

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

INITIAL STATEMENT OF REASONS

Proposed Amendments to Portfolio Restructuring Guidelines

INTRODUCTION

The California Department of Housing and Community Development (Department) proposes amendments to the Portfolio Restructuring Guidelines (“LPR Guidelines”) which will 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 proposed LPR Guidelines will allow for the restructuring of any multifamily housing loans funded or monitored by the Department. This includes loans made under the Multifamily Housing Program (MHP). Additionally, the proposed LPR Guidelines provide provisions for the extraction of excess equity.

These amendments aim to 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.

DISCUSSION OF PROPOSED AMENDMENTS

Table of Contents:

The following amendments to this section have been proposed:

Entire Section:

Purpose: Adds page numbers to table of contents.

Problem: The existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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 existing Guidelines lack congruity and need 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 are being proposed this seems like the appropriate time for minor clarifications.

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

Purpose: Moves to Section 103.

Problem: The existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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 existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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 existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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 existing Guidelines lack congruity and need 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 are being proposed this seems like 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 existing Guidelines lack congruity and need 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 are being proposed this seems like the appropriate time for minor clarifications.

Previous Section 107: Requirements for Senior Loans

Purpose: Moves to Section 106.

Problem: The existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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 existing GuidelinesThe existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 108: Rent Restrictions for Assisted Units

Purpose: Title changed to better align Guideline structure.

Problem: The existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Previous Section 109: RHCP-O Annuity

Purpose: Moves to Section 107(a).

Problem: The existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 109: Provisions for Extracted Equity

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

Problem: Guidelines do not currently 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 existing Guidelines do not address requirements for loan payoffs.

Rationale and Benefits: Provides guidance for loan payoffs.

Alternatives Considered: None.

Section 110: Provisions for the Payoff of Original Program Loans or Paid off Department Loans

Purpose: Creates new section to allow for loan payoffs.

Problem: The existing Guidelines do 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 proposed:

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 Guidelines currently do 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 existing Guidelines do 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 existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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 may 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 may 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: Existing language does not address Restructurings that are in process prior to the adoption of these Guidelines and does 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: Existing language does 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: Existing language does 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 existing Guidelines lack congruity and need to be organized more efficiently.

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

Alternative Considered: This subsection could have been left unmodified. However, since other changes are being proposed this seems like 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: Formatting is inconsistent.

Rationale and Benefits: Provides consistent formatting.

Alternatives Considered: This subsection could have been left unmodified. However, since other changes are being proposed this seems like the appropriate time for minor clarifications.

Section 100(d)(10):

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

Problem: Guidelines do not currently include the Housing Loan Conversion Program per Health and Safety Code Section 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: Guidelines do not currently include the Loan Portfolio Restructuring Program per Health and Safety Code Section 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: Guidelines do not currently 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: Guidelines do not currently 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: Guidelines do not currently 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: Guidelines do not currently 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 existing Guidelines lack congruity and need to be organized more efficiently.

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

Alternative Considered: This subsection could have been left unmodified. However, since other changes are being proposed this seems like 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: Existing language is unclear and does 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)

Alternative Considered: None.

Previous Section 100(f):

Purpose: Moves to Section 100(e).

Problem: The existing Guidelines lack congruity and need to be organized more efficiently.

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

Alternative Considered: This subsection could have been left unmodified. However, since other changes are being proposed this seems like the appropriate time for minor clarifications.

Section 100(e):

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

Problem: Guidelines are 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(f):

Purpose: Incorporates Department administrative notices, policies, and guidance for Pooled Transition Reserve, Supportive Services Cost Limits, and Negative Points Policy.

Problem: Guidelines do not reference current Department administrative notices, policies, and guidance.

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

Alternatives Considered: None

Section 101: Definitions

The following amendments to this section have been proposed:

First Paragraph:

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

Problem: Existing language is unclear and does not specify which MHP definitions shall apply 2019 MHP Guidelines as required by Health and Safety Code 50561(g).

Rationale and Benefits: Provides clarity as to which 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 is no definition of Applicable Federal Rate (AFR) in the Guidelines.

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

Alternatives Considered: None.

Previous Section 101(b):

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

Problem: Content does not conform to an alphabetized format.

Rationale and Benefits: Provides consistency through use of an alphabetized format. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 101(b):

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

Problem: There is no definition of Borrower in these 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.

Alternative Considered: None.

Previous Section 101(c):

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

Problem: Content does 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 being proposed only 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 are being proposed this seems like 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 is no definition of Department or HCD in these 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: Content does 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 being proposed only 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 are being proposed this seems like 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 is no definition of Department Loan Documents or LPR Loan Documents in these 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: Existing 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 Eligible Project, which is pertinent to the program.

Problem: There is no definition of Eligible Project in these Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives considered: None.

Previous Section 101(f):

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

Problem: Content does 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 being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 101(f):

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.

Problem: The existing language regarding the demarcation between a New and Existing Tenant is 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(g):

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

Problem: Content does not conform in an alphabetized format.

Rationale and Benefits: Provides consistency and improves efficiency for reviewing purposes through use of an alphabetized format. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 101(g):

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

Problem: There is no definition of Extracted Equity in the Guidelines.

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

Alternatives Considered: None.

Previous Section 101(h):

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

Problem: Content does not conform in an alphabetized format.

Rationale and Benefits: Provides consistency and improves efficiency for reviewing purposes through use of an alphabetized format. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 101(h):

Purpose: Provides definition of Extracted Equity Project and distinguishes between HCD Source Project, which is pertinent and important to the program implementing Health and Safety Code section 50406.4.

Problem: There is no definition of Extracted Equity Project in the Guidelines.

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

Alternatives considered: None.

Previous Section 101(i):

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

Problem: Content does not conform in an alphabetized format.

Rationale and Benefits: Provides consistency and improves efficiency for reviewing purposes through use of an alphabetized format. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 101(i):

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.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

Previous Section 101(j):

Purpose: Removes definition of Special Rent Increase.

Problem: The definition of Special Rent Increase is unnecessary and has no application,

Rationale and Benefits: Removes generic definition that is unnecessary and has no application. The rent rules for Restructured projects are sufficiently covered in Section 108 of the Guidelines.

Alternatives Considered: None.

Section 101(j):

Purpose: Provides definition of HCD Source Project, and distinguishes between Extracted Equity Project, which is pertinent and important to the program implementing Health and Safety Code section 50406.4.

Problem: There is no definition of HCD Source Project in the Guidelines.

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

Alternatives Considered: None.

Previous Section 101(k):

Purpose: Removes definition of Sponsor.

Problem: The term Sponsor has been previously defined in the UMR's.

Rationale and Benefits: Eliminates redundant language, however, new Sponsor requirements have been added to these Guidelines 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: Previous definition references TCAC's methodology which is not consistent with that for MHP.

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

Alternatives Considered: None.

Previous Section 101(l):

Purpose: Removes definition of Unit.

Problem: The term Unit has been previously 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 Guidelines do not differentiate between those programs determined eligible under previous Guidelines and the expanded list of eligible programs incorporated into these amended Guidelines.

Rationale and Benefits: Provides a distinction amongst the programs allowed to restructure under current statute, Health and Safety Code Section 50560 versus the previous list of eligible programs.

Alternatives Considered: None.

Section 101(m):

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

Problem: There is no definition of LIHTC in the 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 is no definition of LPR Regulatory Agreement in the 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 is no definition of LPR Senior Regulatory Agreement in the 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: MHP Family of Programs is now eligible under these Guidelines and there is no definition of MHP Family of Programs in the existing Guidelines, thus a definition is needed.

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 is no definition for New Tenant in the 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 Tenant.

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 creates ambiguity regarding when the Department formally accepts a project for restructuring and establishes tenant status. This lack of clarity leads 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 is no definition for Qualifying Unpaid Matured Loan in the Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

Section 101(u):

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

Problem: There is no definition for Project in the Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

Section 101(v):

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

Problem: There is no definition for Redraw in the 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(w):

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.

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

Alternatives Considered: None.

Section 101(x):

Purpose: Formerly Section 101(h). Provides clarification regarding definition of Rent and removes reference to TCAC.

Problem: The prior definition of Rent included a reference to TCAC that conflicted with Department policy.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

Section 101(y):

Purpose: Provides definition of Rental Housing Development, which is pertinent to the program.

Problem: There is no definition for Rental Housing Development in the Guidelines.

Rationale and Benefits: Clarifies terminology used throughout these Guidelines.

Alternatives Considered: None.

Section 101(z):

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

Problem: The previous definition of "Restructuring" did not incorporate the definition of a Qualified Unpaid Matured Loan pursuant to Health and Safety Code Health and Safety Code 50565 or Extracted Equity pursuant to Health and Safety Code Health and Safety Code 50406.4 and was unclear regarding the statutory requirements outlined in Health and Safety Code 50406.4 and 50565.

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(aa):

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

Problem: There is no definition of Schedule of Rental Income in the Guidelines.

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

Alternatives Considered: None.

Section 101(bb):

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

Problem: There is no definition of State in the 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 proposed:

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 Guidelines are unclear and do not reference that an Eligible Project can be any State multifamily housing loan funded or monitored by the Department or a Qualified Unpaid Maturity 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.

Alternatives Considered: None.

Section 102(b):

Purpose: Revises sentence structure to improve clarity.

Problem: Language is 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 Maturity Loan as a permitted restructuring activity, which is pertinent to the program.

Problem: The Guidelines are unclear and do not reference a Qualified Unpaid Maturity 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: Language is 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: Content does not conform in an alphabetized format.

Rationale and Benefits: Provides consistency through use of an alphabetized format. This change is being proposed only 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 are being proposed this seems like 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: Language is 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 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.

Alternatives Considered: None.

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.

Previous Section 103: Requirements for Loan Extension Only

Purpose: Moves to Section 104.

Problem: Sections pertaining to Restructuring types lacks congruity.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 103: Provisions Pertaining to All Projects

The following amendments to this section have been proposed:

Entire Section:

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

Problem: The existing Guidelines lack congruity and need 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 existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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 existing 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 Loan Portfolio Restructuring Program (LPR).

Alternatives Considered: None.

Previous Section 103(b):

Purpose: Removes language pertaining to Special Rent Increases.

Problem: The definition of Special Rent Increase is unnecessary and has no application.

Rationale and Benefits: Removes generic definition that is unnecessary and has no application. 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 to be secured and recorded against the property.

Problem: Original language does not address how the Department secures its interest in the project.

Rationale and Benefits: Provides clarity to stakeholders as to how the Department will secure its interests.

Alternatives Considered: None.

Previous Section 103(c):

Purpose: Moves to Section 104(b).

Problem: The existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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: Original language is 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 existing Guidelines lack congruity and need to be organized more efficiently.

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

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 Extracted Equity.

Problem: Guidelines lack 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. Aligns with UMR 8313 with respect to projects assisted by HUD.

Alternatives Considered: None.

Section 103(e)(1 -- 3)

Purpose: Adds specific requirements for Sponsors to demonstrate experience and capacity..

Problem: The existing Guidelines do 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(f)(1–2):

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

Problem: Original language is 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)(2):

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

Problem: Guidelines lack 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.

Alternatives Considered: None.

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: Guidelines lack 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: Original Guidelines lack 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: Existing language lacks 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: Sections pertaining to Restructuring types lack 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 proposed:

Entire Section:

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

Problem: The existing Guidelines lack congruity and need 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: Existing language is 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 existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 104(a):

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

Problem: The existing Guidelines lack congruity and need 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 existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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: Guidelines do 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 existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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: Existing language does 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 existing Guidelines lack congruity and need to be organized more efficiently.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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 proposed:

Entire Section:

Purpose: Title changed to better align Guideline structure.

Problem: The existing Guidelines lack congruity and need 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 is 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 existing language does 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: Existing language does not account for Qualifying Unpaid Mature Loans and the reference to LIHTC is unclear.

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: Content does not conform to an alphabetized format.

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

This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Previous Section 105(d):

Purpose: Moves to Section 105(b).

Problem: Content does not conform to an alphabetized format.

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

This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 106: Provisions Specific to Senior Loans

The following amendments to this section have been proposed:

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 existing 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: Existing language lacks congruity with other provisions in this section.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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: Existing language does 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: Existing language lacks congruity with other provisions in this section.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Previous Section 106(b)(2):

Purpose: Removes Section (b)(2).

Problem: Language is 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: Existing language lacks congruity with other provisions in this section.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Previous Section 106(b)(4):

Purpose: Moves to Section 106(f).

Problem: Existing language lacks congruity with other provisions in this section.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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: Existing language is 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 relating to Special Rent Increase no longer applies.

Rationale and Benefits: Removes obsolete language.

Alternatives Considered: None.

Previous Section 106(c)(1):

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

Problem: Organization of previous section lacks 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 previous section lacks clarity.

Rationale and Benefits: Provides clarity to stakeholders. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 106(c):

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

Problem: Existing language is 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: Existing language is clear 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). Adds reference to rate and term refinances and allows for other activities resulting in lower project debt.

Problem: Existing language is unclear and lacks flexibility for approving Fiscal Integrity.

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

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 definition of Special Rent Increase is unnecessary and the existing language lacks specific references to reasonable cost.

Rationale and Benefits: Removes generic definition of Special Rent Increase that is unnecessary and has 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 Loan Portfolio Restructuring Program (LPR).

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: Existing language pertaining to a physical needs assessment is 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: Existing language is 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: Existing language is 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: Existing language lacks congruity and is 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: Existing language lacks congruity and is unclear.

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;

Alternatives Considered: None.

Section 106(g)(2):

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

Problem: Existing language lacks congruity and is 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 current 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.

Previous Section 107: Requirements for Senior Loans

The following amendments to this section have been proposed:

Entire Section:

Purpose: Moves to Section 106.

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

Rationale and Benefits: Provides congruity and clarity to stakeholders and lenders. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 107: Program-Specific Requirements

The following amendments to this section have been proposed:

Entire Section:

Purpose: Retitles section to better align Guideline structure.

Problem: Existing title does 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: Previous 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 are unclear.

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: Existing language does 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: Existing language does 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: Existing language does 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: Existing language does 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: Existing language does 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: Existing language does 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 existing Guidelines are not organized on a program basis.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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 targeted housing and services and clear documentation in loan documents.

Alternatives Considered: None.

Previous Section 107(c):

Purpose: Moves to Section 106(b)

Problem: Existing language lacks congruity and is 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 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: Existing language lacks congruity and is 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 relating to Special Rent Increase no longer applies.

Rationale and Benefits: Removes obsolete language.
Alternatives Considered: None.

Previous Section 107(f):

Purpose: Moves to Section 106(d)

Problem: Existing language lacks congruity and is 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: Existing language is 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 proposed:

Entire Section:

Purpose: Completely rewritten to comply with statutory requirements per Health and Safety Code 50406.4.

Problem: The original 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: Language relating to Special Rent eliminated to align the Guidelines with statutory requirements under Health and Safety Code 50560(b).

Rationale and Benefits: Removes obsolete language.

Alternatives Considered: None.

Section 108(a):

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

Problem: The existing 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 existing 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 existing 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 existing 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 existing 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 existing Guidelines lack 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 existing 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 existing 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 existing 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 existing 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 must maintain income and rent limits consistent with Original Program, including requirements for rent increases.

Problem: The existing 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 existing Guidelines lack 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 existing Guidelines lack 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 existing 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 existing 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 existing 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 existing 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 existing Guidelines lack provisions requiring annual reporting on the status of Existing Tenants, which is essential for monitoring compliance and tenant affordability protections after Restructuring. The revised language introduces an annual reporting requirement to track rent levels and tenant status, ensuring ongoing alignment with program Guidelines.

Rationale and Benefits: 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 existing 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: Guidelines do 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 existing Guidelines lack clarity regarding the noticing requirements for initial rent increases and reference 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.

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 existing Guidelines lack clarity regarding the noticing requirements for initial rent increases and reference 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.

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 existing Guidelines lack clarity regarding the noticing requirements for initial rent increases and reference 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.

Alternatives Considered: None.

Section 108(c):

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

Problem: The existing 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 existing Guidelines clarifies 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 existing 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 existing 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 existing Guidelines lack detailed provisions requiring that New Tenants be notified about potential displacement, temporary relocation, lack of relocation eligibility, and possible rent increases. The revised language ensures that prospective New Tenants are fully informed about these conditions in accordance with relocation laws.

Rationale and Benefits: 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 existing Guidelines lack updated provisions addressing rent and occupancy standards for units vacated after restructuring. The revised language specifies that rents and occupancy requirements for vacated units must adhere to the levels outlined in the LPR Regulatory Agreement.

Rationale and Benefits: 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 existing 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 existing Guidelines lack clarity on which rent increase rules apply for Projects receiving HUD's Housing Choice Voucher or similar rental assistance. The revised language specifies that the rent increase rules of the rental assistance program will prevail in case of conflict.

Rationale and Benefits: 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 existing Guidelines lack provisions addressing rent adjustments for units previously covered by project-based rental assistance that has been terminated. 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).

Rationale and Benefits: This update ensures compliance with the 2019 MHP Guidelines and provides clear guidance for managing rent increases in these scenarios.

Alternatives Considered: None.

Section 109: Provisions for Extracted Equity

The following amendments to this section have been proposed:

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: The existing Guidelines do not address Extracted Equity as mandated or provide standards for its use, leaving a legal and statutory gap under AB 130.

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 encourage reinvestment in affordable housing.

Alternatives Considered: None.

Previous Section 109:

Purpose: Moves to Section 107.

Problem: The existing Guidelines lack congruity and need to be organized more efficiently.

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

Alternative considered: This subsection could have been left unmodified. However, since other changes are being proposed this seems like the appropriate time for minor clarifications.

Previous Section 109(a):

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

Problem: Existing formatting does not allow for the incorporation of additional, program specific requirements.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 109(a)(1–5)

Purpose: Implements AB 130 and incorporates SB 686 by establishing permissible uses of Extracted Equity, including: (1) contributions to EE Projects; (2) reserve funding; (3) acquisition of limited partner interests; (4) repayment of qualifying deferred developer fees; and (5) reimbursement of documented Sponsor/related-party advances for predevelopment costs, capital improvements, and operating deficits (subject to prior Department approval, 36-month lookback, third-party-verified documentation, and no prior reimbursement). Maintains a housing reinvestment fee for non-qualifying uses.

Problem: Current Guidelines do not address Extracted Equity or set standards for its use, creating a compliance gap under AB 130 and lacking SB 686's clarified reimbursement pathway.

Rationale and Benefits: Ensures compliance with AB 130/SB 686; provides clear, auditable uses and conditions; protects affordability and tenant safeguards (no rent increases to support equity extraction); preserves reserves; and channels non-qualifying uses through a reinvestment mechanism to support additional affordable housing.

Alternatives Considered: None.

Previous Section 109(b):

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

Problem: Existing formatting does not allow for the incorporation of additional, program specific requirements.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 109(b)

Purpose: Establishes repayment and cash-flow calculations for Original Program loans, including 3% simple interest for loans reduced under Health & Safety Code §50406.7(a), calculated from original recordation.

Problem: Current Guidelines do not address Extracted Equity or provide standards for its use, creating a statutory gap under AB 130.

Rationale and Benefits: Ensures statutory compliance and repayment consistency while allowing compliant Borrowers to receive net cashflow, protecting program and project integrity.

Alternatives Considered: None.

Section 109(c)

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

Problem: Current Guidelines do not address Extracted Equity or provide standards for its use, creating a statutory gap under AB 130.

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

Alternatives Considered: None.

Section 109(d)

Purpose: Secures the monitoring fee and performance obligations under Department Loan Documents with a monitoring fee deed of trust.

Problem: Current Guidelines do not address Extracted Equity or provide standards for its use, creating a statutory gap under AB 130.

Rationale and Benefits: Provides enforceable security and ensures compliance with affordability provisions.

Alternatives Considered: None.

Section 109(e)

Purpose: Requires the Department's entire LPR Regulatory Agreement to be recorded senior to all debt.

Problem: Current Guidelines do not address Extracted Equity or provide standards for its use, creating a statutory gap under AB 130.

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

Alternatives Considered: None.

Section 109(f)

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

Problem: Current Guidelines do not address Extracted Equity or provide standards for its use, creating a statutory gap under AB 130.

Rationale and Benefits: Protects Department's affordability interests while allowing legal exceptions.

Alternatives Considered: None.

Section 109(g)

Purpose: Requires Source Project to achieve Fiscal Integrity with a 1.15 debt-service coverage ratio for 15 years as per Health and Safety Code 50406.4 and limits loan-to-value to 70%.

Problem: Current Guidelines do not address Extracted Equity or provide standards for its use, creating a statutory gap under AB 130.

Rationale and Benefits: Ensures compliance with Statutory requirements and promotes long-term financial stability and reduces risk to Department funds.

Alternatives Considered: None.

Section 109(h)

Purpose: Restricts Source Projects from receiving additional Department funding for 15 years following restructuring.

Problem: Current Guidelines do not address Extracted Equity or provide standards for its use, creating a statutory gap under AB 130. 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.

Alternatives Considered: None.

Section 109(i)

Purpose: Declares Restructurings with outstanding, undisbursed HCD funding awards ineligible.

Problem: No clear bar on proceeding while prior awards remain undisbursed.

Rationale and Benefits: Prevents overlap and funding conflicts. Ensures use of existing awards before extraction of equity. Prevents misuse of Department funds and 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: Lack of clarity on rent treatment during and after tenancy turnover.

Rationale and Benefits: Protects incumbent tenants while enabling updated standards on turnover consistent with Section 108.

Alternatives Considered: None.

Section 109(k)(1-2)

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

Problem: Current Guidelines do not address Extracted Equity or provide mechanisms for inappropriate use of Extracted Equity.

Rationale and Benefits: Deters misuse, enforces accountability, and reinvests funds into affordable housing.

Alternatives Considered: None.

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

The following amendments to this section have been proposed:

Entire Section:

Purpose: Utilized previously reserved section for new Provisions for the Payoff of Original Program Loans or Paid off Department Loans

Problem: Existing title does not have a section specifically for Provisions for the Payoff of Original Program Loans or Paid off Department Loans.

Rationale and Benefits: Provides congruity as to Guideline content.

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 existing Guidelines lacked a formalized procedure for the payoff of Department loans prior to the end of the loan term. To address this, the revised Guidelines now require prior written consent from the Department, granted at its sole discretion. Payoff requests must comply with specific provisions within the Guidelines. 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.

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.

Alternatives Considered: None.

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: No 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: 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 §8315.

Problem: Ambiguity regarding what Department encumbrances may be subordinated in financing stacks given loan payoff.

Rationale and Benefits: Clarifies lien-priority. Allows some flexibility while preserving affordability protections.

Alternatives Considered: None.

Section 110(d)

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

Problem: Ambiguity regarding applicable requirements after payoff.

Rationale and Benefits: Provides clear cross-reference to ensure continued compliance and consistency.

Alternatives Considered: None.

Section 110(e)

Purpose: Continues Department requirements for occupancy/financial reporting, financial audits, and governance of operating income and project reserves after full payoff, unless waived in writing; waivers may be rescinded at the Department's sole discretion.

Problem: Post-payoff obligations are not clearly stated.

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

Alternatives Considered: None.

Section 110(f)(1-2)

Purpose: Excludes (1) Maturity Payoffs and (2) Residual Receipt Payoffs with no Restructuring from this section; these are handled under the Original Program terms.

Problem: Risk of misapplying restructuring provisions to routine payoffs.

Rationale and Benefits: Preserves program consistency and correct processing pathways.

Alternatives Considered: None.

Section 111: Application Process

The following amendments to this section have been proposed:

Previous Section 111(a-f):

Purpose: Removes unclear language.

Problem: The Department's application requirements are unclear.

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: Guidelines do not 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: The Guidelines do not 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: Guidelines do not 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 Section 50565.

Alternatives Considered: None.

Section 111(d):

Purpose: Provides clarification regarding the Department's use of available documentation to determine the accuracy and reasonableness of information contained in the application.

Problem: Existing language does not provide the Department with the option of using available information.

Rationale and Benefits: Provides 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: Leave language unchanged.

Section 112: Underwriting and Other Requirements

The following amendments to this section have been proposed:

Entire Section:

Purpose: Retitles section to clarify GuidelineGuideline content.

Problem: Existing title does not reference other non-underwriting requirements.

Rationale and Benefits: Clarifies GuidelineGuideline content.

Alternatives Considered: None.

Section 112 First Paragraph:

Purpose: Provides additional references to the UMRs and 2019 MHP Guidelines.

Problem: Existing language does not provide all applicable references.

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 inconsistent with the UMRs regarding Replacement Reserves requirements.

Problem: Existing language does 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: Existing language is not clear.

Rationale and Benefits: Clarifies language regarding commercial vacancy assumptions.

Alternatives Considered: None.

Previous Section 112(b):

Purpose: Moves to Section 112(a).

Problem: Content does not conform to an alphabetized format.

Rationale and Benefits: Provides consistency through use of an alphabetized format. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 112(b):

Purpose: Formerly Section 114(c). Provides clarification regarding the treatment of commercial income for purposes of calculating Operating Income.

Problem: Existing language is unclear regarding the treatment of commercial income.

Rationale and Benefits: Clarifies that all commercial income is to be included with residential income for purposes of calculating Operating Income. This practice is in accordance with how the Department historically treats commercial income.

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: Existing language pertaining to operating expenses is unclear and does 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: Existing language lacks minimum debt coverage ratio, does not account for Fiscal Integrity, and reference to Special Rent Increases does not conform to statute.

Rationale and Benefits: Clarifies the language regarding debt service coverage ratio, adds language regarding Fiscal Integrity, and eliminates language regarding Special Rent Increases.

Alternatives Considered: None.

Section 112(e):

Purpose: Provides clarification regarding the eligibility of developer fees for tax credit projects.

Problem: Existing language is unclear for the eligibility of developer fees for tax credit projects.

Rationale and Benefits: Clarifies that developer fees shall only be payable in the event of a resyndication involving major rehabilitation and aligns eligibility of developer fees with TCAC standards.

Alternatives Considered: None.

Section 112(f):

Purpose: Provides clarification regarding the calculation of developer fees and removes reference to Net Developer Fee.

Problem: Existing language is unclear and includes definition of Net Developer Fee which no longer applies.

Rationale and Benefits: Clarifies the limits on developer fees and removes definition of Net Developer Fee that no longer applies.

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: Guidelines do not include a limitation on developer fees 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.

Alternatives Considered: None.

Section 112(f)(2):

Purpose: Provides guidance for developer fees on 9% tax credit projects.

Problem: Guidelines do not include reference to 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: Guidelines do not include reference to MHP Guidelines Section 7305(b)(2).

Rationale and Benefits: Clarifies reference to MHP Guidelines Section 7305(b)(2) and provides a consistent methodology for calculating developer fee 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: Guidelines were 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: Guidelines do not align developer fees with more restrictive sources.

Rationale and Benefits: Aligns the developer fees with sources that are more restrictive.

Alternatives Considered: None.

Previous 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 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: The existing Guidelines do not sufficiently call out and 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: Previous Guidelines allowed ambiguity in the treatment of cash payments during project sales, which could undermine financial integrity.

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 in previous Guidelines 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 Section 50468(a).

Rationale and Benefits: Aligns requirements of 2019 MHP Guidelines with Health and Safety Code Section 50468(a).

Alternatives Considered: None.

Section 113: Department Fees

The following amendments to this section have been proposed:

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 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.

Alternatives Considered: None

Section 113(a)(Example 1-2):

Purpose: Provides guidance regarding non-refundable application fees.

Problem: Original Guidelines are unclear and do not account for all types of Restructurings.

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: Existing language lacks congruity.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like 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: Previous fee structure did not adequately cover the varying complexity and administrative costs associated with different Restructuring scenarios including, but not limited to, Restructurings that involve Extracted Equity.

Rationale and Benefits: Since the last Guideline update, the Departments 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)(3). Revises the provision allowing monitoring fees to be paid "below the line".

Problem: Existing language pertaining to the deferral of monitoring fees is unclear.

Rationale and Benefits: Clarifies the requirements for allowing monitoring fees to be paid "below the line".

Alternatives Considered: None

Section 113(c)(1–3):

Purpose: Provides language to address miscellaneous fees.

Problem: The existing Guidelines do not account for additional work for which the Department receives no compensation.

Rationale and Benefits: Enables the Department to cover its cost for additional work that is not covered by (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 has never been utilized.

Rationale and Benefits: Removes unutilized language.

Alternatives Considered: None

Section 113(d):

Purpose: Creates subsection for monitoring fees.

Problem: The existing Guidelines are unclear and difficult to follow.

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, payable annually before UMR §8314 cash-flow determinations, for the full LPR regulatory term; one fee per project even if multiple loans are restructured; fee is in addition to payments on loans not restructured.

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 Borrower and making monitoring simpler and more efficient for the Department

Alternatives Considered: None.

Section 113(d)(2)

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); fee is prorated on a 360-day basis in year one, due the last day of the Initial Operating Year and annually thereafter, and remains constant over the LPR term; defers LPR loan interest to Operating Income remaining after approved Operating Expenses, other debt service, and reserve deposits; applies to HUD 202/811.

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.

Alternatives Considered: None.

Section 113(d)(3)

Purpose: Clarifies that for Original Program loans with a mandatory annual payment, monitoring fee determination and commencement .

Problem: Unclear cross-reference for loans with mandatory annual payments.

Rationale and Benefits: Aligns monitoring fees with the existing mandatory-payment framework for consistency and compliance.

Alternatives Considered: None.

Section 113(d)(4)

Purpose: Sets the first annual monitoring fee due on the last day of the first fiscal year after recordation; requires 360-day proration in year one; establishes fee schedule by unit count (including scattered sites) and CPI increases beginning in 2026.

Problem: Commencement timing, amounts, and inflation adjustments are unclear.

Rationale and Benefits: Provides predictable timing, standardized fees, and inflation indexing.

Alternatives Considered: None.

Section 113(d)(5)

Purpose: Sets the LPR monitoring fee for new Scattered Sites Projects as the greater of (i) the sum of Original Program mandatory annual payments (if any) or (ii) the fee based on total units per Section 113(d)(4).

Problem: No clear standard or guidance for monitoring fees on Scattered Sites Projects and each Legacy Program Project may have different monitoring fee structures, it is in the best interests of the Department to have a uniform monitoring fee for Scattered Site Projects.

Rationale and Benefits: Provides a predictable, conservative fee rule to ensure adequate oversight Projects.

Alternatives Considered: None.

Section 113(d)(6)

Purpose: Allows monitoring fee deferral for loan extensions under Section 104 only as necessary to maintain Fiscal Integrity; requires available cash flow after Operating Expenses, mandatory debt service, and reserve deposits to first pay the monitoring fee; deferred fees accrue and are paid before deferred developer fees, asset/partnership management fees, and other Sponsor distributions.

Problem: Deferral conditions and payment priority are unclear.

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: Existing language is 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: Existing language lacks congruity and the Department no longer allows the waiver of monitoring fees.

Rationale and Benefits: Provides congruity as to Guideline content and eliminates language that no longer applies.

Alternatives Considered: None

Previous Section 113(i)(1-4):

Purpose: Moves to Sections 113(a-b).

Problem: Existing language lacks 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 proposed:

Section 114(a):

Purpose: Provides updated references to UMRs and removes reference to former Section 113(h).

Problem: Guideline language does not align with UMRs and former Section 113(h) no longer applies.

Rationale and Benefits: Clarifies references to the UMRs and removes references that no longer apply.

Alternatives Considered: None

Section 114(b):

Purpose: Provides clarification regarding the submittal of a proforma with the application.

Problem: Existing language pertaining to the proforma requirement is unclear.

Rationale and Benefits: Clarifies the requirement for submittal of a proforma at application to ensure Projects meet feasibility requirements.

Alternatives Considered: None

Previous Section 114(c):

Purpose: Moves to Section 112(b).

Problem: Existing language lacks congruity.

Rationale and Benefits: Provides congruity as to Guideline content. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 115: On-going Management Requirements

The following amendments to this section have been proposed:

Entire Section:

Purpose: Removes excess language and incorporates defined terms.

Problem: Existing language is excessive and does not incorporate defined terms.

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: The existing Guidelines do not use the defined term for the UMRs and do not reference Section 8314.

Rationale and Benefits: Referencing the applicable sections of the UMRs ensures consistency across Department programs by applying the standardized criteria established in the regulations. This approach also aligns with the statutory requirements outlined in Health and Safety Code Section 50561(g).

Alternatives Considered: None

Section 115(b)(1 -- 7):

Purpose: Provides updated references to the 2019 MHP Guidelines from the MHP Regulations.

Problem: The existing Guidelines reference the MHP Regulations.

Rationale and Benefits: Updates applicable references to the 2019 MHP Guidelines.

Alternatives Considered: None

Previous Section 115(b)(1):

Purpose: Moves to Section 115(b)(2).

Problem: Formatting lacks congruity.

Rationale and Benefits: Provides congruity in formatting. This change is being proposed only 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: Guidelines do 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 are being proposed this seems like the appropriate time for minor clarifications.

Previous Section 115(b)(2):

Purpose: Moves to Section 115(b)(4).

Problem: Formatting lacks congruity.

Rationale and Benefits: Provides congruity in formatting. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Previous Section 115(b)(3):

Purpose: Moved to Section 115(b)(5).

Problem: Formatting lacks congruity.

Rationale and Benefits: Provides congruity in formatting. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Section 115(b)(3):

Purpose: Incorporates reference to Section 7322.

Problem: Guidelines do 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: Formatting lacks congruity.

Rationale and Benefits: Provides congruity in formatting. This change is being proposed only 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 are being proposed this seems like the appropriate time for minor clarifications.

Previous Section 115(b)(5):

Purpose: Moved to Section 115(b)(7).

Problem: Formatting lacks congruity.

Rationale and Benefits: Provides congruity in formatting. This change is being proposed only 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 are being proposed this seems like 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 proposed regulatory action.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department has determined that the proposed 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 proposed 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 an initial determination that the proposed 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 proposed action. While private businesses (including nonprofits) are eligible to participate under the LPR, participation is voluntary.