



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

915 Capitol Mall, Suite 485
Sacramento, CA 95814
p (916) 654-6340
f (916) 654-6033
www.treasurer.ca.gov/ctcac

MEMBERS

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State Treasurer

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State Controller

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Executive Director of CalHFA

EXECUTIVE DIRECTOR
NANCEE ROBLES

DATE: May 26, 2022

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 (CTCAC) staff. Attached to this memorandum is the complete set of proposed changes with reasoning. CTCAC anticipates the regulation change adoption to take place at a CTCAC meeting scheduled in July 2022. CTCAC staff will conduct public hearing with the California Debt Limit Allocation Committee (CDLAC) on June 6, 2022 to explain, answer questions, and solicit comments regarding the proposals. The notice of public hearing will be 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 the addresses below:

CTCAC: Anthony Zeto, Deputy Director at anthony.zeto@treasurer.ca.gov

CDLAC: General CDLAC Inbox at cdlac@treasurer.ca.gov

For written comments emailed, please use the subject line "May 2022 Proposed Regulations" or deliver written comments in person to CTCAC **no later than Monday, June 20, 2022**. While CDLAC is informally using the CTCAC regulation process to solicit public comments, staff is accepting comments on an ongoing basis, though it would be preferable if the public comments are received within the same timeframe noted above. For comments submitted electronically, it is preferable the comments are in a Microsoft Word document or an electronic format that allows for copying. While CTCAC 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 both favorable and unfavorable reactions are recorded. In the interest of consistency, we ask 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 26, 2022

Section 10315(c)(2)

- (2) Native American apportionment. One million five hundred dollars (\$1,500,000 million) in annual federal credits shall be available during the first round and, if any credits remain, in the second round for applications proposing projects on land to be owned by a Tribe, whether the land is owned in fee or in trust, and in which occupancy will be legally limited to tribal households, except that up to 20% of Low-Income Units may serve non-tribal households if required by the HOME Program. Apportioned dollars shall be awarded to projects sponsored by Tribes using the scoring criteria in Section 10325(c), and achieving the minimum score established by CTCAC under Section 10305(h). In addition, the application shall receive the minimum points available for both general partner and management company experience under Section 10325(c)(1), except that the management company minimum scoring cannot be obtained through the point category for a housing tax credit certification examination.

Reason: To account for the increased federal credit requested in the Native American apportionment from prior years, the proposed change increases the amount annual federal credits available to the projects applying in the Native American apportionment by 50% from \$1 million to \$1.5 million.

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, including retrofitting or repurposing of existing nonresidential structures that were converted to residential use within the previous five years from the date of application 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 Section 10325(c)(7) 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 codifies Assembly Bill 447 signed into law clarifying that State Tax Credits Allocations pursuant to subsection (g)(1)(B) of Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code include projects proposing retrofitting and repurposing of existing nonresidential structures, including, but not limited to, hotels and motels, that were converted to residential use within the previous five years from the date of the application.

Section 10322(h)(12)

- (12) Architectural drawings. Preliminary drawings of the proposed project, including a site plan, building elevations, and unit floor plans (including square footage of each unit). The project architect shall certify that the development will comply with building codes and the physical building requirements of all applicable fair housing laws. In the case of rehabilitation projects proceeding without an architect, the entity performing the Capital Needs Assessment shall note necessary fair housing improvements, and the applicant shall budget for and implement the related construction work. The site plan shall identify all areas or features proposed as project amenities, laundry facilities, recreation facilities and community space. Drawings shall be to a scale that clearly shows all requested information. Blueprints need not be submitted. A project applying as a High-Rise Project must include the project architect certification in accordance required with the High-Rise Project definition in Section 10302~~(v)~~.

Reason: The proposed change eliminates the need to amend the CTCAC regulations for cross-reference changes with the addition or removal of definitions.

Section 10325(c)(4)(B)

- (B) Projects that provide high-quality services designed to improve the quality of life for tenants are eligible to receive points for service amenities. Services must be appropriate to meet the needs of the tenant population served and designed to generate positive changes in the lives of tenants, such as by increasing tenant knowledge of and access to available services, helping tenants maintain stability and prevent eviction, building life skills, increasing household income and assets, increasing health and well-being, or improving the educational success of children and youth.

Except as provided below, in order to receive points in this category, physical space for service amenities must be available when the development is placed-in-service. Services space must be located inside the project and provide sufficient square footage, accessibility and privacy to accommodate the proposed services. Evidence that adequate physical space for services will be provided must be documented within the application.

The amenities must be available within 6 months of the project's placed-in-service date. Applicants must commit that services shall be provided for a period of 15 years.

All services must be of a regular and ongoing nature and provided to tenants free of charge (except for day care services or any charges required by law). Services must be provided on-site except that projects may use off-site services within 1/2 mile of the development (1½ miles for Rural set-aside projects) provided that they have a written agreement with the service provider enabling the development's tenants to use the services free of charge (except for day care and any charges required by law) and that demonstrate that provision of on-site services would be duplicative.

No more than 10 points will be awarded in this category. The number of hours per year for a full time-equivalent (FTE) will be calculated as follows: 1) the number of bedrooms ~~X~~ multiplied by 0.00172080 = FTE ~~multiplier~~ numerator; 2) FTE ~~Multiplier~~ numerator divided by X ~~2,080~~ base number of bedrooms = number of required hours per year (up to a maximum of 2,080 hours).

For Large Family, Senior, and At-Risk Projects or for the non-Special Needs units in a Special Needs Project with less than 75% Special Needs units, amenities may include, but are not limited to:

Reason: The proposed change clarifies the FTE calculation based on the number of bedrooms. The FTE numerator is the product of the number of bedrooms being proposed and 2,080 hours. The required hours per year is the quotient of the FTE numerator and the base number of bedrooms as referenced in the regulations (i.e. 600 bedrooms, 360 bedrooms, etc.).

Section 10325(c)(7)

- (6) Readiness to Proceed. 10 points will be available to projects that document enforceable financing commitment(s) as defined in Section 10325(f)(3) for all construction financing and commit to begin construction within 180 days of the Credit Reservation as documented by the requirements below (after preliminary reservation CTCAC will randomly assign a 180 day deadline for half of the projects receiving a Credit Reservation within each round and a 194 day deadline for remaining projects).

No later than the 180/194 day deadline, CTCAC must receive:

- (A) a completed updated application form along with a detailed explanation of any changes from the initial application,
- (B) an executed construction contract,
- (C) recorded deeds of trust for all construction financing (unless a project's location on tribal trust land precludes this), binding commitments for permanent financing, binding commitments for any other financing required to complete project construction,
- (D) a limited partnership agreement executed by the general partner and the investor providing the equity,

- (E) an updated CTCAC Attachment 16,
- (F) issuance of 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
- (G) notice to proceed delivered to the contractor.

~~The Executive Director shall either rescind the Tax Credit Reservation, assess negative points, or both for failure to meet the 180-day or 194-day due date, respectively if applicable, shall result in rescission of the Tax Credit Reservation or negative points.~~

If no construction lender is involved, evidence must be submitted within 180 or 194 days, as applicable, after the Reservation is made that the equity partner has been admitted to the ownership entity, and that an initial disbursement of funds has occurred. CTCAC shall conduct a financial feasibility and cost reasonableness analysis upon receiving submitted Readiness documentation.

~~In the event of a federally declared emergency by the President of the United States, a state declared emergency by the Governor of the State of California, or similar event determined by the Committee, and at the sole discretion of the Executive Director, extensions may be granted.~~

Reason: The first proposed change provides CTCAC the ability to rescind a Tax Credit Reservation and assess negative points for failure to meet the readiness deadline. In the event a project is assessed negative points for failing to meet the readiness deadline, the proposed change allows CTCAC to also rescind the Tax Credit Reservation if warranted due to delays of the construction start date. The second proposed change allows the Executive Director, at his or her sole discretion, to grant extensions in situations where there is a federally declared emergency by the President of the United States, a state declared emergency by the Governor of the State of California, or similar event determined by the Committee.

Section 10325(c)(9)

(9) Tie Breakers

If multiple applications receive the same score, the following tie breakers shall be employed:

For applications for projects within single-jurisdiction regional competitions only (the City and County of San Francisco and the City of Los Angeles geographic apportionments), the first tiebreaker shall be the presence within the submitted application of a formal letter of support for the project from either the San Francisco Mayor’s Office of Housing or the Los Angeles Housing ~~+ Community Investment~~

Department respectively. Within those cities, and for all other applications statewide, the subsequent tiebreakers shall be as follows:

First, if an application's housing type goal has been met in the current funding round in the percentages listed in section 10315, then the application will be skipped (unless the application to be skipped is the highest ranked in the set-aside or geographic region) if there is another application with the same score and with a housing type goal that has not been met in the current funding round in the percentages listed in section 10315; and

Second, the highest of the sum of the following:

Reason: The proposes change updates the name from the Los Angeles Housing + Community Investment Department to the Los Angeles Housing Department.

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

- (iv) For purposes of this section, a related party shall mean a member of the development team or a Related Party, as defined in Section 10302~~(gg)~~, to a member of the development team.

Reason: The proposed change eliminates the need to amend the CTCAC regulations for cross-reference changes with the addition or removal of definitions.

Section 10325(c)(9)(D)

(D) For Rural set aside projects applying in counties where no tax credit applications have been received within 5 years of the application filing date, the tiebreaker shall increase by 5 percentage points.

Reason: In response to the California State Auditor's report, the proposed change incentivizes applications for projects within the Rural set aside located in a county where an application has not been received within 5 years of the application filing date.

Section 10325(d)(2)

- (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 ~~eleven~~ 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 last award does not cause the~~ region's aggregate award amount ~~to 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) ~~does~~ not meet the 125% rule then the Committee shall skip over the ~~next-that~~ highest-ranking project to fund a project requesting a smaller credit award that does meet 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 a final tiebreaker score equal to at least 75% of the first skipped project's final tiebreaker score.

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.

Reason: The proposed change removes the incorrect the number of regions. The second proposed change clarifies that in no instance shall the aggregate award in a geographic region exceed 125% of the amount originally available for that region in that funding round.

Section 10325(f)(7)(K)

(K) All new construction projects shall adhere to the provisions of California Building Code (CBC) Chapter 11(B) regarding accessibility to privately owned housing made available for public use in all respects except as follows: instead of the minimum requirements established in 11B 233.3.1.1 and 11B 233.3.1.3, all new construction projects must provide a minimum of fifteen percent (15%) of the Low-Income Units with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and a minimum of ten percent (10%) of the Low-Income Units with communications features, as defined in CBC 11B 809.5. 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.

Rehabilitation projects shall provide a minimum of ten percent (10%) of the Low-Income Units with mobility features, as defined in CBC 11B 809.2 through 11B 809.4, and four percent (4%) with communications features, as defined in CBC 11B 809.5. To the maximum extent feasible and subject to reasonable health and safety requirements, these units shall be distributed throughout the project consistent with 24 CFR Section 8.26. At least one of each common area facility type and amenity, as well as paths of travel between accessible units and such facilities and amenities, the building entry and public right of way, and the leasing office or area shall also be made accessible utilizing CBC Chapter 11(B) as a design standard.

In all other respects, applicable building code will apply. Projects with particular federal, state, or local funding sources may be required to meet additional accessibility requirements related to these other sources.

Except for paragraph (J) and (K), if a rehabilitation applicant does not propose to meet the requirements of this subsection, its Capital Needs Assessment must show that the standards not proposed to be met are either unnecessary or excessively expensive. The Executive Director may approve a waiver to paragraph (J) for a new construction or rehabilitation project, provided that tenants will have equivalent access to management services. The Executive Director may approve a waiver to paragraph (K) for a rehabilitation project, provided that the applicant and architect demonstrate that full compliance would be impractical or create an undue financial burden and not in conflict with federal or state law. All waivers must be approved in advance by the Executive Director.

Reason: The proposed change clarifies that waivers to paragraph (K) for rehabilitation projects may only be approved if they are not conflict with federal or state law.

Section 10325(g)(1)(G)

- (G) Adequate laundry facilities shall be available on the project premises, with ~~no fewer at least than~~ one washer and one dryer per 10 Tax Credit Units units. This requirement shall be reduced by 25% for projects where all Tax Credit Units units include hook-ups for washers and dryers. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each Tax Credit Unit-unit;

Reason: The proposed change clarifies existing practice that for purposes of calculating the number of required washers and dryers, the number of Tax Credit Units is used. For example, if a project proposes 60 Low Income Units and 1 exempt manager's unit for a total of 61 Tax Credit Units, at least seven (7) washers and seven (7) dryers shall be required.

Section 10325(g)(2)(I)

- (I) Adequate laundry facilities shall be available on the project premises, with ~~no fewer at least than~~ one washer and one dryer per 15 Tax Credit Units units. This requirement shall be reduced by 25% for projects where all Tax Credit Units units include hook-ups for washers and dryers. To the extent that tenants will be charged for the use of central laundry facilities, washers and dryers must be excluded from eligible basis. If no centralized laundry facilities are provided, washers and dryers shall be provided in each Tax Credit Unit-unit;

Reason: The proposed change clarifies existing practice that for purposes of calculating the number of required washers and dryers, the number of Tax Credit Units is used. For example, if a project proposes 60 Low Income Units and 1 exempt manager's unit for a total of 61 Tax Credit Units, at least five (5) washers and five (5) dryers shall be required.

Section 10325(g)(3)(E)

- (E) Adequate laundry facilities shall be available on the project premises, with ~~no fewer at least than~~ and one washer ~~and one~~ dryer per 15 Tax Credit Units units. This requirement shall be reduced by 25% for projects where all Tax Credit Units units include hook-ups for washers and dryers;

Reason: The proposed change clarifies existing practice that for purposes of calculating the number of required washers and dryers, the number of Tax Credit Units is used. For example, if a project proposes 60 Low Income Units and 1 exempt manager's unit for a total of 61 Tax Credit Units, at least five (5) washers and five (5) dryers shall be required.

Section 10325(g)(5)(G)

- (G) Adequate laundry facilities shall be available on the project premises, with ~~no fewer at least than~~ and one washer ~~and one~~ dryer per 15 Tax Credit Units units. This requirement shall be reduced by 25% for projects where all Tax Credit Units units include hook-ups for washers and dryers;

Reason: The proposed change clarifies existing practice that for purposes of calculating the number of required washers and dryers, the number of Tax Credit Units is used. For example, if a project proposes 60 Low Income Units and 1 exempt manager's unit for a total of 61 Tax Credit Units, at least five (5) washers and five (5) dryers shall be required.

Section 10326(b)

- (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 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 Project 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.

Reason: The proposed change establishes a process for which State Tax Credits are allocated in the event there is insufficient State Tax Credits to allocate applications recommended for tax-exempt bonds by the California Debt Limit Allocation Committee (CDLAC). The State Tax Credits will be allocated in the order proposed based on ranking within the pools, set asides and geographic regions.

Section 10327(c)(2)(E)

- (E) Black, Indigenous, or Other People of Color (BIPOC) ~~Projects~~. For projects ~~which~~ that qualify for general partner experience pursuant to Section 5230(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.

Reason: The proposed change clarifies that the increased developer fee is available only to projects that qualify for general partner experience through CDLAC pursuant to Section 5230(f)(1)(B).

Section 10327(c)(5)

- (5) Threshold Basis Limits. At application, the Committee shall limit the unadjusted eligible basis amount, used for calculating the maximum amount of Tax Credits to amounts published on its website in effect at the time of application and in accordance with the Threshold Basis Limit definition in Section 10302 ~~(#)~~ of these regulations. At placed in service, the Committee shall limit the unadjusted eligible basis amount to the higher of the amount published on its website in effect at the time of application or in effect for the year the project places in service.

Reason: The proposed change eliminates the need to amend the CTCAC regulations for cross-reference changes with the addition or removal of definitions.

Section 10327(c)(5)(B)(3)

- (e) Newly constructed project buildings shall be more energy efficient than the 2019 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24) by at least 5 EDR points for energy efficiency alone (not counting solar), except that if the local building department has determined that building permit applications submitted on or before December 31, 2019 are complete, then newly constructed project buildings shall be fifteen percent (15%) or more energy efficient than the 2016 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24). Four percent (4%)

Reason: The proposed change removes an inadvertent comma and clarifies that the requirement for the basis limit increase is available for projects more energy efficient than the 2019 Energy Efficiency Standards (California Code of Regulations, Part 6 of Title 24) by at least 5 EDR points for energy efficiency alone.

Section 10328(g)(2)

- (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 during construction or following construction completion due to physical damage to the development directly caused by including but not limited to, fires, floods, or earthquakes-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 physical damage.

Reason: Staff received reservation exchange requests for projects and stating the pandemic as an act of God warranting a reservation exchange. Staff's intent is to maintain the reservation exchange for a very a narrow scope of projects experiencing delays due to physical damage caused by natural disasters. The proposed change clarifies the parameters in subsection (2) that reservation exchanges requests will only be considered for projects delayed due to physical damage to the project during construction or following construction completion.

Section 10328(c)

- (c) Except for those applying under section 10326 of these regulations, applicants receiving a Credit reservation but who did not receive maximum points in the Readiness to Proceed point category shall provide the Committee with a completed updated application form no later than 180 days or 194 days, as applicable, following Credit reservation and start construction no later than 12 months following Credit reservation. Failure to start construction within 12 months following Credit reservation may result in rescission of Credit reservation.

Upon receipt of the updated application form, the Committee shall conduct a financial feasibility and cost reasonableness analysis for the proposed project, and determine if all conditions of the preliminary reservation have been satisfied. Substantive changes to the approved application, in particular, changes to the financing plan or costs, need to be explained by the applicant in detail, and may cause the project to be reconsidered by the Committee.

Reason: Given the required federal placed in service deadline, the proposed change provides CTCAC the ability to rescind and reallocate a Credit reservation if a project fails to start construction within 12 months.

Section 10330(b)(1)

- (b) (1) Procedure for application appeals. An appeal related to an application must be submitted in writing and received by the ~~Committee~~ Executive Director no later than seven (7) calendar days following the transmittal date of the Committee staff's point or disqualification letter. The appeal shall identify specifically, based upon previously submitted application materials, the applicant's grounds for the appeal.

~~Staff~~ The Executive Director will respond in writing to the appeal letter within seven (7) 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 within five (5) days after receipt of the staff response letter. The Executive Director will respond in writing no more than five (5) days after receipt of the appeal.~~ 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) 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. The appeal review shall be based upon the existing documentation submitted by the applicant when the application was filed. Any appeal or response due on a weekend or holiday shall be deemed to be due on the following business day.

Reason: Due to the increased volume of applications and the timing of a funding round, the proposed change simplifies and expedites the appeal process by consolidating appeals to staff as a single appeal to the Executive Director. The appeal process will still allow for an appeal to the Executive Director's decision to be submitted to the Committee along with the \$500 appeal fee.

Section 10337(f)(6)

(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) Repeat Uniform Physical Condition Standards (UPCS) Health and Safety Violations and Common Area Violations

- (B) Reoccurring patterns of units not 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

Reason: In response to the California State Auditor's report, the proposed change establishes a fee up to \$500 for instances of reoccurring or repeat offenses of noncompliance.
