CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

901 P Street, Suite 213A
Sacramento, CA 95814
p (916) 654-6340
f (916) 654-6033
www.treasurer.ca.gov/ctcac

MEMBERS

FIONA MA, CPA, CHAIR
State Treasurer

MALIA M. COHEN
State Controller

JOE STEPHENSHAW
Director of Finance

GUSTAVO VELASQUEZ
Director of HCD

VACANT
Executive Director of CalHFA

EXECUTIVE DIRECTOR
MARINA WIANT

DATE: August 4, 2025

TO: Low-Income Housing Tax Credit Stakeholders

FROM: Marina Wiant, Executive Director

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

On July 22, 2025, California Tax Credit Allocation Committee (CTCAC) published a Notice of Proposed Emergency Rulemaking for the federal and state Low-Income Housing Tax Credit (LIHTC) programs and opened a public comment period. Any emergency rules or regulations adopted by the Committee pursuant to Chapter 3.6 of the Health and Safety Code shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning or purposes of Section 11346.1 of the Government Code.

CTCAC accepted written comments on the initial proposed regulation changes through Tuesday, July 29, 2025. Numerous individuals, organizations, and groups formally commented on the proposed emergency rulemaking. CTCAC staff reviewed all comments received and finalized the recommendations for consideration and adoption to be presented to the Committee on Tuesday, August 5, 2025.

This memo includes the final proposed emergency rulemaking, statement of reasons explaining why the changes are necessary, the initial proposed regulation amendments, a summary of the comments received, staff's responses to comments, and the final proposed regulation amendments.

List of Proposed Emergency Regulation Changes with Statement of Reasons, Summary of Comments Received, and Response to Comments
August 4, 2025

1. Section 10326(a). Tax-Exempt Bond Applications

Reason: Federal legislation was signed into law on July 4, 2025, lowering the minimum eligibility requirement for 4% federal tax credits from fifty percent (50%) to twenty-five percent (25%) thereby expanding the volume cap of tax-exempt bonds. Staff proposes to remove the reference to 50% and directly reference the federal requirement in Section 42(h)(4)(B) of the Internal Revenue Code (IRC). By directly referencing the federal language, future changes to this federal requirement will not require CTCAC regulation changes. The second proposed change within the same section adds a reference to subsection (g)(1)(B) relating to enhanced state tax credits as it was inadvertently omitted when (g)(1)(B) was added initially added to Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code.

Initial proposed emergency 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: Two (2) commenters support the proposed emergency change.

Final proposed emergency change: Proceed as initially proposed

2. New Section 10326(b)(3). Tax-Exempt Bond Applications, State Tax Credits

Reason: Federal legislation was signed into law on July 4, 2025, lowering the minimum eligibility requirement for 4% federal tax credits from fifty percent (50%) to twenty-five percent (25%) thereby expanding the volume cap of tax-exempt bonds and resulting in a significant increase in project awards with the same amount of resources. To more equitably distribute the enhanced State Tax Credits through the New Construction Pools and Set Asides, staff propose to establish a limit in the New Construction Pools and Set Asides for enhanced State Tax Credits. The proposed percentages are based on the approximate percentage of enhanced State Tax Credit awarded in the New Construction Pools and Set Asides listed below in the last few years. This will ensure the distribution of enhanced State Tax Credits through the New Construction Pools and Set Asides is in line with the average amounts awarded in prior years.

Initial proposed emergency change:

(3) In the last round of 2025, 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 Credit amount available in the funding round for the following New Construction Pools and Set Asides.

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

Comments received: Five (5) commenters support the proposed emergency change. One of the commenters stated that the limits are an important tool to ensure broader access to enhanced State Tax Credits across the New Construction Pools and Set-Asides and provide predictability and equitable distribution of credits to ensure that smaller, mission-driven, and community-based developers, especially those working in rural, Tribal, and farmworker communities, can continue to compete effectively for financing. Two of the commenters stated that the caps ensure predictability of enhanced State Tax Credits in the New Construction Pools and Set-Asides. One of the commenters stated that the proposed caps ensure that the increased availability of tax-exempt bonds does not inadvertently skew which pools are able to benefit from enhanced State Tax Credits.

One (1) commenter supports the proposed emergency change but suggests reducing the percentage proposed for the BIPOC Pool from 15% to 5%.

Response to comments: As stated in the statement of reasons above, the percentage limits for enhanced State Tax Credits in the New Construction Pools and Set-Asides are based on approximate percentages of enhanced State Tax Credit awards from the last few years and represent the appropriate limits for Round 3.

Final proposed emergency change: Proceed as initially proposed

3. **New Section 10327(c)(2)(B)(iv). Developer Fee**

Reason: Federal legislation was signed into law on July 4, 2025, lowering the minimum eligibility requirement for 4% federal tax credits from fifty percent (50%) to twenty-five percent (25%) thereby expanding the volume cap of tax-exempt bonds. To more efficiently utilize the tax-exempt bonds, staff proposes to allow applicants previously awarded 4% credits in round 1 or round 2 of 2025 to elect to reduce their bond allocation in exchange for an increase to the overall developer fee and cash portion by $20,000 beyond the maximums allowed for every $1,000,000 in tax-exempt bonds returned, to offset increased lending costs associated with the revised bond allocation. This will maximize the use of tax-exempt bonds as the returned tax-exempt bonds will be available in round 3 to award more projects and increase the number of housing units in the state. Following adoption of the proposed emergency change, staff will publish a guidance memorandum with instructions on the documentation required to be submitted by the August 31, 2025 deadline.

Initial proposed emergency change:

(iv) Applicants awarded 4% credits in round 1 or round 2 of 2025 may elect to reduce their tax-exempt bond allocation amount consistent with CDLAC Resolution No. [TBD]. Applicants making this election may request a waiver to exceed the maximum developer fee by no more than five hundred thousand dollars ($500,000) to account for increased lending costs associated with the reduced bond allocation. Waiver requests must be received in writing by 5:00 p.m. on August 31, 2025, include all information and documentation required by the Executive Director, and demonstrate to the Executive Director's satisfaction specifically how the additional developer fee being requested mitigates the increased lending costs directly related to the revised bond allocation,

Comments received: Nine (9) commenters support the proposed emergency change. Five of the commenters recommended clarification on the $500,000 increase and whether it applied to the cash portion of the developer fee or the portion that is deferred or recontributed as project equity. The commenters suggested allowing the increase to apply for either portion of the fee. One of the commenters suggests increasing the $500,000 to $2,000,000 because a return of tax-exempt bonds will generate additional LIHTC equity, but will not fully offset the lost debt proceeds, especially for larger bond deals. Four of the commenters encouraged staff to expand the election to applicants awarded 4% credits in 2024 that have not yet closed, to restructure their financing and return unused bonds in time to benefit other shovel-ready developments statewide. One of the commenters suggest adding language to specify that the increase apply to both the overall developer fee and the cash out portion.

One (1) commenter recommended extending the August 31, 2025 deadline to October 15, 2025, which would still allow CDLAC time to figure out how much volume cap to award in the December round. The commenter stated that August 31, 2025 deadline is not enough time for developers to negotiate with their funding partners the entire capital structure of their development and submit the request for increased developer fee.

One (1) commenter recommended the application of the proposed emergency change be extended to any project that has not yet closed.

Three (3) commenters recommended that the $500,000 increase be applicable to both the total developer fee and cash developer fee. Two of the commenters stated that many applicants reduced gross developer fees to reduce bond allocation requests to remain competitive. The commenters suggested that all projects returning bond allocation will be permitted to increase their gross developer fee to the maximum allowed by CTCAC to mitigate financing gaps due to decreased equity pricing this year. One of the commenters stated that for larger projects that would be returning a substantial amount of allocation, there is a real cost and impact for exchanging tax-exempt debt for taxable debt, especially if there is a reduction in tax-exempt permanent financing. The commenter suggested increasing the $500,000 to $1,000,000 or $2,000,000 or alternatively, index the developer fee increase with a $500,000 increase for every $25,000,000 in tax-exempt bonds returned.

Response to comments: In the statement of reasons above, staff clarified that the increase applies to the developer fee maximums established at the time of application, both overall developer fee and cash portion.

This election is limited to current year round 1 and round 2 projects because 2024 projects are already far past their original bond issuance deadline and staff encourages them to close by the end of 2025 and not unnecessarily delay further.

In response to the comments to increase the $500,000 to $2,000,000, staff proposes to remove the $500,000 maximum and instead structure the increase beyond the developer fee maximums based on the amount of tax-exempt bonds being returned to more proportionately size the increased developer fee to the amount of tax-exempt bonds being returned.

Final proposed emergency change:

(iv) Applicants awarded 4% credits in round 1 or round 2 of 2025 may elect to reduce their tax-exempt bond allocation amount consistent with CDLAC Resolution No. ~~[TBD]~~25-007. Applicants making this election may request a waiver to exceed the maximum developer fee at initial application by no more than twenty thousand dollars ($20,000) for every one million dollars ($1,000,000) in tax-exempt bond allocation returned~~, five hundred thousand dollars ($500,000)~~ to account for increased lending costs associated with the reduced bond allocation. Waiver requests must be received in writing by 5:00 p.m. on August 31, 2025~~, include all information and documentation required by the Executive Director, and demonstrate to the Executive Director's satisfaction specifically how the additional developer fee being requested mitigates the increased lending costs directly related to the revised bond allocation~~.

4. **New Section 10336(b)(2)(B)(iii). Waiting Lists**

Reason: On January 7, 2025, Governor Newsom proclaimed a State of Emergency to exist in Los Angeles and Ventura Counties due to fire and windstorm conditions that caused multiple fires. On March 7, 2025, Governor Newsom issued Executive Order N-23-25 and, in part, suspended certain tenant selection procedures authorized by state law for the purpose of giving waitlist priority to displaced households who are experiencing homelessness in Los Angeles County due to the proclaimed emergency. To ensure all households impacted by the proclaimed emergency and EO N-23-25 can benefit from the waitlist priority CTCAC is issuing this emergency rulemaking to clarify that owners and property managers must comply with any federal, state, or local requirement to provide waitlist priority to Low-Income Unit eligible households displaced and experiencing homelessness due to a federally or state declared disaster.

Initial proposed emergency change:

(iii) Waiting Lists. Owners and property managers 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 the California Emergency Services Act (Gov. Code, § 8550 et seq.).

Comments received: One (1) commenter supports the proposed emergency change.

Final proposed emergency change: Proceed as initially proposed