CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: May 7, 2021

TO: Low Income Housing Tax Credit Stakeholders

FROM: Nancee Robles, Executive Director

RE: Proposed Regulation Changes with Initial Statement of Reasons

Attached for public review and comment are the regulation changes proposed by the California Tax Credit Allocation Committee (TCAC) staff. Attached to this memorandum is the complete set of proposed changes with reasoning. TCAC anticipates the regulation change adoption to take place at a TCAC meeting scheduled for June 16, 2021. TCAC staff will conduct a public hearing on May 19, 2021 to explain, answer questions, and solicit comments regarding the proposals. The notice of public hearing will sent out separately.

Please see the public notice for additional information regarding public comments on these proposed regulation changes. Interested persons wishing to express their views on the proposed regulation changes may submit written comments by email to anthony.zeto@treasurer.ca.gov, with the subject line "June 2021 Proposed Regulations" or deliver to the TCAC office **no later than Monday, May 31, 2021**. For email comments, it is preferable that they be in a Microsoft Word document or an electronic format that allows for copying. While TCAC welcomes public comments, staff encourages commenters to be sparing and brief given the short timeframe for staff to turn around responses. If you agree with some changes and disagree with others, please remember to make both sets of comments so that TCAC has a record of both favorable and unfavorable reactions. In the interest of consistency, TCAC prefers that commenters either provide comment at the public hearing or submit written comments, as opposed to both. If you feel it is necessary to provide both, please provide consistent comments in both forums.

Proposed Regulation Changes with Reasons
May 7, 2021

Section 10310(b)

(b) Credit Ceiling available. The approximate amount of Tax Credits available in each reservation cycle may be established by the Committee at a public meeting designated for that purpose as of February first of the calendar year, in accordance with the following provisions:

(1) Amount of Federal Tax Credits. The amount of Federal Tax Credits available for reservation in a reservation cycle shall be equal to the sum of:

(A) the per capita amount authorized by law for the year, plus or minus the unused, Federal Credit Ceiling balance from the preceding calendar year, multiplied by a percentage amount established by the Committee for said cycle;

(B) the amount allocated, and available, under IRC Section 42(h)(3)(D) as of the date that is thirty days following the application deadline for said cycle;

(C) the amount of Federal Credit Ceiling returned, and available, as of the date that is thirty days following the application deadline for said cycle; and,

(D) additional amounts of Federal Credit Ceiling, from the current or subsequent year, necessary to fully fund projects pursuant to the allocation procedures set forth in these regulations.

For calendar year 2020, and 2021 if applicable, the amount of the Federal Credit Ceiling established by the Further Consolidated Appropriations Act, 2020 shall be allocated pursuant to Section 10325(d)(1). For calendar year 2021, and 2022 if applicable, the amount of the Federal Credit established by the Consolidated Appropriations Act, 2021 shall be allocated pursuant to Section 10325(d)(1).

Reason: In recognition of the recent disasters occurring in California, the Consolidated Appropriations Act, 2021 (CAA) provided TCAC with additional 9% credits in recognition of the 2020 disasters occurring in California. The disaster areas defined in the CAA are located in 22 of California's 58 counties: Butte, Fresno, Lake, Lassen, Los Angeles, Madera, Mendocino, Monterey, Napa, San Bernardino, San Diego, San Mateo, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Trinity, Tulare, and Yolo. These disasters have intensified the widespread housing crisis in California and created housing insecurity for thousands of Californians. To address this need, TCAC staff proposes to allocate these additional federal tax credits as stated in Section 10325(d)(1).

Section 10317(c) and (d)

(c) Limit on Credit amount. Except for applications described in paragraph (d) below, all credit ceiling applications may request State credits provided the project application is not requesting the federal 130% basis adjustment for purposes of calculating the federal credit award amount. Projects are eligible for State credits regardless of their location within a federal Qualified Census Tract (QCT) or a Difficult Development Area (DDA). Notwithstanding paragraph (d) below, applications for the Federal Credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 are not eligible for State Tax Credits.

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.

In the event that reservations of state credits to credit ceiling applications exceed the amount of state credits available, CTCAC post-reservation shall designate applications for which there are insufficient state credits as difficult development area (DDA) projects pursuant to Section 10327(d)(3) and exchange state credits for federal credits in an amount that will yield equal equity based solely on the tax credit factors stated in the application.

(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), applications for Special Needs projects with at least 50% special needs units and within a QCT or DDA may request 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), applications for 4% federal tax credits plus State Farmworker Credits within a QCT or DDA may request 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), new construction applications for 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 the federal 130% basis boost and may also request State credits.

Applications for the Federal Credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021, including Special Needs projects described in this section (d), are not eligible for State Tax Credits.

Reason: Staff proposes to reserve the 9% credit allocation of state tax credits for projects applying through the established allocation system. For applications for the federal tax credits from the Consolidated Appropriations Act, 2021 (CAA), in the alternative staff proposes to grant Difficult Development Area (DDA) status to such projects, which allows federal tax credits to be calculated on 130% of eligible basis, thus providing additional federal tax credits (see Section 10327(d)(4)).

Without this change, projects applying for the federal tax credits from the CAA could access state tax credits in addition to these federal tax credits, thereby reducing access to state tax credits for all other applicants. The proposed changes also prohibit state tax credit allocations to special needs housing type projects applying for the federal tax credits from the CAA for the same reason (these projects would otherwise be able to receive both 130% federal tax credit and state tax credit). For clarity purposes, staff proposes to insert this language in both subsections, (c) and (d).

Section 10317(j)

(j) State Tax Credit Allocations pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code. For calendar years beginning in 2021, an amount up to five hundred million dollars ($500,000,000) in total State Tax Credit authority will be available (if authorized in the California Budget Act or related legislation) for new construction Tax Exempt Bond Projects subject to the requirements of the California Debt Limit Allocation Committee regulations and the requirements of Section 10326 of these regulations, for projects that can begin construction within 180 days from award. Failure to begin construction within 180 days of award shall result in rescission of the Tax Credit Reservation and may result in assessment of negative points.

Readiness to begin construction within 180 days from award shall be evidenced in the application as set forth in Sections 10325(c)(7)~~(A) and (B)~~ of these regulations. Within 180 days of the award the applicant must submit to CTCAC building permits (a grading permit does not suffice to meet this requirement except that in the event that the city or county as a rule does not issue building permits prior to the completion of grading, a grading permit shall suffice; if the project is a design-build project in which the city or county does not issue building permits until designs are fully complete, the city or county shall have approved construction to begin) or the applicable tribal documents, and notice to proceed delivered to the contractor.

Failure to begin construction within 180 days of award shall result in rescission of the Tax Credit Reservation and may result in assessment of negative points.

Reason: The proposed change is a conforming change that was adopted by the Committee in the last set of regulation changes.

Section 10325(c)(9)(A)(iv)

(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 $~~10,000~~<u>20,000</u> 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.

Reason: The proposed change is a conforming change that was adopted by the Committee in the last set of regulation changes.

Section 10325(d)

(d) Application selection for evaluation. Except where CTCAC staff determines a project to be high cost, staff shall score and rank projects as described below. Staff shall identify high cost projects by comparing each scored project's total eligible basis against its total adjusted threshold basis limits. CTCAC shall calculate total eligible basis by using all project costs listed within the application unless those costs are not includable in basis under federal law as demonstrated by the shaded cells in the application sources and uses budget itself or by a letter from the development team's third party tax professional. A project will be designated "high cost" if a project's total eligible basis exceeds its total adjusted threshold basis limit by 30%. Staff shall not recommend such project for credits. Any project that receives a reservation on or after January 1, 2016 may be subject to negative points if the project's total eligible basis at placed in service exceeds the revised total adjusted threshold basis limit by 40%. For purposes of calculating the high cost test at placed in service, TCAC shall use the higher of the unadjusted threshold basis limit from application or the year the project places in services.

Following the scoring and ranking of project applications in accordance with the above criteria, subject to conditions described in these regulations, reservations of Tax Credits shall be made for those applications of highest rank in the following manner.

(1) Set-aside application selection. Beginning with the top-ranked application from the Nonprofit set-aside, followed by the Rural set-aside (funding the RHS and HOME program apportionment first, and the Tribal pilot apportionment second), the At Risk set-aside, and the Special Needs set-aside, the highest scoring applications will have Tax Credits reserved. Credit amounts to be reserved in the set-asides will be established at the exact percentages set forth in section 10315, with the exception of the Federal Credit amount established by the Further Consolidated Appropriations Act, 2020 ("FCAA") and the Consolidated Appropriations Act, 2021 ("CAA"). If the last project funded in a set-aside requires more than the credits remaining in that set-aside, such overages in the first funding round will be subtracted from that set-aside in determining the amount available in the set-aside for the second funding round. If Credits are not reserved in the first round they will be added to second round amounts in the same Set Aside. If more Tax Credits are reserved to the last project in a set-aside than are available in that set-aside during the second funding round, the overage will be taken from the Supplemental Set-Aside if there are sufficient funds. If not, the award will be counted against the amounts available from the geographic area in which the project is located. Any unused credits from any Set-Asides will be transferred to the Supplemental Set-Aside and used for Waiting List projects after the second round. Tax Credits reserved in all set-asides shall be counted within the housing type goals.

(A) For an application to receive a reservation within a set-aside, or within a rural set-aside apportionment, there shall be at least one dollar of Credit not yet reserved in the set-aside or apportionment.

(B) Set-aside applications requesting State tax credits shall be funded, even when State credits for that year have been exhausted. The necessary State credits shall be reserved from the subsequent year's aggregate annual State credit allotment.

(C) Except for projects competing in the rural set-aside, which shall not be eligible to compete in geographic area, unless the projects are located within a Geographic Region and no other projects have been funded within the Project's region during the year in question, after a set-aside is reserved all remaining applications competing within the set-aside shall compete in the Geographic Region.

Federal Credit established by the FCAA application selection. Applications for projects located in the counties designated as qualified 2017 and 2018 California disaster areas by the FCAA, FCAA Federal Credit shall only be reserved for (1) new construction projects also including projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater, and adaptive re-use of non-residential structures, or (2) reconstruction or rehabilitation of an existing project located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the ~~CTCAC website~~CTCAC website https://www.treasurer.ca.gov/ctcac/, and directly damaged by the fire, and that apply for the FCAA Federal Credit. Applications shall meet all program eligibility requirements unless stated otherwise below, and located in the following counties: Butte, Lake, Los Angeles, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Shasta, Sonoma, Ventura, and Yuba.

Applications for projects applying for FCAA Federal Credit shall be competitively scored within the county apportionment under the system delineated in Sections 10325(c)(1) through (3), (4)(B), and (6). In the cases where applications receive the same score, the following tiebreakers shall be employed: First, a formal letter of support for the specific project from the Local Reviewing Agency (LRA) outlining how the project will contribute to the community's recovery efforts submitted in the application or received by TCAC no later than 14 days following the application filing deadline; Second, the application with the greatest number of proposed Tax Credit Units per annual Federal Tax Credit amount requested; and Third, the application with the greatest number of proposed bedrooms within the proposed Tax Credit Units.

For projects located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the ~~CTCAC website~~CTCAC website https://www.treasurer.ca.gov/ctcac/, applying for FCAA Federal Credit in the 2020 funding round, local approvals and zoning requirements of Section 10325(f)(4) must be evidenced to CTCAC no later than June 1, 2021. Failure to do so shall result in rescission of the Tax Credit Reservation on June 2, 2021. The deadline in this paragraph may be extended if the Executive Director finds, in his or her sole discretion, a project merits additional time due to delays directly caused by fire, war, or act of God. In considering a request, the Executive Director may consider, among other things, the length of the delay and the circumstances relating to the delay.

The deferred-payment financing commitment requirements of Section 10325(f)(8) are modified for FCAA Federal Credit applications with 2017 and 2018 HCD Community Development Block Grant – Disaster Recovery (CDBG-DR) Multifamily financing as follows: a letter from an HCD identified jurisdiction stating the intent to commit a portion of that jurisdiction's HCD allocation. The letter must provide the dollar amount and the estimated date which the jurisdiction will provide TCAC a written commitment in compliance with the requirements of Section 10325(f)(8). Projects must receive these CDBG-DR funds prior to the TCAC placed-in service application deadline.

FCAA Federal Credit shall be made available starting in the 2020 second funding round in the amounts shown below:

ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION	COUNTY
$40,087,453	Butte
$16,365,940	Sonoma
$5,630,499	Los Angeles
$5,421,263	Shasta
$4,975,965	Ventura
$4,109,511	Napa
$3,342,311	Mendocino
$3,259,153	Lake
$2,886,283	Yuba
$2,816,537	San Diego
$2,583,158	Santa Barbara
$2,580,476	Nevada
$2,561,698	Orange
$2,000,000	Supplemental
$98,620,247	**TOTAL**

The funding order shall be followed by funding the highest scoring application, if any, in each of the 13 counties. After each county has had the opportunity to fund one project, TCAC shall award the second highest scoring project in each county, if any, and continue cycling through the counties, filling each county's apportionment.

For an application to receive a FCAA Federal Credit reservation, there shall be at least one dollar of Credit not yet reserved in the county allocation so long as the county's last award does not cause the county's aggregate award amount to exceed 105 percent (105%) of the amount originally available for that county. FCAA Federal Credit allocated in excess of the county's allocation by the application of the 105% rule described above will be deducted from the Supplemental allocation. If the last application requires credits in excess of 105% of the county's allocation, that application will not be funded. If all FCAA Federal Credit in a funding round has been awarded, all remaining FCAA applications shall compete in the applicable set-aside or geographic region, provided the application meets the requirements of the set-aside or geographic region, and the requirements of Section 10325.

At the conclusion of the funding round, if less than 10% of the total FCAA Federal Credit remains, all unallocated FCAA Federal Credit within the county allocations will be combined and available to remaining projects requesting FCAA Federal Credits and which meet the threshold and underwriting requirements through a waiting list. The award selection will be made from the waiting list to the counties in the order listed above. Within each county, the award selection will start with the highest ranking project located within a FCAA disaster area fire perimeter, as designated by CAL FIRE and available on the ~~CTCAC website~~CTCAC website https://www.treasurer.ca.gov/ctcac/ first and continue within that county in rank order until no eligible applications remain. Subsequent to the above selection ranking, any unused FCAA Federal Credit shall be designated for projects where at least fifty percent (50%) of the Low-Income Units within the project are designated for homeless households as described in Sections 10315(b)(1) through (4) starting with the highest ranking project pursuant to Section 10325(c) without regard to the set aside or geographic region for which the application applied.

All projects awarded FCAA Federal Credit in 2020 may return their allocation to the Committee without assessment of negative points if the formal written notification from the applicant of the return is received by the Committee no later than September 1, 2021. Any returned credits following September 1, 2021 will be made available to projects from the FCAA Federal Credit waiting list as previously stated. Any new application received for a project on the waiting list shall result in that project's removal from the waiting list.

The FCAA Federal Credit amount shall not be counted towards the set asides of Section 10315, the housing type goals of Section 10315(h), or the geographic apportionments of Section 10315(i). Applications for FCAA Federal Credit shall not be counted towards the four (4) awards limit of Section 10325(c). Notwithstanding Section 10325(f)(9)(C), the maximum annual Federal Tax Credits available for award to any one project in any funding round applying for FCAA Federal Credit shall not exceed Five Million Dollars ($5,000,000). Applications for FCAA Federal Credit are not eligible for State Tax Credits.

Federal Credit established by the CAA application selection. Applications for projects located in the counties designated as qualified 2020 California disaster areas by the CAA, CAA Federal Credit shall only be reserved for (1) new construction projects also including projects that involve the demolition or rehabilitation of existing residential units that increase the unit count by (i) 25 or (ii) 50% of the existing units, whichever is greater, and adaptive re-use of non-residential structures, or (2) reconstruction or rehabilitation of an existing project located within a CAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website https://www.treasurer.ca.gov/ctcac/, and directly damaged by the fire, and that apply for the CAA Federal Credit. Applications shall meet all program eligibility requirements unless stated otherwise below, and located in the following counties: Butte, Fresno Lake, Lassen, Los Angeles, Madera, Mendocino, Monterey, Napa, San Bernardino, San Diego, San Mateo, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Trinity, Tulare, and Yolo.

Applications for projects applying for CAA Federal Credit shall be competitively scored within the county/regional apportionment under the system delineated in Sections 10325(c)(1) through (8). In the cases where applications receive the same score, the following tiebreakers shall be employed: First, projects located within a CAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website https://www.treasurer.ca.gov/ctcac/ and not opposed or strongly opposed by the Local Reviewing Agency (LRA); Second, the presence of an enforceable financing commitment to the specific project of at least $1,000,000 from the State of California Department of Housing and Community Development ("HCD") and assuming a 4% tax credit financing structure such that the Federal Tax Credit request divided by the total eligible basis does not exceed 5%; and Third, the application with the greatest number of proposed Tax Credit Units per annual Federal Tax Credit amount requested.

The deferred-payment financing commitment requirements of Section 10325(f)(8) are modified for CAA Federal Credit applications with HCD Community Development Block Grant – Disaster Recovery (CDBG-DR) Multifamily financing as follows: a letter from an HCD identified jurisdiction stating the intent to commit a portion of that jurisdiction's HCD allocation. The letter must provide the dollar amount and the estimated date which the jurisdiction will provide TCAC a written commitment in compliance with the requirements of Section 10325(f)(8). Projects must receive these CDBG-DR funds prior to the TCAC placed-in service application deadline.

CAA Federal Credit shall be made available starting in the 2021 second funding round in the amounts shown below:

ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION	**COUNTY/ REGION**
$17,261,698	Butte County
$12,058,293	Santa Cruz County
$9,395,477	Napa County
$8,609,728	Fresno County
$8,408,925	Sonoma County
$8,714,494	North Region (San Mateo, Santa Clara, Shasta, Solano, Stanislaus, and Yolo Counties)
$7,553,332	South Region (Madera, Monterey, Los Angeles, San Bernardino, San Diego, and Tulare Counties
$6,741,391	Rural (Lake, Lassen, Mendocino, Siskiyou, and Trinity Counties)
$2,000,000	Supplemental
$80,743,338	**TOTAL**

The funding order shall start with applications selected in rank order within each county/region in the order above. For an application to receive a CAA Federal Credit reservation, there shall be at least one dollar of Credit not yet reserved in the county/region allocation so long as the county/region's last award does not cause the county/region aggregate award amount to exceed 105 percent (105%) of the amount originally available for that county/region. CAA Federal Credit allocated in excess of the county/region's allocation by the application of the 105% rule described above will be deducted from the Supplemental allocation. If the last application selected requires credits in excess of 105% of the county/region's allocation, that application will not be funded. Any CAA Federal Credit remaining in a county/region apportionment at the end a funding round will be available in the subsequent round. For the final funding round of 2022 for CAA Federal Credits, if the aggregate amount of Federal Credit requested does not exceed the amount available, the 105% county limit above shall not apply. If all CAA Federal Credit in a funding round has been awarded, all remaining CAA applications shall compete in the applicable set-aside or geographic region, provided the application meets the requirements of the set-aside or geographic region, and the requirements of Section 10325.

At the conclusion of the funding round, if less than 10% of the total CAA Federal Credit remains, all unallocated CAA Federal Credit within the county/region allocations will be combined and available to remaining projects requesting CAA Federal Credits and which meet the threshold and underwriting requirements through a waiting list. The award selection will be made from the waiting list to the counties in order number of lost homes highest to lowest. Within each county, the award selection will start with the highest ranking project located within a CAA disaster area fire perimeter, as designated by CAL FIRE and available on the CTCAC website https://www.treasurer.ca.gov/ctcac/ first and continue within that county in rank order until no eligible applications remain.

The CAA Federal Credit amount shall not be counted towards the set asides of Section 10315, the housing type goals of Section 10315(h), or the geographic apportionments of Section 10315(i). Applications for CAA Federal Credit shall not be counted towards the four (4) awards limit of Section 10325(c). Notwithstanding Section 10325(f)(9)(C), the maximum annual Federal Tax Credits available for award to any one project in any funding round applying for CAA Federal Credit shall not exceed the lesser of Four Million Dollars ($4,000,000) and $40,000 per Tax Credit Unit. Applications for CAA Federal Credit are not eligible for State Tax Credits.

Reason: In recognition of the recent disasters occurring in California, the Consolidated Appropriations Act, 2021 (CAA) provided TCAC with additional 9% credits in recognition of the 2020 disasters occurring in California. The disaster areas defined in the CAA are located in 22 of California's 58 counties: Butte, Fresno, Lake, Lassen, Los Angeles, Madera, Mendocino, Monterey, Napa, San Bernardino, San Diego, San Mateo, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Trinity, Tulare, and Yolo. These disasters have intensified the widespread housing crisis in California and created housing insecurity for thousands of Californians.

The CAA Federal Credit will be available starting the 2021 second round to projects located in the 22 counties listed above. Furthermore, the CAA Federal Credit would be available only to (1) new construction projects, or (2) reconstruction or rehabilitation of an existing project located within a CAA disaster area fire perimeter.

For CAA Federal Credit, staff proposes the applications to be competitively scored as a regular 9% application and meet all of the requirements unless otherwise stated. Staff recognizes the importance to move shovel ready projects forward to provide the housing necessary in the rebuilding efforts of those communities impacted by the wildfires.

Staff recognizes the importance of rebuilding in the areas impacted by the wildfires, and is proposing the first tie breaker be to projects located within the CAA disaster area fire perimeter with the condition that the Local Reviewing Agency (LRA) does not oppose or strongly oppose the project. Staff believes it is important that the local government agencies do not have any opposition to rebuilding in the areas impacted by the wildfires. Staff proposes the second tie breaker be to projects with an enforceable financing commitment of at least $1,000,000 from the State of California Department of Housing and Community Development (HCD) and assuming a credit structure such that the total eligible basis divided by the Federal Tax Credit request does not exceed 5%, providing a means to spread the disaster credits across more projects. With commitments to both HCD and TCAC program requirements, these proposed projects are some of the most affordable multifamily housing options for households heavily impacted by the wildfire disasters. Projects with HCD commitments are shovel ready and, with the requirement to utilize less credit per eligible basis, enable the construction of more units with disaster credits. Staff proposes the third tie breaker be greatest number of proposed Tax Credit Units per annual Federal Tax Credit amount requested. Staff continues to emphasize unit production and credit efficiency.

Staff continues to support the use of CDBG-DR funds and CAA credits and seeks to accommodate the timing of the CDBG-DR Action Plan timelines to the extent possible, within TCAC's federal credit allocation deadlines. The proposed change permits jurisdictions with a CDBG-DR allocation from HCD to provide a letter of intent to commit a specified amount of CDBG-DR. A commitment letter that complies with TCAC regulation requirements must be provided no later than the TCAC placed-in-service application deadline.

Following the results of a demand survey, staff noted a large number of shovel ready projects proposed in some of the impacted counties that could benefit from a higher credit allocation. As stated previously staff recognizes the importance to move shovel ready projects forward to provide the housing necessary in the rebuilding efforts of those communities impacted by the wildfires. Staff proposes to establish the county/region apportionments, excluding a $2,000,000 supplemental apportionment, based on a base federal credit per county/region amount of $4,000,000 plus the remaining CAA Federal Credit dispersed to the 8 county/region allocations (5 single counties and 3 regions) based on the percentage of lost units for the 22 counties. Staff proposed a base federal credit per county/region amount in an effort to provide each county/region with a reasonable amount of federal credit that could be utilized. The following table provides how the county/region apportionments were calculated:

BASE FEDERAL CREDIT PER COUNTY/ REGION	ANNUAL FEDERAL TAX CREDIT BASE + LOST UNIT ALLOCATION	COUNTY/ REGION	PERCENTAGE OF LOST UNITS
$4,000,000	$17,261,698	Butte County	28.37%
$4,000,000	$12,058,293	Santa Cruz County	17.24%
$4,000,000	$9,395,477	Napa County	11.54%
$4,000,000	$8,609,728	Fresno County	9.86%
$4,000,000	$8,408,925	Sonoma County	9.43%
$4,000,000	$8,714,494	North Region (San Mateo, Santa Clara, Shasta, Solano, Stanislaus, and Yolo Counties)	10.09%
$4,000,000	$7,553,332	South Region (Madera, Monterey, Los Angeles, San Bernardino, San Diego, and Tulare Counties	7.60%
$4,000,000	$6,741,391	Rural (Lake, Lassen, Mendocino, Siskiyou, and Trinity Counties)	5.86%
	$2,000,000	Supplemental	
$34,000,000	**$80,743,338**	**TOTAL**	**100.00%**

Staff proposes that the CAA Federal Credit for each county/region be available starting in the 2021 second round and available thereafter in the 2022 first and second rounds provided any CAA Federal Credit remain. Staff also proposes to employ the $1 rule and 105% test in specific cases to ensure credits are fully utilized, but not in an excessive amount. The established supplement apportionment will absorb the excess Federal Credit allocated in the counties/regions. If the demand in CAA Federal Credits exceeds the amount available, these applications will compete in the applicable set-aside or geographic region, provided the application meets the requirements of the set-aside or geographic region and where all other existing 9% credit ceiling program requirements would ordinarily apply.

Staff proposed that in the event less than 10% of the total CAA Federal Credit remains at the conclusion of a funding round, all unallocated CAA Federal Credit within the county/region allocations will be combined and available to remaining projects through a waiting list where the award selection will be made from the waiting list to the counties in order number of lost homes highest to lowest. As stated previously, the intent of the CAA Federal Credit be allocated to those areas directly impacted from the wildfires in 2020 in an effort to rebuild those communities and aid in the recovery.

The CAA Federal Credits will have a separate apportionment that is not subject to and does not apply the housing type goals and geographic apportionment limitations of the existing 9% credit ceiling program. Staff also proposes that FCAA applications not be subject to the four (4) award limit to credits received by individuals, entities, affiliates, and related entities per competitive round or the maximum $2,500,000 annual Federal Tax Credit award to any one 9% project. Given the limited resources available in the disaster impacted areas, staff proposes the maximum annual

Federal Tax Credits for award to any one project applying for CAA Federal Credit in any funding round shall not exceed the lesser of $4,000,000 and $40,000 per Tax Credit Unit.

Finally, staff proposes to reserve the 9% credit allocation of state tax credits for projects applying through the established allocation system. For applications for the CAA Federal Credits, staff proposes to instead grant Difficult Development Area (DDA) status, which allows federal tax credits to be calculated based on 130% of eligible basis, providing additional federal tax credits (see Section 10327(d)(4)). Without this change, projects applying for the CAA Federal Credits would likely access state tax credits in addition to these federal tax credits, reducing established access to state tax credits for all other applicants. The proposed changes also prohibits state tax credit allocations to special needs housing type projects applying for the federal tax credits established by the CAA; these projects would normally be able to receive both 130% federal tax credit and state tax credit.

Section 10325(g)(3)(K)

(K) If the project will be operated as senior housing ~~for persons 62 years of age and older~~ pursuant to fair housing laws, then the project shall have an elevator for any building over two stories and shall meet the accessibility requirements of Section 10325(g)(2)(B).

Reason: The proposed change is a conforming change that was adopted by the Committee in the last set of regulation changes.

Section 10327(d)(4)

(4) Pursuant to authority granted by IRC §42(d)(5)(B)(v), CTCAC designates credit ceiling applications for Federal Credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 as a difficult development area (DDA).

Reason: Staff proposes to grant Difficult Development Area (DDA) status to projects proposing to utilize the federal tax credits from the Consolidated Appropriations Act, 2021 (CAA). DDA status allows federal tax credits to be calculated based on 130% of eligible basis, providing additional federal tax credits. This proposed change will provide these projects access to additional federal tax credits. If a project applying for the CAA Federal Credit is ultimately funded in their geographic region due to oversubscription of the CAA Federal Credit, the project will retain the DDA status.

Section 10328(g)

(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 ~~from the year immediately following the year in which the initial reservation and carryover allocation were made~~. 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 year immediately following the year in which the initial reservation and carryover allocation were made.

(2) A project which 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 due to damage directly cause by fire, war, or act of God. In considering a request the Executive Director may consider, among other things, the extent of the damage, the length of the delay, the time remaining until the project's placed in service deadline, and the circumstances causing the damage.

(3) A project reserved Federal credit established by the Further Consolidated Appropriations Act, 2020 or the Consolidated Appropriations Act, 2021 ~~in 2020~~ that returns all of the Federal Credit only during January of the year immediately following the year in which the initial reservation and carryover allocation were made~~in January 2021~~.

Reason: Staff proposes a change that conforms with the change adopted in 2017 with the addition of subsection (2). The addition of subsection (2) was to provide an owner the opportunity to exchange their reservation of federal credit in order to provide additional time to place the project in service if the development was significantly delayed due to damage directly cause by fire, war, or act of God. Given it unknown when these occurrences would take place, the requirement that the exchange request be submitted the year immediately following the year in which the initial reservation and carryover allocation is not in line with the intent with the addition of subsection (2) in 2017. Subsections (1) and (3) currently provide clarity on when the exchange requests must be made so the reference in subsection (g) is not required and proposed to be eliminated.

In light of the recent disasters occurring in California and the delays to remediation, approvals, and the rebuilding communities, staff proposes to permit projects receiving CAA federal credits to exchange their credit reservation to provide these projects additional time to place in service.