated access point within the specified distance. 3 points

or within 3/4 mile (1.5 miles for Rural set-aside projects)	2 points
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3. The site is within 1/2 mile of a book-lending public library that also allows for inter-branch lending (when in a multi-branch system) (1 mile for Rural set-aside projects) 3 points

or within 1 mile (2 miles for Rural set-aside projects)	2 points
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4. The site is within 1/2 mile of a full-scale grocery store/supermarket of at least 25,000 gross interior square feet where staples, fresh meat, and fresh produce are sold (1 mile for Rural set-aside projects). A large multi-purpose store containing a grocery section may garner these points if the application contains the requisite interior measurements of the grocery section of that multipurpose store. The “grocery section” of a large multipurpose store is defined as the portion of the store that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 5 points

or within 1 mile (2 miles for Rural set-aside projects)	4 points
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or within 1.5 miles (3 miles for Rural set-aside projects) 3 points

The site is within 1/4 mile of a neighborhood market of 5,000 gross interior square feet or more where staples, fresh meat, and fresh produce are sold (1/2 mile for Rural Set-aside projects). A large multi-purpose store containing a grocery portion may garner these points if the application contains interior measurements of the grocery section of that multi-purpose store. The "grocery section" of a large multipurpose store is defined as the portion of the store primarily devoted to food stuffs that sells fresh meat, produce, dairy, baked goods, packaged food products, delicatessen, canned goods, baby foods, frozen foods, sundries, and beverages. 4 points

or within 1/2 mile (1 mile for Rural Set-aside projects) 3 points

The site is within 1/2 mile of a weekly farmers' market on the list of Certified Farmers' Markets maintained by the California Department of Food and Agriculture and operating at least 5 months in a calendar year 2 points

or within 1 mile 1 point

5. The site is within (1) mile of adult education campus of a school district, or community college (an additional 1/2 mile for Rural set-aside projects) 3 points

For a development wherein at least 25 percent (25%) of the Low-Income Units (or, for Special Needs housing type, at least 25% of the Large Family Low-Income Units) shall be three-bedroom or larger units, the site is within 1/4 mile of a public elementary school; 1/2 mile of a public middle school; or one (1) mile of a public high school, (an additional 1/2 mile for each public school type for Rural set-aside projects) and that the site is within the attendance area of that school or campus. 3 points

or within an additional 1/2 mile for each public-school type (an additional 1 mile for Rural set-aside projects) 2 points

Public schools demonstrated, at the time of application, to be under construction and to be completed and available to the residents prior to the housing development completion are considered in place at the time of application for purposes of this scoring factor.

6. For a Senior Development, the site is within 1/2 mile of a daily operated senior center or a facility offering daily services specifically designed for seniors (not on the development site) (1 mile for Rural set-aside projects) 3 points

or within 3/4 mile (1.5 miles for Rural set-aside projects) 2 points

7. For a Special Needs development, the site is located within 1/2 mile of a facility that operates to serve the population living in the development 3 points

or within 1 mile 2 points

8. The site is within 1/2 mile (for Rural set-aside projects, 1 mile) of a qualifying medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital (not merely a private doctor's office). A qualifying medical clinic must accept Medi-Cal payments, or Medicare payments for Senior Projects, or Health Care for the Homeless for projects housing homeless populations, or have an equally comprehensive subsidy program for low-income patients. 3 points

The site is within 1 mile (for Rural set-aside projects, 1.5 miles) of a qualifying medical clinic with a physician, physician's assistant, or nurse practitioner onsite for a minimum of 40 hours each week, or hospital 2 points

A hospital demonstrated at the time of application to be under construction and to be completed and available to the residents prior to the housing development completion is considered in place at the time of application for purposes of this scoring factor.

9. The site is within 1/2 mile of a pharmacy (for Rural set-aside projects, 1 mile) 2 points

or within 1 mile (2 miles for Rural set-aside projects) 1 point

10. High speed internet service, with a minimum average download speed of 25 megabits/second must be made available to each Low-Income Unit for a minimum of 15 years, free of charge to the tenants, and available within 6 months of the project's placed-in-service date. Documentation of internet availability must be included in the application. If internet is selected as an option in the application it must be provided even if it is not needed for points.

2 points (3 points for Rural set-aside projects)

11. The project is a new construction Large Family housing type project, except for an inclusionary project as defined in Section 10325(c)(9)(C), and the site is located in a census tract, or census block group as applicable, designated on the CTCAC/HCD Opportunity Area Map as Highest or High Resource. 8 points

An application for a large family new construction project located in a High or Highest Resource area shall disclose whether or not the project includes any Low-Income Units that satisfy the obligations of an affordable housing ordinance or development agreement with the jurisdiction in which the project will be built and, if so, the number of such units and whether the contractual obligations derive solely from the Low-Income Units themselves.

An applicant may choose to utilize the census tract, or census block group as applicable, resource designation from the CTCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

12. Applications for Farmworker Housing projects or Tribal Trust Land projects eligible for the Native American apportionment. 35 points

33. Section 10325(c)(8)(B):

Reason: The proposed change corrects the reference to the Housing and Accessibility Requirements definition in Section 10302(II). (Page 51-52)

Initial proposed change:

- (B) Enhanced Accessibility and Visitability. Project design incorporates accessibility provisions of the Housing and ~~Building~~—Accessibility Requirements and the principles of Universal Design in at least half of the project's Low-Income Units, including:
- Accessible routes of travel to the dwelling units with accessible 34" minimum clear-opening-width entry, and 34" clear width for all doors on an accessible path.
 - Interior doors with lever hardware and 42" minimum width hallways.
 - Fully accessible bathrooms complying with CBC 11B. In addition, a 30"x48" clearance parallel to and centered on the bathroom vanity.
 - Accessible kitchens with 30"x48" clearance parallel to and centered on the front of all major appliances and fixtures (refrigerator, oven, dishwasher and sink)
 - Accessible primary bedroom size shall be at least 120 square feet (excluding the closet), shall accommodate a queen size bed, shall provide 36" in clearance around three sides of the bed, and shall provide required accessible clearances, free of all furnishings, at bedroom and closet doors. The primary bedroom closet shall be on an accessible path.
 - Wiring for audio and visual doorbells required by UFAS shall be installed.
 - Closets and balconies shall be located on an accessible route.
 - These units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project consistent with 24 CFR Section 8.26.
 - Applicant must commit to obtaining certification from a CASp or architect with demonstrated experience meeting federal accessibility requirements.

2 points

Comments received: None

Final proposed change: Proceed as initially proposed

34. Section 10325(c)(8)(G):

Reason: The proposed change expands the excess state-owned land pursuant to Executive Order N-06-19 to state-owned land outside of Executive Order N-06-19 and to local surplus land. Staff see value in excess and surplus land outside of

Executive Order N-06-19 and offer those as options to garner the two (2) points in the point category. (Page 52)

Initial proposed change:

- (G) Utilizing Excess State-Owned Land or Local Surplus Land: Projects located on land designated as excess state land pursuant to Executive Order N-06-19, state-owned land acquired through means than Executive Order N-06-19, or surplus land owned by a local agency. 2 points

Comments received: One commenter supports the proposed change.

Response to comments: Staff noted a typo in the initial proposed change that has been corrected in the highlighted text below.

Final proposed change:

- (G) Utilizing Excess State-Owned Land or Local Surplus Land: Projects located on land designated as excess state land pursuant to Executive Order N-06-19, state-owned land acquired through means other than Executive Order N-06-19, or surplus land owned by a local agency. 2 points

35. Section 10325(c)(9)(A)(v): Recycled bonds

Reason: The proposed change removes recycled private activity bonds as a leveraged soft resource to align with CDLAC's proposed elimination of the leveraged soft resources point category. (Page 56)

Initial proposed change:

~~(v) For 4% credit applications, recycled private activity bonds (whether they be used for construction or permanent financing or both) shall be considered leveraged soft resources so long as the loan terms are consistent with market standards.~~

Comments received: Eight commenters support the proposed change. One of the commenters states that recycled bonds have no comparable nexus to soft debt and have literally 1/50th of the value of soft debt in their savings. The commenter stated that including recycled bonds increases your overall issuance costs with very little public benefit.

Response to comments: Since CDLAC staff will continue to propose the elimination of the leveraged soft resources point category, staff will continue to remove recycled private activity bonds as a leveraged soft resource to align with CDLAC.

Final proposed change: Proceed as initially proposed

36. Section 10325(c)(9)(A)(iv): Tie breaker for hybrid projects

Reason: The proposed change removes text referenced from an outdated calculation of the developer fee limit. (Page 56)

Initial proposed change:

(iv) developers shall defer or contribute as equity to the project any amount of combined 4% and 9% developer fees in cost that are in excess of the limit pursuant to Section 10327(c)(2)(A) ~~plus \$20,000 per unit for each Tax Credit Unit in excess of 100,~~ using (a) the combined Tax Credit Units of the 9% and 4% components, (b) the combined eligible basis of the 9% and 4% components, and (c) the high-cost test factor calculated using the eligible basis and threshold basis limits for the 9% component.

Comments received: None

Final proposed change: Proceed as initially proposed

37. Section 10325(c)(9)(D): Tie breaker increase for rural counties

Reason: The proposed change clarifies that the five-percentage point increase is available to rural counties where a tax credit project has not been awarded within the last five years. The list of awarded projects can be found on the CTCAC website [here](#). (Page 58)

Initial proposed change:

(D) For Rural set aside projects applying in counties where no tax credit applications have been ~~received~~awarded within five years of the application filing date, the tiebreaker shall be increased by five percentage points.

Comments received: None

Final proposed change: Proceed as initially proposed

38. Section 10325(d)(2): 125% rule skipping

Reason: The proposed change clarifies that the “75% of the final tiebreaker score” applies to the first skipped project in cases where no projects have yet been funded in the geographic region or the first skipped project after the last funded project in cases where a project has been funded in the geographic region. (Page 63)

Initial proposed change:

- (2) Geographic Areas selection. Tax Credits remaining following reservations to all set-asides shall be reserved to projects within the geographic areas, beginning with the geographic area having the smallest apportionment, and proceeding upward according to size in the first funding round and in reverse order in the second funding round. The funding order shall be followed by funding the highest scoring application, if any, in each of the regions. After each region has had the opportunity to fund one project, CTCAC shall award the second highest scoring project in each region, if any, and continue cycling through the regions, filling each geographic area’s apportionment. Projects will be funded in order of their rank so long as the region’s aggregate award amount does not exceed 125 percent (125%) of the amount originally available for that region in that funding round. Credits allocated in excess of the Geographic Apportionments by the application of the 125% rule described above will be drawn from the second-round apportionments during the first round, and from the Supplemental Set Aside during the second round. However, all Credits drawn from the Supplemental Set Aside will be deducted from the Apportionment in the subsequent round.

When the highest-ranking project or next highest-ranking project(s) do not meet the 125% rule then the Committee shall skip over that project to fund a project requesting a smaller credit award that does not exceed the 125% requirement. However, no project may be funded by this skipping process unless it (a) has a point score equal to that of the first project skipped, and (b) has either a final tiebreaker score equal to at least 75% of the first skipped project’s final tiebreaker score or a final tiebreaker score equal to at least 75% of the final tiebreaker score of the first skipped project after the last funded project in the geographic region.

To the extent that there is a positive balance remaining in a geographic area after a funding round, such amount will be added to the amount available in that geographic area in the subsequent funding round. Similarly, to the extent that there is a deficit in a geographic area after a funding round, such amount will be subtracted from the funds available for reservation in the next funding round. Any unused credit from the geographic areas in the second funding round will be added back into the Supplemental Set-Aside. Tax credits reserved in all geographic areas shall be counted within the housing type goals.

Comments received: One commenter appreciates the proposed change but suggests adding additional language to ensure at least one project will get funded if a right-sized request is received. The commenter proposes that the skipping rule not apply if no other project has been funded in the geographic region.

Response to comments: We appreciate the comment and may consider it in a future regulation package.

Final proposed change: Proceed as initially proposed

39. Section 10325(f)(1), (1)(A), and (1)(B): Housing need and demand

Reason: The proposed change in paragraph (A) removes the requirement to provide a public housing waiting list as it is likely that most, if not all, public housing authorities maintain waiting lists. It is no longer necessary to substantiate demand beyond the requirements in the market study. (Page 63-64)

Initial proposed change:

- (1) Housing need and demand. Applicants shall provide evidence that the type of housing proposed, including proposed rent levels, is needed and affordable to the targeted population within the community in which it is located, with evidence including a market study that meets the current market study guidelines distributed by the Committee. Market studies will be assessed thoroughly. Meeting the requirements of subsection (B)(A) below is essential, but because other elements of the market study will also be considered, meeting those requirements in subsection (B)(A) will not in itself show adequate need and demand for a proposed project or ensure approval of a given project. Evidence shall be conclusive and include the most recent documentation available (prepared or updated within 180 days of the application date). Evidence of housing need and demand shall include, but is not limited to:

~~(A) — evidence of public housing waiting lists, by bedroom size and tenant type, if available, from the local housing authority; and~~

~~(B)(A)~~ except as provided in Section 10322(h)(10), a market study as described in Section 10322(h)(10) of these regulations, which provides evidence that:

- (i) The proposed tenant paid rents for each affordable unit type in the proposed development will be at least ten percent (10%) below the weighted average rent for the same unit types in comparable market rate rental properties;
- (ii) Except for special needs rehabilitation projects in which at least 90% of the total units are SRO units, the proposed unit value ratio stated as dollars per square foot (\$/s.f.) will be no more than the weighted average unit value ratios for comparable market rate units;
- (iii) In rural areas without sufficient three- and four-bedroom market rate rental comparables, the market study must show that in comparison to three- and four-bedroom market rate single family homes, the affordable rents will be at least 20% below the rents for single family homes and the \$/s.f. ratio will not exceed that of the single family homes; and
- (iv) The demand for the proposed project's units must appear strong enough to reach stabilized occupancy – 90% occupancy for Special Needs projects and 95% for all other projects – within six months of

being placed in service for projects of 150 units or less, and within 12 months for projects of more than 150 units and senior projects.

Comments received: Two commenters support the proposed change. One of the commenters applauds the infinitive to reduce applicant and CTCAC staff time involved in preparing and reviewing tax credit applications.

Final proposed change: Proceed as initially proposed

40. Section 10325(f)(2) and (2)(A): Site control

Reason: The proposed change simplifies the site control requirements for ease of reading and removes the limitation on acceptance of title insurance or commitments to insure. (Page 64-65)

Initial proposed change:

- (2) Demonstrated site control. Applicants shall provide evidence that the subject property is within the control of the applicant.

~~(A)~~ Site control may be evidenced by:

~~(i) (A) fee title as demonstrated by a current title report (within 90 days of application except as provided in Section 10322(h)(35) (or preliminary title report, but not title insurance or commitment to insure) showing the applicant holds fee title and recorded deed or conveyance showing the applicant has ownership or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status. Title reports must be issued within 90 days of the application due date unless Section 10322(h)(35) applies;~~

~~(ii) (B) an executed long-term lease agreement or lease option in a form acceptable to CTCAC for the length of time the project will be regulated under this program connecting the applicant and the owner of the subject property;~~

~~(iii) (C) an executed disposition and development agreement connecting the applicant and a public agency; or,~~

~~(iv) (D) a valid, current, enforceable contingent purchase and sale agreement or option agreement connecting the applicant and the owner of the subject property. Evidence must be provided at the time of the application that all extensions and other conditions necessary to keep the agreement current through the application filing deadline have been executed.~~

~~(E) Other documentation may be accepted to the Executive Director's satisfaction.~~

~~(B) A current title report (within 90 days of application except as provided in Section 10322(h)(35) (or preliminary title report, but not title insurance or commitment to insure) or for tribal trust land a title status report or an~~

~~attorney's opinion regarding chain of title and current title status, shall be submitted with all applications for purposes of this threshold requirement.~~

~~(C) The Executive Director may determine, in her/his sole discretion, that site control has been demonstrated where a local agency has demonstrated its intention to acquire the site, or portion of the site, through eminent domain proceedings.~~

Comments received: Two commenters support the proposed change providing flexibility to allow for a form of lease or option to lease that is “acceptable to CTCAC.” However, the commenters state this language could create ambiguity about what is considered acceptable and recommend retaining the original clause and adding “or in a form acceptable to CTCAC,” so that if an applicant has an Option or Ground Lease “for a length of time the project will be regulated under this program connecting the applicant and the owner of the subject property,” it will clearly meet the site control requirement. Where an agreement does not meet this description, the commenters state that applicants could seek CTCAC confirmation that their specific document is acceptable.

Response to comments: The proposed changes are intended to provide additional flexibility for applicants; however, staff can appreciate the need for a clear and predictable site control standard. Staff have adjusted the proposed language highlighted below to remove this ambiguity and alternatively clarify in CTCAC Regulation Section 10337(a)(4), that all long-term leases must be in a form acceptable to CTCAC, which contemplates factors beyond the term of the lease.

Final proposed change:

- (2) Demonstrated site control. Applicants shall provide evidence that the subject property is within the control of the applicant.

~~(B)~~ Site control may be evidenced by:

~~(v)(A) fee title as demonstrated by a current title report (within 90 days of application except as provided in Section 10322(h)(35) (or preliminary title report, but not title insurance or commitment to insure) showing the applicant holds fee title and recorded deed or conveyance showing the applicant has ownership or, for tribal trust land, a title status report or an attorney's opinion regarding chain of title and current title status. Title reports must be issued within 90 days of the application due date unless Section 10322(h)(35) applies;~~

~~(vi) (B) an executed long-term lease agreement or lease option between the applicant and property owner, extending for the duration of the project's regulatory period under this program in a form acceptable to CTCAC for the length of time the project will be regulated under this program connecting the applicant and the owner of the subject property;~~

~~(vii)(C)~~ an executed disposition and development agreement connecting the applicant and a public agency; or,

~~(viii)(D)~~ a valid, current, enforceable contingent purchase and sale agreement or option agreement connecting the applicant and the owner of the subject property. Evidence must be provided at the time of the application that all extensions and other conditions necessary to keep the agreement current through the application filing deadline have been executed.

~~(E) Other documentation may be accepted to the Executive Director's satisfaction.~~

~~(D) A current title report (within 90 days of application except as provided in Section 10322(h)(35) (or preliminary title report, but not title insurance or commitment to insure) or for tribal trust land a title status report or an attorney's opinion regarding chain of title and current title status, shall be submitted with all applications for purposes of this threshold requirement.~~

~~(E) The Executive Director may determine, in her/his sole discretion, that site control has been demonstrated where a local agency has demonstrated its intention to acquire the site, or portion of the site, through eminent domain proceedings.~~

41. Section 10325(f)(7)(K):

Reason: The proposed change corrects the reference to the Housing and Accessibility Requirements definition in Section 10302(II). (Page 68)

Initial proposed change:

(K) Accessible Housing Unit(s). All projects shall comply with the Housing and ~~Building~~ Accessibility Requirements in addition to the following, unless otherwise specified:

Comments received: None

Final proposed change: Proceed as initially proposed

42. Section 10325(f)(9)(C): Per project award

Reason: As a result of the 12% increase in the 9% credits from the One Big Beautiful Bill Act, the proposed change increases the per project award for 9% projects by 12% from \$2,500,000 to \$2,800,000. The per project award has not been increased in 19 years. The increase will accommodate larger projects, achieve greater economies of scale, and address current financial needs. (Page 71)

Initial proposed change:

- (C) The maximum annual Federal Tax Credits available for award to any one project in any funding round shall not exceed Two Million ~~Five~~Eight Hundred Thousand ~~Dollars~~ (\$~~2,500,000~~2,800,000)~~Dollars~~.

Comments received: Nine commenters support the proposed change. Four of the commenters agree the per project increase from \$2.5 million to \$2.8 million will accommodate larger developments with greater economies of scale as well as address current financial realities. One of the commenters suggested further increasing the per project award to \$3,000,000.

Response to comments: As previously stated, the increase from \$2,500,000 to \$2,800,000 was based on the same 12% increase to the 9% credits in total. For that reason, staff maintains that \$2,800,000 is the appropriate per project award based on the overall 12% increase of the 9% credits. Staff may consider a further increase in a future regulation package.

Final proposed change: Proceed as initially proposed

43. Section 10325(f)(11)(C): Existing tax credit projects

Reason: The proposed change updates the cross-reference to the new Section 10338(c). (Page 71)

Initial proposed change:

- (C) For existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication), the pre-rehabilitation reserve study in the CNA shall demonstrate a rehabilitation need of at least \$5,000 per unit over the first three years. Projects for which the Executive Director has waived the requirements of Section ~~10338(c)20(b)(4)~~ and projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.

Comments received: None

Final proposed change: Proceed as initially proposed

44. Section 10325(g)(2)(A): Senior housing type

Reason: The federal Section 8 statute requires that project-based vouchers (PBVs) units use a “senior preference” instead of a restriction for seniors. The proposed change allows for a preference rather than a restriction for projects with Project-Based Section 8 applying for tax credits targeted for seniors allowing these funding sources to be combined to assist low-income seniors. (Page 73)

Initial proposed change:

- (A) All units shall be restricted to households eligible under applicable provisions of California Civil Code Section 51.3 and the federal Fair Housing Act, and further be subject to Fair Housing Laws with respect to senior housing. As applicable, projects with Senior units receiving project-based Section 8 rental subsidy, or other applicable Federal rental subsidies, may use a senior preference for senior unit leasing, in compliance with U.S. Code Title 42 Chapter 8 Subchapter I Section 1437f;

Comments received: Three commenters support the proposed change. Two of the commenters appreciated the responsiveness to concerns expressed about the interaction of Section 8 with senior housing requirements. One commenter recommends limiting the application of a senior housing preference to only the specific HUD programs that prohibit a restriction to seniors as State housing agencies, including HCD and CTCAC, have restricted senior housing for decades to ensure that California's senior and aging populations have dedicated, affordable housing.

Response to comments: Staff agree that allowing a senior preference should only apply to projects with specific programs that prohibit a senior restriction, which has been clarified in the highlighted text below.

Staff also corrected the reference to the California Civil Code and it is highlighted in the text below.

Final proposed change:

- (A) All units shall be restricted to households eligible under applicable provisions of California Civil Code Section s 51.3 and 51.3.5 and the federal Fair Housing Act, and further be subject to Fair Housing Laws with respect to senior housing. As applicable, projects with Senior units receiving project-based Section 8 rental subsidy, or other applicable Federal rental subsidies that specifically prohibit a senior restriction, may use a senior preference for senior unit leasing, in compliance with U.S. Code Title 42 Chapter 8 Subchapter I Section 1437f;

45. Section 10325(g)(2)(C)(i): Senior housing type

Reason: The proposed change corrects the reference to the Housing and Accessibility Requirements definition in Section 10302(II). (Page 74)

Initial proposed change:

- (i) the exemption does not pertain to any accessibility features required by the Housing and ~~Building~~ Accessibility Requirements, including the required minimum five percent (5%) Units with mobility features. The CBC Ch. 11B and federal law minimums are calculated on all units in the project, not just restricted units, and

Comments received: None

Final proposed change: Proceed as initially proposed

46. Section 10325(h): Waiting list

Reason: The proposed change codifies existing practice to delegate authority to the Executive Director to award projects from the Waiting List if established by the Committee at the conclusion of the last reservation cycle. The delegated authority allows the Executive Director to award projects administratively to ensure the remaining federal credits are utilized prior to the end of the year to maintain eligibility for the National Pool. (Page 78-79)

Initial proposed change:

- (h) Waiting List. At the conclusion of the last reservation cycle of any calendar year, and at no other time, the Committee may establish a Waiting List of pending applications in anticipation of utilizing any Tax Credits that may be returned to the Committee, and/or that have not been allocated to projects with the Set-Asides or Geographic Regions for which they were intended. If established, the Executive Director shall offer preliminary reservations of Tax Credits to pending projects on the Waiting List subject to staff evaluation and determination of scoring project completeness, eligibility and conformance with the requirements of Section 10325(h), and conditions recommended in project staff reports, reservation letters and carryover allocation agreements. The Waiting List shall expire at midnight on December 31 of the year the list is established. During periods without a waiting list, complete credit awards returned by successful geographic apportionment competitors shall be returned to the apportionment of origin.

Staff shall score, rank and evaluate applications on the Waiting List and make selections from the Waiting List as follows:

Comments received: None

Final proposed change: Proceed as initially proposed

47. Section 10325: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 79)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

48. Section 10326(a): Tax-exempt bond applications

Reason: The proposed change codifies the emergency regulation changes that were adopted at the August 5, 2025, CTCAC meeting. (Page 79)

Initial proposed change:

- (a) General. All applications requesting Federal Tax Credits under the requirements of IRC Section 42(h)(4) ~~(B) for buildings and land, the aggregate basis (including land) of which is financed at least fifty percent (50%) by tax-exempt bonds~~, shall be eligible to apply under this Section for a reservation and allocation of Federal Tax Credits. Those projects requesting State Tax Credits pursuant to subsection (g)(1)(A) and (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code will also be subject to the applicable requirements of Section 10317. All applicants requesting Tax Credits for projects financed with tax-exempt bonds shall apply simultaneously to the CDLAC and CTCAC and shall use the CDLAC-CTCAC Joint Application. Applications will be eligible for a reservation of tax credits only if receiving a bond allocation pursuant to a joint application.

Comments received: None

Final proposed change: Proceed as initially proposed

49. Section 10326(b) and (b)(3): Application criteria

Reason: The proposed change updates the cross-reference to the new Section 10338. The proposed change codifies the emergency regulation change that was adopted at the August 5, 2025, CTCAC meeting with a minor revision. The proposed change increases the limit for State Tax Credits in the ELI/VLI set aside from 15% to 20% and allows for the 20% to be exceeded by the amount of State Tax Credits that remain in the Homeless set aside. (Page 79-80)

Initial proposed change:

(b) Applicable criteria. Selection criteria for applications reviewed under this Section shall include those required by IRC Section 42(m), this Section 10326, and Sections 10300, 10302, 10305, ~~10320~~, 10322, 10327, 10328(e), 10330, 10335, ~~and 10337~~, and 10338 of these regulations. Other sections of these regulations shall not apply. The first funding round shall be the first application review period of a calendar year for tax-exempt bond financed projects.

(1) Subject to conditions described in these Regulations, reservations of Federal and State Tax Credits shall be made for those applications that receive a bond allocation from CDLAC until the established State Tax Credit allocation amount is exhausted. If the last application requires more State Tax Credits than remain for the calendar year, that application will not be funded, and the remaining credits will be either funded through the Waiting List or carried forward into the next calendar year. If there is not sufficient State Tax Credits to allocate to applications recommended for tax-exempt bonds by CDLAC, the State Tax Credits will be allocated based on ranking within the CDLAC pools and set asides in the following order:

- (A) Black, Indigenous, or Other People of Color (BIPOC) Project Pool;
- (B) Rural Project Pool;
- (C) New Construction Pool, Homeless Projects Set Aside;
- (D) New Construction Pool, ELI/VLI Project Set Aside;
- (E) New Construction Pool, Mixed-Income Project Set Aside; and
- (F) All remaining New Construction Pool Projects

(2) For State Tax Credits pursuant to Section 10317(j) of these Regulations, an amount up to \$200,000,000 in a calendar year may be allocated for housing financed by CalHFA's Mixed-Income Program (MIP) that also receives a bond allocation from CDLAC. Applications with financing by CalHFA (MIP) will be accepted in any funding round. The amount allocated for CalHFA MIP may be reduced upon agreement of the Executive Directors of CalHFA and CTCAC.

At the conclusion of the final funding round of a calendar year, the Committee may establish a Waiting List of pending applications in anticipation of utilizing any State Tax Credits that may be returned to the Committee, and/or that have not been allocated to projects for which they were intended. The Waiting List shall expire on December 31 of the year the list is established.

(3) Subject to the requirements of paragraph (1) and excluding the \$25,000,000 in State Tax Credits available to Farmworker Housing, State Tax Credits allocated under Section 10317(j) shall not exceed the percentages of the total State Tax Credits amount available in the funding round for the following New Construction Pools and Set Asides.

<u>Black, Indigenous, or Other People of Color (BIPOC) Project Pool</u>	<u>15%</u>
<u>Rural Project Pool</u>	<u>15%</u>
<u>New Construction Pool, Homeless Project Set Aside</u>	<u>25%</u>
<u>New Construction Pool, ELI/VLI Project Set Aside</u>	<u>20%</u>

The 20% limit for the ELI/VLI Project Set Aside may be exceeded by the amount of State Tax Credits remaining in the Homeless Project Set Aside.

Comments received: Seven commenters support the proposed change to increase state credit limit for the ELI/VLI set aside from 15% to 20% and six of the commenters also support allowing the 20% be exceeded by the amount of state tax credits that remain in the Homeless set aside to help ensure that scarce state tax credits go to projects that offer deeply affordable units. Two of the commenters suggest also rolling over any unused state tax credits from the BIPOC and Rural pools for the Homeless and the ELI/VLI set asides as it will provide more state tax credits to the state priority set asides and move forward more deeply targeted projects that will provide the greatest public benefit.

One commenter supports the limits placed on the set asides for the allocation of state credits.

Two commenters suggested changes to the state tax credits percentage limits. One of the commenters states the percentages should more closely follow the bond allocations by pool and in line with the overall state goals. Accordingly, the commenter suggests more resources be allocated from the Rural pool to the Homeless or ELI/VLI set asides. One of the commenters recommend increasing the percentages for Homeless and ELI/VLI set asides to reflect their higher demand with any rollover of state tax credits to the Homeless and ELI/VLI set asides before geographic regions can access them. The commenter states that by setting a hard limit of state tax credits for the pools and set asides, but not for the geographic regions, only the geographic regions can access state tax credit underutilization in other pools and set asides based on their data analysis from CDLAC's 2025 third round preliminary recommendation list.

Response to comments: Staff appreciate the comments received regarding the rollover of state tax credits from the various pools and set asides down to the ELI/VLI set aside and changes to the percentage limits. Staff established these percentages in August and based them on prior year awards. Staff will revisit the percentage limits after 2026 to determine if any changes are necessary.

Final proposed change: Proceed as initially proposed

50. Section 10326(g)(8)(C): Existing tax credit projects

Reason: The proposed change updates the cross-reference to the new Section 10338(c). (Page 82)

Initial proposed change:

- (C) For existing tax credit projects applying for a new reservation of tax credits for acquisition and/or rehabilitation (i.e., resyndication), the pre-rehabilitation reserve study in the CNA shall demonstrate a rehabilitation need of at least \$5,000 per unit over the first three years. Projects for which the Executive Director has waived the requirements of Section 10338(c)20(b)(4) and projects with ten years or less remaining on the CTCAC regulatory agreement are exempt from this requirement.

Comments received: None

Final proposed change: Proceed as initially proposed

51. Section 10326: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 84)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

52. Section 10327(c)(2)(D) and (E): Deferred developer fee

Reason: The proposed change removes the deferred developer fee limit for 9% projects and will not restrict the applicant from deferring the entire developer fee for use as financing source. The second proposed change clarifies when a BIPOC project can receive the increased developer fee and updates the cross-reference to the proposed change to the general partner experience section in the CDLAC regulations. (Page 87)

Initial proposed change:

- (D) ~~Deferred fees and costs. Deferral of project development costs shall not exceed an amount equal to seven and one half percent (7.5%) of the unadjusted eligible basis of the proposed project prior to addition of the developer fee. Unless expressly required by a State or local public funding source, in no case may the applicant propose deferring project~~

~~development costs in excess of half (50%) of the proposed developer fee. Tax-exempt bond projects shall not be subject to this limitation.~~

- (E) Black, Indigenous, or Other People of Color (BIPOC). For projects that ~~qualify for~~receive general partner experience pursuant to Section ~~5230(f)(1)(B)~~5105(f)(1)(B) of the CDLAC Regulations, the 15% of project's unadjusted eligible construction related basis stated in Section 10327(c)(2)(B) shall be increased to 20% of the project's unadjusted eligible construction related basis and the two million five hundred thousand (\$2,500,000) dollars in subsection (c)(2)(B) above, is increased to three million (\$3,000,000) dollars.

Comments received: Six commenters support the proposed change to remove the deferred developer fee limit for 9% projects as it will allow applicants to defer their entire developer fee to use as financing for their project.

One commenter opposed the proposed change from “qualify for” to “receive” in the paragraph relating to the BIPOC developer fee limit as the change would eliminate the ability for an emerging BIPOC developer to compete in the BIPOC pool with a maximum experienced nonprofit general partner while qualifying for the BIPOC joint venture developer fee incentive. One commenter was opposed to changes in the BIPOC Project definition that more clearly prohibits BIPOC entities that are partnering with experienced nonprofits from accessing the joint venture developer fee if the project is competing in the BIPOC Pool.

Response to comments: The proposed change clarifies the original intent of the increased developer fee, which was to incentivize joint ventures competing outside of the BIPOC Pool. The recent changes to the definition of BIPOC Project to allow a BIPOC Entity to partner with an experienced partner should not change that.

Final proposed change: Proceed as initially proposed

53. Section 10327(c)(6): Acquisition costs

Reason: The proposed change in paragraph (6) allows for the acquisition cost for new construction sites to increase after the establishment in the initial application under specific circumstances. Staff understand that unanticipated costs may be incurred after the purchase and therefore propose that the acquisition cost shall not increase except for increases after the purchase that were necessary for development, not knowable at the time of application, and approved by the Executive Director. (Page 91)

Initial proposed change:

- (6) Acquisition costs. All applications must include the cost of land and improvements in the Sources and Uses budget, except that (i) competitive projects with donated land and/or improvements shall include the appraised value of the donated land and improvements that is not nominal, and (ii) projects on tribal trust land need only provide an improvement cost or value. If the acquisition for a new construction project involves a Related Party, the applicant shall disclose the relationship at the time of initial application.

Once established in the initial application, the acquisition cost of a new construction site shall not increase except for increases after the purchase that were necessary for development, not knowable at the time of application, and approved by the Executive Director, or as provided below for land and improvements donated or leased. Except as allowed pursuant to Section 10322(h)(9)(A) or by a waiver pursuant to this section below for projects basing cost on assumed debt, neither the purchase price nor the basis associated with existing improvements, if any, shall increase during all subsequent reviews including the placed-in-service review.

If land or land and improvements (real property) are donated to the general partner or member of the project owner and if approved by CTCAC in advance, the general partner or member may sell the real property to the project for an amount equal to the donated value established in the application provided that: there must be a seller carryback loan for the full amount of the sale, the loan must be “soft,” having a term of at least 15 years, a below market interest rate and interest accrual, and be either fully deferred or require only residual receipts payments for the loan term. Alternatively, the value may be a capital contribution of a general partner or member. Once established in the initial application, the donated value of the real property shall not increase.

If land or land and improvements (real property) are donated or are leased for a mandatory lease payment of \$100 per year or less, and if approved by CTCAC in advance, the donation value established in the application may be a capital contribution of a general partner or member. Once established in the initial application, the donated value of the real property/lease shall not increase.

- (A) New Construction. The cost of land acquired through a third-party transaction with an unrelated party shall be evidenced by a sales agreement, purchase contract, or escrow closing statement. The value of land acquired from a Related Party shall be underwritten using the lesser of the current purchase price or appraised value pursuant to Section 10322(h)(9). If the purchase price exceeds appraised value, the applicant shall, within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the soft permanent financing by the overage. For all other purposes, the project cost shall include the overage.

The value of donated land, including land donated as part of an inclusionary housing ordinance, must be evidenced by an appraisal pursuant to Section 10322(h)(9).

- (B) Rehabilitation. Except as noted below, the applicant shall provide a sales agreement or purchase contract in addition to the appraisal. The value of land and improvements shall be underwritten using the lesser amount of the purchase price or the “as is” appraised value of the subject property (as

defined in Section 10322(h)(9)) and its existing improvements without consideration of the future use of the property as rent restricted housing except if the property has existing long term rent restrictions that affect the as-is value of the property. The land value shall be based upon an “as if vacant” value as determined by the appraisal methodology described in Section 10322(h)(9) of these regulations. If the purchase price is less than the appraised value, the savings shall be prorated between the land and improvements based on the ratio in the appraisal. If the purchase price exceeds appraised value, the applicant shall (i) limit improvements acquisition basis to the amount supported by the appraisal and (ii) within the shortfall calculation section of the basis and credits page of the application only, reduce the project cost and the soft permanent financing, exclusive of any developer fee that must be deferred or contributed pursuant to Section 10327(c)(2)(B), by the overage. For all other purposes, the project cost shall include the overage.

The Executive Director may approve a waiver to underwrite the project with a purchase price in excess of the appraised value where (i) a local governmental entity is purchasing, or providing funds for the purchase of land for more than its appraised value in designated revitalization area when the local governmental entity has determined that the higher cost is justified, or (ii) the purchase price does not exceed the sum of third-party debt encumbering the property that will be assumed or paid off.

For tax-exempt bond-funded properties receiving credits under Section 10326 only or in combination with State Tax Credits and exercising the option to forgo an appraisal pursuant to Section 10322(h)(9)(A), no sales agreement or purchase contract is required, and CTCAC shall approve a reasonable proration of land and improvement value consistent with similar projects in the market area.

Comments received: Eight commenters support the proposed change. Six of the commenters recommend extending the exception to acquisition and rehabilitation projects.

Response to comments: Staff maintain that unanticipated costs after the purchase that are necessary for development and not knowable at the time of application are limited to new construction projects and do not apply to acquisition and rehabilitation projects. For that reason, staff are not proposing any additional change to extend this exception to the acquisition and rehabilitation projects.

Final proposed change: Proceed as initially proposed

54. Section 10327(c)(7) and (7)(B): Reserve accounts

Reason: The proposed change in paragraph (7) clarifies that reserve accounts may be loaned to the project during an ownership transfer if the reserve accounts are being loaned to the project with no interest. The intent is that the reserve accounts remain with the project without any interest being made from those accounts. The proposed change in subparagraph (B) allows alternatives to the capitalized three-

month operating reserve requirement that may be accepted at the discretion of the Executive Director. (Page 92)

Initial proposed change:

- (7) Reserve accounts. All reserve accounts shall be used to maintain the property (which does not include repayment of loans) and/or benefit its residents, and shall remain with the project except as provided in subparagraph (B) below and except when a public lender funds rent subsidy and/or service reserves and requires repayment of unused rent subsidy and/or service reserves. If ownership of a project is transferred, the reserve accounts may be loaned to the project at zero percent (0%) interest and/or purchased by the purchaser(s) or transferee(s) for an amount equal to the reserve account(s) balance(s).
- (A) The minimum replacement reserve deposit for projects shall be three hundred dollars (\$300) per unit per year, or for new construction or senior projects, two hundred fifty dollars (\$250) per unit per year. The on-going funding of the replacement reserve in this amount shall be a requirement of the regulatory agreement during the term of the agreement, and the owner shall maintain these reserves in a segregated account. Funds in the replacement reserve shall only be used for capital improvements or repairs.
- (B) An operating reserve shall be funded in an amount equal to three months of estimated operating expenses and debt service under stabilized occupancy. Additional funding will be required only if withdrawals result in a reduction of the operating reserve account balance to 50% or less of the originally funded amount. At the discretion of the Executive Director, Aan equal, verified operating reserve requirement of any other debt or equity source, letter of credit, or demand note may be used as a substitute, and the ~~reserve~~ may be released following achievement of a minimum annual debt service ratio of 1.15 for three consecutive years following stabilized occupancy only to pay deferred developer fee. The Committee shall allow operating reserve amounts in excess of industry norms to be considered "reasonable costs," for purposes of this subsection, only for homeless assistance projects under the Non-Profit Set-Aside, as described in Section 10315(b), Special Needs projects, HOPE VI projects, or project-based Section 8 projects. The original Sources and Uses budget and the final cost certification shall demonstrate the initial and subsequent funding of the operating reserves.

Comments received: None

Final proposed change: Proceed as initially proposed

55. Section 10327(g)(7): Commercial income and expenses

Reason: The proposed change eliminates the need to specifically document commercial income and expenses. The applicant statement certifies the information provided in the application is true and correct, which includes the requirement in paragraph (7). (Page 95)

Initial proposed change:

- (7) The income from the residential portion of a project shall not be used to support any negative cash flow of a commercial portion and. ~~Alternatively, the commercial income shall not support the residential portion. Applicants must provide an analysis of the anticipated commercial income and expenses. At placed in service, an applicant with commercial space shall provide a written communication from the hard lender specifying the portion of the loan that is underwritten with commercial income and, if greater than zero, the corresponding annual commercial debt service payments.~~

Comments received: Two commenters support the proposed change. One of the commenters states that the change lessens the burden on applicants while still maintaining the accuracy of the residential financial projections and proper operation of the residential portion given the certifications from the applicant.

Final proposed change: Proceed as initially proposed

56. Section 10327: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 96)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

57. Section 10328: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 98)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

58. Section 10330(a)(8) and (9), and (b)(1) and (2): Appeals

Reason: The proposed change adds the denial of a rent increase limit waiver as a determination that may be appealed pursuant to Section 10336(a)(2) and clarifies the applicable appeal processes in paragraphs (1) and (2) for the items in subdivision (a). (Page 98)

Initial proposed change:

- (a) Availability. An applicant shall not appeal the Committee staff evaluation of another applicant's application. An appeal may only be filed under the following circumstances:
- (1) determination of the application point score;
 - (2) disqualification from participation in the program under Section 10325(c);
 - (3) disqualification of an incomplete application under Section 10322;
 - (4) qualification for "additional threshold requirements," pursuant to Section 10325(g);
 - (5) determination of the Credit amount under Section 10327;
 - (6) forfeiture of a performance deposit under Section 10335(e);
 - (7) negative points assigned by the Executive Director under Section 10325(c)(2); ~~and~~
 - ~~(8) Aa~~ fine imposed under Section 10337(f); ~~and~~
 - ~~(8)(9)~~ denial of rent increase limit waiver under Section 10336(a)(2).
- (b) (1) Procedure for ~~application~~ appeals of items (a)(1) through (5). An appeal related to an application must be submitted in writing and received by CTCAC staff no later than five (5) calendar days following the transmittal date of the staff's point or disqualification letter. The appeal shall identify the applicant's grounds for the appeal and be based upon previously submitted application materials except as permitted under Section 10322(e).

Staff will respond in writing to the appeal letter within five (5) calendar days after receipt of the appeal letter. If the applicant wishes to appeal the staff response,

the applicant may appeal in writing to the Executive Director no later than five (5) calendar days following the transmittal date of the staff response letter. The Executive Director will respond in writing within ten (10) calendar days after receipt of the appeal letter. If the applicant wishes to appeal the Executive Director's decision, a final appeal may be submitted to the Committee no more than five (5) calendar days following the transmittal date of the Executive Director's letter. An appeal to the Committee must be accompanied by a five hundred dollar (\$500) non-refundable fee payment payable to CTCAC. No Committee appeals will be addressed without this payment. The appeal review shall be based upon the existing documentation submitted by the applicant when the application was filed, except as provided under Section 10322(e). Any appeal or response due on a weekend or holiday shall be deemed to be due on the following business day.

- (2) Procedure for ~~negative point or fine~~ appeals of items (a)(6) through (9). An appeal ~~related to negative points or a fine~~ must be submitted in writing and received by the Executive Director no later than fourteen (14) calendar days following the transmittal of a negative point or fine letter, unless the Executive Director grants an extension which shall not exceed fourteen (14) additional days. The appeal shall identify specifically the appellant's ground for the appeal. The Executive Director will respond in writing no more than ten (10) calendar days after receipt of the appeal, unless the appellant requests an extension to accommodate a meeting with the Executive Director. If the appellant wishes to appeal the Executive Director's decision, a final appeal may be submitted to the Committee no more than seven (7) calendar days following the date of receipt of the Executive Director's letter. An appeal to the Committee must be accompanied by a five hundred dollar (\$500) non-refundable fee payment payable to CTCAC. No Committee appeals will be addressed without this payment.

Comments received: One commenter shares concern about the proposed change to allow for an appeal to the denial of a rent limit waiver request by LIHTC owners. The commenter recommends the right to appeal also be extended to the tenants whom this policy is intended to protect.

Response to comments: Staff appreciate the comment to allow the appeal in Section 10330(a)(9) be extended to the tenant. Staff will continue to evaluate and refine the rent increase waiver request process.

Final proposed change: Proceed as initially proposed

59. Section 10330: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 99)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

60. Section 10335(g), (h), (i), (j), and (k): Fees

Reason: The proposed changes add additional fees associated with requests to amend recorded regulatory agreements, ownership transfers/refinance, property management company changes, and waiver requests to the rent increase limit. All of these actions require staff review and staff time that warrant an additional fee. (Page 101)

Initial proposed change:

- (g) Tax form revision fee. An owner who requests an amendment to 8609 or 3521A tax forms, including a request that occurs after CTCAC completes the drafting of these forms, shall pay a fee of one thousand dollars (\$1,000) unless the Executive Director determines that the amendment is necessary due to a CTCAC error.
- (h) Regulatory agreement amendment fee. An owner who requests an amendment to the recorded regulatory agreement shall pay a fee of one thousand dollars (\$1,000) unless the Executive Director determines that the amendment is necessary due to a CTCAC error.
- (i) Ownership transfer/refinance fee. An owner who requests an ownership transfer or refinancing shall pay a fee of one thousand dollars (\$1,000).
- (j) Property management company change fee. An owner who requests a property management company change shall pay a fee of one thousand dollars (\$1,000).
- (k) Rent increase limit waiver fee. An owner who requests a waiver to the rent increase limit in Section 10336(a)(2) shall pay a fee of one thousand dollars (\$1,000).

Comments received: One commenter seeks clarification on Section 10335(i) regarding which events would be considered "ownership transfer or refinancing" requests subject to the fee. The commenter shares concern that the proposed change would be overly inclusive by including non-Transfer Events in the events requiring a \$1,000 fee, even though they are not events that require Executive Director approval or more complex review.

The commenter requests that the proposed change in paragraph (i) be revised to clarify that the \$1,000 fee only applies to "Transfer Events" or alternatively,

specifically exclude the "transfer of the project or a partnership or membership interest in a project owner in which reserves remain with the project and the debt encumbering the project is not increased, refinanced or otherwise modified." The commenter believes it is important for project owners to maintain communication to CTCAC on project ownership changes, even when they are not Transfer Events, but concerned that the proposed regulation, as written, would discourage such communication.

Response to comments: Staff agree the ownership transfer/refinance fee should be more specific and clarified. The intent of the fee was to capture ownership transfers or refinances that require heightened staff review and/or legal review and this clarification limits the fee to such transactions.

Final proposed change:

- (g) Tax form revision fee. An owner who requests an amendment to 8609 or 3521A tax forms, including a request that occurs after CTCAC completes the drafting of these forms, shall pay a fee of one thousand dollars (\$1,000) unless the Executive Director determines that the amendment is necessary due to a CTCAC error.
- (h) Regulatory agreement amendment fee. An owner who requests an amendment to the recorded regulatory agreement shall pay a fee of one thousand dollars (\$1,000) unless the Executive Director determines that the amendment is necessary due to a CTCAC error.
- (i) Ownership transfer/refinance fee. An owner who requests an ownership transfer or refinancing transaction that requires qualifications review, or results in the recording of a document with the county, shall pay a fee of one thousand dollars (\$1,000).
- (j) Property management company change fee. An owner who requests a property management company change shall pay a fee of one thousand dollars (\$1,000).
- (k) Rent increase limit waiver fee. An owner who requests a waiver to the rent increase limit in Section 10336(a)(2) shall pay a fee of one thousand dollars (\$1,000).

61. Section 10335: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 101)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12,

50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

62. Section 10336(b)(2)(B)(iii): Waiting lists

Reason: The proposed change codifies the emergency regulation change that was adopted at the August 5, 2025, CTCAC meeting. (Page 102-103)

Initial proposed change:

- (B) Adopt a written tenant selection policy in clear, intelligible, and unambiguous language that complies with state and federal law, include the Fair Housing Laws, and is consistent with any Housing Type requirements, including Housing First.
 - (i) All new and existing projects with Accessible Housing Units shall adopt a process to market information about Accessible Housing Units to eligible individuals with disabilities and take reasonable nondiscriminatory steps to maximize use of Accessible Units by eligible individuals with disabilities requiring accessibility features. When an Accessible Housing Unit becomes vacant, the owner or property manager shall offer the unit:
 - (a) First, to a current occupant of another unit of the same project, or comparable projects under common control, having a disability requiring the accessibility features of the vacant unit and occupying a unit not having such features, or if no such occupant exists, then
 - (b) Second, to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.
 - (c) If no applicant meeting the criteria in subsections (a) or (b) is available, the Accessible Housing Unit may be offered to a tenant or applicant who does not need the unit's accessibility features.
 - (d) When offering an Accessible Housing Unit to an applicant not having a disability requiring the accessibility features of the unit, the owner or manager shall require the applicant to agree to move to a non-accessible unit when a comparable unit is available. This agreement shall be incorporated in the lease or a lease addendum.
 - (ii) To the extent possible, projects where one or more of the Low-Income Units is restricted to occupancy by Chronically Homeless or

Homeless must fill vacancies for such units with local CES referrals of people experiencing Homelessness or At-Risk of Homelessness. Where the CES system is not operational, referrals shall be through another similar system compliant consistent with WIC Section 8255, subdivision (b)(3).

- (a) If the local CES system fails to refer a tenant within 30 days of written notification of a vacancy, units may be occupied by tenants referred from other sources consistent with WIC Section 8255, subdivision (b)(3).
- (b) Where the local office of the U.S. Department of Veterans Affairs is not participating in a CES, vacancies may be filled with those Veterans who are referred directly by that local office.
- (c) If acuity (the severity of presenting issues) is used as the basis for selecting tenants, it must be measured using the VI-SPDAT or some other standardized assessment tool approved by the Executive Director.

(iii) Waiting Lists. Owners and property manager shall comply with any federal, state, or local laws, rules or policies that require a tenant waitlist priority for households displaced and experiencing homelessness due to a Presidentially declared disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5121 et seq.) or State of Emergency declared by the Governor of California in accordance with the State Constitution and California Emergency Services Act (Gov. Code, § 8550 et seq.).

Comments received: None

Final proposed change: Proceed as initially proposed

63. Section 10336: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 104)

Initial proposed change:

Note: Authority cited: Section 50199.17 and 50199.25, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 827 and 1947.12, Civil Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

64. Section 10337(a): Regulatory agreement and long-term lease

Reason: The proposed change clarifies process and requirements for projects developed under a long-term lease. Effective January 1, 2026, CTCAC will revise its ground lease compliance policy to allow projects to satisfy legal protection requirements through standardized language incorporated directly into the regulatory agreement. This change eliminates the need for a separate lease rider agreement (LRA). This approach preserves CTCAC's essential legal safeguards by embedding key protections into the regulatory agreement itself. These include lessor consent, waiver of conflicting lease terms, notice of lease modifications, and extended cure periods for defaults. The lessor will acknowledge and agree to these provisions by signing the regulatory agreement in a standardized format. This approach streamlines documentation, reduces administrative burden, and improves program efficiency while maintaining the integrity of CTCAC's compliance framework. It reflects stakeholder input and offers applicants and lessors a more practical alternative to the LRA without compromising legal protections. The Lease Rider Agreement will remain an option for projects receiving reservations through the end of 2025. (Page 104-105)

Initial proposed change:

- (a) Regulatory Agreement. All recipients of Tax Credits, whether Federal only, or both Federal and State, are required to execute a regulatory agreement, as a condition to the Committee's making an allocation, which will be recorded against the property for which the Tax Credits are allocated, and, if applicable, will reflect all scoring criteria proposed by the applicant in the competition for Federal and/or State housing Credit Ceiling.
 - (1) For projects developed under a long-term lease the lessor shall sign the Regulatory Agreement and agree to the following terms, as may be prescribed or amended by the Committee:
 - (A) To consent and approve the terms of the regulatory agreement to the extent such consent and approval is reasonably necessary or required under the long-term lease;
 - (B) To waive any provisions of the long-term lease which would prevent the Owner's compliance with the Regulatory Agreement;
 - (C) To, except as provided in (D), provide CTCAC with written notice of long-term lease termination, subordination, cancellation, surrender, amendment, or modification and CTCAC shall be deemed to have consented to any such noticed variation if CTCAC fails to consent, deny or request clarification within 30 days of delivery of such notice;

(D) To terminate the long-term lease after Owner's default only after both expiration of any grace period given to the Owner to cure a default and providing CTCAC written notice specifying each default, the methods of cure, and a reasonable amount of time, but no less than 180-days starting the date CTCAC is provided written notice of default, to cure the default; and

(E) To, upon reasonable request, promptly provide CTCAC a written statement declaring, to the best of lessor's knowledge, any information relating to the condition of the property and the long-term lease reasonably requested by CTCAC.

~~(4)~~(2) For all projects receiving a reservation of competitive 9% federal tax credits on or after January 1, 2016 for which all general partners will be Qualified Nonprofit Organizations, the partnership agreement shall include a Right of First Refusal ("ROFR") for one or more of the nonprofit general partners to purchase the project after the end of the 15-year federal compliance period. The price to purchase the project under this ROFR shall be the minimum price allowed under IRC Section 42(i) plus any amounts required to be paid to the tax credit investors that remain unpaid for approved Asset Management Fees and required payments under the limited partnership agreement for tax credit adjusters that remain outstanding at the time of the sale. The applicant shall demonstrate compliance with this requirement prior to the issuance of the 8609 forms.

~~(2) For all projects receiving a reservation of 4% and 9% federal tax credits on or after January 1, 2016, the regulatory agreement shall require written approval of the Executive Director for any Transfer Event.~~

(3) Where a Project is receiving renewable project-based rental assistance or operating subsidy:

(A) the owner shall in good faith apply for and accept all renewals available;

(B) if the project-based rental assistance or operating subsidy is terminated through no fault of the owner, the property owner shall notify CTCAC in writing immediately and shall make every effort to find alternative subsidies or financing structures that would maintain the deeper income targeting contained in the recorded CTCAC regulatory agreement. Upon documenting to CTCAC's satisfaction unsuccessful efforts to identify and obtain alternative resources, the owner may increase rents and income targeting for Low-Income Units above the levels allowed by the recorded regulatory agreement up to the federally-permitted maximum. Rents shall be raised only to the extent required for Financial Feasibility, as determined by CTCAC. Where possible, remedies shall include skewing rents higher on portions of the project in order to preserve affordability for units regulated by CTCAC at extremely low income targeting. Any necessary rent increases shall be phased in as gradually as possible, consistent with maintaining the project's Financial Feasibility. If housing Special Needs populations, the property owner shall attempt to minimize disruption to existing households, and transition to non-Special Needs households only as necessary and upon vacancy whenever possible.

(4) Long-term Lease. For projects developed under a long-term lease, the long-term lease and any amendments thereto shall be recorded in the county where the project is located prior to the recordation of the regulatory agreement and the

~~issuance of Tax Forms under Section 10322(i) All projects that receive a reservation of Tax Credits on or after January 1, 2017 and that involve a leasehold interest shall, in addition to the regulatory agreement, execute a lease rider which shall be recorded in the County Recorder's Office for which the project is located.~~

Comments received: One commenter supports the proposed change to eliminate the lease rider agreement and streamlining of the process for the growing number of projects on long-term ground leases.

One commenter provided the following comments to Section 10337(a) that the ground lease rider continue to be an option for projects receiving reservations beyond the end of 2025 or implement a longer phase-in period to allow projects that have already entered into commitments or contracts with lessors that assumed the use of the ground lease rider. The commenter is concerned that not all lessors may be willing to sign the CTCAC regulatory agreement, particularly in transactions where the lessor is an unrelated third-party not actively involved in the development or familiar with projects financed with tax credits.

The commenter states that the language should clarify that the lessor is agreeing only to its explicit obligations as fee owner and not expanded to guaranteeing the lessee's obligations under the CTCAC regulatory agreement. The commenter also seeks clarification that the CTCAC regulatory agreement will continue to be recorded only against the leasehold interest and that the lessor's execution does not affect the priority of existing encumbrances or use restrictions on the property.

The commenter suggests that the "waive any provisions of the long-term lease which would prevent the Owner's compliance with the Regulatory Agreement" language in Section 10337(a)(1)(B), be removed as it is too vague and may be problematic for lessors, resulting in increased negotiation and transactions costs.

The commenter recommends that the "...lessor shall sign the Regulatory Agreement and agree to the following terms, as may be prescribed or amended by the Committee..." language in Section 10337(a)(1), be revised to allow the Executive Director to approve changes rather than the Committee given time pressures on negotiations and the communication delays that sometimes occur with unrelated lessors, it may not be possible to both satisfy the requirements of lessors on the set timeline of Committee meetings before a closing deadline.

Lastly, the commenter suggests that the "Long-term Lease. For projects developed under a long-term lease, the long-term lease and any amendments thereto shall be recorded in the county where the project is located prior to the recordation of the regulatory agreement and the issuance of Tax Forms under Section 10322(i)"

language in Section 10337(a)(4) be either deleted or revised to permit a memorandum of ground lease as opposed to requiring the recordation of the full ground lease as ground leases in many transactions are not commonly recorded. The commenter explains that requiring the recordation of the full ground lease would add an unnecessary recording expense to the transaction and additional closing complications.

Response to comments: Staff agree some projects receiving awards after 2025 may be premised on using the existing lease rider agreement and can appreciate the efficiency in not needing to revisit that topic. Staff will incorporate language in Section 10337(a)(2) permitting the existing CTCAC lease rider agreement to be used in those scenarios through the end of 2026 and will review extending such permissions with the next regulatory package. Staff are otherwise committed to using the streamlined approach moving forward for all projects as this approach is legally sufficient and administratively efficient for CTCAC. The final proposed language is highlighted in subdivision (a), paragraphs (1) and (2) below.

The signature block for the lessor will contain language limiting the lessor's acknowledgement and agreement to the specific lessor terms outlined in the regulations. The regulatory agreement for ground lease projects will continue to be recorded on the leasehold interest, per the terms of the agreement itself.

Staff are not removing the language from Section 10337(a)(1)(B) as the language is derived from the current CTCAC lease rider agreement and reflects CTCAC's commitment to prioritizing its obligation to protect and enforce the covenants contained in the regulatory agreement.

Staff will remove the language "as may be prescribed or amended by the Committee" to clarify that the Committee has unilateral authority to adjust these requirements, and to avoid suggesting that the provisions are negotiable. Because the provisions are now incorporated into CTCAC regulations, any future adjustments may be made through the regulatory process. These provisions are intended as threshold requirements for all ground lease transactions. They reflect longstanding terms of the CTCAC lease rider agreement and common commitments made to leasehold mortgagees, with whom CTCAC is aligned.

Staff agree with the comment regarding Section 10337(a)(4) and will adjust language to only require recording of the memorandum of ground lease or memorandum of amendments to the ground lease. The final proposed language is highlighted in Section 10337(a)(4) below.

Staff also corrected the language from “180-day” to “90-day”, highlighted below in Section 10337(a)(1)(D), to be consistent with CTCAC’s current lease rider agreement.

Final proposed change:

- (a) Regulatory Agreement. All recipients of Tax Credits, whether Federal only, or both Federal and State, are required to execute a regulatory agreement, as a condition to the Committee's making an allocation, which will be recorded against the property for which the Tax Credits are allocated, and, if applicable, will reflect all scoring criteria proposed by the applicant in the competition for Federal and/or State housing Credit Ceiling.

(1) Except as provided in (2) below, for projects developed under a long-term lease the lessor shall sign the Regulatory Agreement and agree to the following terms, as may be prescribed or amended by the Committee:

(A) To consent and approve the terms of the regulatory agreement to the extent such consent and approval is reasonably necessary or required under the long-term lease;

(B) To waive any provisions of the long-term lease which would prevent the Owner's compliance with the Regulatory Agreement;

(C) To, except as provided in (D), provide CTCAC with written notice of long-term lease termination, subordination, cancellation, surrender, amendment, or modification and CTCAC shall be deemed to have consented to any such noticed variation if CTCAC fails to consent, deny or request clarification within 30 days of delivery of such notice;

(D) To terminate the long-term lease after Owner's default only after both expiration of any grace period given to the Owner to cure a default and providing CTCAC written notice specifying each default, the methods of cure, and a reasonable amount of time, but no less than 18090-days starting the date CTCAC is provided written notice of default, to cure the default; and

(E) To, upon reasonable request, promptly provide CTCAC a written statement declaring, to the best of lessor's knowledge, any information relating to the condition of the property and the long-term lease reasonably requested by CTCAC.

(2) Through December 31, 2026, projects developed under a long-term lease may request use of the existing CTCAC lease rider agreement, available on the CTCAC website. To qualify, the project must demonstrate that it entered into commitments or contracts with ground lessors before January 1, 2026, and that those agreements assumed use of the CTCAC lease rider agreement.

(4)(3) For all projects receiving a reservation of competitive 9% federal tax credits on or after January 1, 2016 for which all general partners will be Qualified Nonprofit Organizations, the partnership agreement shall include a Right of First Refusal (“ROFR”) for one or more of the nonprofit general partners to purchase the project after the end of the 15-year federal compliance period. The price to purchase the project under this ROFR shall be the minimum price allowed under IRC Section

42(i) plus any amounts required to be paid to the tax credit investors that remain unpaid for approved Asset Management Fees and required payments under the limited partnership agreement for tax credit adjusters that remain outstanding at the time of the sale. The applicant shall demonstrate compliance with this requirement prior to the issuance of the 8609 forms.

~~(2) For all projects receiving a reservation of 4% and 9% federal tax credits on or after January 1, 2016, the regulatory agreement shall require written approval of the Executive Director for any Transfer Event.~~

(3) Where a Project is receiving renewable project-based rental assistance or operating subsidy:

(A) the owner shall in good faith apply for and accept all renewals available;

(B) if the project-based rental assistance or operating subsidy is terminated through no fault of the owner, the property owner shall notify CTCAC in writing immediately and shall make every effort to find alternative subsidies or financing structures that would maintain the deeper income targeting contained in the recorded CTCAC regulatory agreement. Upon documenting to CTCAC's satisfaction unsuccessful efforts to identify and obtain alternative resources, the owner may increase rents and income targeting for Low-Income Units above the levels allowed by the recorded regulatory agreement up to the federally-permitted maximum. Rents shall be raised only to the extent required for Financial Feasibility, as determined by CTCAC. Where possible, remedies shall include skewing rents higher on portions of the project in order to preserve affordability for units regulated by CTCAC at extremely low income targeting. Any necessary rent increases shall be phased in as gradually as possible, consistent with maintaining the project's Financial Feasibility. If housing Special Needs populations, the property owner shall attempt to minimize disruption to existing households, and transition to non-Special Needs households only as necessary and upon vacancy whenever possible.

~~(4) Long-term Lease. For projects developed under a long-term lease, the long-term lease and any amendments thereto shall be in a form acceptable to CTCAC. A memorandum of ground lease and memoranda of any amendments shall be recorded in the county where the project is located prior to the recordation of the regulatory agreement and the issuance of Tax Forms under Section 10322(i). All projects that receive a reservation of Tax Credits on or after January 1, 2017 and that involve a leasehold interest shall, in addition to the regulatory agreement, execute a lease rider which shall be recorded in the County Recorder's Office for which the project is located.~~

65. Section 10337(c)(4)(B): Inspections

Reason: The proposed change updates the health, safety, and functional requirements established by the U.S. Department of Housing and Urban Development (HUD) from the Uniform Physical Condition Standards (UPCS) to the National Standards for the Physical Inspection of Real Estate (NSPIRE). (Page 108)

Initial proposed change:

- (B) Each project undergoing a file inspection will be subject to a physical inspection to assure compliance with local health, safety, and building codes or with HUD's ~~uniform physical condition standards~~ National Standards for the Physical Inspection of Real Estate (NSPIRE). Owners shall be notified of the inspection results.

Comments received: None

Final proposed change: Proceed as initially proposed

66. Section 10337(d): Ownership and property management change

Reason: The proposed change updates the cross-reference to the new Section 10338 and removes text moved to the new Section 10338. (Page 108)

Initial proposed change:

- (d) Change in ownership and property management. It is the project owner's responsibility to comply with the requirements of Section 103~~3820(b)~~ and to inform the Committee of any change in the project owner's mailing address.

~~(1) Any property management change during the 15-year federal compliance and extended use period must be to a party earning equal capacity points pursuant to Section 10325(c)(1)(A) as the exiting property management company. At a minimum this must be six (6) projects in service more than three years, or the demonstrated training required under Section 10326(g)(5). Two of the six projects must be Low Income Housing Tax Credit projects in California. If the new property management company does not meet these experience requirements, then substitution of property management shall not be permitted.~~

Comments received: None

Final proposed change: Proceed as initially proposed

67. Section 10337(f)(6)(A): Reoccurring or repeated noncompliance

Reason: The proposed change updates the health, safety, and functional requirements established by the U.S. Department of Housing and Urban Development (HUD) from the Uniform Physical Condition Standards (UPCS) to the National Standards for the Physical Inspection of Real Estate (NSPIRE). (Page 109)

Initial proposed change:

- (6) Reoccurring or repeated noncompliance – CTCAC shall issue fines of up to \$500 per instance of repeated or reoccurring noncompliance violations noted in separate

monitoring cycles. CTCAC defines repeated or reoccurring violations as 25% or more instances of the current monitoring inspection having the same noncompliance issues as found in the previous monitoring cycle.

Areas of repeated or reoccurring noncompliance include (but are not limited to):

- (A) Repeated ~~Uniform Physical Conditions Standards (UPCS)~~National Standards for the Physical Inspection of Real Estate (NSPIRE) Health and Safety Violations and Common Area Violations
- (B) Reoccurring patterns of units no turn-key ready and advertised within 60 days of unit vacancy date
- (C) Reoccurring patterns of missing or the incorrect use of required CTCAC forms
- (D) Reoccurring misuse of Utility Allowance methods
- (E) Reoccurring patterns of over-income households
- (F) Reoccurring patterns of over-charged rents
- (G) Reoccurring patterns of incomplete or missing re-certifications
- (H) Service Amenities not provided within Federal Compliance periods

Comments received: None

Final proposed change: Proceed as initially proposed

68. Section 10337(g): Housing Supplier Reporting

Reason: The proposed change adjusts the naming conventions for the housing supplier reporting requirements of Health and Safety Code Section 50199.23 to be consistent with modifications to CTCAC's guidelines for housing supplier reporting. (Page 109)

Initial proposed change:

- (g) Housing Supplier ~~Diversity~~ Reporting. A housing sponsor that receives a tax credit reservation on or after January 1, 2024, shall annually submit a report to CTCAC, in a form that CTCAC shall require, and at the time that CTCAC shall annually designate. The reporting period shall cover all contract activities directly related to the development and construction of a housing project from the first day following the credit reservation date with an option for the housing sponsor to include prior contracting activities. The final report shall cover the year that the project is placed in service. The report shall include information, as required in Section 50199.23 of the Health and Safety Code and as outlined in the CTCAC Housing Supplier ~~Diversity~~ Reporting Guidelines: Completing the Housing Supplier ~~Diversity~~ Annual Report.

Comments received: None

Final proposed change: Proceed as initially proposed

69. Section 10337: Note and authority cited

Reason: The proposed change adds the Revenue and Taxation Code sections regarding State Tax Credits into the authority cited. (Page 109-110)

Initial proposed change:

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21 and 50199.22, Health and Safety Code.

Comments received: None

Final proposed change: Proceed as initially proposed

70. Section 10338. Tax Credit Project Transfers and Transfer Events; Resyndications

Reason: In an effort to consolidate rules for changes of ownership, transfer events, management changes, and transfer rules impacting resyndications, the proposed change moves language from Section 10320 to other sections in the regulations, adds new section, Section 10338, and the removes Section 10320. Most of the language from Section 10320 is moved to Section 10338 some with minor amendments. (Page 109)

Initial proposed change:

Section 10338. Tax Credit Project Transfers and Transfer Events; Resyndications.

(a) Change in ownership or Tax Credit allocation; transfers, generally.

- (1) Any transfer of project ownership (including changes to any general partner, member, or equivalent responsible party), or allocation of Tax Credits requires prior written approval of the Executive Director and shall be evidenced by a written agreement between the parties to the transfer, including agreements entered into by the transferee and the Committee, including an Assignment and Assumption of the Regulatory Agreement. The parties shall provide CTCAC with any information or documentation reasonably required by CTCAC.
- (2) CTCAC shall conduct a "qualifications review" of all transferee entities to determine if sufficient project development and management experience is present for owning and operating a Tax Credit project. Any general partner change during the term of the Regulatory Agreement must be to a party earning equal capacity points pursuant to Section 10325(c)(1)(A) as the exiting general partner. If the new

general partner does not meet these experience requirements, then substitution of general partner may not be permitted.

- (3) The transferor shall deliver all tenant files, inspection records, financial statements, and reserve balances to the transferee prior to or concurrent with the transfer. Failure to deliver such records may subject the transferor to negative points or a fine.
- (4) The Executive Director shall not approve a transfer if, in any of the five calendar years prior to the transfer date or in the year to date of the transfer but not earlier than April 3, 2024, the owner has increased the rent for any low-income household in excess of the amounts described in Section 10336(a). The transferee shall annually certify that they have not increased the rent for any low-income household in excess of the amounts described in Section 10336(a).
- (5) A project owner may not sell a portion of vacant or unused land without the prior written approval of the Executive Director and must commit to either:
 - (A) contributing (not loaning) the sales proceeds to a new multifamily affordable housing deed restricted project; or
 - (B) reducing rents at the existing property by the aggregate amount of the sales proceeds.
- (6) All transfer applicants not subject to an application fee under Section 10335(a) shall pay the transfer and refinancing fee required in Section 10335.
- (b) Transfer Events. In addition to any applicable requirements set forth in (a) above, all Transfer Events shall comply with the following:
 - (1) Prior to a Transfer Event, the owner of the project shall submit to the Executive Director a Qualified CNA. For Transfer Events involving new lender financing, the lender shall commission the Qualified CNA.
 - (2) The transferee shall enter into a Capital Needs Covenant ("Covenant") with CTCAC, in a form acceptable to CTCAC, and the Covenant shall:
 - (A) set aside at the closing of the Transfer Event adequate funds to perform the Short-Term Work (the "Short-Term Work Reserve Amount");
 - (B) perform the Short-Term Work within three (3) years from the date of the Transfer Event;
 - (C) make deposits to reserves as are necessary to fund the Long-Term Work, taking into account any balance in replacement reserve accounts upon the conclusion of the Transfer Event beyond those required by (b)(2)(A). Notwithstanding the foregoing, the transferee shall have no obligation to fund any reserve amount from annual operations to the extent that the funding of the reserve causes the project to have a debt service coverage ratio of less than 1.00 to 1.00. In calculating the debt service coverage ratio for the purposes herein, the property management fee shall not exceed the greater of (a) 7% the project's effective gross income, or (b) such amount approved by HUD or USDA, as applicable. Any property management fee in excess of these limitations shall be subordinate to the funding of the

required reserves and shall not be considered when calculating the debt service coverage ratio;

(D) complete the Long-Term Work when required, or prior thereto, pursuant to the Qualified CNA; and

(E) the Covenant shall at all times be subordinate to any deed of trust given to any third-party lender to a project. The owner of a project subject to a Covenant shall certify compliance with the terms of said Covenant to CTCAC annually for the term of the Covenant on a form to be developed by the Executive Director. Failure to comply with the terms of the Covenant may subject the owner to negative points and/or a ban on buying or receiving future properties.

(c) Resyndication applications. If a project is applying to resyndicate concurrently with a Transfer Event or during the time that the project is subject to a Covenant, the following provisions apply in lieu of subdivision (b):

(1) The applicant shall submit a Qualified CNA. For transactions involving new lender financing, the lender shall commission the Qualified CNA.

(2) The rehabilitation scope of work shall include all the Short-Term Work. The applicant may receive eligible basis for the costs of the Short-Term Work only if the applicant can demonstrate that the Short-Term Work was funded by one of the following:

(A) a credit from the seller of the project equal to the costs of Short-Term Work

(B) a reduction in the purchase price of the project as compared to the purchase price of the project had the project not been subject to the Transfer Event requirement, as shown by an appraisal that calculates the impact of the Short Term Work requirement on value

(C) general partner equity

(D) developer fee contributed to the project (a deferred developer fee does not qualify)

(3) After the Transfer Event giving rise to the Covenant required pursuant to subdivision (b) (the "Initial Transfer"), if the project will be transferred in connection with the closing of the new reservation of 9% or 4% credits (a "Subsequent Transfer"), any increase in acquisition price (if the Initial Transfer was a sale) or the project valuation (if the Initial Transfer was a refinancing) between the Initial Transfer and the Subsequent Transfer attributable to a reduction in the amount of annual deposits into the replacement reserve account from those required pursuant to subdivision (b)(2)(C) because all or a portion of the Long-Term Work will be performed in connection with the new reservation of 9% or 4% credits, must be evidenced in the form of a seller carryback note or a general partner equity contribution.

- (4) Upon the closing of the syndication of the new 9% or 4% credits reserved for the project, any Capital Needs Covenant shall automatically terminate without any further action of the project owner and/or the Committee.
- (5) Subdivisions (c)(2) and (3) shall not be applicable to any project with an existing tax credit regulatory agreement with a remaining term of five (5) or less years.
- (6) Except for resyndication applications without a distribution of Net Project Equity, if a project seeks to receive a new reservation of 9% or 4% tax credits, any uncorrected Form(s) 8823 for life and safety violations (life-threatening and non-life threatening) and for Uniform Physical Condition Standards violations that are in existence at the time of the CTCAC application must be corrected by the project owner that received the Form(s) 8823. The resyndication application shall not include any costs to correct these Form(s) 8823.
- (7) An applicant seeking to (1) demolish or similarly alter any of the existing structures currently subject to CTCAC regulatory restrictions when applying for a resyndication; and/or (2) separate an existing project currently subject to CTCAC regulatory restrictions into multiple projects must request and receive prior written approval of the Executive Director. Projects that involve the demolition of existing residential units or separating an existing project must increase the unit count by (i) 25 or (ii) 50% of the existing demolished units, whichever is greater, unless, for existing SRO projects, waived by the Executive Director provided that the applicant demonstrates that full compliance would be impractical.
- (d) Waivers. The Executive Director may waive or modify the requirements of subdivisions (b) and (c) if the owner can demonstrate that the Transfer Event will not produce, prior to any distributions of Net Project Equity to parties related to the sponsor, developer, limited partner(s) or general partner(s), sufficient Net Project Equity to fund all or any portion of the work contemplated by the Qualified CNA. There shall be a presumption that a Transfer Event has insufficient Net Project Equity if no Net Project Equity from the Transfer Event is distributed to parties related to the sponsor, developer, general partner(s) or limited partner(s) of the owner other than a distribution or a payment to the limited partner(s) of the selling entity in the amount equal to, or less than, all federal, state, and local taxes incurred by the limited partner(s) as a result of the Transfer Event.
- (e) CTCAC shall initially subordinate its Regulatory Agreement to a permanent lender but thereafter shall not subordinate existing Regulatory Agreements to acquisition or refinancing debt, except in relation to new Deeds of Trust for rehabilitation loans, FHA-insured loans, restructured public loans, or as otherwise permitted by the Executive Director. At the request of the owner, CTCAC shall enter into a stand-still agreement permitting the acquisition or refinance lender 60 days to work with the owner to remedy a breach of the Regulatory Agreement prior to CTCAC implementing any of the remedies in the Regulatory Agreement, except that CTCAC shall not enter into a stand-still agreement related to a Transfer Event requested on or after October 21, 2015 unless the conditions of Section 10338(b) have been satisfied.
- (f) Management transfers. Property management companies shall not be replaced without prior written approval of the Executive Director.
 - (1) For projects receiving an allocation of Tax Credits under 10326, management companies ineligible for at least two management company experience points pursuant to Section 10325(c)(1)(B) shall obtain training in project operations, on-

site certification, Fair Housing Law, and manager certification in IRS Section 42 program requirements from CTCAC or a CTCAC-approved, nationally recognized entity.

- (2) For all Tax Credit projects, the exiting management company shall deliver all tenant files, inspection records, financial statements, and reserve balances to the incoming management company prior to or concurrent with the transfer.
- (3) Any property management change during the 15-year federal compliance and extended use period must be to a party earning equal capacity points pursuant to Section 10325(c)(1)(A) as the exiting property management company. If the new property management company does not meet these experience requirements, then substitution of property management may not be permitted.
- (g) Service provider transfers. Service providers shall not be replaced without prior written approval of the Executive Director. If the new service provider does not document that they have at least 24 months of experience providing services to the project's target population, then substitution of the service provider may not be permitted.
- (h) CTCAC shall not enter into a qualified contract, as defined in IRC Section 42(h)(6)(F).
- (i) Non-compliance with the provisions of this section may result in the assessment of negative points under Section 10325 and/or fines under Section 10337.

Note: Authority cited: Section 50199.17, Health and Safety Code; Sections 12206, 17058 and 23610.5, Revenue and Taxation Code.

Reference: Sections 12206, 17058 and 23610.5, Revenue and Taxation Code; and Sections 50199.4, 50199.5, 50199.6, 50199.7, 50199.8, 50199.9, 50199.10, 50199.11, 50199.12, 50199.13, 50199.14, 50199.15, 50199.16, 50199.17, 50199.18, 50199.20, 50199.21, 50199.22 and 50199.23 Health and Safety Code.

Comments received: One commenter supports the proposed change.

Final proposed change: Proceed as initially proposed