

**State of California  
Office of Administrative Law**

In re:  
California Debt Limit Allocation Committee

Regulatory Action:

Title 4, California Code of Regulations

Adopt sections:

Amend sections: 5000, 5052

Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION

Government Code Sections 11346.1 and  
11349.6

OAL File No. 2012-0127-03 E

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The California Debt Limit Allocation Committee (CDLAC) proposed to amend sections 5000 and 5052 of title 4 of the California Code of Regulations to allow the full refund of the performance deposit if 80% or more of the Allocation is used to issue bonds prior to the expiration date or issue at least one (1) Mortgage Credit Certificate prior to the expiration date.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 2/3/2012 and will expire on 8/2/2012. The Certificate of Compliance for this action is due no later than 8/1/2012.

Date: 2/3/2012

**.RAIG TARPENNING**

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Craig S. Tarpenning  
Senior Staff Counsel

For: DEBRA M. CORNEZ  
Assistant Chief Counsel/Acting Director

Original: Bill Lockyer  
Copy: Misti Armstrong

# EMERGENCY

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

|                  |                    |                          |                  |
|------------------|--------------------|--------------------------|------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER | REGULATORY ACTION NUMBER | EMERGENCY NUMBER |
| Z-               |                    |                          | 2012-0127-03E    |

For use by Office of Administrative Law (OAL) only

2012 JAN 27 PM 1:37

OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED  
in the office of the Secretary of State  
of the State of California  
2:21 PM  
AS

FEB 8 2012

DEBRA BOWEN  
Secretary of State

|        |             |
|--------|-------------|
| NOTICE | REGULATIONS |
|--------|-------------|

AGENCY WITH RULEMAKING AUTHORITY

California Debt Limit Allocation Committee

AGENCY FILE NUMBER (if any)

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

|   |                           |                        |                               |
|---|---------------------------|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE  | TITLE(S)                  | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE<br><input type="checkbox"/> Notice re Proposed Regulatory Action<br><input type="checkbox"/> Other   | 4. AGENCY CONTACT PERSON  | TELEPHONE NUMBER       | FAX NUMBER (Optional)         |
| OAL USE ONLY<br><input type="checkbox"/> Approved as Submitted<br><input type="checkbox"/> Approved as Modified<br><input type="checkbox"/> Disapproved/Withdrawn | ACTION ON PROPOSED NOTICE |                        | NOTICE REGISTER NUMBER        |
|   |                           |                        | PUBLICATION DATE              |

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

|  |  |
|--|--|
| 1a. SUBJECT OF REGULATION(S)<br>Administration of CA's limited tax-exempt debt authority | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) |
|--|--|

|   |                    |
|---|--------------------|
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related) |                    |
| SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)         | ADOPT              |
|   | AMEND              |
|   | Section 5052, 5000 |
| TITLE(S)<br>Title 4   | REPEAL             |

|  |   |   |   |
|--|---|---|---|
| 3. TYPE OF FILING  |   |   |   |
| <input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)   | <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. | <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input type="checkbox"/> Resubmission of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) | <input type="checkbox"/> Resubmission of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)  | <input type="checkbox"/> File & Print                               | <input type="checkbox"/> Print Only   |
| <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))   |   | <input type="checkbox"/> Other (Specify) _____                      |   |

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective 30th day after filing with Secretary of State

Effective on filing with Secretary of State

§100 Changes Without Regulatory Effect

Effective other (Specify) \_\_\_\_\_

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)

Fair Political Practices Commission

State Fire Marshal

Other (Specify) \_\_\_\_\_

|                                      |                                  |                       |  |
|--------------------------------------|----------------------------------|-----------------------|--|
| 7. CONTACT PERSON<br>Misti Armstrong | TELEPHONE NUMBER<br>916-653-3461 | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional)<br>marmstrong@treasurer.ca.gov |
|--------------------------------------|----------------------------------|-----------------------|--|

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

|  |                 |
|--|-----------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE<br>                               | DATE<br>1/24/12 |
| TYPED NAME AND TITLE OF SIGNATORY<br>Sean L. Spear, Executive Director |                 |

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 03 2012

Office of Administrative Law

Chapter 1. General Provisions

Article 1.

Section 5000. Definitions.

...

“Performance Deposit Certification” means the form titled “Performance Deposit Certification Form for an Application for an Allocation of Qualified Private Activity Bonds” (revised ~~1-11-11~~1-18-12), which is hereby incorporated by reference.

...

Note: Authority cited: Section 8869.84, Government Code. Reference: Section 8869.84(c), Government Code.

**Proposed Regulations Changes**  
**(Proposed new language is underlined and deleted language is struck)**

Chapter 1. General Provisions

Article 5. Performance Deposits and Fees

Section 5052. Forfeiture of Performance Deposit. (a) If less than ~~40~~80% of the Allocation is used to issue Bonds or issue at least one (1) Mortgage Credit Certificate prior to the expiration date, a pro-rata portion of the deposit will be forfeited equal to the same percentage ratio as the amount of unused Allocation bears to the amount of awarded Allocation unless the Committee determines there is good cause to return all or part of the deposit. If 80% or more of the Allocation is used to issue bonds prior to the expiration date or issue at least one (1) Mortgage Credit Certificate prior to the expiration date, a full refund of the performance deposit will be authorized.

~~(b) If an Applicant issues or converts at least 80% of the Allocation awarded, the Committee shall consider revising the original award of Allocation at the next scheduled CDLAC meeting to reflect the amount issued. Applicants whose awards are amended to reflect the amount issued shall not be subject to any forfeiture of deposit as provided in subdivision (a) of this section.~~

(c) Applicants bear the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and/or timeframes set forth in the Committee Resolution.

(d) The Applicant shall remit all forfeited performance deposits to the Committee within thirty (30) days of receipt of an invoice issued by the Committee.

Note: Authority cited: Section 8869.94, Government Code. Reference: Section 8869.84(c), 8869.84(e), and 8869.86(c)(3) Government Code.

**PERFORMANCE DEPOSIT CERTIFICATION FORM  
FOR AN APPLICATION FOR AN ALLOCATION OF QUALIFIED PRIVATE ACTIVITY BONDS**

**THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE (CDLAC)**  
915 Capitol Mall, Room 311  
Sacramento, CA 95814  
(916) 653-3255

CERTIFICATION OF THE \_\_\_\_\_ (**Applicant**)  
REGARDING AN APPLICATION FOR QUALIFIED PRIVATE ACTIVITY BOND ALLOCATION

In connection with the following Qualified Private Activity Bond Application:

**APPLICANT:**

AMOUNT OF ALLOCATION REQUESTED: \$

PROJECT NAME/PROJECT TYPE:

the undersigned officer of the \_\_\_\_\_ (**Applicant**) hereby certifies as follows:

1. I, \_\_\_\_\_ (Name), am the \_\_\_\_\_ (Title) of the \_\_\_\_\_ (**Applicant**), and am duly authorized to make the deposit required below.
2. The \_\_\_\_\_ (**Applicant**) has collected and has placed on deposit in an account in a financial institution \$\_\_\_\_\_, \_\_\_\_\_ dollars (write out dollar amount in words), which **equals one half of one percent** of the amount of the Qualified Private Activity Bond Allocation being requested, **not to exceed \$100,000.**
3. The deposit will be held until receipt of a written notification from the California Debt Limit Allocation Committee that the deposit is authorized to be released or forfeited, in whole or in part, pursuant to Article 5 of Chapter 1 of the Committee's Regulations.
4. To the extent that any portion of the deposit is forfeited, the Applicant agrees to send the required amount in a check made payable to "The California Debt Limit Allocation Committee." Such check shall be mailed to the Committee at the address noted above immediately upon receipt of the written notification from the Committee.
5. The undersigned has read the Regulations of the California Debt Limit Allocation Committee and understands that if a Qualified Private Activity Bond Allocation is not used for the purpose for which it was granted, the performance deposit must be fortified to the Committee.

\_\_\_\_\_  
Signature of Senior Official

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**PERFORMANCE DEPOSIT CERTIFICATION FORM  
FOR AN APPLICATION FOR AN ALLOCATION OF QUALIFIED PRIVATE ACTIVITY BONDS**

1. Each Applicant for a Qualified Private Activity Bond Allocation must submit evidence to the Committee that it has on deposit in an account in a financial institution an amount **equal to one half of one percent** of the amount of Qualified Private Activity Bond Allocation being requested, **not to exceed \$100,000**. Applicants are advised to read Article 5 of Chapter 1 of the Committee's Regulations.
2. The Performance Deposit Certification Form (see other side) must be filed with the Committee in conjunction with the filing of an Application and by the Application Deadline.
3. The Committee will authorize release or require forfeiture of the deposit as follows:
  - a. If the Committee provides no Allocation, or grants an amount lower than requested by the Applicant, the Committee will authorize release of the deposit or release of a pro rata amount of the deposit so that only one-half of one percent (0.5%) of the Allocation granted is on deposit;
  - b. If the Applicant uses only a portion of the Allocation granted to issue bonds (or convert the Allocation to mortgage credit certificate authority), the Committee will authorize the release of the deposit in accordance with the conditions imposed at the time of Allocation. The Committee will approve the Allocation with the deposit fully refundable if ~~40~~80% or more of the Allocation is used to issue bonds prior to the expiration date; ~~or in the case of a Draw-down Bond Issuance, the minimum amount of Allocation is used to issue bonds.~~ If less than 80% of the Allocation is used to issue bonds prior to the expiration date, the refundable performance deposit will be pro-rated; ~~or~~ For Mortgage Credit Certificate Programs, if 80% or more of the Allocation is converted to mortgage credit certificate authority and at least one mortgage credit certificate is issued prior to the expiration date; the performance deposit will be refunded in full. If less than 80% of the Allocation is converted to mortgage credit certificate authority and at least one mortgage credit certificate is issued prior to the expiration date, the refundable performance deposit will be pro-rated.
  - c. If the Applicant does not use any of the Allocation to issue bonds prior to the expiration date (or convert the Allocation to mortgage credit certificate authority and issue at least one mortgage credit certificate prior to the expiration date), the entire deposit will be forfeited; and
  - d. If the Applicant or the Project Sponsor withdraws the Application in writing prior to the Committee's consideration of the Application, the performance deposit shall be automatically released and no written authorization from the Committee shall be necessary.
4. If the Applicant forfeits all or a part of a deposit pursuant to Article 5 of Chapter 1 of the Committee's Regulations, the Applicant shall send the required amount to the Committee in a check made payable to "The California Debt Limit Allocation Committee". Amounts received will be deposited in the Committee's Fund.
5. Project Sponsors bear the risk of forfeiting all or part of their performance deposit if the Allocation is not used in accordance with the conditions and timeframes set forth in the Committee Resolution.