CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: January 22, 2020

TO: Low Income Housing Tax Credit Stakeholders

FROM: Judith Blackwell, Executive Director

RE: Proposed Emergency 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. This memorandum summarizes the proposed changes. Attached to this memorandum is the complete set of proposed changes with reasoning. The target date for regulation change adoption is late February 2020, prior to the first round application deadline. TCAC staff will conduct public hearings to explain, answer questions, and solicit comments regarding the proposals at the following times and locations, immediately following the TCAC application workshops:

January 27, 2020, 12:30pm Employment Development Department 722 Capitol Mall, Auditorium Sacramento, CA 95814	January 28, 2020, 12:30pm Elihu Harris State Building 1515 Clay Street, Room 1 Oakland, CA 94612
January 30, 2020, 3:30pm San Diego Housing Commission 1122 Broadway, 4th Flr Conference Room San Diego, CA 92101	January 31, 2020, 12:30pm Ronald Reagan State Building 300 South Spring Street Los Angeles, CA 90013

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 to TCAC on or before 5:00 pm on Wednesday, **February 12, 2020.** Please email comments to jblackwell@treasurer.ca.gov and azeto@treasurer.ca.gov, preferably in a Microsoft Word document or in an electronic, rather than scanned pdf, 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 do, however, feel it is necessary to provide both, please provide consistent comments in both forums. Thank you.

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Proposed Regulation Changes with Reasons
January 22, 2020

Section 10310(b)(1)

(b) Credit Ceiling available. The approximate amount of Tax Credits available in each reservation cycle shall be established by the Committee at a public meeting designated for that purpose, 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, the amount of the Federal Credit Ceiling established by the Further Consolidated Appropriations Act, 2020 shall be allocated pursuant to Section 10325(d)(1).

Reason: The Further Consolidated Appropriations Act, 2020 (FCAA) provided TCAC with additional 9% credits totaling the 2017 and 2018 9% federal credit allocated to projects in certain disaster areas, in recognition of the recent disasters occurring in California. The disaster areas defined in the FCAA are located in 13 of California's 58 counties: Butte, Lake, Los Angeles, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Shasta, Sonoma, Ventura, and Yuba. 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 10315(h)

(h) Housing types. To be eligible for Tax Credits, all applicants must select and compete in only one of the categories listed below, exclusive of the Acquisition and/or Rehabilitation and Large Family New Construction located in a Highest or High Resource Area housing types which are listed here solely for purposes of the tiebreaker, and must meet the applicable "additional threshold requirements" of Section 10325(g), in addition to the Basic Threshold Requirements in 10325(f). The Committee will employ the tiebreaker at Section 10325(c)(9) in an effort to assure that no single housing type will exceed the following percentage goals where other housing type maximums are not yet reached:

Housing Type	**Goal**
Large Family	65%
Large Family New Construction receiving the tiebreaker increase for being located in census tracts, or census block groups as applicable, designated on the TCAC/HCD Opportunity Area Map as Highest or High Resource Areas (effective for 2019 and later reservations)	30%
Special Needs	30%
Single Room Occupancy (SRO)	15%
At-Risk	15%
Seniors	15%
Acquisition and/or Rehabilitation within the rural set-aside only	30% of the credits available in the rural set-aside

For purposes of the Acquisition and/or Rehabilitation Housing Type Goal, a project will be considered an acquisition and/or rehabilitation project if at least 50% of the units were previously residential dwelling units.

A large family new construction project that receives a tiebreaker increase for being located in a Highest or High Resource census tract shall count against both that housing type and the general Large Family housing type.

Reason: The first proposed change acknowledges the change in the proposed 2020 TCAC/HCD Opportunity Area Map (2020 Map) location designations. The proposed 2020 Map identifies opportunity in rural areas at the block group rather than census tract level to more accurately measure rural populations and conditions. There are additional changes to the proposed 2020 Map, which can be reviewed on the TCAC website: https://www.treasurer.ca.gov/ctcac/opportunity.asp. This includes the proposed 2020 Map, the spreadsheet of census tracts and block groups and their corresponding resource categories, and a narrative explanation of the changes to the methodology. The second proposed change incorporates the re-introduction of the SRO housing type (see Section 10325(g)(3) below).

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 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, 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 Further Consolidated Appropriations Act, 2020 (FCAA), 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 FCAA 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 FCAA 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 10322(h)(27) and (28)

(27) Acquisition of Occupied Housing application. Applicants proposing acquisition of occupied rental residential housing shall provide all existing income, rent and family size information for the current tenant population.

(28) Tenant relocation plan. In addition to any other applicable relocation requirements, ~~Applicants~~ applicants proposing rehabilitation or demolition of occupied housing shall comply with the requirements of either the California Relocation Assistance Law, California Government Code Section 7260 et seq, or the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Applicants shall provide an explanation of the relocation requirements that they are complying with, and a detailed relocation plan consistent with one of the above-listed relocation standards. The relocation plan must address the potential displacement of current tenants who do not meet the CTCAC income eligibility requirements or who will receive a rent increase exceeding five percent (5%). ~~and a detailed relocation plan~~ The relocation plan must also include: an estimate of the number of current tenants who do not meet CTCAC income eligibility requirements and how this estimate was determined, and a detailed description of how current tenants will be provided notice and information about the required relocation assistance, including copies of such noticing document(s). ~~including a budget with an identified funding source. Where existing low income tenants will receive a rent increase exceeding five percent (5%) of their current rent, applicants shall provide a relocation plan addressing economic displacement. Where applicable, the applicant shall provide evidence that the relocation plan is consistent with the Uniform Relocation Assistance and Real Property Acquisition Policy Act and has been submitted to the appropriate local agency.~~

Reason: The proposed change to subsection (27) acknowledges that when existing market rate rental housing is purchased, income or family size information for the current tenant population may not exist because it was not collected or maintained by the property owner. In those cases, the requirement is not applicable.

The proposed change to subsection (28) provides consistency in relocation requirements for applicants. Many of the applications to TCAC are already required to provide relocation assistance under either federal or state law because of other funding sources in the project financing such as HUD or HCD. For fairness and consistency, staff proposes to extend these requirements to all rehabilitation and acquisition projects.

Section 10325(c)(4)(A)11.

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

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

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

Reason: The proposed change acknowledges the change in the proposed 2020 TCAC/HCD Opportunity Area Map (2020 Map) location designations. The proposed 2020 Map identifies opportunity areas in rural areas at the block group rather than at the census tract level to more accurately measure rural populations and conditions. There are additional changes to the proposed 2020 Map, which can be reviewed on the TCAC website: https://www.treasurer.ca.gov/ctcac/opportunity.asp. This includes the proposed 2020 Map, the spreadsheet of census tracts and block groups and their corresponding resource categories, and a narrative explanation of the changes to the methodology.

Section 10325(c)(9)(C)

(C) Except as provided below, a new construction large-family project applying in 2019 or later shall receive a higher resource area bonus as follows based on the designation of the project's location on the TCAC/HCD Opportunity Area Map:

The project is non-rural and the project's census tract is a Highest Resource area 20 percentage points

The project is non-rural and the project's census tract is a High Resource area 10 percentage points

The project is rural and project's census tract or census block group as applicable is a Highest Resource area 10 percentage points

The project is rural and the project's census tract or census block group as applicable is a High Resource area 5 percentage points

This bonus shall not apply to projects competing in the Native American apportionment, unless such projects fall into the rural set-aside competition. In addition, this bonus shall not apply to an inclusionary project, which for purposes of this subparagraph shall mean a project in which any of the Low-Income Units satisfy the obligations of an inclusionary housing ordinance or other development agreement negotiated between a public entity and private developer, unless the obligations derive solely from the Low-Income Units themselves or unless the project includes at least 40 Low-Income Units that are not counted towards the obligations of the inclusionary housing ordinance or development agreement. An application for a large family new construction project located in a High or Highest Resource area shall disclose whether or not the project includes any Low-Income Units which satisfy the obligations of an inclusionary housing ordinance or development agreement and, if so, the number of such units and whether the inclusionary obligations derive solely from the Low-Income Units themselves.

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

Reason: The proposed change acknowledges the change in the proposed 2020 TCAC/HCD Opportunity Area Map (2020 Map) location designations. The proposed 2020 Map identifies opportunity areas in rural areas at the block group rather than at the census tract level to more accurately measure rural populations and conditions. There are additional changes to the proposed 2020 Map, which can be reviewed on the TCAC website: https://www.treasurer.ca.gov/ctcac/opportunity.asp. This includes the proposed 2020 Map, the spreadsheet of census tracts and block groups and their corresponding resource categories, and a narrative explanation of the changes to the methodology.

Section 10325(d)(1)

(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"). 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.

<u>Federal Credit established by the FCAA application selection. Beginning with applications for projects located in the counties designated as qualified 2017 and 2018 California disaster areas by the FCAA, FCAA Federal Credit shall be reserved for projects that: apply for the FCAA Federal Credit, meet all program eligibility requirements, achieve maximum points, and are located in the following counties: Butte, Lake, Los Angeles, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Shasta, Sonoma, Ventura, and Yuba.</u>

<u>Subsequent to the above selection ranking, any unused FCAA Federal Credit shall be reserved for projects that: apply for the FCAA Federal Credit, meet all program eligibility requirements, achieve maximum points, and are designated for homeless households as described in Section 10315(b)(1) through (4).</u>

<u>Subsequent to the homeless households selection ranking above, any unused FCAA Federal Credit shall be reserved for projects that: apply for the FCAA Federal Credit, meet all program eligibility requirements, achieve maximum points, and are a single room occupancy (SRO) housing type as described in Section 10325(g)(3).</u>

<u>Following the SRO housing type selection ranking, any unused FCAA Federal Credit shall be set aside for the following funding round. If the last application requires more than the remaining unused FCAA Federal Credit, that application will not be funded from the FCAA Federal Credit and the remaining credit will be added to the FCAA Federal Credit amount available in the next funding round; in the final funding round, the remaining FCAA Federal Credit will be added to the subsequent year's federal credit ceiling. If all FCAA Federal Credit in a funding round has been reserved, all remaining applications shall compete in the applicable set-aside or geographic region, provided that the application also meets the requirements of the set-aside or geographic region.</u>

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 are not eligible for State Tax Credits.

Reason: In recognition of the recent disasters occurring in California, the Further Consolidated Appropriations Act, 2020 (FCAA) provided TCAC with additional 9% credits totaling the amounts of the 2017 and 2018 9% tax credits allocated to projects in those areas. The disaster areas defined in the FCAA are located in 13 of California's 58 counties: Butte, Lake, Los Angeles, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Shasta, Sonoma, Ventura, and Yuba. 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 (FCAA Federal Credits) as follows. The FCAA 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. The initial selection will prioritize applications for projects located in the 13 counties listed above. If there is insufficient demand within each round for projects located in these counties, staff proposes that the remainder of the FCAA Federal Credits be allocated to applications for projects that are first: (1) housing for homeless as defined in TCAC regulation section 10315(b) (available to both for profit and nonprofit developers); then (2) to single room occupancy (SRO) housing. If there is insufficient demand for either of these options, staff proposes to carry the remaining FCAA Federal Credits into the next funding round (staff intends to evenly divide these credits between the first and second funding rounds, making half available in the first round and half available in the second round). If the demand exceeds the amount available, these applications will compete in their geographic regions. If there is insufficient FCAA Federal Credit to fully fund all projects, those projects will compete in the applicable set-aside or geographic region, where all other existing 9% credit ceiling program requirements would ordinarily apply.

Staff also proposes to require applications for the FCAA Federal Credits to score maximum points. Because the FCAA Federal Credits are being allocated in a manner separate from the established system, this process will prevent applicants from submitting applications with a point score that is less than nearly all other applications, and from providing tenants at these housing developments with fewer amenities and advantages than those that are consistently provided to other 9% credit projects. Such advantages include: lower rents, site and service amenities, energy efficiency, and construction readiness (this also ensures that these projects will commit to begin construction within 180 days of an award date).

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 FCAA 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 FCAA 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 FCAA; these projects would normally be able to receive both 130% federal tax credit and state tax credit.

Section 10325(g)(3)

(3) SRO projects. To be considered Single Room Occupancy (SRO) housing, the application shall meet the following additional threshold requirements:

(A) Average targeted income is no more than forty percent (40%) of the area median income;

(B) At least 90% of all units shall be SRO units. SRO units are efficiency or studio units that may include a complete private bath and kitchen but generally do not have a separate bedroom, unless the configuration of an already existing building being proposed to be used for an SRO dictates otherwise. The minimum size for SRO units shall be 200 square feet, and the size shall not exceed 500 square feet. These bedroom and size requirements may be waived for rehabilitation projects, at the discretion of the Executive Director;

(C) At least one bath shall be provided for every eight units;

(D) If the project does not have a rental subsidy committed, the applicant shall demonstrate that the target population can pay the proposed rents. For instance, if the target population will rely on General Assistance, the applicant shall show that those receiving General Assistance are willing to pay rent at the level proposed;

(E) The project configuration, including community space and kitchen facilities, shall meet the needs of the population, and comply with Section 10325(F)(7)(E);

(F) A public agency shall provide direct or indirect long-term financial support for at least fifteen percent (15%) of the total project development costs, or the owner's equity (includes syndication proceeds) shall constitute at least thirty percent (30%) of the total project development cost;

(G) Adequate laundry facilities shall be available on the project premises, with no fewer than one washer/dryer per 15 units;

(H) Projects are subject to a minimum low-income use period of 55 years (50 years for projects located on tribal trust land);

(I) A ten percent (10%) vacancy rate shall be used unless otherwise approved by the Executive Director. Justification of a lower rate shall be included;

~~(J)~~ New construction projects for seniors shall not qualify as SRO housing.

Reason: Staff proposes to re-introduce into TCAC regulations the SRO housing type that was eliminated December 2017, with the exception of additional service provider documentation. Since SRO housing may or may not include a special needs component, staff is not proposing to include this former language. In addition, these projects will be required to provide services pursuant to the service amenity point category, which ensures a service component at the project. Stakeholders have petitioned TCAC to re-introduce this housing type. Currently there are approximately 15,000 units in SRO housing funded with LIHTC. This proposed change provides project owners with the ability to rehabilitate these units using 9% credit, often the only viable financing available for such projects. In addition, the current widespread housing crisis in California has resulted in housing insecurity for thousands of Californians, as well as higher rates of homelessness. Constructing and rehabilitating SRO buildings will contribute to a reduction in homelessness and will also provide immediate housing options for those who are currently experiencing housing insecurity.

Section 10327(c)(5)(F)

(F) In a county that has an unadjusted 9% threshold basis limit for a 2-bedroom unit equal to or less than $400,000, 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 TCAC/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 TCAC/HCD Opportunity Maps in effect when the initial site control was obtained up to seven calendar years prior to the application.

Reason: The proposed change acknowledges the change in the proposed 2020 TCAC/HCD Opportunity Area Map (2020 Map) location designations. The proposed 2020 Map identifies opportunity areas in rural areas at the block group rather than at the census tract level to more accurately measure rural populations and conditions. There are additional changes to the proposed 2020 Map, which can be reviewed on the TCAC website: https://www.treasurer.ca.gov/ctcac/opportunity.asp. This includes the proposed 2020 Map, the spreadsheet of census tracts and block groups and their corresponding resource categories, and a narrative explanation of the changes to the methodology.

Section 10327(d)(4)

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

Reason: In accordance with recommendations received from the Governor's Office of Emergency Services, staff proposes to grant Difficult Development Area (DDA) status to projects proposing to utilize the federal tax credits from the Further Consolidated Appropriations Act, 2020. 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 projects located in disaster areas, housing for homeless populations, and SRO housing access to additional federal tax credits. If a project applying for the FCAA Federal Credit is ultimately funded in their geographic region due to oversubscription of the FCAA Federal Credit, the project will retain the DDA status.

Section 10335(e)

(a) Performance deposit. Each applicant receiving a preliminary reservation of Federal, or Federal and State, Tax Credits shall submit a performance deposit equal to four percent (4%) of the first year's Federal Credit amount reserved. Notwithstanding the other provisions of this subsection, an applicant requesting Federal Tax Credits not subject to the Federal housing Credit Ceiling and requesting State Tax Credits, shall be required to submit a performance deposit in an amount equal to ~~four~~ two percent (~~4~~2%) of the first year's State Credit amount reserved for the project, including applicants with a January 15, 2020 reservation of State Credit. Notwithstanding the other provisions of this Section, an applicant requesting only Federal Tax Credits not subject to the Federal Credit Ceiling, shall not be required to submit a performance deposit.

Reason: The proposed change decreases the performance deposit for projects with 4% federal credit and state credit. Currently these projects are required to provide a performance deposit roughly equal to the first year of state credit. The $500 million allocation of state credit utilizes a 30% multiplier to determine total state credit and a 9% multiplier to determine the first year of credit, which results in a substantial deposit amount. For example, a project with a qualified basis of $35 million is required to pay a deposit of $126,000 in addition to the reservation fee. This amount exceeds the maximum deposit a 9% project pays ($100,000). In recognition of this, staff proposes to reduce the 4% federal credit and state credit performance deposit calculation by half (2%), and to make this effective for all reservations of the $500 million state tax credit, which retroactively includes those that applied November 15, 2019. Staff chose the 2% as an equitable estimate to the 9% performance deposit calculation. To avoid complication, the change is also applicable to 4% federal and state credit projects with a 13% multiplier.