



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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EXECUTIVE DIRECTOR
NANCEE ROBLES

DATE: January 23, 2023

TO: Low-Income Housing Tax Credit Stakeholders

FROM: Nancee Robles, Executive Director

RE: Proposed Emergency Regulation Changes to Federal and State Low-Income Housing Tax Credit Programs with Statement of Reasons

On December 16, 2022, 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 Programs. The proposed changes were modified and adopted by the CTCAC on January 18, 2023.

Since that adoption, staff has determined that additional emergency regulation changes be considered and adopted by CTCAC. The memorandum includes the proposed emergency regulation changes with the statement of reasons on why the changes are necessary.

**List of Proposed Emergency Regulation Changes
February 1, 2023**

1. Section 10327(c)(5)(F): Staff proposes to increase the dollar amount of the 9% threshold basis limit for a 2-bedroom unit from \$400,000 to \$500,000. Without this change, no projects would be eligible to receive a Highest or High Opportunity Area basis limit increase as the new 2023 threshold basis limits for every county exceeds \$400,000 for a 2-bedroom unit.

Final proposed change:

- (F) In a county that has an unadjusted 9% threshold basis limit for a 2-bedroom unit equal to or less than ~~\$400,000~~\$500,000, a ten percent (10%) increase to the project's threshold basis limit for a development located in a census tract, or census block group as applicable, designated on the CTCAC/HCD Opportunity Area Map as Highest or High Resource.

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.

2. Section 10328(g): Staff proposes to allow projects that received a tax credit allocation from the Waiting List be eligible for a reservation exchange. Following the second round, the Committee may establish a Waiting List to ensure that any returned or remaining 9% tax credits are allocated prior to the end of each calendar year. If adopted, projects may be selected from the Waiting List for a tax credit allocation, which may take place up to 60 days after the second round. The delay in receiving a tax credit allocation could impact the construction start date and result in conflict with requirements from the lenders and tax credit investors, ultimately impacting the project's ability to meet the federal placed-in-service deadline. Staff proposes to allow reservation exchanges for projects allocated 9% credits from the Waiting List and applying this retroactively to projects allocated credits from the Waiting List in 2022.

Final proposed change:

- (g) Reservation Exchange. A project with a reservation of Federal Credit pursuant to Section 10325 and a carryover allocation pursuant to Section 10328(d) and IRC Code § 42(h)(1)(E) that meets either of the following criteria may elect to return all of the Federal Credit in exchange for a new reservation and allocation of Federal Credits. The reservation and carryover allocation of the Federal Credits returned pursuant to this subdivision shall be deemed cancelled by mutual consent pursuant to a written agreement executed by the Committee and the applicant specifying the returned credit amount and the effective date on which the credits are deemed returned. The Committee shall concurrently issue a new reservation of Federal Credits to the project in the amount of the Federal Credits returned by the project to the Committee.

- (1) A High-Rise Project that returns all of the Federal Credit only during January of the calendar year immediately following the calendar year in which the initial reservation and carryover allocation were made.
- (2) A project ~~which that~~ prior to the placed-in-service deadline the Executive Director finds, in his or her sole discretion, merits additional time to place in service because development was significantly delayed during construction due to physical damage to the development directly caused by a disaster, including but not limited to, fires, floods, or earthquakes. In considering a request the Executive Director may consider, among other things, the extent Regulations Section 10328-10330 Page 92 of 100 of the damage, the length of the delay, the time remaining until the project's placed in service deadline, and the circumstances causing the physical damage.
- (3) A project reserved Federal credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 that returns all of the Federal Credit only during January of the calendar year immediately following the calendar year in which the initial reservation and carryover allocation were made.
- ~~(3)~~(4) A Waiting List project that returns all of the Federal Credit only during January of the calendar year immediately following the calendar year in which the initial reservation and carryover allocation were made.
- ~~(4)~~(5) Notwithstanding paragraph (4), a Waiting List project that returns all of the Federal Credit prior to February 15, 2023, immediately following when the initial reservation and carryover allocation were made.