

# **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

## **FINAL STATEMENT OF REASONS**

### **Portfolio Restructuring Guidelines**

#### **INTRODUCTION**

The California Department of Housing and Community Development (Department) hereby adopts amendments to the Portfolio Restructuring Guidelines (“LPR Guidelines”) which interpret the provisions of Sections 50406.6, 50406.7, 50406.8, 50560, 50561, 50562 and 50565, Chapter 3.9 of Part 2 of Division 31 of the Health and Safety Code.

The amended LPR Guidelines allow for the restructuring of any State multifamily housing loans funded or monitored by the Department. This includes loans made under the Multifamily Housing Program (MHP). Additionally, the amended LPR Guidelines provide provisions for the extraction of excess equity.

These amendments enhance the flexibility and effectiveness of the LPR Program, ensuring it meets the evolving needs of California's housing landscape while maintaining fiscal responsibility and compliance with state laws. This Final Statement of Reasons updates the Initial Statement of Reasons to address modifications made after consideration of comments received during the public comment period. In developing the final amendments, the Department considered all public comments received and made modifications to the proposed Guidelines as described herein.

#### **DISCUSSION OF AMENDMENTS AND POST-COMMENT MODIFICATIONS**

##### **Table of Contents:**

The following amendments to this section have been adopted:

##### **Entire Section:**

**Purpose:** Adds page numbers to table of contents.

**Problem:** The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

**Rationale and Benefits:** Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

**Alternatives Considered:** None.

### **Previous Section 103: Requirements for Loan Extensions Only**

Purpose: Moves to Section 104:

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 103: Provisions Pertaining to All Projects**

Purpose: Formerly Section 104: Title changed to better align Guideline structure.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Previous Section 104: Requirements Pertaining to All Projects Under this Article**

Purpose: Moves to Section 103.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 104: Provisions Specific to Loan Extensions Only**

Purpose: Formerly Section 103. Title changed to better align Guideline structure.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 105: Provisions Specific to Projects being Refinanced and/or Syndicated**

Purpose: Title changed to better align Guideline structure.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Previous Section 106: Conditions for Subordination to Senior Loans:**

Purpose: Deletes section and merges content into a new Section 106 titled Provisions Specific to Senior Loans.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 106: Provisions Specific to Senior Loans**

Purpose: Formerly Section 107. Title changed to better align Guideline structure and merges content with that of former Section 106.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Previous Section 107: Requirements for Senior Loans**

Purpose: Moves to Section 106.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 107: Program-Specific Requirements**

Purpose: Title changed to allow for the incorporation of additional programs and their specific requirements.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 108: Rent Restrictions for Assisted Units**

Purpose: Title changed to better align Guideline structure.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Previous Section 109: RHCP-O Annuity**

Purpose: Moves to Section 107(a).

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 109: Provisions for Extracted Equity**

Purpose: Creates new section to allow for excess equity extraction.

Problem: The 2019 LPR Guidelines did not include provisions for Extracted Equity. This change ensures compliance with AB 130.

Rationale and Benefits: Incorporates the provisions for Extracted Equity into these Guidelines.

Alternatives Considered: None.

### **Previous Section 110: Reserved**

Purpose: Utilizes an existing, blank section for the creation of a new section for: Provisions for the Payoff of Original Program Loans or Paid off Department Loans.

Problem: The 2019 LPR Guidelines did not address requirements for loan payoffs.

Rationale and Benefits: Provides guidance for loan payoffs.

Alternatives Considered: None.

### **Section 110: Provisions for Early Payoff and Post-Payoff Requirements for Department Loans**

Purpose: Creates new section to allow for loan payoffs.

Problem: The 2019 LPR Guidelines did not address requirements for loan payoffs.

Rationale and Benefits: Provides guidance for loan payoffs.

Alternatives Considered: None.

### **Section 100: Purpose and Scope**

The following amendments to this section have been adopted:

#### **Section 100 First Sentence:**

Purpose: Updates and consolidates references to regulations and statutory sections to include Sections 50406.4, 50406.7, 50406.8 and 50565, ensuring alignment with changes since 2014.

Problem: The 2019 LPR Guidelines did not reflect the latest statutory sections or regulatory updates, leading to outdated references.

Rationale and Benefits: Ensures the Guidelines are comprehensive and current, providing accurate reference points and statutory compliance for all stakeholders.

Alternatives Considered: None.

#### **Section 100 First Sentence:**

Purpose: Integrates and updates Sections 100(a) and (b), clarifying the inclusion of Sections 50406.4, 50406.7 and 50565 in the Guidelines.

Problem: The 2019 LPR Guidelines did not adequately reference Sections 50406.4, 50406.7 and 50565, leading to a lack of clarity.

Rationale and Benefits: Provides clear and authoritative guidance, enhancing the Department's ability to enforce statutory requirements and aiding stakeholders in compliance.

Alternatives Considered: None.

#### **Previous Section 100(a):**

Purpose: Consolidated into the updated Section 100 First Sentence.

Problem: Prior fragmentation led to inefficiency in the presentation and understanding of Guideline content.

Rationale and Benefits: Enhances organizational clarity and coherence, reducing redundancy and improving navigability of the Guidelines.

Alternatives Considered: None.

**Section 100(a):**

Purpose: Clarifies that these Guidelines are also known as the Loan Portfolio Restructuring (LPR) Guidelines.

Problem: The Guidelines are titled: Portfolio Restructuring Guidelines, and are also commonly referred to as the Loan Portfolio Restructuring (“LPR”) Guidelines.

Rationale and Benefits: Clarifies commonly used “also known as” name of the Guidelines.

Alternatives Considered: None.

**Previous Section 100(b):**

Purpose: Moves to Section 100 First Sentence.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 100(b):**

Purpose: Clarifies specific LPR Guidelines being amended and references Section 100(c) for applicability.

Problem: Multiple LPR Guidelines could confuse stakeholders regarding which version applies.

Rationale and Benefits: Clarifies which LPR Guidelines are being amended and when they would apply.

Alternatives Considered: None.

**Section 100(b):**

Purpose: Formerly Section 100(d). Provides clarification regarding the specific LPR Guidelines being amended and references Section 100(c) to determine when these Guidelines would apply.

Problem: SB 707 has not been used to restructure loans since the adoption of AB 1699. Multiple LPR Guidelines have been approved and amended, which could confuse some stakeholders as to which version applies to their Restructuring.

Rationale and Benefits: Clarifies the LPR Guidelines being amended and when they would apply to a particular Restructuring.

Alternatives Considered: None.

### **Section 100(c):**

Purpose: Provides clarification as to which Restructurings these Guidelines apply to and references the definitions in Section 101.

Problem: The 2019 LPR Guidelines did not address Restructurings that are in process prior to the adoption of these Guidelines and did not reference the definition of Restructuring.

Rationale and Benefits: Clarifies which Restructurings these Guidelines apply to and provides reference to the definitions section.

Alternatives Considered: This subsection could have been left unmodified. However, not clarifying Guidelines could lead to confusion for Restructurings that are in process prior to the adoption of these Guidelines.

### **Section 100(c)(1):**

Purpose: Provides clarification as to when these amended Guidelines would apply.

Problem: Prior language did not specify how the amended Guidelines apply to active Restructurings.

Rationale and Benefits: Clarifies how, upon their adoption, these amended Guidelines would apply to new and active Restructurings.

Alternatives Considered: None.

### **Section 100(c)(2):**

Purpose: Provides flexibility for these amended Guidelines to be applicable to Projects that have closed construction but not yet converted to permanent financing.

Problem: The 2019 LPR Guidelines did not specify how the amended Guidelines apply to Restructurings that have yet to close their permanent financing.

Rationale and Benefits: Clarifies how the amended Guidelines apply to referenced projects.

Alternatives Considered: None.

### **Previous Section 100(d):**

Purpose: Moves to Section 100(b).

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 100(d):**

Purpose: Formerly Section 100(e)(1-9). Revises the word Guidelines to reflect defined term.

Problem: Guidelines need to clearly describe which programs are subject to the amended Guidelines. Previous Guidelines only recognized Legacy Programs.

Rationale and Benefits: Provides clarification as to which programs are subject to these amended Guidelines.

Alternatives Considered: None.

### **Section 100(d)(2-9):**

Purpose: Revises language to provide consistent formatting.

Problem: The 2019 LPR Guidelines formatting was inconsistent.

Rationale and Benefits: Provides consistent formatting.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 100(d)(10):**

Purpose: Updates Guidelines to include the Housing Loan Conversion Program.

Problem: The 2019 LPR Guidelines did not include the Housing Loan Conversion Program per Health and Safety Code 50560, as amended by AB 2562.

Rationale and Benefits: Incorporates the Housing Loan Conversion Program into these Guidelines.

Alternatives Considered: None.

### **Section 100(d)(11):**

Purpose: Updates Guidelines to include the Loan Portfolio Restructuring Program.

Problem: The 2019 LPR Guidelines did not include the Loan Portfolio Restructuring Program per Health and Safety Code 50560, as amended by AB 2562.

Rationale and Benefits: Incorporates the Loan Portfolio Restructuring Program into these Guidelines.

Alternatives Considered: None.

### **Section 100(d)(12):**

Purpose: Updates Guidelines to include the Multifamily Housing Program.

Problem: The 2019 LPR Guidelines did not include the Multifamily Housing Program. This change ensures compliance with statutory requirements outlined in Health and Safety Code 50560, as amended by AB 2562.

Rationale and Benefits: Incorporates the Multifamily Housing Program into these Guidelines.

Alternatives Considered: None.

**Section 100(d)(13):**

Purpose: Updates Guidelines to include the Supportive Housing component of the Multifamily Housing Program.

Problem: The 2019 LPR Guidelines did not include the Supportive Housing component of the Multifamily Housing Program. This change ensures compliance with statutory requirements outlined in Health and Safety Code 50560, as amended by AB 2562.

Rationale and Benefits: Incorporates the Supportive Housing component of the Multifamily Housing Program into these Guidelines.

Alternatives Considered: None.

**Section 100(d)(14):**

Purpose: Updates Guidelines to include the Homeless Youth component of the Multifamily Housing Program.

Problem: The 2019 LPR Guidelines did not include the Homeless Youth component of the Multifamily Housing Program. This change ensures compliance with statutory requirements outlined in Health and Safety Code 50560, as amended by AB 2562.

Rationale and Benefits: Incorporates the Homeless Youth component of the Multifamily Housing Program into these Guidelines.

Alternatives Considered: None.

**Section 100(d)(15):**

Purpose: Updates Guidelines to include the Governor's Homeless Initiative component of the Multifamily Housing Program. This change ensures compliance with statutory requirements outlined in Health and Safety Code 50560, as amended by AB 2562.

Problem: The 2019 LPR Guidelines did not include the Governor's Homeless Initiative component of the Multifamily Housing Program. This change ensures compliance with statutory requirements outlined in Health and Safety Code 50560, as amended by AB 2562.

Rationale and Benefits: Incorporates the Governor's Homeless Initiative component of the Multifamily Housing Program into these Guidelines.

Alternatives Considered: None.

**Previous Section 100(e)(1-9):**

Purpose: Moves to Section 100(d).

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 100(e):**

Purpose: Formerly Section 100(f). Provides clarification regarding the incorporation of provisions from the UMRs and incorporates the 2019 MHP Guidelines.

Problem: The 2019 LPR Guidelines were unclear and did not reference the 2019 MHP Guidelines.

Rationale and Benefits: Clarifies references to the UMRs and incorporates MHP provisions that are applicable to these Guidelines as required by Health and Safety Code 50561(g)

Alternatives Considered: After the public comment period, the Department removed draft language referencing “and any future amendment thereto” from the UMR/MHP incorporation provision. The Department retained reference to the 2019 MHP Guidelines to provide regulatory stability and avoid potential underground regulation concerns. The alternative of incorporating the most recent version of the Super NOFA MHP Guidelines was also rejected for the same reasons.

**Previous Section 100(f):**

Purpose: Moves to Section 100(e).

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 100(f):**

Purpose: Incorporates Department administrative notices, policies, and guidance for Pooled Transition Reserve and Supportive Services Cost Limits. After the public comment period, the Department removed the placeholder reference to a demolition policy and negative points policy. The Department considered retaining the placeholder pending future adoption of such a policy but rejected this approach because the policy had not been adopted at finalization.

Problem: Guidelines did not reference current Department administrative notices, policies, and guidance. After the public comment period, the Department removed the placeholder reference to a demolition policy that was included in the initial draft Guidelines, as the policy had not been adopted at the time of finalization.

Rationale and Benefits: Incorporates current Department administrative notices, policies, and guidance.

Alternatives Considered: None.

**Section 100(g):**

Purpose: Provides clarification these Guidelines will supersede UMRs or MHP in case of conflict.

Problem: The 2019 LPR Guidelines were unclear as to which regulatory provisions will take precedence if there are differences.

Rationale and Benefits: Clarifies that the provisions of these Guidelines will supersede the provisions of the UMRs or 2019 MHP Guidelines.

Alternatives Considered: Allow UMRs and MHP to supersede LPR requirements in case of conflict.

**Section 100(h):**

Purpose: Provides authority under Health and Safety Code 50560(a) for the Department to approve Restructuring of any State funded multifamily housing loans funded or monitored by the Department, and to apply these Guidelines to such loans to the extent they are not in conflict with Original Program statutes and regulations.

Problem: The 2019 LPR Guidelines did not expressly invoke the Department's broad authority under Section 50560(a) to apply these Guidelines to all State-funded multifamily housing loans, creating uncertainty regarding scope.

Rationale and Benefits: Clarifies the scope of the Department's authority to restructure all State-funded multifamily housing loans, providing flexibility to address Projects not enumerated in Section 100(d) while preserving consistency with Original Program statutes and regulations.

Alternatives Considered: None.

**Section 100(i):**

Purpose: Establishes the Department's intent to revise these Guidelines following the adoption of guidelines by the Housing Development and Finance Committee (HDFC) to ensure alignment and compatibility with future program iterations.

Problem: The 2019 LPR Guidelines did not anticipate or account for the forthcoming HDFC guidelines. Without a stated commitment to future revision, stakeholders would lack clarity regarding how these Guidelines will evolve to maintain alignment with HDFC standards as they are adopted.

Rationale and Benefits: Provides transparency and predictability for stakeholders by signaling the Department's commitment to harmonizing these Guidelines with HDFC guidelines once adopted. Supports cross-program consistency, reduces administrative

friction across Department program iterations, and positions the LPR program for seamless integration with the broader HDFC framework.

Alternatives Considered: None.

### **Section 101: Definitions**

The following amendments to this section have been adopted:

#### **First Paragraph:**

Purpose: Provides clarification regarding the inclusion of definitions from both the UMRs and the 2019 MHP Guidelines.

Problem: The 2019 LPR Guidelines were unclear and did not specify which UMR and MHP definitions shall apply as required by Health and Safety Code 50561(g).

Rationale and Benefits: Provides clarity as to which UMR and MHP definitions are to be included in these Guidelines.

Alternatives Considered: None.

#### **Previous Section 101(a):**

Purpose: Removes definition of Early Special Rent Increase.

Problem: Early Special Rent Increases were not authorized by statute.

Rationale and Benefits: Removes Guideline provision that was not authorized by statute.

Alternatives Considered: None.

#### **Section 101(a):**

Purpose: Provides definition of Applicable Federal Rate, which is pertinent to the program.

Problem: There was no definition of Applicable Federal Rate (AFR) in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines in accordance with Health and Safety Code 50406.7.

Alternatives Considered: None.

#### **Previous Section 101(b):**

Purpose: Moves to Section 101(f). Provides consistency through use of an alphabetized format.

Problem: The 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency through use of an alphabetized format.

This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 101(b):**

Purpose: Provides definition of Borrower, which is pertinent to these Guidelines.

Problem: There was no definition of Borrower in the 2019 LPR Guidelines and many transactions involve changing existing organizational structures and need to be clear about what entities are now acceptable, specifically in relation to Sponsor control requirements of the UMRs, 2019 MHP Guidelines, and LPR program.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Previous Section 101(c):**

Purpose: Moves to Section 101(i). Provides consistency through use of an alphabetized format.

Problem: The 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency and improves efficiency for reviewing purposes through use of an alphabetized format. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 101(c):**

Purpose: Provides definition of Department and HCD which are pertinent to the application of the program.

Problem: There was no definition of Department or HCD in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Previous Section 101(d):**

Purpose: Moves to Section 101(k). Provides consistency through use of an alphabetized format.

Problem: The 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency and improves efficiency for reviewing purposes through use of an alphabetized format. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 101(d):**

Purpose: Provides definition of Department Loan Documents or “LPR Loan Documents”, which is pertinent to the application of the program.

Problem: There was no definition of Department Loan Documents or LPR Loan Documents in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Previous Section 101(e):**

Purpose: Removes definition of Net Developer Fee.

Problem: The 2019 LPR Guidelines language conflicts with the definition of Developer Fee as defined in the UMRs.

Rationale and Benefits: Aligns definition with that contained in the UMRs.

Alternatives Considered: None.

**Section 101(e):**

Purpose: Provides definition of Donee Project (formerly “Extracted Equity Project” in the earlier drafts of these guidelines), pertinent to implementing Health and Safety Code 50406.4.

Problem: These Guidelines needed to implement AB 130, which allows for extracted equity.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Revised from “Extracted Equity Project” to “Donee Project” after the public comment period.

Alternatives Considered: “Recipient Project,” “Equity Reinvestment Project,” “Recipient EE Project,” and retaining initial term “Extracted Equity Project.” “Donee Project” selected.

**Previous Section 101(f):**

Purpose: Moves to Section 101(s). Provides consistency through the use of an alphabetized format.

Problem: The 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency and improves efficiency for reviewing purposes through use of an alphabetized format. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 101(f):**

Purpose: Provides definition of Donor Project (formerly “HCD Source Project” in the earlier drafts of these guidelines), pertinent to implementing Health and Safety Code 50406.4.

Problem: These Guidelines needed to implement AB 130, which allows for extracted equity.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines. Revised from “HCD Source Project” to “Donor Project” after the public comment period.

Alternatives Considered: Retaining “HCD Source Project” and “Donor EE Project.” “Donor Project” selected as the clearest terminology.

### **Previous Section 101(g):**

Purpose: Moves to Section 101(v). Provides consistency through the use of an alphabetized format.

Problem: The 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency and improves efficiency for reviewing purposes through use of an alphabetized format. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 101(g):**

Purpose: Provides definition of Eligible Project, which is pertinent to the program.

Problem: There was no definition of Eligible Project in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

### **Previous Section 101(h):**

Purpose: Moves to Section 101(w). Provides consistency through use of an alphabetized format

Problem: The 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency and improves efficiency for reviewing purposes through use of an alphabetized format. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 101(h):**

Purpose: Formerly Section 101(b). Revises definition of Existing Household/Tenant, which helps to ensure that the appropriate tenants can be monitored for relocation and other tenant rights, including limitations on future rent increases.

Problem: The 2019 LPR Guidelines language regarding the demarcation between a New and Existing Tenant was unclear.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines and increases AMC's ability to monitor appropriately. Provides stakeholders guidance as to the long-term treatment of Existing Households/Tenants.

Alternatives Considered: None.

**Previous Section 101(i):**

Purpose: Moves to Section 101(x). Provides consistency through use of an alphabetized format.

Problem: The 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency and improves efficiency for reviewing purposes through use of an alphabetized format. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 101(i):**

Purpose: Provides definition of Extracted Equity, which is pertinent to the program.

Problem: These Guidelines needed to implement AB 130, which allows for extracted equity.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines and supports the implementation of Health and Safety Code 50406.4.

Alternatives Considered: None.

**Previous Section 101(j):**

Purpose: Removes definition of Special Rent Increase.

Problem: The definition of Special Rent Increase was unnecessary and had no application.

Rationale and Benefits: Removes generic definition that was unnecessary and had no application. Except in the case of excess equity transactions, all original program loans utilizing formula-based rent methodologies will convert to the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program upon restructuring. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines.

Alternatives Considered: None.

**Section 101(j):**

Purpose: Formerly Section 101(c). Updates definition of Fiscal Integrity to include references to mandatory debt service, other extraordinary costs approved by the Department and the Department monitoring fees pursuant to Section 113(d).

Problem: The definition of Fiscal Integrity was deficient and unclear in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Previous Section 101(k):**

Purpose: Removes definition of Sponsor.

Problem: The term Sponsor is defined in the UMR's.

Rationale and Benefits: Eliminates redundant definition and aligns with UMRs. Note that Sponsor requirements are addressed in Section 103(e).

Alternatives Considered: None.

**Section 101(k):**

Purpose: Formerly Section 101(d). Provides clarification of Household Income definition, which is pertinent to the program.

Problem: The 2019 LPR Guidelines definition references MHP's methodology which is not consistent with TCAC. Following public comment, the definition was revised to align with TCAC calculation methods, as recommended by the Department's Asset Management and Compliance unit and public commenters, while maintaining consistency with these Guidelines and TCAC Regulations. A reference to "Assisted Unit" as defined at Section 8301(a) of the UMRs was also added.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines and now aligns with MHP standards.

Alternatives Considered: The Department considered retaining the MHP-based calculation methodology. This alternative was rejected because the Department's Asset Management and Compliance unit and public commenters recommended alignment with TCAC for consistency across programs.

**Previous Section 101(l):**

Purpose: Removes definition of Unit.

Problem: The term Unit is defined in the UMRs.

Rationale and Benefits: Eliminates redundant language.

Alternatives Considered: None.

**Section 101(l):**

Purpose: Provides definition of Legacy Programs, which is pertinent to the program.

Problem: The 2019 LPR Guidelines did not differentiate between those programs determined eligible under previous statute and guidelines and the expanded list of eligible programs incorporated into these amended guidelines as a result of AB 2562.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Section 101(m):**

Purpose: Provides definition of LIHTC, which is pertinent to the program.

Problem: There was no definition of LIHTC in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Section 101(n):**

Purpose: Provides definition of LPR Regulatory Agreement, which is pertinent to the program.

Problem: There was no definition of LPR Regulatory Agreement in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines and supports the Department's monitoring efforts.

Alternatives Considered: None.

**Section 101(o):**

Purpose: Provides specific definition of LPR Senior Regulatory Agreement to distinguish it from other regulatory agreements and/or covenants, which is pertinent to the program.

Problem: There was no definition of LPR Senior Regulatory Agreement in the 2019 LPR Guidelines, or in the UMRs.

Rationale and Benefits: Clarifies terminology and expectations used throughout these Guidelines and supports the Department's monitoring efforts. Aligns with UMR 8313 with respect to projects assisted by HUD.

Alternatives Considered: None.

**Section 101(p):**

Purpose: Provides definition of MHP Family of Programs, which is pertinent to the program.

Problem: There was no definition of MHP Family of Programs in the 2019 LPR Guidelines. Added a definition to clarify and distinguish eligible programs as expanded by AB 2562.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Section 101(q):**

Purpose: Provides definition of New Tenant to distinguish between Existing Tenant, which is pertinent to the program.

Problem: There was no definition for New Tenant in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines and increases AMC's ability to monitor appropriately. Provides stakeholders guidance as to the long-term treatment of New Tenants.

Alternatives Considered: None.

**Section 101(r):**

Purpose: Provides definition of Notice of Acceptance, which is pertinent to the program.

Problem: The absence of a clear definition for Notice of Acceptance in the 2019 LPR Guidelines created ambiguity regarding when the Department formally accepts a project for restructuring and establishes tenant status. This lack of clarity led to inconsistent processes and stakeholder confusion, particularly in documenting compliance and tenant protections.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Section 101(s):**

Purpose: Formerly Section 101(f). Revises the section reference in the definition of Original Program, which is pertinent to the program.

Problem: The section reference is no longer accurate.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Section 101(t)(1 - 2):**

Purpose: Provides definition of Qualifying Unpaid Matured Loan pursuant to Health and Safety Code 50565, which is pertinent to the program.

Problem: There was no definition for Qualifying Unpaid Matured Loan in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Section 101(u):**

Purpose: Provides definition of Redraw, which is pertinent to the program.

Problem: There was no definition for Redraw in the 2019 LPR Guidelines. The Department is often asked to revise/update its finalized Loan Documents during escrow because the project has either changed significantly or stalled so that the existing documents cannot be used and/or are inaccurate. It takes Department resources to make edits/changes/updates that appropriately reflect the transaction.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

**Section 101(v):**

Purpose: Formerly Section 101(g). Augments the definition of Remaining Useful Life to include the need for a third-party property condition assessment, which is pertinent to the program.

Problem: The prior requirements for determining the Remaining Useful Life were unclear in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology and document(s) relied upon to assess the feasibility of a transaction.

Alternatives Considered: None.

**Section 101(w):**

Purpose: Formerly Section 101(h). Provides clarification regarding definition of Rent and aligns the utility allowance calculation with TCAC Regulations and these Guidelines.

Problem: The 2019 LPR Guidelines definition of Rent referenced Department policy for the utility allowance calculation, which was inconsistent with TCAC Regulations. After the public comment period, the definition was revised to align the utility allowance calculation with these Guidelines and TCAC Regulations.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: Retaining reference to Department policy for the utility allowance calculation. The Department chose to align with TCAC Regulations and these Guidelines are adopted to provide consistency across programs.

**Section 101(x):**

Purpose: Formerly Section 101(i). Updates definition of Restructuring to reflect the definition of Qualified Unpaid Matured Loan, Extracted Equity, the payoff of a Department loan prior to maturity and Department Loan Documents.

Problem: The previous definition of "Restructuring" in the 2019 LPR Guidelines did not incorporate the definition of a Qualified Unpaid Matured Loan pursuant to Health and Safety Code 50565, Extracted Equity pursuant to Health and Safety Code 50406.4 or account for the payoff of a Department loan prior to maturity.

Rationale and Benefits: The updated definition conforms to the revised Health and Safety Code 50406.4 & 50565 and provides clarity to ensure consistency with the legislative intent. By accurately reflecting the scope of eligible restructuring activities, the updated definition facilitates streamlined implementation of the program, ensuring that stakeholders and Department staff operate within a clear and consistent regulatory framework.

Alternatives Considered: None.

**Section 101(y):**

Purpose: Provides definition of Schedule of Rental Income, which is pertinent to the program.

Problem: There was no definition of Schedule of Rental Income in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines and supports the Department's monitoring efforts.

Alternatives Considered: None.

### **Section 101(z):**

Purpose: Provides definition of State, which is pertinent to the program.

Problem: There was no definition of State in the 2019 LPR Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines and supports the Department's monitoring efforts.

Alternatives Considered: None.

### **Section 102: Eligible Projects**

The following amendments to this section have been adopted:

#### **Section 102(a):**

Purpose: Revises sentence structure to improve clarity and incorporates language to clarify that an Eligible Project can be any State multifamily housing loan funded or monitored by the Department, excluding grants.

Problem: The 2019 LPR Guidelines were unclear and did not reference that an Eligible Project can be any State multifamily housing loan funded or monitored by the Department or a Qualified Unpaid Matured Loan as being a permitted restructuring activity. By not specifying in the current Guidelines that an Eligible Project can be any State multifamily housing loan, there is ambiguity as to whether these Guidelines are applicable to the Department's Federal programs.

Rationale and Benefits: Clarifies Department requirements and ensures compliance with statutory requirements outlined in Health and Safety Code 50560, as amended by AB 2562 and clarifies that these Guidelines do not apply to Department funded Federal programs.

Alternatives Considered: None.

#### **Section 102(b):**

Purpose: Revises sentence structure to improve clarity.

Problem: 2019 LPR Guideline language was unclear regarding Department approval of the project's Remaining Useful Life.

Rationale and Benefits: Clarifies Department requirements.

Alternatives Considered: None.

**Section 102(c):**

Purpose: Revises sentence structure to improve clarity and incorporates a Qualified Unpaid Matured Loan as a permitted restructuring activity, which is pertinent to the program.

Problem: The 2019 LPR Guidelines were unclear and did not reference a Qualified Unpaid Matured Loan as being a permitted restructuring activity.

Rationale and Benefits: Clarifies Department requirements and ensures compliance with statutory requirements outlined in Health and Safety Code 50565.

Alternatives Considered: None.

**Previous Section 102(d)(1-5):**

Purpose: Removes redundant language and consolidates into Section 102(d).

Problem: 2019 LPR Guideline language was redundant with 2017 UMRs.

Rationale and Benefits: Removes redundant language and simplifies the Department's Guidelines.

Alternatives Considered: None.

**Previous Section 102(d)(6):**

Purpose: Moves to Section 102(f).

Problem: 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency through use of an alphabetized format. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 102(d):**

Purpose: Further defines the requirements for scattered sites projects (in addition to those found in UMR Section 8303) and addresses requirements for federally funded projects.

Problem: The 2019 LPR Guidelines language was too broad, may not align with other funding sources (such as TCAC), and may encourage inefficiencies due to geographically dispersed sites.

Rationale and Benefits: Adds specificity, aligns requirements for scattered sites with other funding sources (such as TCAC), and minimizes potential inefficiencies.

Alternatives Considered: None.

**Section 102(e):**

Purpose: Adds language to clarify that projects must provide a relocation plan that complies with Section 7260 of the Government Code and meets the requirements of MHP Section 7315. Requires the relocation plan to be approved by the Department prior to the start of rehabilitation.

Problem: The 2019 LPR Guidelines were unclear that this was a requirement for Restructuring.

Rationale and Benefits: Ensures compliance with applicable relocation statute(s), which the Department is required to adhere to, and provides guidance to stakeholders about the process. Protects Existing Tenants by ensuring they are apprised of their rights and benefits prior to displacement occurring. After the public comment period, the Department added references to Government Code Sections 66300.6(b)(3-5) and 66300.6.5(b)(6) to address SB 21 right of first refusal requirements for SRO rehabilitation, replacement, and/or conversion.

Alternatives Considered: The Department considered accepting City-approved relocation plans. However, Department review is required to ensure compliance with applicable relocation laws and is not able to accept City-approved relocation plans.

### **Section 102(f):**

Purpose: Formerly Section 102(d)(6). Provides exception for allowing a reduction in the number of assisted units, if approved by the Department.

Problem: The Guidelines provide no flexibility in allowing a reduction in the number of assisted units.

Rationale and Benefits: Provides flexibility and guidance to stakeholders.

Alternatives Considered: None.

### **Section 102(g):**

Purpose: Adds provision requiring projects involving single-room occupancy units that will be rehabilitated or replaced to comply with Government Code Sections 66300.6(b)(3-5) and 66300.6.5(b)(6), incorporating newly passed SB 21 requirements.

Problem: Needed to address newly adopted SB 21 (SRO replacement, rehabilitation, or demolition).

Rationale and Benefits: Ensures compliance with SB 21 and provides clear guidance for projects involving rehabilitation or replacement of single-room occupancy units.

Alternatives Considered: Not adding an SRO-specific provision.

### **Previous Section 103: Requirements for Loan Extension Only**

Purpose: Moves to Section 104:

Problem: Sections pertaining to Restructuring types lacked congruity.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 103: Provisions Pertaining to All Projects**

The following amendments to this section have been adopted:

#### **Entire Section:**

Purpose: Formerly Section 104: Title changed to better align Guideline structure.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content.

Alternatives Considered: Leaving unchanged.

#### **Previous Section 103(a):**

Purpose: Moves to Section 104(a). Title changed to better align Guideline structure.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

#### **Section 103 First Sentence - (a):**

Purpose: Combines former Sections 104(a–c). Reconciles language in accordance with Health and Safety Code 50560, as amended by AB 2562.

Problem: The 2019 LPR Guidelines language lacked specificity and clarity regarding program requirements for loan extensions, subordinations, and restructuring activities. This ambiguity led to confusion among stakeholders, including developers and lenders, about eligibility criteria, application processes, and conditions for program participation. This lack of clarity resulted in delays in processing restructuring applications, inconsistent interpretations of program requirements, and inefficiencies in project financing.

Rationale and Benefits: This revision addresses the identified ambiguities by clearly defining program requirements and processes, ensuring alignment with statutory requirements under Health and Safety Code 50560. The updated language provides precise guidance to stakeholders, streamlining the restructuring process and reducing

delays caused by unclear requirements. By consolidating and reconciling former sections, the revision enhances consistency and operational efficiency in the LPR Program.

Alternatives Considered: None.

**Previous Section 103(b):**

Purpose: Removes language pertaining to Special Rent Increases.

Problem: The definition of Special Rent Increase was unnecessary and had no application.

Rationale and Benefits: Removes generic definition that was unnecessary and had no application. Except in the case of excess equity transactions, all original program loans utilizing formula-based rent methodologies will convert to the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program upon restructuring. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines.

Alternatives Considered: None.

**Section 103(b):**

Purpose: Adds language to clarify that the Department's loan and use restrictions are to be secured and recorded against the property.

Problem: The 2019 LPR Guideline language did not specifically address how the Department secures its interest against the project.

Rationale and Benefits: Provides clarity to stakeholders as to how the Department will secure its interests. After the public comment period, language was added excepting projects under Sections 109 and 110 because those projects have their own requirement(s) as discussed in Sections 109 and 110. Furthermore, commenters expressed concerns that the provision appeared to require capitalizing accrued interest into principal. Therefore, a cross-reference to Section 103(f) was added to clarify interest rate options.

Alternatives Considered: Leave as-is from 2019 LPR Guidelines, but needed to update given implementation of AB 130 for extracted equity projects.

**Previous Section 103(c):**

Purpose: Moves to Section 104(b).

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 103(c):**

Purpose: Formerly Section 104(d). Revises language regarding requirement to obtain consent and approval from all lien holders and third parties necessary to complete the Department Loan Documents.

Problem: The 2019 LPR Guidelines language was unclear as to which consents and approvals are required for Restructuring.

Rationale and Benefits: Clarifies the requirements for obtaining consents and approvals, ensures a more efficient transaction.

Alternatives Considered: None.

**Previous Section 103(d):**

Purpose: Moves to Section 104(c).

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. Revision made for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: The Department considered leaving the Guideline content unchanged.

**Section 103(d)**

Purpose: Adds language requiring the Department's affordability provisions to be recorded in a senior position, with exceptions for HUD-assisted projects, clarifies requirements for rent adjustments, and distinguishes requirements for Extracted Equity.

Problem: The 2019 LPR Guidelines lacked language to comply with statute regarding recording priority, affordability protections, and Extracted Equity.

Rationale and Benefits: Ensures compliance with statute, protects long-term affordability, and provides clear guidance for stakeholders. After the public comment period, the AMI threshold for loss of subsidy rent adjustments in the case of a loss of subsidy was revised from 50% AMI to 60% AMI to be consistent with 2019 MHP Guidelines Section 7312(a). Aligns with UMR 8313 with respect to projects assisted by HUD.

Alternatives Considered: The Department considered retaining the 50% AMI threshold. This alternative was rejected because it was inconsistent with the 2019 MHP Guidelines, which are incorporated into these Guidelines, and TCAC requirements. The Department did not want to create conflict across funding sources.

**Section 103(e) - (f) (1 - 2)**

Purpose: Adds specific requirements for Sponsors to demonstrate experience and capacity as required by HSC 50675.7.

Problem: The 2019 LPR Guidelines did not provide detail regarding Sponsor qualifications, creating ambiguity in evaluating Sponsor experience and capacity.

Rationale and Benefits: Establishes clear standards for Sponsor eligibility.

Alternatives Considered: None.

**Section 103(g)(1-2):**

Purpose: Adds language to provide options for determining the principal amount of the new loan.

Problem: Prior language was unclear as to how the outstanding principal balance and accrued interest is treated in the new loan.

Rationale and Benefits: Clarifies how the principal balance of the new loan is determined.

Alternatives Considered: None.

**Section 103(g)(1)(A - B) and 103(g)(2):**

Purpose: Adds language to comply with Health and Safety Code 50406.7 and provides guidance regarding requests for interest rate reductions or use of the AFR.

Problem: The 2019 LPR Guidelines lacked language to comply with statute.

Rationale and Benefits: This change ensures compliance with statutory requirements outlined in Health and Safety Code 50406.7 and provides guidance to stakeholders. After public comment, clarifying language was added that the AFR, which may exceed 3 percent, is an available option pursuant to Health and Safety Code 50406.7(b). Rates in excess of 3% are not authorized by statute except through the AFR election.

Alternatives Considered: The Department considered authorizing interest rates in excess of 3% outside of the AFR election, as requested by public commenters. This alternative was rejected because Health and Safety Code 50406.7(b) limits interest rate options to 3% or less, or the AFR.

**Section 103(h):**

Purpose: Adds language preserving any forgivable component of an Original Program loan by allowing the forgiveness provisions to be retained in the LPR loan documents.

Problem: The 2019 LPR Guidelines lacked language preserving a forgivable component of an Original Program loan

Rationale and Benefits: Maintains the policy objectives of the Original Program.

Alternatives Considered: None.

**Section 103(i):**

Purpose: Adds language to allow deferral of accrued interest, subject to UMR Section 8314(a)(2).

Problem: The 2019 LPR Guidelines lacked reference to the deferral of accrued interest and do not provide the appropriate citation in the UMRs.

Rationale and Benefits: Clarifies that interest can accrue and provides consistency with the UMRs.

Alternatives Considered: None.

**Section 103(j):**

Purpose: Adds language to clarify that projects with leasehold estates are subject to UMR Section 8316.

Problem: The 2019 LPR Guidelines lacked reference to the leasehold requirements in the UMRs.

Rationale and Benefits: Clarifies that the requirements of UMR Section 8316 shall apply. Aligning with UMR requirements for leasehold estates ensures consistency across the Department's programs.

Alternatives Considered: None.

**Previous Section 104: Requirements Pertaining to All Projects Under this Article**

Purpose: Moves to Section 103.

Problem: The 2019 LPR Guidelines Sections pertaining to Restructuring types lacked congruity.

Rationale and Benefits: Provides congruity as to Guideline content.

Alternatives Considered: None.

**Section 104: Provisions Specific to Loan Extensions Only**

The following amendments to this section have been adopted:

**Entire Section:**

Purpose: Formerly Section 103. Title changed to better align Guideline structure.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content.

Alternatives Considered: None.

**Section 104 First Paragraph:**

Purpose: Formerly Section 103 First Paragraph. Provides clarification as to which Restructurings are subject to these provisions.

Problem: The 2019 LPR Guidelines language was unclear as to the types of Restructurings that are subject to these provisions.

Rationale and Benefits: Clarifies which Restructurings are subject to these provisions.

Alternatives Considered: None.

**Previous Section 104(a):**

Purpose: Moves to Section 103 Second Paragraph.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 104(a):**

Purpose: Formerly Section 103(a). Language is unchanged.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content.

Alternatives Considered: None.

**Previous Section 104(b):**

Purpose: Moves first sentence regarding execution of loan documents to Section 103  
Moves second and third sentences regarding determination of new loan amount to Section 103(f).

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 104(b)(1-2):**

Purpose: Formerly Section 103(c). Revises language regarding underwriting criteria for Fiscal Integrity.

Problem: 2019 LPR Guidelines did not address the need for a cash flow proforma as part of the application.

Rationale and Benefits: Clarifies the underwriting criteria for loan extensions.

Alternatives Considered: None.

**Previous Section 104(c):**

Purpose: Moves to Section 103 and 103(a).

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 104(c):**

Purpose: Formerly Section 103(d). Adds clarification regarding how the operating reserve is to be capitalized and provides updated UMR citation.

Problem: The 2019 LPR Guidelines language did not specify how the required operating reserve is to be capitalized and incorrectly cites UMRs.

Rationale and Benefits: Clarifies the requirements associated with capitalizing the operating reserve out of annual deposits from project cash flow.

Alternatives Considered: None.

**Previous Section 104(d):**

Purpose: Moves to Section 103(c).

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 105: Provisions Specific to Projects being Refinanced and/or Syndicated**

The following amendments to this section have been adopted:

**Entire Section:**

Purpose: Title changed to better align Guideline structure.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Improves clarity given there are different types of “restructuring” scenarios. Helps stakeholders analyze options and understand criteria for different restructuring options.

Alternatives Considered: None.

**Previous First Paragraph and Sections 105(a), (b), (e), (f), (g), (h), (i):**

Purpose: Removes first paragraph and sections that are redundant to criteria already established in other sections.

Problem: Criteria was redundant.

Rationale and Benefits: Eliminates redundant language.

Alternatives Considered: None.

**Section 105(a):**

Purpose: Formerly Section 105(c). Revises sentence structure for added clarity.

Problem: The prior language did not adequately account for extension durations of less than 15 years.

Rationale and Benefits: Clarifies that the underwriting requirement for Fiscal Integrity does not apply beyond the term of the extended loan if less than 15 years. Fiscal Integrity is essential to underwriting and the long-term sustainability of affordable housing projects, ensuring operating income and reserves cover all expenses, debt obligations, and required reserves. Highlighting this principle underscores its role in maintaining affordability, operational stability, and public trust in housing programs.

Alternatives Considered: None.

**Section 105(b):**

Purpose: Formerly Section 105(d). Provides clarification regarding the parameters for extending the loan term.

Problem: The 2019 LPR Guidelines language was unclear regarding the maximum extension term and its alignment with the LIHTC compliance term.

Rationale and Benefits: Removes inaccurate language and provides additional clarification to stakeholders.

Alternatives Considered: None.

**Previous Section 105(c):**

Purpose: Moves to Section 105(a).

Problem: The 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency through use of an alphabetized format. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Previous Section 105(d):**

Purpose: Moves to Section 105(b).

Problem: The 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency through use of an alphabetized format. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 106: Provisions Specific to Senior Loans**

The following amendments to this section have been adopted:

#### **Entire Section:**

Purpose: Retitles Section 106, merges previous Section 107 and adds subheading to incorporate provisions of the UMRs that provide clarity for senior loan requirements.

Problem: The 2019 LPR Guidelines reference requirements related to senior loans in two separate sections (Sections 106 & 107).

Rationale and Benefits: Consolidates requirements for senior loans into a single section, providing clarity to stakeholders.

Alternatives Considered: None.

#### **Previous Section 106(a):**

Purpose: Moves to Section 106(e).

Problem: The 2019 LPR Guidelines language lacked congruity with other provisions in this section.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

#### **Section 106(a):**

Purpose: Formerly Section 107(b). Adds language to prohibit any bond financing from containing call options other than in case of default.

Problem: The 2019 LPR Guidelines language did not prohibit call options on bond financing.

Rationale and Benefits: Clarifies underwriting requirements for bond financing and protects the Department's security.

Alternatives Considered: None.

#### **Previous Section 106(b)(1) and 106(b)(3):**

Purpose: Moves language to Section 106(f).

Problem: The 2019 LPR Guidelines language lacked congruity with other provisions in this section.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

#### **Previous Section 106(b)(2):**

Purpose: Removes Section (b)(2).

Problem: The 2019 LPR Guidelines language was redundant with provisions in the 2019 MHP Guidelines.

Rationale and Benefits: Eliminates redundant language.

Alternatives Considered: None.

**Previous Section 106(b)(3)(A–C):**

Purpose: Moves language to Section 106(f)(1-3).

Problem: The 2019 LPR Guidelines language lacked congruity with other provisions in this section.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Previous Section 106(b)(4):**

Purpose: Moves to Section 106(f).

Problem: The 2019 LPR Guidelines language lacked congruity with other provisions in this section.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 106(b):**

Purpose: Formerly Section 107(c). Modifies language pertaining to the disclosure of all lender fees prior to loan closing.

Problem: The 2019 LPR Guidelines language were unclear.

Rationale and Benefits: Clarifies the requirements to disclose all lender fees, including timing of disclosure and Department's approval process, and impact on closing.

Alternatives Considered: None.

**Previous Section 106(c):**

Purpose: Removes language contained in Section 106(c).

Problem: Language in 2019 LPR Guidelines relating to Special Rent Increase no longer applied.

Rationale and Benefits: Removes generic definition that was unnecessary and had no application. Except in the case of excess equity transactions, all original program loans utilizing formula-based rent methodologies will convert to the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program upon restructuring. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines.

Alternatives Considered: None.

**Previous Section 106(c)(1):**

Purpose: Modifies and moves language to Section 106(f).

Problem: Organization of the 2019 LPR Guidelines section lacked clarity.

Rationale and Benefits: Provides clarity to stakeholders.

Alternatives Considered: None.

**Previous Section 106(c)(2):**

Purpose: Moves to Section 106(g).

Problem: Organization of the 2019 LPR Guidelines section lacked clarity.

Rationale and Benefits: Provides clarity to stakeholders. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 106(c):**

Purpose: Formerly Section 107(e). Language is unchanged.

Problem: Prior language was not in sequential order.

Rationale and Benefits: Provides clarity to stakeholders and lenders.

Alternatives Considered: None.

**Section 106(d):**

Purpose: Formerly Section 107(f). Language has been modified for clarity.

Problem: The 2019 LPR Guidelines language was unclear or not in sequential order.

Rationale and Benefits: Provides clarity to stakeholders and lenders.

Alternatives Considered: None.

**Section 106(e):**

Purpose: Formerly Section 106(a). Limits the Department's subordination of its loan to new senior debt in non-rehabilitation Restructurings, permitting subordination only for rate-and-term refinancing, payoff of an existing senior loan, or other activity resulting in decreased project debt.

Problem: The 2019 LPR Guidelines language did not clearly restrict increases in project debt when no rehabilitation work is being performed and to permit beneficial refinancing activities that decrease project debt.

Rationale and Benefits: Ensures that subordination of the Department's loan to new senior debt in non-rehabilitation Restructurings does not result in increased project debt, protecting long-term Project affordability and the Department's lien position. At the same time, provides flexibility to allow refinancing activities that decrease project debt (such as rate-and-term refinancing resulting in lower debt service), benefiting both Borrowers and the Department.

Alternatives Considered: None.

**Section 106(f):**

Purpose: Formerly Sections 106(b) and 106(b)(1). Eliminates reference to Special Rent Increase and modifies requirements for subordinating debt in rehabilitation projects.

Problem: The 2019 LPR Guidelines definition of Special Rent Increase was unnecessary and the prior language lacked specific references to reasonable cost.

Rationale and Benefits: Removes generic definition of Special Rent Increase that was unnecessary and had no application. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines. It also clarifies the requirements for eligible rehabilitation projects, aligning them with the Guidelines patterned after the Multifamily Housing Program (MHP) regulations. By doing so, it ensures consistent interpretation, reduces ambiguity, and enhances the feasibility and compliance of rehabilitation projects within the LPR Program. After the public comment period, “modest in size, scope, and cost” was deleted entirely. Instead, the Department’s determined that the criteria for evaluating subordinations is clearly outlined by subsections 106(f)(1) through 106(f)(3).

Alternatives Considered: None.

### **Section 106(f)(1):**

Purpose: Modifies language formerly in Section 106(b)(3)(A). Provides updated reference to a property condition assessment or similar third-party report.

Problem: The 2019 LPR Guidelines language pertaining to a physical needs assessment was antiquated.

Rationale and Benefits: Provides clarity to stakeholders and lenders.

Alternatives Considered: Leave antiquated language unchanged.

### **Section 106(f)(2):**

Purpose: Formerly Section 106(b)(3)(B). Language is unchanged.

Problem: The 2019 LPR Guidelines language was not in sequential order.

Rationale and Benefits: Provides clarity to stakeholders and lenders.

Alternatives Considered: None.

### **Section 106(f)(3):**

Purpose: Formerly Section 106(b)(3)(C). Language unchanged.

Problem: The 2019 LPR Guidelines language was not in sequential order.

Rationale and Benefits: Provides clarity to stakeholders and lenders.

Alternatives Considered: None.

### **Section 106(g):**

Purpose: Formerly portion of Section 106(c)(2). Provides clarification regarding conditions for certain costs to be reimbursed.

Problem: The 2019 LPR Guidelines language lacked congruity and was unclear.

Rationale and Benefits: Provides clarity to stakeholders and lenders.

Alternatives Considered: None.

### **Section 106(g)(1):**

Purpose: Formerly portion of Section 106(c)(2). Reorganizes language to clarify the 24-month period prior to issuance of the Notice of Acceptance.

Problem: The 2019 LPR Guidelines language lacked congruity and did not include a Notice of Acceptance.

Rationale and Benefits: Provides congruity and clarity to stakeholders and lenders that reimbursements to the Sponsor or any related party for advances, predevelopment costs, capital improvements and operating deficits must have been incurred in the 24 months prior to the Notice of Acceptance, and up to the date of recordation of the LPR Loan Documents; After the public comment period, the Department: (1) removed the “unaffiliated” restriction to allow reimbursements to affiliated property management companies or service providers. The 24-month lookback was retained.

Alternatives Considered: The Department considered extending the lookback period beyond 24 months including up to 36 or 60 months, as requested by multiple commenters. This alternative was rejected. The Department also considered retaining the “unaffiliated” restriction but removed it in response to concerns that it precluded reimbursement of legitimate costs paid to affiliated property management and supportive services providers.

### **Section 106(g)(2):**

Purpose: Formerly portion of Section 106(c)(2). Reorganizes language to clarify required documentation for reimbursement.

Problem: The 2019 LPR Guidelines language lacked congruity and was unclear.

Rationale and Benefits: Provides congruity and clarity to stakeholders and lenders.

Alternatives Considered: None.

### **Section 106(g)(3):**

Purpose: Formerly portion of Section 106(c)(2). Reorganizes language to clarify that reimbursements shall not cover costs previously reimbursed through reserve withdrawals or other sources.

Problem: The 2019 LPR Guidelines may lead to over reimbursement of project costs.

Rationale and Benefits: Provides congruity and clarity to stakeholders and lenders.

Alternatives Considered: Leave as-is, however that would add to confusion and possibly inefficiency with the Department’s resources.

### **Section 106(g)(4):**

Purpose: Provides that projects subject to Section 106(g) reimbursement provisions are not subject to the Extracted Equity provisions in Section 109.

Problem: These guidelines need to account for and distinguish from a new type of LPR transaction (e.g. extracted equity) as allowed by AB 130.

Rationale and Benefits: Prevents confusion by clarifying that projects receiving reimbursements under Section 106(g) are not also subject to the more restrictive Extracted Equity requirements in Section 109.

Alternatives Considered: Applying Section 109 to all projects including those under Section 106(g). The Department determined that since this section requires that the new senior debt amount not exceed the original indebtedness, this reimbursement-based restructuring should not be subject to the extracted equity requirements.

## **Previous Section 107: Requirements for Senior Loans**

The following amendments to this section have been adopted:

**Entire Section:**

Purpose: Moves to Section 106.

Problem: The 2019 LPR Guidelines reference requirements for senior loans in two different sections.

Rationale and Benefits: Provides congruity and clarity to stakeholders and lenders. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 107: Program-Specific Requirements**

The following amendments to this section have been adopted:

**Entire Section:**

Purpose: Retitles section to better align Guideline structure.

Problem: The 2019 LPR Guidelines section title did not allow for the incorporation of additional, program specific requirements.

Rationale and Benefits: Provides congruity as to Guideline content and enables the future incorporation of additional program specific requirements.

Alternatives Considered: None.

**Section 107(a):**

Purpose: Provides RHCP-O program specific requirements.

Problem: The 2019 LPR Guidelines were not organized on a program basis.

Rationale and Benefits: Provides clarity as to Guideline content and applicability.

Alternatives Considered: None.

**Section 107(a)(1):**

Purpose: Formerly Section 109(a). Provides clarification regarding the possible continuance of RHCP-O annuity payments for low- or very low-income tenants.

Problem: Requirements for continuing the RHCP-O annuity were unclear in the 2019 LPR Guidelines.

Rationale and Benefits: Provides clarity to stakeholders regarding the continuation of RHCP-O annuity funds.

Alternatives Considered: None.

**Section 107(a)(2):**

Purpose: Provides guidance for projects with an expired RHCP-O Regulatory Agreement.

Problem: The 2019 LPR Guidelines language did not provide guidance for projects with an expired RHCP-O Regulatory Agreement.

Rationale and Benefits: Provides clarity to stakeholders regarding projects with an expired RHCP-O Regulatory Agreement.

Alternatives Considered: None.

**Section 107(a)(3):**

Purpose: Provides language related to future rent adjustments for projects continuing to receive annuity funds.

Problem: The 2019 LPR Guidelines language did not describe how future rent adjustments will be determined for projects that continue to receive annuity funds.

Rationale and Benefits: Provides clarity to stakeholders regarding future rent adjustments with the continuation of RHCP-O annuity funds.

Alternatives Considered: None.

**Section 107(a)(3)(A):**

Purpose: Formerly Section 109(b). Provides clarification regarding rent increases for Existing Tenants in projects continuing to receive the annuity.

Problem: The 2019 LPR Guidelines language did not describe how future rent adjustments will be determined for projects that continue to receive annuity funds.

Rationale and Benefits: Clarifies rent adjustment requirements for Existing Tenants in projects continuing to receive RHCP-O annuity funds.

Alternatives Considered: None.

**Section 107(a)(3)(B):**

Purpose: Provides clarification that subsequent rent adjustments for Existing Tenants will be based on the MHP methodology.

Problem: The 2019 LPR Guidelines language did not describe how future rent adjustments will be determined for projects that continue to receive annuity funds.

Rationale and Benefits: Provides clarity to stakeholders regarding future rent adjustments with the continuation of RHCP-O annuity funds.

Alternatives Considered: None.

**Section 107(a)(3)(C):**

Purpose: Provides guidance as to when rent increases for Existing Tenants shall be subject to Section 108(b).

Problem: The 2019 LPR Guidelines language did not describe how future rent adjustments will be determined when annuity funds are no longer provided.

Rationale and Benefits: Provides clarity to stakeholders regarding future rent adjustments for Existing Tenants in projects that are no longer receiving RHCP-O annuity funds.

Alternatives Considered: None.

**Section 107(a)(3)(D):**

Purpose: Provides guidance that rent for New Tenants shall comply with Section 108(c).

Problem: Prior language did not describe rents for New Tenants.

Rationale and Benefits: Provides clarity to stakeholders regarding rents for New Tenants.

Alternatives Considered: None.

**Previous Section 107(b):**

Purpose: Moves to Section 106(a).

Problem: The 2019 LPR Guidelines are not organized on a program basis.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 107(b)**

Purpose: Requires Special Needs Populations, Supportive Housing Units, tenant selection criteria, and required supportive services to remain in effect through the Original Program Regulatory Agreement's maturity and to be reflected in the Department Loan Documents.

Problem: No guidance on preserving special-needs and supportive-housing commitments after RHCP-O expiration.

Rationale and Benefits: Ensures continuity of the original funding source's targeted housing populations and services with clear documentation in the Department's loan documents. After the public comment period, the Department added language that these requirements may be extended.

Alternatives Considered: The Department considered not extending the requirements beyond the Original Program Regulatory Agreement maturity. This alternative was rejected in response to public comment.

**Previous Section 107(c):**

Purpose: Moves to Section 106(b)

Problem: The 2019 LPR Guidelines language lacked congruity and was unclear.

Rationale and Benefits: Provides congruity and clarity to stakeholders and lenders.

Alternatives Considered: Leave as-is, however that would add to confusion and possibly inefficiency with the Department's resources.

**Section 107(c)**

Purpose: Establishes a rule of precedence for conflicting definitions when multiple Department funding sources apply—the most recent funding source controls.

Problem: Ambiguity in the 2019 LPR Guidelines when definitions differ across funding sources.

Rationale and Benefits: Provides clear conflict resolution, reduces disputes, and simplifies administration.

Alternatives Considered: None.

**Previous Section 107(d):**

Purpose: Moves to Section 106(d)

Problem: The 2019 LPR Guidelines language lacked congruity and was unclear.

Rationale and Benefits: Provides congruity and clarity to stakeholders and lenders.

Alternatives Considered: Leave as-is, however that would add to confusion and possibly inefficiency with the Department's resources.

**Previous Section 107(e):**

Purpose: Moves to Section 106(c)

Problem: Language in the 2019 LPR Guidelines relating to Special Rent Increase no longer applied.

Rationale and Benefits: Removes generic definition that was unnecessary and had no application. Except in the case of excess equity transactions, all original program loans utilizing formula-based rent methodologies will convert to the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program upon restructuring. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines.

Alternatives Considered: None.

**Previous Section 107(f):**

Purpose: Moves to Section 106(d)

Problem: The 2019 LPR Guidelines language lacked congruity and was unclear.

Rationale and Benefits: Provides congruity and clarity to stakeholders and lenders.

Alternatives Considered: Leave as-is, however that would add to confusion and possibly inefficiency with the Department's resources.

**Previous Section 107(g):**

Purpose: Removes language contained in Section 107(g).

Problem: The 2019 LPR Guidelines language was redundant.

Rationale and Benefits: Provides congruity and clarity to stakeholders and lenders.

Alternatives Considered: Leave as-is, however that would add to confusion and possibly inefficiency with the Department's resources.

### **Section 108: Rent Restrictions for Assisted Units**

The following amendments to this section have been adopted:

#### **Entire Section:**

Purpose: Completely rewritten to establish a unified rent restriction framework for all Restructured projects, consistent with AB 2562, AB 130, and SB 686.

Problem: The 2019 LPR Guidelines section was unclear and inconsistent with current statutes.

Rationale and Benefits: Ensures rent restrictions for assisted units are clear and aligned with current statutes and provides clarity for ongoing monitoring by the Department.

Alternatives Considered: None.

#### **Previous Section 108(a – c):**

Purpose: Removes all language related to Special Rent Increases.

Problem: The 2019 LPR Guidelines included Special Rent Increase provisions that were not authorized by Health and Safety Code 50560(b). The Department eliminated this language to align the Guidelines with statutory requirements.

Rationale and Benefits: Except in the case of excess equity transactions, all original program loans utilizing formula-based rent methodologies will convert to the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program upon restructuring. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines.

Alternatives Considered: None.

#### **Section 108(a):**

Purpose: Provides language referencing compliance requirements for unit mix conversions.

Problem: The 2019 LPR Guidelines lack updated language reflecting Area Median Income (AMI)-based affordability requirements for unit mix conversions. The new provisions clarify that unit mix, as captured in the LPR Regulatory Agreement, must adhere to specific AMI thresholds, based on the type of original program.

Rationale and Benefits: Ensures compliance with Health and Safety Code 50561(e); Without this updated guidance, stakeholders face ambiguity in applying unit mix conversions and determining rent increases for existing and new tenants, which previously led to inconsistent compliance with regulatory agreements and tenant protections.

Alternatives Considered: None.

**Section 108(a)(1):**

Purpose: Provides program specific guidance for unit mix conversions on RHCP-B and FHDP assisted units.

Problem: The 2019 LPR Guidelines lack updated guidance for unit mix conversions on RHCP-B and FHDP-assisted units that reflect AMI-based affordability requirements. The new provisions clarify the maximum allowable AMI designations for units originally designated as VLI or LI under the original program regulatory agreements.

Rationale and Benefits: Provides clarification regarding unit mix conversions for RHCP-O and FHDP funded projects pursuant to Health and Safety Code 50561(b)(1). Without this guidance, stakeholders face uncertainty in implementing unit mix conversions, leading to potential inconsistencies in compliance with affordability thresholds and project agreements.

Alternatives Considered: None.

**Section 108(a)(1)(A):**

Purpose: Provides clarification regarding unit mix conversions for Very Low Income (VLI) units as identified in the original Program funding.

Problem: The 2019 LPR Guidelines do not reflect AMI-based affordability requirements for unit mix conversions of VLI units. The updated provisions clarify that VLI units may be designated at a maximum of 30% of 35% AMI, aligning unit mix requirements with the AMI-based framework.

Rationale and Benefits: Provides clarification regarding unit mix conversions for VLI units. Without this clarification, stakeholders face challenges in ensuring consistent compliance with affordability thresholds for VLI units under the original program agreements.

Alternatives Considered: None.

**Section 108(a)(1)(B):**

Purpose: Provides clarification regarding unit mix conversions for Lower Income (LI) units as identified in the Original Program funding.

Problem: The 2019 LPR Guidelines lack updated guidance for unit mix conversions of LI units to reflect AMI-based affordability standards. The revised provisions clarify that LI units may be designated at a maximum of 30% of 60% AMI, ensuring alignment with statutory requirements under Health and Safety Code 50561(b)(1)

Rationale and Benefits: This change ensures compliance with statutory requirements outlined in Health and Safety Code 50561. Without this clarification, stakeholders face difficulties in maintaining consistent compliance with affordability requirements for LI units as specified in the original program agreements

Alternatives Considered: None.

**Section 108(a)(2):**

Purpose: Provides clarification regarding unit mix conversions for projects funded under Programs other than RHCP and FHDP.

Problem: The 2019 LPR Guidelines lack updated guidance for unit mix conversions in projects funded under other Department Programs, reflecting the shift to AMI-based affordability standards. The revised provisions clarify unit mix requirements, such as the minimum percentage of Assisted Units designated at the Midlevel Target and the maximum allowable AMI levels for remaining units.

Rationale and Benefits: This update ensures compliance with statutory requirements outlined in Health and Safety Code 50561(b)(2), and addresses prior inconsistencies in applying affordability levels for department programs other than RHCP and FHDP

Alternatives Considered: None.

**Section 108(a)(2)(A):**

Purpose: Provides clarification regarding minimum requirement for VLI or assisted units to be restricted at the Midlevel Target.

Problem: The 2019 LPR Guidelines lacked clarity on the minimum requirements for VLI or assisted units to be restricted at the Midlevel Target under the updated AMI-based framework. The revised provisions establish that at least 35% of Assisted Units, or the number specified in the Original Program Regulatory Agreement, whichever is greater, must meet the Midlevel Target.

Rationale and Benefits: This update ensures compliance with statutory requirements under Health and Safety Code 50561 and addresses prior ambiguities regarding affordability level conversions from State Median Income (SMI) to AMI.

Alternatives Considered: None.

**Section 108(a)(2)(B):**

Purpose: Provides clarification regarding unit mix conversions for the balance of units not subject to Section 108(a)(2)(A).

Problem: The 2019 LPR Guidelines do not provide clarity on the unit mix conversions for the balance of units not subject to the Midlevel Target requirement under Section 108(a)(2)(A). The revised provisions specify that these remaining units may be designated at a maximum of 30% of 60% AMI, aligning unit mix requirements with the updated AMI-based affordability framework.

Rationale and Benefits: This change ensures compliance with Health and Safety Code 50561 and provides stakeholders with clear guidance on allowable affordability levels for these units.

Alternatives Considered: None.

**Section 108(a)(2)(C)(1 - 2):**

Purpose: Provides examples for unit mix conversions.

Problem: Guidelines lack unit mix conversion examples needed to provide clarification.

Rationale and Benefits: Clarifies Guideline content. Helps stakeholders understand the requirements and applicability better with real world example(s).

Alternatives Considered: None.

**Section 108(a)(2)(D):**

Purpose: Provides definition for Midlevel Target, which is pertinent to the program.

Problem: The 2019 LPR Guidelines lack a clear definition for the Midlevel Target, which is essential for determining unit affordability levels under the AMI-based framework. The revised provisions define the Midlevel Target as 30% of 30% or 35% of the State Median Income (SMI), depending on the county's AMI relative to SMI standards.

Rationale and Benefits: This change ensures compliance with Health and Safety Code 50561 and provides clarity for stakeholders in implementing unit mix and affordability.

Alternatives Considered: None.

**Section 108(a)(2)(D)(1):**

Purpose: Provides language that defines Midlevel Target for counties with an AMI of 110% or less of SMI.

Problem: The 2019 LPR Guidelines lack a definition for the Midlevel Target specific to counties with an AMI of 110% or less of the State Median Income (SMI). The updated provisions clarify that for these counties, the Midlevel Target is defined as 30% of 30% of SMI, expressed as a percentage of AMI.

Rationale and Benefits: This ensures compliance with Health and Safety Code 50561 and provides necessary guidance for determining affordability levels in these regions.

Alternatives Considered: None.

**Section 108(a)(2)(D)(2):**

Purpose: Provides language that defines Midlevel Target for counties with an AMI that exceeds 110% of SMI.

Problem: The 2019 LPR Guidelines lack a definition for the Midlevel Target for counties where the AMI exceeds 110% of the State Median Income (SMI). The updated provisions define the Midlevel Target for these counties as 30% of 35% of SMI, expressed as a percentage of AMI.

Rationale and Benefits: This change ensures compliance with Health and Safety Code 50561 and provides clear guidance for implementing affordability standards in higher-income regions.

Alternatives Considered: None.

**Section 108(a)(3):**

Purpose: Clarifies that Projects with existing AMI rent structures must maintain income and rent limits consistent with Original Program, including requirements for rent increases.

Problem: The 2019 LPR Guidelines lack explicit language ensuring preservation of income and rent limit requirements from the Original Program.

Rationale and Benefits: Ensures consistency with program-specific requirements, protects tenant affordability, and maintains regulatory compliance.

Alternatives Considered: None.

**Section 108(b):**

Purpose: Provides language regarding rent standards for Existing Tenants.

Problem: The 2019 LPR Guidelines lacked clarity regarding rent standards for Existing Tenants under the AMI-based framework. The revised language establishes clear limitations on annual rent increases based on tenant income levels and specifies protections to ensure rents remain affordable.

Rationale and Benefits: This change provides clarity, ensures compliance with Health and Safety Code 50561 and supports consistent application of affordability standards for Existing Tenants.

Alternatives Considered: None.

**Section 108(b)(1):**

Purpose: Provides rent increase language applicable to Existing Tenants upon Restructuring.

Problem: The 2019 LPR Guidelines lacked clarity regarding rent increases for Existing Tenants after Restructuring. The updated language specifies annual rent increase limits based on tenant income levels, ensuring a gradual adjustment toward AMI-based rents while maintaining affordability.

Rationale and Benefits: This change provides clarity, aligns with Health and Safety Code 50561 and ensures consistent application of rent increase standards for Existing Tenants.

Alternatives Considered: None.

**Section 108(b)(1)(A):**

Purpose: Provides language limiting increases to 5% per year for Existing Tenants with certified incomes not exceeding 35% AMI.

Problem: The 2019 LPR Guidelines lack specific provisions limiting rent increases for Existing Tenants with certified incomes not exceeding 35% AMI. The revised language caps annual rent increases at 5% for these tenants, ensuring affordability and gradual rent adjustments.

Rationale and Benefits: This change provides clarity, aligns with Health and Safety Code 50561(c)(1) and protects low-income tenants from excessive rent burdens after Restructuring.

Alternatives Considered: None.

**Section 108(b)(1)(B):**

Purpose: Provides language limiting rent increases to 10% per year for Existing Tenants with certified incomes exceeding 35% AMI.

Problem: The 2019 LPR Guidelines lack specific provisions limiting rent increases for Existing Tenants with certified incomes exceeding 35% AMI. The revised language caps annual rent increases at 10% for these tenants, ensuring affordability while allowing gradual alignment with AMI-based rents.

Rationale and Benefits: This update provides clarity, aligns with Health and Safety Code 50561(c)(2) and ensures consistent application of rent increase standards for higher-income Existing Tenants.

Alternatives Considered: None.

**Section 108(b)(2):**

Purpose: Provides guidance regarding rent increases for Existing Tenants whose rents exceed the amounts established by their AMI levels.

Problem: The 2019 LPR Guidelines lack provisions addressing rent increases for Existing Tenants whose current rents exceed amounts established by their AMI levels. The revised language prohibits further rent increases for these tenants, allowing rents to be maintained until they align with AMI-based limits.

Rationale and Benefits: This update provides clarity, aligns with Health and Safety Code 50561(g) and ensures fairness and affordability for tenants paying above AMI-defined rent thresholds.

Alternatives Considered: None.

**Section 108(b)(3):**

Purpose: Provides language limiting rents for Existing Tenants to no more than 50% of household income.

Problem: The 2019 LPR Guidelines lack provisions capping rents for Existing Tenants to a percentage of household income, which is critical for maintaining affordability after Restructuring. The revised language limits rents to no more than 50% of a household's actual income, ensuring affordability protections for tenants.

Rationale and Benefits: This update aligns with Health and Safety Code 50561(c)(3) and establishes a clear standard to prevent excessive rent burdens on Existing Tenants.

Alternatives Considered: None.

**Section 108(b)(4):**

Purpose: Provides annual reporting requirement regarding the status of Existing Tenants.

Problem: The 2019 LPR Guidelines lack provisions requiring annual reporting on the status of Existing Tenants, which is essential for monitoring compliance and tenant affordability protections after Restructuring.

Rationale and Benefits: The revised language introduces an annual reporting requirement to track rent levels and tenant status, ensuring ongoing alignment with program Guidelines. This update provides clarity, supports compliance with Health and Safety Code 50561 and enhances transparency and accountability in tenant management.

Alternatives Considered: None.

**Section 108(b)(5):**

Purpose: Provides language clarifying how rents will be calculated once they reach the maximum level.

Problem: The 2019 LPR Guidelines lack provisions specifying how rents will be calculated once they reach the maximum AMI-based level.

Rationale and Benefits: The revised language clarifies that future rent increases will be calculated using the methodology outlined in the Multifamily Housing Program (MHP) Guidelines, as required by Health and Safety Code 50561(e). This update ensures consistency with statutory requirements and provides stakeholders with a clear and standardized approach to rent adjustments.

Alternatives Considered: None.

**Section 108(b)(6)**

Purpose: Requires that an Existing Tenant in an LPR-Assisted Unit remain identified as such for the duration of their tenancy and may not be re-designated as non-assisted.

Problem: 2019 LPR Guidelines did not clearly prohibit re-designation of Existing Tenants during tenancy.

Rationale and Benefits: Provides clear, tenant-protective status continuity consistent with statutory affordability objectives and program compliance.

Alternatives Considered: None.

**Section 108(b)(7):**

Purpose: Clarifies requirement for notifying Existing Tenants of initial rent increases scheduled after restructuring.

Problem: The 2019 LPR Guidelines lacked clarity regarding the noticing requirements for initial rent increases and referenced Special Rent Increase which is no longer applicable to these Guidelines.

Rationale and Benefits: This update enhances transparency, aligns with Health and Safety Code 50561(c)(4) and safeguards tenants during the transition to AMI-based rent levels. Except in the case of excess equity transactions, all original program loans utilizing formula-based rent methodologies will convert to the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program upon restructuring. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines.

Alternatives Considered: None.

### **Section 108(b)(7)(A):**

Purpose: Provides requirement for notifying Existing Tenants of proposed rent increases at least six months prior to the scheduled increase.

Problem: The 2019 LPR Guidelines lacked clarity regarding the noticing requirements for initial rent increases and referenced Special Rent Increase which is no longer applicable to these Guidelines.

Rationale and Benefits: This update provides clarity, aligns with noticing requirements in Health and Safety Code 50561(c)(4)(A), and promotes transparency in rent adjustment processes. Except in the case of excess equity transactions, all original program loans utilizing formula-based rent methodologies will convert to the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program upon restructuring. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines.

Alternatives Considered: None.

### **Section 108(b)(7)(B):**

Purpose: Provides requirement for notifying Existing Tenants of the actual rent increase at least 90 days prior to the scheduled increase.

Problem: The 2019 LPR Guidelines lacked clarity regarding the noticing requirements for initial rent increases and referenced Special Rent Increase which is no longer applicable to these Guidelines.

Rationale and Benefits: This update provides clarity, aligns with noticing requirements in Health and Safety Code 50561(c)(4)(B), and enhances transparency and fairness in rent adjustment processes. Except in the case of excess equity transactions, all original program loans utilizing formula-based rent methodologies will convert to the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program upon restructuring. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines.

Alternatives Considered: None.

**Section 108(c):**

Purpose: Provides language specifying that rents may only be adjusted once annually.

Problem: The 2019 LPR Guidelines lack provisions limiting rent adjustments to once annually, which could expose Existing Tenants to multiple increases within a single year. The revised language specifies that rents may only be adjusted once per annum, protecting tenants from excessive financial strain and ensuring predictability in rent changes.

Rationale and Benefits: This update provides clarity, aligns with Health and Safety Code 50561(g), and strengthens tenant protections by establishing a clear and consistent adjustment schedule.

Alternatives Considered: None.

**Section 108(d):**

Purpose: Provides language regarding rent standards for New Tenants.

Problem: The 2019 LPR Guidelines lacked provisions regarding rent standards for New Tenants under the AMI-based framework. The revised language specifies how rents, income levels, and rent limits for New Tenants are to be calculated and adjusted in accordance with AMI standards.

Rationale and Benefits: This update provides clarity, aligns with Health and Safety Code 50561 and ensures consistent application of rent standards for New Tenants.

Alternatives Considered: None.

**Section 108(d)(1):**

Purpose: Provides language clarifying rent standards for New Tenants to be consistent with established AMI levels per 2019 MHP Guidelines.

Problem: The 2019 LPR Guidelines lack provisions clarifying rent standards for New Tenants that align with established AMI levels. The revised language specifies that rents for New Tenants will be calculated using the methodology outlined in the 2019 MHP Guidelines.

Rationale and Benefits: This update ensures consistency with Health and Safety Code 50561(g) and provides clarity for stakeholders in applying AMI-based rent standards.

Alternatives Considered: None.

**Section 108(d)(2):**

Purpose: Provides language regarding notice requirements for prospective New Tenants moving in prior to completion of the project rehabilitation.

Problem: The 2019 LPR Guidelines lack provisions specifying notice requirements for prospective New Tenants, potentially leading to gaps in communication regarding relocation, potential displacement, and rent changes.

Rationale and Benefits: The revised language mandates clear and timely notices to inform New Tenants about potential displacement, temporary relocation, and possible rent increases. This update provides clarity, aligns with Health and Safety Code 50561(g), and ensures transparency and compliance with tenant notification standards.

Alternatives Considered: None.

#### **Section 108(d)(2)(A-D):**

Purpose: Provides language requiring New Tenants receive notice that displacement may occur, temporary relocation may be required, no relocation payments or assistance shall be provided and that rent may be increased.

Problem: The 2019 LPR Guidelines lack detailed provisions requiring that New Tenants be notified about potential displacement, temporary relocation, lack of relocation eligibility, and possible rent increases.

Rationale and Benefits: The revised language ensures that prospective New Tenants are fully informed about these conditions in accordance with relocation laws. This update provides clarity, aligns with Health and Safety Code 50561(g), and enhances compliance with legal requirements, ensuring transparency and fairness in tenant notification processes.

Alternatives Considered: None.

#### **Previous Section 108(e):**

Purpose: Provides guidance regarding the rent and occupancy standards for vacated units.

Problem: The 2019 LPR Guidelines lack updated provisions addressing rent and occupancy standards for units vacated after restructuring.

Rationale and Benefits: The revised language specifies that rents and occupancy requirements for vacated units must adhere to the levels outlined in the LPR Regulatory Agreement. This update provides clarity, aligns with Health and Safety Code 50561 and ensures consistent application of affordability and occupancy standards for vacated units.

Alternatives Considered: None.

#### **Section 108(f):**

Purpose: Provides language requiring Projects receiving project based rental or operating assistance to continue applying for and accepting all renewals possible.

Problem: The 2019 LPR Guidelines lack provisions requiring Projects receiving project-based rental or operating assistance to apply for and accept all possible renewals.

Rationale and Benefits: The revised language mandates this requirement, ensuring that rental assistance remains available to sustain affordability for tenants. This update provides clarity, aligns with 2019 MHP Guideline Section 7312(f)(1), and strengthens protections for tenants reliant on such assistance.

Alternatives Considered: None.

**Section 108(f)(1):**

Purpose: Provides clarification that for Projects receiving HUD's Housing Choice Voucher or similar rental assistance, the rent increase rules of the rental assistance program will prevail.

Problem: The 2019 LPR Guidelines lacked clarity on which rent increase rules apply for Projects receiving HUD's Housing Choice Voucher or similar rental assistance.

Rationale and Benefits: The revised language specifies that the rent increase rules of the rental assistance program will prevail in case of conflict. This update ensures alignment with UMR Section 8313 and provides clear guidance to stakeholders, reducing ambiguity and ensuring compliance with applicable program requirements.

Alternatives Considered: None.

**Section 108(f)(2):**

Purpose: Provides language clarifying that upon termination of project-based rental assistance, rents for units previously covered by this assistance may be increased to the levels indicated in the unit mix chart of the LPR Regulatory Agreement, and per 2019 MHP Guidelines at Section 7312(f).

Problem: The 2019 LPR Guidelines lack provisions addressing rent adjustments for units previously covered by project-based rental assistance that has been terminated.

Rationale and Benefits: The revised language clarifies that rents for such units may be increased to the levels specified in the unit mix chart of the LPR Regulatory Agreement and in accordance with 2019 MHP Guidelines at Section 7312(f)(3). This update ensures compliance with the 2019 MHP Guidelines and provides clear guidance for managing rent increases in these scenarios. Authority and reference citations were updated.

Alternatives Considered: None.

**Section 108(g):**

Purpose: Adds provision requiring projects involving single-room occupancy units being rehabilitated or replaced to comply with Government Code Section 66300.6 and 66300.6.5 and Health and Safety Code 50406.6, addressing SB 21 requirements. Authority and reference citations were updated.

Problem: Needed to acknowledge and address newly adopted SB 21 requirements.

Rationale and Benefits: Ensures compliance with SB 21 and provides clear guidance for rent restrictions applicable to projects involving rehabilitation, replacement, or demolition of single-room occupancy units.

Alternatives Considered: Not adding an SRO-specific provision. Rejected because the Department wanted to ensure compliance with SB 21 requirements.

### **Section 109: Provisions for Extracted Equity**

The following amendments to this section have been adopted:

#### **Entire Section:**

Purpose: Establishes comprehensive requirements for projects involving Extracted Equity pursuant to AB 130, including permissible uses, documentation standards, monitoring fees, lien priority, fiscal integrity, restrictions on future funding, and penalties for misuse.

Problem: Needed to implement newly adopted AB 130, which allows for extracted equity.

Rationale and Benefits: Ensures compliance with AB 130, provides clear direction and rules for Projects involving Extracted Equity, describes enforcement mechanisms to safeguard long-term program and project integrity, and encourages reinvestment in affordable housing.

Alternatives Considered: None.

#### **Previous Section 109:**

Purpose: Moves to Section 107.

Problem: The 2019 LPR Guidelines lacked congruity and needed to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

#### **Previous Section 109(a):**

Purpose: Moves to Section 107(a)(1)

Problem: The 2019 LPR Guidelines formatting did not allow for the incorporation of additional, program specific requirements.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 109(a)(1–6)**

Purpose: Establishes the permissible uses of Extracted Equity as enacted by AB 130, and incorporates SB 686's clarified reimbursement pathway. Defines six categories of qualifying expenditures: (1) rehabilitation or reserve funding for the Donee Project; (2) acquisition of limited partner interests and exit taxes, with a lookback to July 1, 2025; (3) reimbursement of documented Sponsor/related-party advances for predevelopment costs, capital improvements, and operating deficits, subject to prior Department approval, tiered lookback, third-party-verified documentation, and no prior reimbursement; (4) repayment of qualifying deferred developer fees on the Donor Project; and (5) Sponsor organizational activities, capped at 10% of the total Extracted Equity requested under Sections 109(a)(1) through (a)(5), limited to verifiable and reasonably necessary costs, excluding discretionary bonuses, incentive payments, or similar costs; and (6) utilized for other uses as approved by the Department. Section 109(a)(6) uses are subject to a 50% housing reinvestment fee and require full repayment of the Original Program loan(s) with all accrued interest.

Problem: Needed to address Extracted Equity as described in AB 130 and provide standards for its use.

Rationale and Benefits: Ensures compliance with AB 130 and SB 686; provides clear, auditable categories of permissible uses with specific guardrails; protects affordability and tenant welfare by prohibiting rent increases to support equity extraction; preserves project reserves; caps organizational activity expenditures at 10% of total Extracted Equity requested under Sections 109(a)(1) through (a)(5); and channels other uses approved by the Department through a reinvestment mechanism with full repayment of the Original Program loan(s) required for Section 109(a)(6) uses, to support additional affordable housing.

Alternatives Considered: The Department considered retaining the original terminology ("EE Project" and "HCD Source Project") but rejected in favor of "Donee Project" and "Donor Project" for clarity based on public comment. The Department considered not adding exit taxes or a lookback for limited partner interest purchases but determined that exit taxes are a necessary cost of LP buyouts and a lookback provides a reasonable limitation. Retaining the "unaffiliated" restriction on rehabilitation costs was considered but rejected as unnecessarily limiting eligible reimbursements. The Department considered retaining the generic exclusion for uses that do not "demonstrably increase or improve the supply of affordable housing" but replaced it with the specific guardrails at Sections 109(a)(1) through (a)(6) to provide greater clarity and enforceability. The Department also considered lowering the housing reinvestment fee to 15–20% for other uses but retained the fee at 50% to ensure that the State's

investment is meaningfully recaptured for reinvestment in other affordable housing projects.

### **Previous Section 109(b):**

Purpose: Moves to Section 107(a)(3)

Problem: The 2019 LPR Guidelines formatting did not allow for the incorporation of additional, program specific requirements.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 109(b)**

Purpose: Establishes repayment requirements and post-transaction cashflow provisions for Borrowers utilizing Section 109(a)(6).

Problem: AB 130 authorized Extracted Equity transactions but did not prescribe terms and conditions for 'other' excess equity uses or address post-transaction cashflow treatment upon full loan repayment.

Rationale and Benefits: Requires full repayment of the Original Program loan(s), with all accrued interest, for Section 109(a)(6) Extracted Equity requests. This provides accountability for 'other' excess equity uses that do not demonstrably produce or preserve affordable housing units. The net cashflow provision clarifies that, notwithstanding any other loans, all net cashflow may be paid to the Borrower for so long as the Borrower remains in compliance with the HCD Loan Documents, incentivizing participation in the program while maintaining regulatory compliance.

Alternatives Considered: The Department considered not requiring full payoff of the Original Program loan(s) for Section 109(a)(6) uses but determined that full repayment with all accrued interest is necessary to provide accountability for "other" excess equity uses that do not demonstrably produce or preserve housing units. The Department also considered retaining a provision requiring 3% simple interest recalculation for projects that previously received an interest rate reduction. The 3% interest rate provision was deleted after the public comment that it was overly punitive.

### **Section 109(c)**

Purpose: Establishes an annual monitoring fee upon recordation of Department Loan Documents, sized per Section 113(d)(2), unless otherwise specified. Requires a promissory note, reflecting the annual monitoring fee, that will remain in effect for the duration of the HCD Loan Documents.

Problem: Needed to address Extracted Equity as described in AB 130 and provide standards for its use.

Rationale and Benefits: After public comment, the Department decided to narrow the full repayment obligation for extracted equity projects by only requiring full repayment on extracted equity projects under 109(a)(6). Given this change, the Department edited language in 109(c) and (d) to more clearly outline the HCD loan document requirements. Ensures resources for Department oversight throughout the term of the Department's regulatory agreement, which promotes long term affordability.

Alternatives Considered: Keep provision as-is prior to public comment, but retaining without any change would likely cause confusion because there will likely be an outstanding loan balance on extracted equity projects given the narrowing of the full repayment requirement.

### **Section 109(d)**

Purpose: For projects with fully paid-off Department loan(s) on the Donor Project, requires a monitoring fee deed of trust to secure the payment of the ongoing monitoring fee and performance under the Department Loan Documents.

Problem: Needed to address Extracted Equity as described in AB 130 and provide standards for its use.

Rationale and Benefits: After public comment, the Department decided to narrow the full repayment obligation for extracted equity projects by only requiring full loan repayment on extracted equity projects under 109(a)(6). Given this change, the Department edited language in 109(c) and (d) to more clearly outline the HCD loan document requirements. Addresses extracted equity projects with fully paid-off Department loan(s) by providing enforceable security and ensuring compliance with affordability provisions. After the public comment period, the Department allowed the monitoring fee deed of trust to be subordinated, as necessary, to ensure the financial feasibility of the "Donor Project".

Alternatives Considered: The Department considered retaining the prohibition on subordination of the Department's deed of trust, but this alternative was rejected due to Department concerns that this provision would discourage senior lenders from providing financing.

### **Section 109(e)**

Purpose: Requires a Department-approved LPR Regulatory Agreement specific to Extracted Equity transactions be recorded senior to all debt.

Problem: Needed to address Extracted Equity as described in AB 130 and provide standards for its use.

Rationale and Benefits: Preserves long-term affordability protections by ensuring senior lien priority.

Alternatives Considered: Retaining the entire LPR Regulatory Agreement in senior position. Multiple commenters stated the original requirement would render projects unfinanceable. After the public comment period, Section 109(e) was narrowed from "the Department's entire" LPR Regulatory Agreement to an "Extracted Equity LPR senior regulatory agreement".

### **Section 109(f)**

Purpose: Prohibits subordination of the Department's LPR Regulatory Agreement specific to Extracted Equity transactions to other affordability agreements, with exceptions where required by law.

Problem: Needed to address Extracted Equity as described in AB 130 and provide standards for its use.

Rationale and Benefits: Protects Department's affordability interests while allowing some legal exceptions. The Department did not receive public comment on this provision. However, the Department decided to revise this subsection to be consistent with 109(e) with respect to an "Extracted Equity LPR senior regulatory agreement."

Alternatives Considered: Requiring the Department's LPR Regulatory Agreement to continue to be senior in priority. Rejected to acknowledge change in 109(e).

### **Section 109(g)**

Purpose: Requires Donor Project to achieve Fiscal Integrity with a 1.15 debt-service coverage ratio for 15 years as per Health and Safety Code 50406.4.

Problem: Needed to address Extracted Equity as described in AB 130 and provide standards for its use.

Rationale and Benefits: Ensures compliance with AB 130 requirements, promotes long-term financial stability, and reduces risk to the Department.

Alternatives Considered: The Department considered increasing the LTV to 80%, increasing to 85% on the senior loan with 90% combined LTV, and retaining the 70% requirement. The Department also considered using only hard debt in the LTV calculation. The Department determined that the DSCR requirement provides sufficient underwriting protection without an LTV overlay. Furthermore, the LTV constraint was inconsistent with other Department programs.

### **Section 109(h)**

Purpose: Restricts Donor Projects from receiving additional Department funding for 15 years following the restructuring transaction.

Problem: Needed to address Extracted Equity as described in AB 130 and provide standards for its use. Without restriction, projects may repeatedly seek Department funding despite prior extraction of equity.

Rationale and Benefits: Protects program integrity and ensures equitable distribution of Department resources by preventing the Donor Project from repeatedly seeking Department funding after extracting equity.

Alternatives Considered: Requests to delete or shorten the prohibition period were declined. The Department believes this provision is necessary to maintain the integrity of the department's funding programs.

### **Section 109(i)**

Purpose: Declares projects with undisbursed HCD funding awards are ineligible for an extracted equity transaction.

Problem: Needed to address Extracted Equity as described in AB 130 and provide standards for its use.

Rationale and Benefits: Prevents overlap and funding conflicts. Ensures use of existing awards before allowing the extraction of equity. Prevents misuse of Department funds and provides fair treatment for all applicants of new funding.

Alternatives Considered: None.

### **Section 109(j)**

Purpose: Confirms Original Program rent standards apply to Existing Tenants for the duration of tenancy; upon vacancy, allows the Department to set new rent standards for Assisted Units under Section 108.

Problem: Needed to address Extracted Equity as described in AB 130 and provide standards for its use.

Rationale and Benefits: Protects incumbent tenants while enabling updated standards on turnover consistent with Section 108. HSC 50406.4 requires that existing tenant rents for excess equity transactions not be increased beyond the amount allowable by the original program loan.

Alternatives Considered: After the public comment period, the Department clarified that these rent provisions apply exclusively to the Donor Project. Rent standards for the Original Program loan shall apply to Existing Tenants of the Donor Project for the duration of their tenancy.

### **Section 109(k)(1-2)**

Purpose: Establishes penalties for misuse of Extracted Equity, including negative points, repayment with penalty, and funds recapture.

Problem: Needed to address Extracted Equity as described in AB 130 and provide standards for its use.

Rationale and Benefits: Deters misuse, enforces accountability, and reinvests funds into affordable housing. After the public comment period, the specific reference to Administrative Notice No. 22-01 (Negative Points Policy, dated March 30, 2022, as

amended on November 9, 2022, and April 3, 2023) was removed and replaced with a generic reference to “a negative points policy adopted by the Department.” This revision provides flexibility for the Department to update its negative points policy.

Alternatives Considered: None.

### **Section 110: Provisions for Early Payoff and Post-Payoff Requirements for Department Loans**

The following amendments to this section have been adopted:

#### **Entire Section:**

Purpose: Utilized previously reserved section for new Provisions for Early Payoff and Post-Payoff Requirements for Department Loans. Problem: The 2019 LPR Guidelines did not have a section specifically for the payoff of Original Program Loans.

Rationale and Benefits: Provides a procedure for stakeholders and lenders to pay off Department loans which was not addressed in the 2019 Guidelines. This procedure ensures clarity, consistency, and alignment with program and regulatory requirements, supporting efficient project restructuring and compliance.

Alternatives Considered: None.

#### **Section 110(a):**

Purpose: Provides Guideline language that payoff of an existing Department loan prior to the end of its original term is subject to the prior written consent of the Department in its sole and absolute discretion.

Problem: The 2019 LPR Guidelines lacked a formalized procedure for the payoff of Department loans prior to the end of the loan term.

Rationale and Benefits: Provides a new procedure for stakeholders and lenders to pay off Department loans. This procedure ensures clarity, consistency, and alignment with program and regulatory requirements, supporting efficient project restructuring and compliance. “Sole and absolute discretion” was revised to “reasonable discretion” in response to public comments because the Department wanted a clear standard. The revised Guidelines require prior written consent from the Department. Additionally, approved payoffs remain subject to ongoing monitoring fees until the regulatory agreement’s maturity date, documented through a new or amended promissory note and deed of trust. These updates provide stakeholders with a clear, structured process to facilitate timely and compliant loan repayments.

Alternatives Considered: The Department considered retaining “sole and absolute discretion.” This alternative was rejected because the standard was not intended to convey subjective decision-making authority but rather to require that payoff requests comply with Guideline requirements.

### **Section 110(b)**

**Purpose:** Establishes an annual monitoring fee upon recordation of Department Loan Documents, sized per Section 113(d)(2) unless otherwise specified.

**Problem:** Need explicit, uniform mechanism to assess and secure monitoring fees post-recordation.

**Rationale and Benefits:** Ensures resources for Department oversight throughout the term of the regulatory agreement, which promotes long term affordability.

**Alternatives Considered:** None.

### **Section 110(c)**

**Purpose:** Establishes that on fully paid-off Department loans, all net cashflow may be paid to the Borrower as long as the Borrower remains in compliance with the HCD Loan Documents.

**Problem:** The 2019 LPR Guidelines did not address the treatment of net cashflow for Projects with fully paid-off Department loans that remain subject to regulatory agreements.

**Rationale and Benefits:** Incentivizes early payoff while maintaining affordability through regulatory compliance. By permitting Borrowers in good standing to retain all net cashflow on fully paid-off loans, the provision rewards Borrowers who have satisfied their loan payment obligations while preserving the Department's ongoing regulatory oversight through the LPR Regulatory Agreement.

**Alternatives Considered:** Restricting net cashflow on paid-off loans. This was rejected as unnecessarily punitive for Borrowers who have satisfied their loan payment obligations.

### **Section 110(d)**

**Purpose:** Allows the LPR monitoring fee deed of trust and the LPR Regulatory Agreement — but not the LPR Senior Regulatory Agreement — to be subordinated per UMR Section 8315.

**Problem:** The 2019 LPR Guidelines did not address subordination of Department instruments post-payoff, creating ambiguity regarding what Department encumbrances may be subordinated in financing stacks.

**Rationale and Benefits:** Clarifies lien-priority post-payoff and preserves senior affordability protections. By allowing the monitoring fee deed of trust and LPR Regulatory Agreement to be subordinated per UMR Section 8315 while protecting the LPR Senior Regulatory Agreement from subordination, the provision provides financing flexibility for Borrowers while ensuring the Department's affordability protections remain in a senior position.

**Alternatives Considered:** None.

### **Section 110(e)**

**Purpose:** Confirms that projects with paid-off Original Program loans remain subject to the requirements referenced in Section 110(b).

**Problem:** Former loan payoffs may have terminated mandatory monitoring fee payments to the Department.

Rationale and Benefits: Provides clear cross-reference to ensure continued compliance and consistency. Ensures resources for Department oversight throughout the term of the regulatory agreement, which promotes long-term affordability, by continuing monitoring fee requirements even after loan payoff.

Alternatives Considered: None.

### **Section 110(f)**

Purpose: Continues Department requirements for occupancy/financial reporting, financial audits, and governance of operating income and project reserves after full payoff but allows for waiver.

Problem: Need to state post-payoff obligations clearly.

Rationale and Benefits: Promotes affordability by maintaining compliance and fiscal stewardship beyond loan payoff.

Alternatives Considered: None.

### **Section 110(g)(1-2)**

Purpose: Limits the scope of Section 110 by excluding transactions that do not involve a Restructuring. Without this exclusion, routine maturity payoffs and residual receipt payoffs could be subject to the early payoff requirements of Section 110, imposing unnecessary requirements on transactions already governed by the Original Program terms.

Problem: Without an explicit exclusion, routine maturity payoffs and residual receipt payoffs at scheduled maturity could be subject to the early payoff requirements of Section 110, imposing unnecessary requirements on transactions already governed by Original Program terms.

Rationale and Benefits: Preserves program consistency and correct processing pathways. After the public comment period, clarifying language was added specifying these exclusions apply to payoffs with remaining time on recorded Regulatory Agreement(s).

Alternatives Considered: The Department considered leaving the exclusion without this clarification but wanted to reduce ambiguity.

## **Section 111: Application Process**

The following amendments to this section have been adopted:

### **Previous Section 111(a-f):**

Purpose: Removes unclear language.

Problem: The Department's application requirements were unclear in the 2019 LPR Guidelines.

Rationale and Benefits: Removes unclear language.

Alternatives Considered: None.

### **Section 111(a)(1-17):**

Purpose: Provides clarification regarding the application documentation required for issuance of a Notice of Acceptance.

Problem: Need to specify the minimum requirements for issuing a Notice of Acceptance.

Rationale and Benefits: Clarifies the Department's requirements for issuing a Notice of Acceptance.

Alternatives Considered: None.

### **Section 111(b):**

Purpose: Provides clarification that all of the required closing checklist items must be reviewed and approved by the Department in order for the application to be deemed complete.

Problem: Need to delineate between the requirements for a Notice of Acceptance and a complete application.

Rationale and Benefits: Clarifies the requirements for a complete application.

Alternatives Considered: None.

### **Section 111(c):**

Purpose: Provides clarification that a matured Department loan must meet the definition of a Qualifying Unpaid Matured Loan prior to Restructuring.

Problem: Need to reference requirement for mature loans to meet the definition of a Qualifying Unpaid Matured Loan.

Rationale and Benefits: Clarifies the requirement for a matured loan to meet the definition of a Qualifying Unpaid Matured Loan at time of Restructuring per Health and Safety Code 50565.

Alternatives Considered: None.

### **Section 111(d):**

Purpose: Provides transparency regarding the Department's use of available documentation to determine the accuracy and reasonableness of information contained in the application.

Problem: Inefficient use of resources to request duplicative documentation.

Rationale and Benefits: Provides transparent notice and clarification that the Department may elect to use available information to determine the accuracy and reasonableness of information contained in the application. Promotes accountability, consistency, conservation of resources, and efficiency.

Alternatives Considered: The Department considered leaving Guideline language unchanged.

## **Section 112: Underwriting and Other Requirements**

The following amendments to this section have been adopted:

**Entire Section:**

Purpose: Retitles section to clarify Guideline content.

Problem: The 2019 LPR Guidelines titled this section 'Underwriting Requirements.' The amended Guidelines retitle it to 'Underwriting and Other Requirements' to reflect the inclusion of provisions beyond traditional underwriting, such as developer fee limits, project sale restrictions, and SRO compliance requirements under SB 21.

Rationale and Benefits: Clarifies Guideline content.

Alternatives Considered: None.

**Section 112 First Paragraph:**

Purpose: Provides additional references to the UMRs and 2019 MHP Guidelines.

Problem: Ambiguity and transparency of standards.

Rationale and Benefits: Provides applicable references to the UMRs and 2019 MHP Guidelines. Promotes cross-program consistency with respect to underwriting standards.

Alternatives Considered: None.

**Previous Section 112(a):**

Purpose: Removes language that is inconsistent with the UMRs regarding Replacement Reserves requirements.

Problem: The 2019 LPR Guidelines language did not conform to the Replacement Reserve requirements set forth in UMR Section 8309.

Rationale and Benefits: Replacement Reserves requirements now align with the UMRs providing consistency across Department programs.

Alternatives Considered: None.

**Section 112(a):**

Purpose: Formerly Section 112(b). Revises language pertaining to commercial vacancy assumptions being predicated on operating history and/or current leases.

Problem: The 2019 LPR Guidelines Section 112(b) stated that commercial vacancy assumptions shall be based on "the operating history, including current leases and master leases, of the Project." The reference to "master leases" alongside "current leases" created ambiguity as to whether both were required inputs or whether one could serve as the basis independently.

Rationale and Benefits: Clarifies language regarding commercial vacancy assumptions.

Alternatives Considered: None.

**Previous Section 112(b):**

Purpose: Moves to Section 112(a).

Problem: The 2019 LPR Guidelines content did not conform to an alphabetized format.

Rationale and Benefits: Provides consistency through use of an alphabetized format. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

### **Section 112(b):**

Purpose: Provides clarification regarding the treatment of commercial income for purposes of calculating Operating Income.

Problem: The 2019 LPR Guidelines did not clearly specify how income from Commercial Space or commercial use should be treated when calculating Operating Income, creating ambiguity for stakeholders and inconsistency in underwriting across Restructuring transactions.

Rationale and Benefits: Clarifies that all commercial income, including income from Commercial Space and commercial use, shall be included with residential income (including non-assisted unit income) for purposes of calculating Operating Income. This practice is consistent with how the Department historically treats commercial income and ensures a complete and accurate picture of Project revenues for underwriting purposes.

Alternatives Considered: None.

### **Section 112(c):**

Purpose: Provides clarification regarding the budgeting of operating expenses and incorporates reference to the efficiencies gained through the creation of a Scattered Site project

Problem: The 2019 LPR Guidelines language pertaining to operating expenses was unclear and did not consider or account for efficiencies realized through the creation of a Scattered Site project.

Rationale and Benefits: Clarifies the language regarding operating expenses and references the efficiencies that may be gained through a Scattered Site project.

Alternatives Considered: None.

### **Section 112(d):**

Purpose: Provides clarification regarding the debt service coverage ratio, adds language regarding Fiscal Integrity, and eliminates language pertaining to Special Rent Increases.

Problem: Need to account for and address extracted equity pursuant to AB 130 and clarify requirements for other LPR projects.

Rationale and Benefits: Clarifies the language regarding debt service coverage ratio, adds language regarding Fiscal Integrity, and eliminates language regarding Special Rent Increases. Except in the case of excess equity transactions, all original program loans utilizing formula-based rent methodologies will convert to the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program upon restructuring. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines.

Alternatives Considered: None.

**Section 112(e):**

Purpose: No substantive change from the 2019 LPR Guidelines.

Problem: None.

Rationale and Benefits: Language carried forward from the 2019 LPR Guidelines without substantive change.

Alternatives Considered: None.

**Section 112(f):**

Purpose: Provides clarification regarding the calculation of developer fees and removes reference to Net Developer Fee.

Problem: Clarity needed as to limits on developer fee and alignment with other HCD rules and regulations.

Rationale and Benefits: Clarifies the limits on developer fees and removes definition of Net Developer Fee that no longer applied.

Alternatives Considered: None.

**Section 112(f)(1):**

Purpose: Provides guidance on the limitation of developer fees for non-tax credit projects, capping them at no more than 25% of the actual rehabilitation costs.

Problem: Need to establish developer fee limits for non-tax credit projects.

Rationale and Benefits: Establishes a clear limitation on developer fees for non-tax credit projects. By capping these fees, it promotes a consistent and transparent methodology for calculating developer compensation pursuant to Health and Safety Code 50561(g)(4).

Alternatives Considered: None.

**Section 112(f)(2):**

Purpose: Provides guidance for developer fees on 9% tax credit projects.

Problem: Lack of alignment with UMR Section 8312(b).

Rationale and Benefits: Clarifies reference to UMR Section 8312(b) and provides a consistent methodology for calculating developer fee on 9% tax credit projects.

Alternatives Considered: None.

**Section 112(f)(3):**

Purpose: Provides guidance for developer fees on 4% tax credit projects.

Problem: Lack of alignment and clear standards.

Rationale and Benefits: References UMR Section 8312(c) and provides a consistent methodology for calculating developer fees on 4% tax credit projects.

Alternatives Considered: None.

**Section 112(f)(4):**

Purpose: Adds language to exclude the reference to capital contributions and provides additional guidance regarding the treatment of developer fee.

Problem: Unclear regarding the treatment of developer fees.

Rationale and Benefits: Clarifies reference to UMR Sections 8312(d) and (e) and provides a consistent methodology for calculating developer fees.

Alternatives Considered: None.

**Section 112(f) Last Paragraph:**

Purpose: Provides language to align developer fees with more restrictive sources.

Problem: Misalignment with developer fees and more restrictive sources.

Rationale and Benefits: Aligns the developer fees with sources that are more restrictive.

Alternatives Considered: None.

**Section 112(g):**

Purpose: Removes previous language to align treatment of balloon loans with the UMRs and to establish a minimum term to meet Fiscal Integrity.

Problem: Requirements in the 2019 LPR Guidelines are inconsistent with the UMRs and balloon loans that mature within 15 years may not meet Fiscal Integrity requirements.

Rationale and Benefits: Provides consistency with the UMRs and ensures Fiscal Integrity is maintained.

Alternatives Considered: None.

**Section 112(h):**

Purpose: Formerly portion of Section 112(h). Provides guidance on any sponsor or seller carryback loan.

Problem: Need to establish the requirements for sponsor or seller carryback loans.

Rationale and Benefits: Clarifies Department requirements for sponsor or seller carryback loans.

Alternatives Considered: None.

**Section 112(i):**

Purpose: Formerly portion of Section 112(h). Revises Guidelines to explicitly prohibit cash payments to any party related to or affiliated with a sponsor, seller, or buyer during Restructurings, except Extracted Equity transactions, reinforcing equity preservation within projects.

Problem: Need to account for AB 130 and equity extraction while also setting standards for other LPR projects.

Rationale and Benefits: Ensures financial integrity by restricting cash outs reinforcing the Department's commitment of funds to the project's long-term affordability.

Alternatives Considered: None.

**Section 112(j):**

Purpose: Clarifies that the original lien priority of the Original Program loan is retained in transactions involving no new funding from the locality.

Problem: Lack of clarity about lien priority retention when localities do not contribute new funding.

Rationale and Benefits: Provides clear guidance on the preservation of lien priorities when no new funding is being provided.

Alternatives Considered: None.

**Section 112(k):**

Purpose: Excludes the application of MHP Section 7312(f)(2) from the Guidelines.

Problem: The Department may no longer require the establishment of a transition reserve account pursuant to Health and Safety Code 50468(a).

Rationale and Benefits: Aligns requirements of 2019 MHP Guidelines with Health and Safety Code 50468(a).

Alternatives Considered: None.

**Section 112(l):**

Purpose: Provides that where a project involves single-room occupancy units being rehabilitated or replaced, underwriting requirements shall comply with Government Code Section 66300.6 and 66300.6.5 and Health and Safety Code 50406.6, mirroring the SRO provision in Section 108(g).

Problem: Acknowledge and address SB 21 underwriting requirements for rehabilitation, replacement, or demolition of single-room occupancy units.

Rationale and Benefits: Ensures compliance with SB 21 within the underwriting requirements section.

Alternatives Considered: Not adding an SRO-specific underwriting provision. Rejected; compliance with SB 21 requirements necessitated an express reference.

## **Section 113: Department Fees**

The following amendments to this section have been adopted:

### **Previous Section 113(a):**

**Purpose:** Removes language and moves portion to Section 113(d)(1).

**Problem:** The option to pay a single monitoring fee at time of restructuring, or waive the fee entirely, is no longer available.

**Rationale and Benefits:** Provides clarity to stakeholders regarding the payment of monitoring fees.

**Alternatives Considered:** None.

### **Section 113(a)(1-4):**

**Purpose:** Revises the non-refundable application fee structure to be more reflective of the Department's processing costs for various project configurations and transaction types.

**Problem:** The previous fee structure did not differentiate adequately between the complexity and administrative costs associated with managing applications for different numbers of sites and loans, leading to inefficiencies and potential under-recovery of costs. Additionally, costs, in general, have risen since the last time fees were updated in 2014.

**Rationale and Benefits:** The updated fee structure ensures that the application fees are proportional to the administrative workload involved in evaluating a project's eligibility and feasibility. After the public comment period, the application fee amounts were revised in an effort to lower application barriers. The base fee was increased from \$1,000 to \$2,500 for a single Project site with one Department program loan or grant to account for rising costs given the \$1,000 base application fee has remained the same since 2014. To account for additional complexities in projects, the Department instituted a \$1,500 fee for additional project sites (reduced from \$5,000 in the initial draft guidelines), an additional loan or grant fee of \$1,500 (increased nominally from \$1,000 in the initial draft guidelines), and a leasehold fee of \$1,500 (reduced dramatically from \$9,000 in the initial draft guidelines). The corresponding examples were updated accordingly. Both show a reduction in application fee from the initial draft of the guidelines' application fee structure (Example 1 results in \$7,000 application fee versus \$12,000 using the initial Guidelines' application fee structure; Example 2 results in \$11,500 application fee versus \$15,000 using the initial Guidelines' application fee structure).

**Alternatives Considered:** Different fee structure as indicated in the initial draft of these guidelines to account for complexities and staff's time and effort in evaluating viable projects. The Department aimed to create less barriers for application and keep costs reasonable.

**Section 113(a)(Example 1-2):**

Purpose: Provides guidance regarding non-refundable application fees.

Problem: New application fee structure outlined and wanted to provide clarity and transparency for calculating under the new application fee structure.

Rationale and Benefits: Clarifies application fees for all types of Restructurings and provides examples.

Alternatives Considered: None.

**Previous Section 113(b):**

Purpose: Moves to Section 113(d)(2).

Problem: The 2019 LPR Guidelines language lacked congruity.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 113(b)(1–4):**

Purpose: Introduces a tiered closing fee structure for different types of Restructuring scenarios.

Problem: The previous fee structure did not differentiate adequately between the complexity and administrative costs associated with closing a transaction for different numbers of sites and loans, leading to inefficiencies and potential under-recovery of costs. Additionally, costs, in general, have risen since the last time fees were updated in 2014. Needed to account for AB 130's extracted equity transactions.

Rationale and Benefits: Since the last Guideline update, the Department's transactional costs have significantly increased; this update ensures that closing fees are commensurate with the administrative effort and resources required for different types of transactions, which promotes fiscal sustainability of the Department's operations.

Alternatives Considered: None.

**Previous Section 113(c):**

Purpose: Moved to Section 113(d). The 2019 LPR Guidelines provision allowing monitoring fees to be paid 'below the line' has been revised and is now addressed within the consolidated monitoring fee structure at Section 113(d).

Problem: Language pertaining to the deferral of monitoring fees was unclear.

Rationale and Benefits: Clarifies the requirements for allowing monitoring fees to be paid "below the line".

Alternatives Considered: None.

**Section 113(c)(1–2):**

Purpose: Provides language to address miscellaneous fees.

Problem: Need to cover administrative costs associated with scenarios that occur regularly and require additional staff hours and Department costs.

Rationale and Benefits: Enables the Department to cover its cost for additional work that is not covered by Section 113(a) and (b).

Alternatives Considered: None.

**Previous Section 113(d):**

Purpose: Eliminates the provision allowing monitoring fees to be paid through a single payment.

Problem: This provision had never been utilized.

Rationale and Benefits: Removes unutilized language.

Alternatives Considered: None.

**Section 113(d):**

Purpose: Creates subsection for monitoring fees.

Problem: The 2019 LPR Guidelines did not address the expanded list of eligible programs added by AB 2562 and provided unclear monitoring fee standards across original loan documents that varied significantly across these newly eligible programs.

Rationale and Benefits: Clarifies Guideline content and provides ease of use.

Alternatives Considered: None.

**Section 113(d)(1)**

Purpose: Establishes a mandatory monitoring fee for all Restructuring transactions as an operating expense effective upon recordation.

Problem: Monitoring fees were not uniformly applied to all Restructurings.

Rationale and Benefits: Ensures consistent cost recovery and oversight across all Restructurings, setting clear expectations for Borrowers and making monitoring simpler and more efficient for the Department

Alternatives Considered: None.

**Section 113(d)(2)(A – E)**

Purpose: For Original Program loans with mandatory debt service, prorates and applies the annual payment to outstanding balance through Restructuring date, then recharacterizes the payment as the LPR monitoring fee (no longer applied to principal/interest).

Problem: Lack of clear conversion, timing, and priority rules for mandatory-payment loans.

Rationale and Benefits: Standardizes treatment, clarifies cash-flow priority, and preserves project operations and reserves. After the public comment period, “save for the annual CPI adjustment stated in Section 113(d)(4)” and “annually” were added to clarify monitoring fee frequency.

Alternatives Considered: The Department considered leaving the monitoring fee provisions without the CPI adjustment cross-reference and frequency clarification. These additions were made to improve clarity and predictability for stakeholders.

### **Section 113(d)(3)**

Purpose: Clarifies that for Original Program loans that already required a mandatory annual monitoring fee payment to the Department, that fee shall continue to be calculated in accordance with the Original Program requirements through the LPR Restructuring and for the duration of the regulatory term.

Problem: The 2019 LPR Guidelines did not clearly state how existing monitoring fee payment structures from MHP and other Original Programs would be maintained through Restructuring.

Rationale and Benefits: Preserves existing fee structures from Original Programs (e.g., MHP) through Restructuring, providing continuity for Borrowers and consistent oversight resources for the Department.

Alternatives Considered: None.

### **Section 113(d)(4)**

Purpose: Sets monitoring fee structure for projects that did not include mandatory annual payment in their original loan documents.

Problem: Need to address projects that were not covered in 113(d)(3). Clarify commencement timing, amounts, and inflation adjustments.

Rationale and Benefits: Provides predictable timing, standardized fees, and inflation indexing. After the public comment period, the monitoring fee table was restructured to more accurately reflect the Department's actual monitoring costs, which vary based on the number of Project sites and the number of units at each site. The prior Scattered Sites flat fee of \$42,000 did not account for variations in project complexity. The two-column per-site calculation methodology ensures that fees are proportional to the monitoring workload. The unit-count tier breakpoints were adjusted to better align with the Department's monitoring resource allocation. The CPI commencement year was changed from 2026 to 2027 to align with the adoption timeline.

Alternatives Considered: The Department considered not creating monitoring fee structure for projects that did not include mandatory annual payment in their original loan documents.

### **Section 113(d)(5)**

Purpose: Sets the LPR monitoring fee for new Scattered Sites Projects.

Problem: Address Scattered Sites Projects that may involve original projects that calculated these fees differently.

Rationale and Benefits: Provides a predictable, conservative fee schedule to ensure adequate oversight of Projects.

Alternatives Considered: The Department considered not changing the current or the proposed Guideline language.

### **Section 113(d)(6)**

Purpose: Allows monitoring fee deferral for loan extensions under Section 104:.

Problem: The 2019 LPR Guidelines at Section 113(g) permitted both deferral and waiver of monitoring fees for loan extension-only transactions, and Section 113(h) established a 50/50 payment split allowing deferred developer fees and other Sponsor fees to be paid concurrently with the Department's monitoring fee. The amended Guidelines at Section 113(d)(6) tighten this provision by permitting deferral only (not waiver) for loan extensions pursuant to Section 104, conditioning deferral on the extent necessary to maintain Fiscal Integrity, and requiring that the Department's monitoring fee be paid in full prior to payment of deferred developer fees, asset and partnership management fees, and all other Sponsor fees.

Rationale and Benefits: Protects fiscal integrity and ensures repayment priority for monitoring fees.

Alternatives Considered: None.

### **Section 113(d)(7)**

Purpose: For a Qualifying Unpaid Matured Loan, monitoring fees apply retroactively from the note's maturity date and are paid in full at Restructuring closing.

Problem: No guidance on accrual and payment timing for such loans.

Rationale and Benefits: Ensures oversight costs are recovered and provides a clear settlement point.

Alternatives Considered: None.

### **Previous Section 113(e):**

Purpose: Eliminates the provision regarding the adjustment to monitoring fees.

Problem: The 2019 LPR Guidelines language was unclear regarding future monitoring fees.

Rationale and Benefits: Removes ambiguity as to how monitoring fees will be adjusted annually.

Alternatives Considered: None.

### **Previous Section 113(f)(1-3):**

Purpose: Eliminates the provision to waive the monitoring fees.

Problem: The Department no longer allows the waiver of monitoring fees.

Rationale and Benefits: Enables the Department to cover its costs for monitoring.

Alternatives Considered: None.

**Previous Section 113(g):**

Purpose: Eliminates the provision to waive monitoring fees.

Problem: The Department no longer allows the waiver of monitoring fees.

Rationale and Benefits: Enables the Department to cover its costs for monitoring.

Alternatives Considered: None.

**Previous Section 113(h)(1-3):**

Purpose: Removes language and moves portion to Section 113(d)(3).

Problem: The 2019 LPR Guidelines language lacked congruity and the Department no longer allowed the waiver of monitoring fees.

Rationale and Benefits: Provides congruity as to Guideline content and eliminates language that no longer applied.

Alternatives Considered: None.

**Previous Section 113(i)(1-4):**

Purpose: Moves to Sections 113(a-b).

Problem: The 2019 LPR Guidelines language lacked congruity.

Rationale and Benefits: Provides congruity as to Guideline content.

Alternatives Considered: None.

**Section 114: Use of Operating Cash Flow**

The following amendments to this section have been adopted:

**Section 114(a):**

Purpose: Provides updated references to UMRs and removes reference to former Section 113(h).

Problem: The 2019 LPR Guidelines language did not align with UMRs and former Section 113(h) no longer applied.

Rationale and Benefits: Clarifies references to the UMRs and removes references that no longer apply.

Alternatives Considered: None.

**Section 114(b):**

Purpose: Ensures that residual receipt payments are structured to avoid a reduction in residual receipt loan payments to local public agencies due solely to changes in payment terms on the Department's loan or the combination of separate sites into one Project.

Problem: The 2019 LPR Guidelines did not address protections for local public agency residual receipt loan payments in the context of a Restructuring.

Rationale and Benefits: Protects local public agency funding partners by maintaining their expected residual receipt loan payments where cash flow permits.

Alternatives Considered: None.

**Previous Section 114(c):**

Purpose: Moves to Section 112(b).

Problem: The 2019 LPR Guidelines language lacked congruity.

Rationale and Benefits: Provides congruity as to Guideline content. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 115: On-going Management Requirements**

The following amendments to this section have been adopted:

**Entire Section:**

Purpose: Removes excess language, incorporates defined terms and standards, aligns with UMRs and 2019 MHP Guidelines.

Problem: Need to incorporate defined terms and align with existing Department standards.

Rationale and Benefits: Removes excess language and provides clarity through use of defined terms.

Alternatives Considered: None.

**Sections 115(a)(1 - 6):**

Purpose: Provides updated references to the UMRs.

Problem: Need to incorporate defined terms and align with existing Department standards.

Rationale and Benefits: Referencing the applicable sections of the UMRs ensures consistency across Department programs by applying the standardized criteria established in the regulations.

Alternatives Considered: None.

**Section 115(b)(1 - 7):**

Purpose: Provides updated references to the 2019 MHP Guidelines.

Problem: The 2019 LPR Guidelines referenced the MHP Regulations.

Rationale and Benefits: Updates applicable references to the 2019 MHP Guidelines.

This approach also aligns with the statutory requirements outlined in Health and Safety Code 50561(g).

Alternatives Considered: None.

**Previous Section 115(b)(1):**

Purpose: Moves to Section 115(b)(2).

Problem: The 2019 LPR Guidelines formatting lacked congruity.

Rationale and Benefits: Provides congruity in formatting. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: None.

**Section 115(b)(1):**

Purpose: Incorporates reference to Section 7311.

Problem: The 2019 LPR Guidelines did not reference Section 7311.

Rationale and Benefits: Incorporates Section 7311 of the 2019 MHP Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Previous Section 115(b)(2):**

Purpose: Moves to Section 115(b)(4).

Problem: The 2019 LPR Guidelines formatting lacked congruity.

Rationale and Benefits: Provides congruity in formatting. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Previous Section 115(b)(3):**

Purpose: Moved to Section 115(b)(5).

Problem: The 2019 LPR Guidelines formatting lacked congruity.

Rationale and Benefits: Provides congruity in formatting. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Section 115(b)(3):**

Purpose: Incorporates reference to Section 7322.

Problem: The 2019 LPR Guidelines did not reference Section 7322.

Rationale and Benefits: Incorporates Section 7322 of the 2019 MHP Guidelines.

Alternatives Considered: None.

**Previous Section 115(b)(4):**

Purpose: Moved to Section 115(b)(6).

Problem: The 2019 LPR Guidelines formatting lacked congruity.

Rationale and Benefits: Provides congruity in formatting. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**Previous Section 115(b)(5):**

Purpose: Moved to Section 115(b)(7).

Problem: The 2019 LPR Guidelines formatting lacked congruity.

Rationale and Benefits: Provides congruity in formatting. This change is adopted for purposes of clarity and completeness. It does not modify the substance of the Guidelines.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes were adopted, this was the appropriate time for minor clarifications.

**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

No additional technical, theoretical, or empirical studies, reports, or similar documents were relied upon in preparing the final regulatory action, beyond those identified in the Initial Statement of Reasons.

**ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The Department has determined that the amended Guidelines will not have a significant impact on the creation of new businesses, the elimination of existing businesses within California, or the expansion of businesses currently operating in California. Additionally, the amended Guidelines will have no significant impact on the health and welfare of California residents, worker safety, or the state's environment. Participation in the program is voluntary.

The Economic Impact Assessment prepared pursuant to Government Code Section 11346.3(b) was relied upon by the Department in preparing the amended proposed Guidelines.

## **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The Department has made a determination that the action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the amended Guidelines will not affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California. Furthermore, the Guidelines will not have a significant statewide impact on the health and welfare of California residents, worker safety, or the state's environment. Participation in the program is voluntary.

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the adopted action. While private businesses (including nonprofits) are eligible to participate under the LPR, participation is voluntary.