

File No. 141007

Committee Item No. 2

Board Item No. 9

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date October 1, 2014

Board of Supervisors Meeting

Date October 7, 2014

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Completed by: Linda Wong Date September 26, 2014
 Completed by: L.W. Date October 2, 2014

1 [Multifamily Housing Revenue Bonds - 588 Mission Bay Boulevard North (aka, Mission
2 Bay South Block 7 West) - Not to Exceed \$60,000,000]

3 **Resolution declaring the intent of the City and County of San Francisco (City) to**
4 **reimburse certain expenditures from proceeds of future bonded indebtedness;**
5 **authorizing the Director of the Mayor's Office of Housing and Community**
6 **Development (Director) to submit an application and related documents to the**
7 **California Debt Limit Allocation Committee (CDLAC) to permit the issuance of**
8 **residential mortgage revenue bonds in an aggregate principal amount not to**
9 **exceed \$60,000,000 for 588 Mission Bay Boulevard North (also known as, Mission**
10 **Bay South Block 7 West); authorizing and directing the Director to direct the**
11 **Controller's Office to hold in trust an amount not to exceed \$100,000 in**
12 **accordance with CDLAC procedures; authorizing the Director to certify to CDLAC**
13 **that the City has on deposit the required amount; authorizing the Director to pay**
14 **an amount equal to such deposit to the State of California if the City fails to issue**
15 **the residential mortgage revenue bonds; approving, for purposes of the Internal**
16 **Revenue Code of 1986, as amended, the issuance and sale of residential**
17 **mortgage revenue bonds by the City in an aggregate principal amount not to**
18 **exceed \$60,000,000; authorizing and directing the execution of any documents**
19 **necessary to implement this Resolution; and ratifying and approving any action**
20 **heretofore taken in connection with the Project, as defined herein and the**
21 **Application, as defined herein.**

22
23 WHEREAS, The Board of Supervisors of the City and County of San Francisco
24 (Board of Supervisors), after careful study and consideration, has determined that there
25 is a shortage of safe and sanitary housing within the City, particularly for low and

1 moderate income persons, and that it is in the best interest of the residents of the City
2 and in furtherance of the health, safety, and welfare of the public for the City to assist in
3 the financing of multi-family rental housing units; and

4 WHEREAS, Acting under and pursuant to the powers reserved to the City under
5 Sections 3, 5, and 7 of Article XI of the Constitution of the State of California and
6 Sections 1.101 and 9.107 of the Charter, the City has enacted the City and County of
7 San Francisco Residential Mortgage Revenue Bond Law (City Law), constituting Article
8 I of Chapter 43 of the San Francisco Administrative Code, in order to establish a
9 procedure for the authorization, issuance and sale of residential mortgage revenue
10 bonds by the City for the purpose of providing funds to encourage the availability of
11 adequate housing and home finance for persons and families of low or moderate
12 income, and to develop viable communities by providing decent housing, enhanced
13 living environments, and increased economic opportunities for persons and families of
14 low or moderate income; and

15 WHEREAS, In addition, pursuant to Division 31 of the Health and Safety Code of
16 the State of California, and particularly Chapter 7 of Part 5 thereof (State Law), the City
17 is empowered to issue and sell bonds for the purpose of making mortgage loans or
18 otherwise providing funds to finance the development of multi-family rental housing
19 including units for lower income households and very low income households; and

20 WHEREAS, **Mission Bay Block 7 Housing Partners, LP**, a California limited
21 partnership formed by Related Companies (or any successor thereto including any
22 successor owner of the Project, the Developer), desires to construct a 200-unit
23 residential rental housing development located at 588 Mission Bay Boulevard North
24 (also known as Mission Bay South Block 7 West) San Francisco, California 94107
25 (Project); and

1 WHEREAS, The Developer has requested that the City assist in the financing of
2 the Project through the issuance of one or more series of tax-exempt mortgage revenue
3 bonds (Bonds); and

4 WHEREAS, The City expects that proceeds of the Bonds will be used to pay
5 certain costs incurred in connection with the Project prior to the date of issuance of the
6 Bonds; and

7 WHEREAS, The City intends to issue the Bonds in an amount not to exceed
8 \$60,000,000 and to loan the proceeds of the Bonds to the Developer (Loan) to finance
9 costs of the Project; and

10 WHEREAS, The Board of Supervisors has determined that the moneys
11 advanced and to be advanced to pay certain expenditures of the Project are or will be
12 available only for a temporary period and it is necessary to reimburse such expenditures
13 with respect to the Project from the proceeds of the Bonds; and

14 WHEREAS, Section 1.150-2 of the United States Treasury Regulations requires
15 that the Board of Supervisors declare its reasonable official intent to reimburse prior
16 expenditures for the Project with proceeds of the Bonds; and

17 WHEREAS, The interest on the Bonds may qualify for tax exemption under
18 Section 103 of the Internal Revenue Code of 1986, as amended (Code), only if the
19 Bonds are approved in accordance with Section 147(f) of the Code; and

20 WHEREAS, The City now wishes to approve the issuance of the Bonds in order
21 to satisfy the public approval requirements of Section 147(f) of the Code; and

22 WHEREAS, The Project is located wholly within the City; and

23 WHEREAS, On June 9, 2014, the City caused a notice stating that a public
24 hearing with respect to the issuance of the Bonds would be held by the Mayor's Office
25 of Housing and Community Development on June 23, 2014, to appear in The San

1 Francisco Chronicle, which is a newspaper of general circulation in the City; and

2 WHEREAS, The Mayor's Office of Housing and Community Development held
3 the public hearing described above on June 23, 2014, and an opportunity was provided
4 for persons to comment on the issuance of the Bonds and the Project; and the minutes
5 of such hearing were provided to this Board of Supervisors prior to this meeting; and

6 WHEREAS, This Board of Supervisors is the elected legislative body of the City
7 and is the applicable elected representative authorized to approve the issuance of the
8 Bonds within the meaning of Section 147(f) of the Code; and

9 WHEREAS, Section 146 of the Code limits the amount of tax-exempt private
10 activity bonds, which include qualified mortgage bonds, that may be issued in any
11 calendar year by entities within a state and authorizes the legislature of each state to
12 provide the method of allocating authority to issue tax-exempt private activity bonds
13 within the respective state; and

14 WHEREAS, Chapter 11.8 of Division 1 of Title 2 of the Government Code of the
15 State of California governs the allocation in the State of California of the state ceiling
16 established by Section 146 of the Code among governmental units in the State having
17 the authority to issue tax-exempt private activity bonds; and

18 WHEREAS, Section 8869.85(b) of the Government Code requires that a local
19 agency file an application for a portion of the state ceiling with or upon the direction of
20 the California Debt Allocation Committee (CDLAC) prior to the issuance of tax-exempt
21 private activity bonds, including qualified mortgage bonds; and

22 WHEREAS, CDLAC procedures require an applicant for a portion of the state ceiling to
23 certify to CDLAC that the applicant has on deposit an amount equal to one-half of one
24 percent (0.5%) of the amount of allocation requested but not to exceed \$100,000.00;
25 now, therefore, be it

1 RESOLVED, By the Board of Supervisors of the City and County of San
2 Francisco, as follows:

3 Section 1. The Board of Supervisors finds and determines that the foregoing
4 recitals are true and correct.

5 Section 2. The Board of Supervisors adopts this Resolution for purposes of
6 establishing compliance with the requirements of Section 1.150-2 of the United States
7 Treasury Regulations. This Resolution does not bind the Board of Supervisors to issue
8 the Bonds, approve the Loan or to make any expenditure, incur any indebtedness or
9 proceed with the Project.

10 Section 3. The Board of Supervisors hereby declares its official intent under
11 United States Treasury Regulations Section 1.150-2 to use proceeds of the Bonds to
12 reimburse expenditures incurred in connection with the Project. The Board of
13 Supervisors hereby further declares its intent to use such proceeds to reimburse the
14 Developer for actual expenditures made by the Developer on the Project.

15 Section 4. On the date of the expenditure to be reimbursed, all reimbursable
16 costs of the Project will be of a type properly chargeable to a capital account under
17 general federal income tax principles.

18 Section 5. The maximum principal amount of debt expected to be issued for the
19 Project is \$60,000,000.

20 Section 6. This Board of Supervisors, as the applicable elected representative of
21 the governmental unit having jurisdiction over the area in which the Project is located,
22 hereby approves the issuance of the Bonds for purposes of Section 147(f) of the Code.

23 Section 7. This approval of the issuance of the Bonds by the City is neither an
24 approval of the underlying credit issues of the proposed Project nor an approval of the
25 financial structure of the Bonds.

1 Section 8. The Board of Supervisors hereby authorizes the Director, or his
2 designee of the Mayor's Office of Housing and Community Development (Director), on
3 behalf of the City, to submit an application (Application), and such other documents as
4 may be required, to CDLAC pursuant to Government Code Section 8869.85 for an
5 allocation for the Project of a portion of the state ceiling for private activity bonds in a
6 principal amount not to exceed \$60,000,000.

7 Section 9. An amount equal to \$100,000 (Deposit) is hereby authorized to be
8 held on deposit in connection with the Application and the applicable CDLAC
9 procedures, and the Director is authorized to certify to CDLAC that such funds are
10 available; which Deposit shall consist of a restriction on cash in the Hotel Tax Fund
11 established pursuant to Section 515.01 of Article 7 of the San Francisco Business and
12 Tax Regulations Code (Hotel Tax Fund).

13 Section 10. If the City receives a CDLAC allocation and the applicable issuance
14 requirements are not met, the Mayor's Office of Housing and Community Development
15 is hereby authorized to cause an amount equal to the Deposit to be paid to the State of
16 California from the Hotel Tax Fund, if required by CDLAC.

17 Section 11. The officers and employees of the City and the Director are hereby
18 authorized and directed, jointly and severally, to do any and all things necessary or
19 advisable to consummate the receipt of an allocation from CDLAC and otherwise
20 effectuate the purposes of this Resolution, and all actions previously taken by such
21 officers and employees with respect to the Project, including but not limited to the
22 submission of the application to CDLAC, are hereby ratified and approved.

23 Section 12. This Resolution shall take effect from and after its adoption by the
24 Board and approval by the Mayor.
25

FILE NO.

RESOLUTION . . J.

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APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: 
HEIDI GEWERTZ
Deputy City Attorney

Project Description

588 Mission Bay Boulevard North (aka, Mission Bay South Block 7 West)

The project, Mission Bay Block 7, is approximately 230,000-square-foot mixed-use residential / retail building within the western portion of Block 7 located on Fourth Street between China Basin and Mission Bay Boulevard North, within the Mission Bay - South Redevelopment Area. On the 80,859 square feet /1.86 acre site, the building will contain ground-level active-street-front retail along Fourth Street, 200 rental one- and two-bedroom units, a 52 space parking structure, at-grade and podium level courtyards, common amenity spaces for residents, and accessory use spaces.

With four stories of Type V wood construction over one level of Type I concrete podium construction along the west side of the block, and three stories of Type V construction over Type I concrete podium on the east side; the building massing is broken into discrete volumes to provide a varied and lively streetwall edge, with a larger urban street-wall treatment along the Mission Bay Boulevard North frontage. The building wraps around a large communal open space for gathering and relaxing. The courtyard, while protected, is visually open to provide a glimpse of green to passersby through the building entry. At the center of the open space a small, active, community pavilion provides a space for residents to gather, cook, and do laundry.

The approximately 10,000 square feet of retail space along Fourth Street wraps around the corner at Mission Bay Boulevard North, providing neighborhood-serving amenities and creating a lively edge along the street. High transparency and colorful signage will create a vital and bustling street-wall edge along this edge. Along the eastern side of the property, a pedestrian mews corridor provides access to apartment units with raised porches. The building is visually-rich in materials, with the 'big-move' at the corner Mission Bay Boulevard and Fourth Street, facing the UCSF campus, clad in Cor-ten steel panels. Where the massing breaks into smaller volumes, the elevations are articulated with smooth-troweled cement plaster and accented with perforated aluminum sunshades and balcony railings. The ground-level is articulated with board formed concrete and ipe wood siding.

The proposed building uses several complimentary sustainable strategies to achieve a GreenPoint Rating. The high density mixed-use affordable housing project is located in direct proximity to the Third Street Light Rail and bike route along Fourth Street. The building will be low-energy and strive to surpass the Title 24 Energy Standards by 15%. The project also includes drought-tolerant landscaping, domestic solar hot-water panels, 52 residential parking spaces, and 306 secure bicycle parking spaces, plus visitor bicycle parking. Construction is expected to begin in the Spring of 2015.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on June 23, 2014, at 10 a.m., at the Mayor's Office of Housing and Community Development, 1 South Van Ness Avenue, 5th Floor, San Francisco, California 94103, the City and County of San Francisco (the "City") will conduct a public hearing (the "Public Hearing") at which time the City will hear and consider information concerning the proposed sale and issuance by the City of private activity multifamily affordable housing mortgage revenue bonds (the "Bonds") in an aggregate principal amount not to exceed forty-seven million five hundred thousand dollars (\$60,000,000). All or a portion of the proceeds of the Bonds will be loaned to Related/Mission Bay Block 7 Development Co., LLC (or any successor thereto including any successor owner of the Project) (the "Borrower"), pursuant to a loan agreement (the "Loan Agreement"). The proceeds of the Bonds loaned to the Borrower will be used to finance the construction of up to 200 affordable rental units located at 588 North (aka, Mission Bay South Block 7 West, 4th Street between China Basin Street and Mission Bay Boulevard), San Francisco, California 94107, including ground floor retail along Fourth Street, a 53 space parking structure, at-grade and podium level courtyards, common amenity spaces for residents, and accessory use spaces (the "Project"). The Project will be owned and operated by the Borrower (or any successor thereto).

The Bonds will be paid entirely by the Borrower from the revenues of the Project, in accordance with the Loan Agreement. Neither the full faith and credit nor the taxing power of the City, the State of California (the "State") or any other political corporation, subdivision or agency of the State is pledged to the payment of the principal, premium, if any, or interest on the Bonds, nor shall the City, the State or any other political corporation, subdivision or agency of the State be liable or obligated to pay the principal, premium, if any, or interest on the Bonds.

The Public Hearing is intended to comply with the public approval requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended.

All those interested in matters related to the issuance of the Bonds and to the financing of the Project are invited to attend and be heard at this hearing. Interested parties may appear in person at the time and place indicated above or submit written comments, which must be received prior to the Public Hearing, to the City, c/o Pamela Sims, Office of Community Investment and Infrastructure, at the address indicated above.

Date: June 9, 2014

CITY AND COUNTY OF SAN FRANCISCO
Teresa Yanga, Housing Development Director
Mayor's Office of Housing and Community
Development

CALIFORNIA CONSTITUTION
ARTICLE 11 LOCAL GOVERNMENT

SEC. 1. (a) The State is divided into counties which are legal subdivisions of the State. The Legislature shall prescribe uniform procedure for county formation, consolidation, and boundary change. Formation or consolidation requires approval by a majority of electors voting on the question in each affected county. A boundary change requires approval by the governing body of each affected county. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

(b) The Legislature shall provide for county powers, an elected county sheriff, an elected district attorney, an elected assessor, and an elected governing body in each county. Except as provided in subdivision (b) of Section 4 of this article, each governing body shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum. The Legislature or the governing body may provide for other officers whose compensation shall be prescribed by the governing body. The governing body shall provide for the number, compensation, tenure, and appointment of employees.

CALIFORNIA CONSTITUTION
ARTICLE 11 LOCAL GOVERNMENT

SEC. 2. (a) The Legislature shall prescribe uniform procedure for city formation and provide for city powers.

(b) Except with approval by a majority of its electors voting on the question, a city may not be annexed to or consolidated into another.

CALIFORNIA CONSTITUTION
ARTICLE 11 LOCAL GOVERNMENT

SEC. 3. (a) For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. A charter, amendment, revision, or repeal thereof shall be published in the official state statutes. County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith. The provisions of a charter are the law of the State and have the force and effect of legislative enactments.

(b) The governing body or charter commission of a county or city may propose a charter or revision. Amendment or repeal may be proposed by initiative or by the governing body.

(c) An election to determine whether to draft or revise a charter and elect a charter commission may be required by initiative or by the governing body.

(d) If provisions of 2 or more measures approved at the same

election conflict, those of the measure receiving the highest affirmative vote shall prevail.

CALIFORNIA CONSTITUTION
ARTICLE 11 LOCAL GOVERNMENT

SEC. 4. County charters shall provide for:

(a) A governing body of 5 or more members, elected (1) by district or, (2) at large, or (3) at large, with a requirement that they reside in a district. Charter counties are subject to statutes that relate to apportioning population of governing body districts.

(b) The compensation, terms, and removal of members of the governing body. If a county charter provides for the Legislature to prescribe the salary of the governing body, such compensation shall be prescribed by the governing body by ordinance.

(c) An elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms and removal.

(d) The performance of functions required by statute.

(e) The powers and duties of governing bodies and all other county officers, and for consolidation and segregation of county officers, and for the manner of filling all vacancies occurring therein.

(f) The fixing and regulation by governing bodies, by ordinance, of the appointment and number of assistants, deputies, clerks, attaches, and other persons to be employed, and for the prescribing and regulating by such bodies of the powers, duties, qualifications, and compensation of such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal.

(g) Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature as herein provided, the general laws adopted by the Legislature in pursuance of Section 1 (b) of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided.

(h) Charter counties shall have all the powers that are provided by this Constitution or by statute for counties.

CALIFORNIA CONSTITUTION
ARTICLE 11 LOCAL GOVERNMENT

SEC. 5. (a) It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith.

(b) It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for: (1) the constitution, regulation, and government of the city police force (2) subgovernment in all or part

of a city (3) conduct of city elections and (4) plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees.

CALIFORNIA CONSTITUTION
ARTICLE 11 LOCAL GOVERNMENT

SEC. 6. (a) A county and all cities within it may consolidate as a charter city and county as provided by statute.

(b) A charter city and county is a charter city and a charter county. Its charter city powers supersede conflicting charter county powers.

CALIFORNIA CONSTITUTION
ARTICLE 11 LOCAL GOVERNMENT

SEC. 7. A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

CALIFORNIA CONSTITUTION
ARTICLE 11 LOCAL GOVERNMENT

SEC. 7.5. (a) A city or county measure proposed by the legislative body of a city, charter city, county, or charter county and submitted to the voters for approval may not do either of the following:

(1) Include or exclude any part of the city, charter city, county, or charter county from the application or effect of its provisions based upon approval or disapproval of the city or county measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of the city, charter city, county, charter county, or any part thereof.

(2) Contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.

(b) "City or county measure," as used in this section, means an advisory question, proposed charter or charter amendment, ordinance, proposition for the issuance of bonds, or other question or proposition submitted to the voters of a city, or to the voters of a county at an election held throughout an entire single county.

CALIFORNIA CONSTITUTION

[Print](#)

San Francisco Charter

SEC. 1.101. RIGHTS AND POWERS.

The City and County of San Francisco may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter. The City and County may make and enforce within its limits all local police, sanitary and other ordinances and regulations. The City and County may appear, sue and defend in all courts in all matters and proceedings.

All rights and powers of a City and County which are not vested in another officer or entity by this Charter shall be exercised by the Board of Supervisors.

Print

San Francisco Charter

SEC. 9.107. REVENUE BONDS.

The Board of Supervisors is hereby authorized to provide for the issuance of revenue bonds. Revenue bonds shall be issued only with the assent of a majority of the voters upon any proposition for the issuance of revenue bonds, except that no voter approval shall be required with respect to revenue bonds:

1. Approved by three-fourths of all the Board of Supervisors if the bonds are to finance buildings, fixtures or equipment which are deemed necessary by the Board of Supervisors to comply with an order of a duly constituted state or federal authority having jurisdiction over the subject matter;
2. Approved by the Board of Supervisors prior to January 1, 1977;
3. Approved by the Board of Supervisors if the bonds are to establish a fund for the purpose of financing or refinancing for acquisition, construction or rehabilitation of housing in the City and County;
4. Authorized and issued by the Port Commission for any Port-related purpose and secured solely by Port revenues, or authorized and issued for any Airport-related purpose and secured solely by Airport revenues;
5. Issued for the purposes of assisting private parties and not-for-profit entities in the financing and refinancing of the acquisition, construction, reconstruction or equipping of any improvement for industrial, manufacturing, research and development, commercial and energy uses or other facilities and activities incidental thereto, provided the bonds are not secured or payable from any monies of the City and County or its commissions.
6. Issued for the purpose of the reconstruction or replacement of existing water facilities or electric power facilities or combinations of water and electric power facilities under the jurisdiction of the Public Utilities Commission, when authorized by resolution adopted by a three-fourths affirmative vote of all members of the Board of Supervisors.
7. Approved and authorized by the Board of Supervisors and secured solely by an assessment imposed by the City.
8. Issued to finance or refinance the acquisition, construction, installation, equipping, improvement or rehabilitation of equipment or facilities for renewable energy and energy conservation.

Except as expressly provided in this Charter, all revenue bonds may be issued and sold in accordance with state law or any procedure provided for by ordinance.

(Amended November 2001)

Print

San Francisco Administrative Code

ARTICLE I: RESIDENTIAL MORTGAGE REVENUE BOND LAW

Title 1 General Provisions And Definitions

- Sec. 43.1.1. Title.
- Sec. 43.1.2. Purpose.
- Sec. 43.1.3. Full Authority.
- Sec. 43.1.4. Additional Authority.
- Sec. 43.1.5. Definitions.
- Sec. 43.1.6. No Limitation on Appropriations.

Title 2 Financing Residences

- Sec. 43.1.7. Loans for Residences.
- Sec. 43.1.8. Acquisition, Construction, Leasing and Selling of Residences.
- Sec. 43.1.9. Fees.
- Sec. 43.1.10. Insurance.
- Sec. 43.1.11. Rents and Charges.
- Sec. 43.1.12. Security for Loans.
- Sec. 43.1.13. Professional Services.
- Sec. 43.1.14. Equal Opportunity.
- Sec. 43.1.15. Public Works Requirements Inapplicable.
- Sec. 43.1.16. Regulations.
- Sec. 43.1.17. Additional Powers.

Title 3 Bonds

- Sec. 43.1.18. Issuance of Bonds.
- Sec. 43.1.19. Bonds Not Debt of City.
- Sec. 43.1.20. Cost of Issuance; Reserve Funds; Capitalized Bond Interest.
- Sec. 43.1.21. Resolution and Bond Terms.
- Sec. 43.1.22. Bond Provisions.
- Sec. 43.1.23. Pledge of Revenues, Money or Assets; Lien.
- Sec. 43.1.24. No Personal Liability.

- Sec. 43.1.25. Purchase of Bonds by City.
- Sec. 43.1.26. Refunding Bonds.
- Sec. 43.1.27. Validity of Bonds.

Title 4 Supplemental Provisions

- Sec. 43.1.28. Liberal Construction.
- Sec. 43.1.29. Omissions Not to Affect Validity of Bonds.
- Sec. 43.1.30. Article Controlling.
- Sec. 43.1.31. Severability.

TITLE 1 - - GENERAL PROVISIONS AND DEFINITIONS

SEC. 43.1.1. TITLE.

This Article may be cited as the Residential Mortgage Revenue Bond Law.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.2. PURPOSE.

The Board of Supervisors hereby finds and declares that it is necessary, essential, a public purpose and a municipal affair for the City and County to make, purchase and contract for the making of below-market-interest-rate loans for the purpose of providing mortgage financing for the acquisition, construction, or rehabilitation of housing in the City and County to encourage the availability of adequate housing and home finance for persons and families, including those of low or moderate income, and to develop viable communities by providing decent housing and an enhanced living environment.

The City and County can promote such interests pursuant to this Article without adversely affecting areas outside the City and County and without conflicting with efforts by the State of California to solve problems of statewide concern.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.3. FULL AUTHORITY.

This Article is full authority for the issuance of bonds by the City and County for the purposes specified herein.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.4. ADDITIONAL AUTHORITY.

This Article shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers

conferred by other laws. The issuance of bonds under the provisions of this Article need not comply with the requirements of any other law applicable to the issuance of bonds.

The purposes authorized hereby may be effectuated and bonds may be issued for any such purposes under this Article notwithstanding that any other law may provide for such purposes or for the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations or other provisions contained in any other law.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.5. DEFINITIONS.

Unless the context otherwise requires, the terms defined in this Article shall have the following meanings:

(a) "Board of Supervisors" means the Board of Supervisors of the City and County of San Francisco.

(b) "Bonds" means any bonds, notes, certificates, debentures or other obligations issued by the City and County pursuant to this Article and payable as provided in this Article.

(c) "City" means the City and County of San Francisco.

(d) "Cost" means the total of all costs incurred by or on behalf of a participating party to carry out all works and undertakings and to obtain all rights and powers necessary or incident to the acquisition, construction, or rehabilitation of a residence. "Cost" may include all costs of issuance of bonds for such purposes and costs for construction undertaken by a participating party as its own contractor.

(e) "Participating party" means any individual, association, corporation, partnership or other entity which is approved by the City and County to undertake the financing of the costs of a residence pursuant to this Article.

(f) "Residence" means real property improved with a residential structure. "Residence" includes condominium and cooperative dwelling units, real property improved with single-family residential structures, and real property improved with multi-family residential structures.

(g) "Revenues" means amounts received by the City and County as payments of principal, interest, and all other charges with respect to a loan under this Article; as payments under a lease, sublease or sale agreement with respect to a residence; as proceeds received by the City and County from mortgage, hazard or other insurance on or with respect to such a loan (or any property securing such loan), lease, sublease or sale agreement, all other rents, charges, fees, income and receipts derived by the City and County from the financing of a residence under this Article; any amounts received by the City and County as investment earnings on moneys deposited in any fund securing bonds and such other legally available moneys as the Board of Supervisors may, in its discretion, lawfully designate as revenues, resolution, or any indenture authorized by such resolution to be entered into by the City and County.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.6. NO LIMITATION ON APPROPRIATIONS.

None of the Revenues, as defined by this Article, shall be taken into account in any manner in determining the City and County's compliance with Article XIII B of the California Constitution.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

TITLE 2 - - FINANCING RESIDENCES

SEC. 43.1.7. LOANS FOR RESIDENCES.

The City and County may use the proceeds of bonds to make, purchase, or otherwise contract for the making of, a mortgage or other secured or unsecured loan, upon such terms and conditions as the City and County shall deem proper, to any participating party for the costs of a residence.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.8. ACQUISITION, CONSTRUCTION, LEASING AND SELLING OF RESIDENCES.

The City and County may use the proceeds of bonds, or other moneys provided by or on behalf of a participating party, to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip and lease as lessee a residence solely for the purpose of selling or leasing as lessor such residence to such participating party, and may contract with such participating party to undertake on behalf of the City and County to construct, enlarge, remodel, renovate, alter, improve, furnish and equip such residence.

The City and County may sell or lease, upon such terms and conditions as the City and County shall deem proper, to a participating party any residence owned by the City and County under this Article, including a residence conveyed to the City and County in connection with a financing under this Article but not being financed hereunder.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.9. FEES.

The City and County may charge participating parties application, commitment, financing and other fees, in order to recover all administrative and other costs and expenses incurred in the exercise of the powers and duties conferred by this Article.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.10. INSURANCE.

The City and County may obtain, or, aid in obtaining, from any department or agency of the United States or of the State of California or any private company, any insurance or guarantee as to, or of, or for the payment or repayment of, interest or principal, or both, or any part thereof, on any loan, lease or sale obligation or any instrument evidencing or securing the same, made or entered

into pursuant to the provisions of this Article; and may accept payment in such manner and form as provided therein in the event of default by a participating party, and may assign any such insurance or guarantee as security for bonds.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.11. RENTS AND CHARGES.

The City and County may fix rents, payments, fees, charges and interest rates for financing under this Article and may agree to revise from time to time such rents, payments, fees, charges and interest rates to reflect changes in interest rates on bonds, losses due to defaults or changes in other expenses related to this Article, including City and County administrative expenses.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.12. SECURITY FOR LOANS.

The City and County may hold deeds of trust or mortgages or security interests in personal property as security for loans under this Article and may pledge or assign the same as security for repayment of bonds. Such deeds of trust, mortgages or security interests, or any other interest of the City and County in any residence, may be assigned to, and held on behalf of the City and County by any bank or trust company appointed to act as trustee by the City and County in any resolution or indenture providing for the issuance of bonds.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.13. PROFESSIONAL SERVICES.

The City and County may contract for such engineering, architectural, financial, accounting, legal or other professional services as may be necessary in the judgment of the City and County for the purposes of this Article.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.14. EQUAL OPPORTUNITY.

The City and County shall require that contractors and subcontractors engaged in the construction of facilities financed under this Article shall provide equal opportunity for employment, without discrimination as to race, marital status, sex, color, religion, national origin or ancestry.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.15. PUBLIC WORKS REQUIREMENTS INAPPLICABLE.

Except as specifically provided in this Article, the acquisition, construction, or rehabilitation of a residence financed under this Article shall not be subject to any requirements relating to buildings, works or improvements owned or operated by the City and County, and any requirement of public competitive bidding or other procedural restriction imposed on the award of contracts for

acquisition or construction of a City and County building, work or improvement or to the lease, sublease, sale or other disposition of City and County property shall not be applicable to any action taken under this Article.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.16. REGULATIONS.

The Mayor of the City and County, or a person designated by the Mayor, shall prepare and submit to the Board of Supervisors for approval, rules or regulations, or both, permitted under this Article.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.17. ADDITIONAL POWERS.

In addition to all other powers specifically granted by this Article, the City and County may do all things necessary or convenient to carry out the purposes of this Article, provided, however, that the City and County shall not have the power to operate a residence financed under this Article as a business, except temporarily in the case of a default by a participating party.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

TITLE 3 - - BONDS

SEC. 43.1.18. ISSUANCE OF BONDS.

The City and County may, from time to time, issue bonds for any of the purposes specified in Sections 142(d) and 143 of the Internal Revenue Code of 1986. Bonds shall be negotiable instruments for all purposes, subject only to the provisions of such bonds for registration.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.19. BONDS NOT DEBT OF CITY.

Every issue of bonds shall be a limited obligation of the City and County payable from all or any specified part of the revenues and the moneys and assets authorized in this Article to be pledged or assigned to secure payment of bonds. Such revenues, moneys or assets shall be the sole source of repayment of such issue of bonds. Bonds issued under the provisions of this Article shall not be deemed to constitute a debt or liability of the City and County or a pledge of the faith and credit of the City and County but shall be payable solely from specified revenues, moneys, and assets. The issuance of bonds shall not directly, indirectly, or contingently obligate the City and County to levy or pledge any form of taxation or to make any appropriation for their payment.

All bonds shall contain on the face thereof a statement to the following effect: Neither the faith and credit nor the taxing power of the City and County is pledged to the payment of the principal of or premium or interest on this bond.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.20. COST OF ISSUANCE; RESERVE FUNDS; CAPITALIZED BOND INTEREST.

In determining the amount of bonds to be issued, the City and County may include all costs of the issuance of such bonds, reserve funds and capitalized bond interest.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.21. RESOLUTION AND BOND TERMS.

Bonds may be issued as serial bonds, term bonds, installment bonds or pass-through certificates or any combination thereof. Bonds shall be authorized by resolution of the Board of Supervisors and shall bear such date or dates; mature at such time or times; bear interest at such fixed or variable rate or rates; be payable at such time or times; be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, be subject to such terms of redemption and have such other terms and conditions as such resolution, or any indenture authorized by such resolution to be entered into by the City and County, may provide. Bonds may be sold at either public or private sale and for such prices as the City and County shall determine.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.22. BOND PROVISIONS.

Any resolution authorizing any bonds or any issue of bonds, or any indenture authorized by such resolution to be entered into by the City and County, may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of such bonds:

- (a) The terms, conditions and form of such bonds and the interest and principal to be paid thereon;
- (b) Limitations on the uses and purposes to which the proceeds of sale of such bonds may be applied, and the pledge or assignment of such proceeds to secure the payment of such bonds;
- (c) Limitations on the issuance of additional parity bonds, the terms upon which additional parity bonds may be issued and secured, and the refunding of outstanding bonds;
- (d) The setting aside of reserves, sinking funds and other funds and the regulation and disposition thereof;
- (e) The pledge or assignment of all or any part of the revenues and of any other moneys or assets legally available therefor and the use and disposition of such revenues, moneys and assets;
- (f) Limitation on the use of revenues for operating, administration or other expenses of the City and County;
- (g) Specification of the acts or omissions to act which shall constitute a default in the duties of the City and County to holders of such bonds, and providing the rights and remedies of such

holders in the event of default, including any limitations on the right of action by individual bondholders;

(h) The appointment of a corporate trustee to act on behalf of the City and County and the holders of its bonds, the pledge or assignment of loans, deeds of trust, mortgages, leases, subleases, sale contracts and any other contracts to such trustee, and the rights of such trustee;

(i) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of such bonds the holders of which must consent thereto, and the manner in which such consent may be given; and

(j) Any other provisions which the Board of Supervisors may deem reasonable and proper for the purposes of this Article and the security of the bondholders.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.23. PLEDGE OF REVENUES, MONEY OR ASSETS; LIEN.

Any pledge of revenues or other moneys or assets pursuant to the provisions of this Article shall be valid and binding from the time such pledge is made. Revenues, moneys and assets so pledged and thereafter received by the City and County shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the City and County, irrespective of whether such parties have notice thereof. Neither the resolution nor any indenture by which a pledge is created need be filed or recorded except in the records of the City and County.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.24. NO PERSONAL LIABILITY.

Neither the members of the Board of Supervisors, the officers or employees of the City and County, nor any person executing any bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.25. PURCHASE OF BONDS BY CITY.

The City and County shall have the power out of any funds available therefor to purchase its bonds. The City and County may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with the bondholders.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.26. REFUNDING BONDS.

The City and County may issue bonds under this Article for the purpose of refunding any bonds then outstanding.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000; amended by Ord. 212-00, File No. 001331, App. 9/1/2000)

SEC. 43.1.27. VALIDITY OF BONDS.

The validity of the authorization and issuance of any bonds is not dependent on and shall not be affected in any way by any proceedings taken by the City and County for the approval of any financing or the entering into of any agreement, or by the failure to provide financing or enter into any agreement, for which bonds are authorized to be issued under this Article.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

TITLE 4 - - SUPPLEMENTAL PROVISIONS

SEC. 43.1.28. LIBERAL CONSTRUCTION.

This Article, being necessary for the welfare of the City and County and its inhabitants, shall be liberally construed to effect its purposes.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.29. OMISSIONS NOT TO AFFECT VALIDITY OF BONDS.

Any omission of any officer or the City and County in proceedings under this Article or any other defect in the proceedings shall not invalidate such proceedings or the bonds issued pursuant to this Article.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.30. ARTICLE CONTROLLING.

To the extent that the provisions of this Article are inconsistent with the provisions of any general statute or special act or parts thereof the provisions of this Article shall be deemed controlling.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

SEC. 43.1.31. SEVERABILITY.

If any provision of this Article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this Article which can be given effect without the invalid provision or application; and to this end the provisions of this Article are declared to be severable. The Board of Supervisors hereby declares that it would have adopted and passed this Article and each section, subsection, sentence, clause, phrase and word hereof, irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses, phrases or words hereof be declared invalid or unconstitutional.

(Added by Ord. 12-00, File No. 992117, App. 2/11/2000)

HEALTH AND SAFETY CODE

SECTION 52075-52087

CA Health and Safety Code
Division 31
Part 5
Chapter 7

52075. (a) Subject to the limitations of this chapter, any city or county may, in addition to any other power conferred by this part, issue revenue bonds as provided in Chapter 4 (commencing with Section 52030) for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to that multifamily rental housing.

(b) For this purpose, the term "home mortgage," as used in Chapter 4 (commencing with Section 52030), and as defined by Section 52013, shall be further defined to include construction loans and mortgage loans to housing sponsors to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to the multifamily rental housing.

(c) To the extent possible, Chapter 4 (commencing with Section 52030) shall be construed in a manner that enables a city or county to comply with the purpose and requirements of this chapter.

52075.1. As used in this chapter, "city or county" includes any city and county.

52076. Subject to the limitations prescribed in this chapter, a city or county may make, or undertake commitments to make, construction loans and mortgage loans to housing sponsors to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing. For this purpose, the city or county shall enter into regulatory contracts and other agreements with housing sponsors receiving loans under this chapter to assure all requirements of this chapter are satisfied.

52077. Subject to the limitations prescribed in this chapter, a city or county may purchase, or undertake, directly or indirectly through lending institutions, commitments to purchase, construction loans and mortgage loans originated in accordance with a financing agreement with the city or county to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and may make loans to lending institutions under terms and conditions which, in addition to other provisions determined by the city or county, shall require the lending institutions to use the net proceeds of the loans for the making, directly or indirectly, of construction loans or mortgage loans to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing.

52078. For the purposes of this chapter, a city or county shall have the power to issue its bonds to defray, in whole or in part, the costs of studies and surveys, insurance premiums, underwriting fees, legal, accounting, and marketing services incurred in connection with the issuance and sale of bonds, including bond and mortgage reserve accounts; trustee, custodian, and rating agency fees, and any other costs which are reasonably related to the foregoing.

52079. A city or county may, in conjunction with the financing of multifamily rental housing pursuant to this chapter, finance the acquisition, construction, rehabilitation, refinancing, or development of commercial property for lease, subject to all of the following conditions:

(a) No more than 10 percent of the proceeds of any revenue bonds issued pursuant to this chapter may be used to develop the commercial property for lease.

(b) The commercial property developed will be located on the same parcel or on a parcel adjacent to a multifamily rental housing development.

(c) As a condition of the financing, any lease payments collected in excess of payments necessary for debt service, operating expenses and any required reserves related to that property, shall be used to reduce rents on units reserved for occupancy by lower income households and very low income households in a multifamily rental housing development.

52080. (a) (1) A multifamily rental housing development financed, or for which financing has been extended or committed pursuant to this chapter from the proceeds of sale of each bond issue, shall at all times during the qualified project period meet the requirement of subparagraph (A) or (B), whichever is elected by the issuer at the time of issuance of the issue for each development:

(A) Twenty percent or more of the residential units in the development shall be occupied by individuals whose income is 50 percent or less of area median income.

(B) Forty percent or more of the residential units in the development shall be occupied by individuals whose income is 60 percent or less of area median income.

As used in this section, "qualified project period," "income," and "area median income" shall have the meanings specified in, and shall be determined in accordance with the provisions of, subsection (d) of Section 142 of the Internal Revenue Code of 1986, as amended, and United States Treasury regulations and rulings promulgated pursuant thereto.

With respect to a development for which the issuer has elected to meet the requirement of subparagraph (A), the rental payments paid by the occupants of the units meeting the requirement of subparagraph (A) (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed 30 percent of 50 percent of area median income. With respect to a development for which the issuer has elected to meet the requirement of subparagraph (B), the rental payments paid by the occupants of the units meeting the requirement of subparagraph (B) (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall

not exceed 30 percent of 60 percent of area median income.

(2) The governing body shall ensure that the local agency issuing permits for the acquisition, construction, rehabilitation, refinancing, or development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units and to the provision of units for very low income households through concessions and inducements including, but not limited to, the following:

(A) Reductions in construction and design requirements.

(B) Reductions in setback and square footage requirements and the ratio of vehicular parking spaces that would otherwise be required.

(C) Granting density bonuses.

(D) Providing expedited processing of permits.

(E) Modifying zoning code requirements to allow mixed use zoning.

(F) Reducing or eliminating fees and charges for filing and processing applications, petitions, permits, planning services, water and sewer connections, and other fees and charges.

(G) Reducing or eliminating requirements relating to monetary exactions, dedications, reservations of land, or construction of public facilities.

(H) Other financial incentives or concessions for the multifamily rental housing development which result in identifiable cost reductions, as determined by the governing body. The governing body shall ensure that the local agency issuing permits for the development considers its responsibilities under this section and makes a good faith effort to enhance the feasibility of the project and to provide housing for lower income households and very low income households.

(3) The governing body shall not permit a selection criteria to be applied to certificate holders under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) that is more burdensome than the criteria applied to all other prospective tenants.

(4) It is the intent of the Legislature that the governing body finance projects that assist in meeting the urgent need for providing shelter for lower income households, very low income households, and persons and families of low or moderate income. To that end, the quality of materials and the amenities provided should not be excessive so as to hinder the prospect of achieving the stated goal.

(5) It is the intent of the Legislature that the governing body finance projects that assist in meeting the urgent need for providing housing for families. To that end, developments with three- and four-bedroom units affordable to larger families shall have priority over competing developments.

(b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the city or county providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy until the bonds are retired. As a condition of financing provided by bonds issued on or after January 1, 1991, the housing sponsor shall enter into a regulatory agreement with the city or county providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy for the qualified project period. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located. The regulatory agreement shall be recorded in the grantor-grantee index to the name of the property owner as grantor and to the name of the city or county as grantee.

(c) The governing body shall ensure that units occupied by lower income households are of comparable quality and offer a range of sizes and number of bedrooms comparable to the units that are available to other tenants.

(d) (1) The city or county shall give priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees or other local fees for multifamily rental developments which incorporate innovative and energy-efficient techniques that reduce development or operating costs and that have the lowest feasible per unit cost, as determined by the city or county, based on efficiency of design or the elimination of improvements that are not required by applicable building standards.

(2) The city or county shall give equal priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees or other local fees on multifamily rental housing developments that do any of the following:

(A) Utilize federal housing or development assistance.

(B) Utilize redevelopment funds or other local financial assistance, including, but not limited to, contributions of land.

(C) Are sponsored by a nonprofit housing organization.

(D) Provide a significant number of housing units, as determined by the city or county, as part of a coordinated jobs and housing plan adopted by the city or county.

(E) Exceeds the ratios specified in subparagraph (A) or (B) of paragraph (1) of subdivision (a) or restricts the occupancy for these units for the longest period beyond the required minimum number of years.

(e) (1) New and existing rental housing developments may be syndicated after prior written approval of the governing body. The governing body shall grant that approval only after the city or county determines that the terms and conditions of the syndication comply with this section.

(2) The terms and conditions of the syndication shall not reduce or limit any of the requirements of this chapter or regulations adopted or documents executed pursuant to this chapter. No requirements of the city or county shall be subordinated to the syndication agreement. A syndication shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

(f) At the option of the city or county, the amendments to this subdivision made by Chapter 907 of the Statutes of 1983 may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.

(g) Following the expiration or termination of the qualified project period, except in the event of foreclosure and redemption of the bonds, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy pursuant to subdivision (a) and financed or refinanced with proceeds of bonds issued pursuant to this section on or after January 1, 1991, or refinanced with the proceeds of bonds issued pursuant to Section 53583 of the Government Code or any charter city authority on or after January 1, 2007, shall remain available to any eligible household occupying a reserved unit at the date of expiration or termination, at a rent not greater than the amount set forth by subdivision (a), until the earliest of any of the following occur:

(1) The household's income exceeds 140 percent of the maximum eligible income specified in subdivision (a).

(2) The household voluntarily moves or is evicted for "good cause." "Good cause" for the purposes of this section, means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the development, or the purposes or special programs of the development.

(3) Thirty years after the date of the commencement of the qualified project period.

(4) The sponsor pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the Government Code.

(5) The amendment to this subdivision made during the 2005-06 Regular Session of the Legislature is declaratory of existing law.

(h) During the three years prior to expiration of the qualified project period, the sponsor shall continue to make available to eligible households reserved units that have been vacated to the same extent that nonreserved units are made available to noneligible households.

(i) This section shall not be construed to require a city or county to monitor the sponsor's compliance with the provisions of subdivision (g).

(j) The requirements of subdivisions (g) to (i), inclusive, shall be contained in a regulatory agreement required pursuant to subdivision (b).

(k) Notwithstanding Section 1461 of the Civil Code, the provisions of this section shall run with the land and may be enforced either in law or in equity by any resident, local agency, entity, or by any other person adversely affected by an owner's failure to comply with this section.

52080.5. (a) (1) When refunding revenue bonds for multifamily housing which were previously issued pursuant to Section 52080, the city, county, or city and county shall ensure that rental units required, by this chapter or by applicable federal law at the time the original bonds were issued, to be reserved for occupancy for low- and very low income households shall remain occupied by, or made available to, those persons at least until the later of the following:

(A) The date originally so required.

(B) As long as any bonds remain outstanding with respect to the development.

(2) For bonds previously issued to finance a development where all of the units, other than management units, are, at the time of the refunding, subsidized by a housing assistance payments contract for new construction and substantial rehabilitation pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), subparagraph (B) of paragraph (1) shall refer to a period of time until the termination of the contract.

(b) The city, county, or city and county may determine that the period set forth in paragraph (1) of subdivision (a) shall not apply to the refunding of previously issued revenue bonds for which there is a mandatory redemption or acceleration as a result of default under the terms of the existing loan agreement or other security documents.

52081. For purposes of this article, "housing sponsor" means a

person as defined in Section 52016.

52085. The primary purpose of this chapter is to meet the multifamily rental housing needs of persons and families of low or moderate income. The exercise of the powers granted by this division shall be in all respects for the benefit of the people of this state and for their health and welfare. Therefore, any bonds issued by a city, county, or city and county pursuant to this chapter, their transfer, and the income therefrom shall at all times be free from taxation by the state or any political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

52086. Two or more cities in the same county, or a county and one or more cities within the county, or two or more counties, may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing multifamily rental housing development pursuant to this chapter.

52087. The same notice requirements specified in Section 65863.10 of the Government Code shall apply to multifamily rental housing that receives financial assistance pursuant to this chapter.

HEALTH AND SAFETY CODE

SECTION 52090-52092

52090. This article constitutes an alternative method for cities and counties to issue bonds for making construction loans and mortgage loans for multifamily rental housing developments pursuant to the provisions of this chapter.

52090.5. The agency and any city or county may enter into an agreement which provides that the agency may sell bonds authorized pursuant to Chapter 4 (commencing with Section 52030) for the city or county and operate a program with the proceeds of the sale for the purpose of providing funds for construction loans and mortgage loans for multifamily rental housing developments within the city or county and for the provision of capital improvements in connection with and determined necessary to the multifamily rental housing.

52091. Any agreement made pursuant to Section 52090.5 shall contain all of the following provisions:

(a) Limitations on the maximum amount of bonds to be issued by a city or county.

(b) A requirement that all bonds and any prospectus in connection with the bonds contain a legend condition to the following effect: "Neither the faith and credit of the State of California or the agency nor the taxing power of the state is pledged to the payment of principal or interest on this bond."

(c) A requirement that the agency approve the bond counsel selected by the city or county.

(d) The designation of criteria for multifamily rental housing developments eligible for financing; the number of units which shall be available for occupancy by persons of low income, which shall not be less than 20 percent of the total units; the amount to be allocated to a bond reserve fund; and, any other matters which the agency finds necessary or desirable.

(e) That the agency shall make construction loans and mortgage loans for multifamily rental housing developed within the city or county.

(f) That the agency shall supervise all construction and management of multifamily rental housing developments financed pursuant to this chapter on behalf of the city or county, and with the same powers and duties under this chapter, to ensure that all requirements of this part are met.

52091.5. Bonds issued pursuant to this article shall not be deemed bonds of the agency for the purposes of any limitations contained in Section 51350.

52092. The agency shall adopt uniform regulations for administration of local programs under this article. Local programs

conducted by the agency under this article shall be administered in a manner consistent with this chapter.

HEALTH AND SAFETY CODE

SECTION 52095

52095. Whenever a complaint is received concerning a violation of the restrictions imposed pursuant to Section 52080, the city or county shall investigate promptly and make a report to the complaining party on whether the violation existed and whether it persists, and if it persists, what action the city or county will take to remedy the violation. When the city or county determines that a violation exists, whether determined upon an investigation of a complaint or on its own motion, the city or county shall take all appropriate action, including necessary legal action, to promptly eliminate the violation.

Notwithstanding any provision of this section, any person aggrieved by a violation may seek a judicial remedy without regard to whether a complaint has been made to the city or county or whether the city or county is then taking any action to remedy the violation.

HEALTH AND SAFETY CODE

SECTION 52097-52098

52097. Except as otherwise provided in this article, this chapter shall not be construed to limit or otherwise restrict the authority of chartered cities to issue bonds for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing or for the provision of capital improvements in connection with and determined necessary to that multifamily rental housing. For purposes of this article, certificates of participation in any form of obligation of a city, county, or city and county shall be considered to be bonds.

52097.5. (a) Multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of sale of each bond issue shall at all times during the qualified project period meet the requirement of paragraph (1) or (2), whichever is elected by the issuer at the time of issuance of the issue for each development:

(1) Twenty percent or more of the residential units in the development shall be occupied by individuals whose income is 50 percent or less of area median income.

(2) Forty percent or more of the residential units in the development shall be occupied by individuals whose income is 60 percent or less of area median income.

As used in this subdivision, "qualified project period," "income," and "area median income" shall have the meanings specified in, and shall be determined in accordance with the provisions of, subsection (d) of Section 142 of the Internal Revenue Code of 1986, as amended, and United States Treasury regulations and rulings promulgated pursuant thereto.

(b) With respect to a development for which the issuer has elected to meet the requirement of paragraph (1) of subdivision (a), the rental payments paid by the occupants of the units meeting the requirement of paragraph (1) of subdivision (a) (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed 30 percent of 50 percent of area median income.

(c) With respect to a development for which the issuer has elected to meet the requirement of paragraph (2) of subdivision (a), the rental payments paid by the occupants of the units meeting the requirement of paragraph (2) of subdivision (a) (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those occupants or on behalf of those units) shall not exceed 30 percent of 60 percent of area median income.

52098. Each city, county, and city and county that has issued bonds pursuant to this chapter or a charter provision or ordinance for the purposes specified in Section 52097 shall file a report annually, on

or before March 1, with the Governor, the Legislature, and the department, which report shall include all of the following information:

(a) The total amount of bonds issued by the city, county, or city and county pursuant to this chapter or another authority.

(b) The total number of units in multifamily rental housing developments financed pursuant to this chapter or another authority.

(c) The total number of units in multifamily rental housing developments reserved for occupancy on a priority basis for lower income households.

(d) The total number of units, if any, in a multifamily rental housing development reserved for occupancy on a priority basis for very low income households.

<http://www.law.cornell.edu/cfr/text/26/1.150-2>

26 CFR 1.150-2 Proceed of bonds used for Reimbursement

§ 1.150-2 Proceeds of bonds used for reimbursement.

(a) *Table of contents.* This table of contents contains a listing of the headings contained in § 1.150-2.

(a) Table of contents.

(b) Scope.

(c) Definitions.

(d) General operating rules for reimbursement expenditures.

(1) Official intent.

(2) Reimbursement period.

(3) Nature of expenditure.

(e) Official intent rules.

(1) Form of official intent.

(2) Project description in official intent.

(3) Reasonableness of official intent.

(f) Exceptions to general operating rules.

(1) De minimis exception.

(2) Preliminary expenditures exception.

(g) Special rules on refundings.

(1) In general—once financed, not reimbursed.

(2) Certain proceeds of prior issue used for reimbursement treated as unspent.

(h) Anti-abuse rules.

(1) General rule.

(2) One-year step transaction rule.

(i) Authority of the Commissioner to prescribe rules.

(j) Effective date.

(1) In general.

(2) Transitional rules.

(b) *Scope.* This section applies to reimbursement bonds (as defined in paragraph (c) of this section) for all purposes of sections 103 and 141 to 150.

(c) *Definitions.* The following definitions apply:

Issuer means—

(1) For any private activity bond (excluding a qualified 501(c)(3) bond, qualified student loan bond, qualified mortgage bond, or qualified veterans' mortgage bond), the entity that actually issues the reimbursement bond; and

(2) For any bond not described in paragraph (1) of this definition, either the entity that actually issues the reimbursement bond or, to the extent that the reimbursement bond proceeds are to be loaned to a conduit borrower, that conduit borrower.

Official intent means an issuer's declaration of intent to reimburse an original expenditure with proceeds of an obligation.

Original expenditure means an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond.

Placed in service means, with respect to a facility, the date on which, based on all the facts and circumstances—

(1) The facility has reached a degree of completion which would permit its operation at substantially its design level; and

(2) The facility is, in fact, in operation at such level.

Reimbursement allocation means an allocation in writing that evidences an issuer's use of proceeds of a reimbursement bond to reimburse an original expenditure. An allocation made within 30 days after the issue date of a reimbursement bond may be treated as made on the issue date.

Reimbursement bond means the portion of an issue allocated to reimburse an original expenditure that was paid before the issue date.

(d) *General operating rules for reimbursement expenditures.* Except as otherwise provided, a reimbursement allocation is treated as an expenditure of proceeds of a reimbursement bond for the governmental purpose of the original expenditure on the date of the reimbursement allocation only if:

(1) *Official intent.* Not later than 60 days after payment of the original expenditure, the issuer adopts an official intent for the original expenditure that satisfies paragraph (e) of this section.

(2) *Reimbursement period—*

(i) *In general.* The reimbursement allocation is made not later than 18 months after the later of—

(A) The date the original expenditure is paid; or

(B) The date the project is placed in service or abandoned, but in no event more than 3 years after the original expenditure is paid.

(ii) *Special rule for small issuers.* In applying paragraph (d)(2)(i) of this section to an issue that satisfies section 148(f)(4)(D)(i) (I) through (IV), the “18 month” limitation is changed to “3 years” and the “3-year” maximum reimbursement period is disregarded.

(iii) *Special rule for long-term construction projects.* In applying paragraph (d)(2)(i) to a construction project for which both the issuer and a licensed architect or engineer certify that at least 5 years is necessary to complete construction of the project, the maximum reimbursement period is changed from “3 years” to “5 years.”

(3) *Nature of expenditure.* The original expenditure is a capital expenditure, a cost of issuance for a bond, an expenditure described in § 1.148-6(d)(3)(ii)(B) (relating to certain extraordinary working capital items), a grant (as defined in § 1.148-6(d)(4)), a qualified student loan, a qualified mortgage loan, or a qualified veterans' mortgage loan.

(e) *Official intent rules.* An official intent satisfies this paragraph (e) if:

(1) *Form of official intent.* The official intent is made in any reasonable form, including issuer resolution, action by an appropriate representative of the issuer (e.g., a person authorized or designated to declare official intent on behalf of the issuer), or specific legislative authorization for the issuance of obligations for a particular project.

(2) *Project description in official intent—*

(i) *In general.* The official intent generally describes the project for which the original expenditure is paid and states the maximum principal amount of obligations expected to be issued for the project. A project includes any property, project, or program (e.g., *highway capital improvement program, hospital equipment acquisition, or school building renovation*).

(ii) *Fund accounting.* A project description is sufficient if it identifies, by name and functional purpose, the fund or account from which the original expenditure is paid (e.g., *parks and recreation fund—recreational facility capital improvement program*).

(iii) *Reasonable deviations in project description.* Deviations between a project described in an official intent and the actual project financed with reimbursement bonds do not invalidate the

official intent to the extent that the actual project is reasonably related in function to the described project. For example, *hospital equipment* is a reasonable deviation from *hospital building improvements*. In contrast, a *city office building rehabilitation* is not a reasonable deviation from *highway improvements*.

(3) *Reasonableness of official intent*. On the date of the declaration, the issuer must have a reasonable expectation (as defined in § 1.148-1(b)) that it will reimburse the original expenditure with proceeds of an obligation. Official intents declared as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for the project (e.g., *blanket declarations*) are not reasonable. Similarly, a pattern of failure to reimburse actual original expenditures covered by official intents (other than in extraordinary circumstances) is evidence of unreasonableness. An official intent declared pursuant to a specific legislative authorization is rebuttably presumed to satisfy this paragraph (e)(3).

(f) *Exceptions to general operating rules*—

(1) *De minimis exception*. Paragraphs (d)(1) and (d)(2) of this section do not apply to costs of issuance of any bond or to an amount not in excess of the lesser of \$100,000 or 5 percent of the proceeds of the issue.

(2) *Preliminary expenditures exception*. Paragraphs (d)(1) and (d)(2) of this section do not apply to any preliminary expenditures, up to an amount not in excess of 20 percent of the aggregate issue price of the issue or issues that finance or are reasonably expected by the issuer to finance the project for which the preliminary expenditures were incurred. Preliminary expenditures include architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction, or rehabilitation of a project, other than land acquisition, site preparation, and similar costs incident to commencement of construction.

(g) *Special rules on refundings*—

(1) *In general—once financed, not reimbursed*. Except as provided in paragraph (g)(2) of this section, paragraph (d) of this section does not apply to an allocation to pay principal or interest on an obligation or to reimburse an original expenditure paid by another obligation. Instead, such an allocation is analyzed under rules on refunding issues. See § 1.148-9.

(2) *Certain proceeds of prior issue used for reimbursement treated as unspent*. In the case of a refunding issue (or series of refunding issues), proceeds of a prior issue purportedly used to reimburse original expenditures are treated as unspent proceeds of the prior issue unless the purported reimbursement was a valid expenditure under applicable law on reimbursement expenditures on the issue date of the prior issue.

(h) *Anti-abuse rules*—

(1) *General rule*. A reimbursement allocation is not an expenditure of proceeds of an issue under this section if the allocation employs an abusive arbitrage device under § 1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under sections 142 through 147.

(2) *One-year step transaction rule*—

(i) *Creation of replacement proceeds*. A purported reimbursement allocation is invalid and thus is not an expenditure of proceeds of an issue if, within 1 year after the allocation, funds corresponding to the proceeds of a reimbursement bond for which a reimbursement allocation was made are used in a manner that results in the creation of replacement proceeds (as defined in § 1.148-1) of that issue or another issue. The preceding sentence does not apply to amounts deposited in a bona fide debt service fund (as defined in § 1.148-1).

(ii) *Example.* The provisions of paragraph (h)(2)(i) of this section are illustrated by the following example.

Example.

On January 1, 1994, County *A* issues an issue of 7 percent tax-exempt bonds (the *1994 issue*) and makes a purported reimbursement allocation to reimburse an original expenditure for specified capital improvements. *A* immediately deposits funds corresponding to the proceeds subject to the reimbursement allocation in an escrow fund to provide for payment of principal and interest on its outstanding 1991 issue of 9 percent tax-exempt bonds (the *prior issue*). The use of amounts corresponding to the proceeds of the reimbursement bonds to create a sinking fund for another issue within 1 year after the purported reimbursement allocation invalidates the reimbursement allocation. The proceeds retain their character as unspent proceeds of the 7 percent issue upon deposit in the escrow fund. Accordingly, the proceeds are subject to the 7 percent yield restriction of the 1994 issue instead of the 9 percent yield restriction of the prior issue.

(i) *Authority of the Commissioner to prescribe rules.* The Commissioner may by revenue ruling or revenue procedure (see § 601.601(d)(2)(ii)(b) of this chapter) prescribe rules for the expenditure of proceeds of reimbursement bonds in circumstances that do not otherwise satisfy this section.

(j) *Effective date—*

(1) *In general.* The provisions of this section apply to all allocations of proceeds of reimbursement bonds issued after June 30, 1993.

(2) *Transitional rules—*

(i) *Official intent.* An official intent is treated as satisfying the official intent requirement of paragraph (d)(1) of this section if it—

(A) Satisfied the applicable provisions of § 1.103-8(a)(5) as in effect prior to July 1, 1993, (as contained in 26 CFR part 1 revised as of April 1, 1993) and was made prior to that date, or

(B) Satisfied the applicable provisions of § 1.103-18 as in effect between January 27, 1992, and June 30, 1993, (as contained in 26 CFR part 1 revised as of April 1, 1993) and was made during that period.

(ii) *Certain expenditures of private activity bonds.* For any expenditure that was originally paid prior to August 15, 1993, and that would have qualified for expenditure by reimbursement from the proceeds of a private activity bond under T.D. 7199, section 1.103-8(a)(5), C.B. 45 (see § 601.601(d)(2)(ii)(b)) of this chapter, the requirements of that section may be applied in lieu of this section.

[T.D. 8476, 58 FR 33551, June 18, 1993; 58 FR 44453, Aug. 23, 1993]

26 U.S. Code § 103 – Interest on State and local bonds

(a) Exclusion

Except as provided in subsection (b), gross income does not include interest on any State or local bond.

(b) Exceptions

Subsection (a) shall not apply to—

(1) Private activity bond which is not a qualified bond

Any private activity bond which is not a qualified bond (within the meaning of section 141).

(2) Arbitrage bond

Any arbitrage bond (within the meaning of section 148).

(3) Bond not in registered form, etc.

Any bond unless such bond meets the applicable requirements of section 149.

(c) Definitions

For purposes of this section and part IV—

(1) State or local bond

The term “State or local bond” means an obligation of a State or political subdivision thereof.

(2) State

The term “State” includes the District of Columbia and any possession of the United States.

26 U.S. Code § 147 – Other requirements applicable to certain private activity bonds

(f) Public approval required for private activity bonds

(1) In general

A private activity bond shall not be a qualified bond unless such bond satisfies the requirements of paragraph (2).

(2) Public approval requirement

(A) In general

A bond shall satisfy the requirements of this paragraph if such bond is issued as a part of an issue which has been approved by—

(i) the governmental unit—

(I) which issued such bond, or

(II) on behalf of which such bond was issued, and

(ii) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the net proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area within such State in which such facility is located, only 1 such unit need approve such issue).

(B) Approval by a governmental unit

For purposes of subparagraph (A), an issue shall be treated as having been approved by any governmental unit if such issue is approved—

(i) by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, or

(ii) by voter referendum of such governmental unit.

(C) Special rules for approval of facility

If there has been public approval under subparagraph (A) of the plan for financing a facility, such approval shall constitute approval under subparagraph (A) for any issue—

(i) which is issued pursuant to such plan within 3 years after the date of the 1st issue pursuant to the approval, and

(ii) all or substantially all of the proceeds of which are to be used to finance such facility or to refund previous financing under such plan.

(D) Refunding bonds

No approval under subparagraph (A) shall be necessary with respect to any bond which is issued to refund (other than to advance refund) a bond approved under subparagraph (A) (or treated as approved under subparagraph (C)) unless the average maturity date of the issue of which the refunding bond is a part is later than the average maturity date of the bonds to be refunded by such issue. For purposes of the preceding sentence, average maturity shall be determined in accordance with subsection (b)(2)(A).

(E) Applicable elected representative

For purposes of this paragraph—

(i) In general The term “applicable elected representative” means with respect to any governmental unit—

(I) an elected legislative body of such unit, or

(II) the chief elected executive officer, the chief elected State legal officer of the executive branch, or any other elected official of such unit designated for purposes of this paragraph by such chief elected executive officer or by State law.

If the office of any elected official described in subclause (II) is vacated and an individual is appointed by the chief elected executive officer of the governmental unit and confirmed by the elected legislative body of such unit (if any) to serve the remaining term of the elected official, the individual so appointed shall be treated as the elected official for such remaining term.

(ii) No applicable elected representative If (but for this clause) a governmental unit has no applicable elected representative, the applicable elected representative for purposes of clause (i) shall be the applicable elected representative of the governmental unit—

(I) which is the next higher governmental unit with such a representative, and

(II) from which the authority of the governmental unit with no such representative is derived.

(3) Special rule for approval of airports or high-speed intercity rail facilities

If—

(A) the proceeds of an issue are to be used to finance a facility or facilities located at an airport or high-speed intercity rail facilities, and

(B) the governmental unit issuing such bonds is the owner or operator of such airport or high-speed intercity rail facilities,

such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport or high-speed intercity rail facilities for purposes of this subsection.

(4) Special rules for scholarship funding bond issues and volunteer fire department bond issues

(A) Scholarship funding bonds

In the case of a qualified scholarship funding bond, any governmental unit which made a request described in section 150 (d)(2)(B) with respect to the issuer of such bond shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued. Where more than one governmental unit within a State has made a request described in section 150 (d)(2)(B), the State may also be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

(B) Volunteer fire department bonds

In the case of a bond of a volunteer fire department which meets the requirements of section 150 (e), the political subdivision described in section 150 (e)(2)(B) with respect to such department shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

26 U.S. Code § 146 – Volume cap

(a) General rule

A private activity bond issued as part of an issue meets the requirements of this section if the aggregate face amount of the private activity bonds issued pursuant to such issue, when added to the aggregate face amount of tax-exempt private activity bonds previously issued by the issuing authority during the calendar year, does not exceed such authority's volume cap for such calendar year.

(b) Volume cap for State agencies

For purposes of this section—

(1) In general

The volume cap for any agency of the State authorized to issue tax-exempt private activity bonds for any calendar year shall be 50 percent of the State ceiling for such calendar year.

(2) Special rule where State has more than 1 agency

If more than 1 agency of the State is authorized to issue tax-exempt private activity bonds, all such agencies shall be treated as a single agency.

(c) Volume cap for other issuers

For purposes of this section—

(1) In general

The volume cap for any issuing authority (other than a State agency) for any calendar year shall be an amount which bears the same ratio to 50 percent of the State ceiling for such calendar year as—

(A) the population of the jurisdiction of such issuing authority, bears to

(B) the population of the entire State.

(2) Overlapping jurisdictions

For purposes of paragraph (1)(A), if an area is within the jurisdiction of 2 or more governmental units, such area shall be treated as only within the jurisdiction of the unit having jurisdiction over the smallest geographical area unless such unit agrees to surrender all or part of such jurisdiction for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

(d) State ceiling

For purposes of this section—

(1) In general

The State ceiling applicable to any State for any calendar year shall be the greater of—

(A) an amount equal to \$75 (\$62.50 in the case of calendar year 2001) multiplied by the State population, or

(B) \$225,000,000 (\$187,500,000 in the case of calendar year 2001).

(2) Cost-of-living adjustment

In the case of a calendar year after 2002, each of the dollar amounts contained in paragraph (1) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1 (f)(3) for such calendar year by substituting “calendar year 2001” for “calendar year 1992” in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of \$5 (\$5,000 in the case of the dollar amount in paragraph (1)(B)), such increase shall be rounded to the nearest multiple thereof.

(3) Special rule for States with constitutional home rule cities

For purposes of this section—

(A) In general

The volume cap for any constitutional home rule city for any calendar year shall be determined under paragraph (1) of subsection (c) by substituting “100 percent” for “50 percent”.

(B) Coordination with other allocations

In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying subsections (b) and (c) with respect to issuing authorities in such State other than constitutional home rule cities, the State ceiling for any calendar year shall be reduced by the aggregate volume caps determined for such year for all constitutional home rule cities in such State.

(C) Constitutional home rule city

For purposes of this section, the term “constitutional home rule city” means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the 1st day of the calendar year.

(4) Special rule for possessions with populations of less than the population of the least populous State

(A) In general

If the population of any possession of the United States for any calendar year is less than the population of the least populous State (other than a possession) for such calendar year, the limitation under paragraph (1)(A) shall not be less than the amount determined under subparagraph (B) for such calendar year.

(B) Limitation

The limitation determined under this subparagraph, with respect to a possession, for any calendar year is an amount equal to the product of—

(i) the fraction—

(I) the numerator of which is the amount applicable under paragraph (1)(B) for such calendar year, and

(II) the denominator of which is the State population of the least populous State (other than a possession) for such calendar year, and

(ii) the population of such possession for such calendar year.

(5) Increase and set aside for housing bonds for 2008

(A) Increase for 2008

In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to \$11,000,000,000 multiplied by a fraction—

(i) the numerator of which is the State ceiling applicable to the State for calendar year 2008, determined without regard to this paragraph, and

(ii) the denominator of which is the sum of the State ceilings determined under clause (i) for all States.

(B) Set aside

(i) In general Any amount of the State ceiling for any State which is attributable to an increase under this paragraph shall be allocated solely for one or more qualified housing issues.

(ii) Qualified housing issue For purposes of this paragraph, the term “qualified housing issue” means—

(I) an issue described in section 142 (a)(7) (relating to qualified residential rental projects), or

(II) a qualified mortgage issue (determined by substituting “12-month period” for “42-month period” each place it appears in section 143 (a)(2)(D)(i)).

(e) State may provide for different allocation

For purposes of this section—

(1) In general

Except as provided in paragraph (3), a State may, by law provide a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue tax-exempt private activity bonds.

(2) Interim authority for Governor

(A) In general

Except as otherwise provided in paragraph (3), the Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue private activity bonds.

(B) Termination of authority

The authority provided in subparagraph (A) shall not apply to bonds issued after the earlier of—

(i) the last day of the 1st calendar year after 1986 during which the legislature of the State met in regular session, or

(ii) the effective date of any State legislation with respect to the allocation of the State ceiling.

(3) State may not alter allocation to constitutional home rule cities

Except as otherwise provided in a State constitutional amendment (or law changing the home rule provision adopted in the manner provided by the State constitution), the authority provided in this subsection shall not apply to that portion of the State ceiling which is allocated to any constitutional home rule city in the State unless such city agrees to such different allocation.

(f) Elective carryforward of unused limitation for specified purpose

(1) In general

If—

(A) an issuing authority's volume cap for any calendar year after 1985, exceeds

(B) the aggregate amount of tax-exempt private activity bonds issued during such calendar year by such authority,

such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward purposes.

(2) Election must identify purpose

In any election under paragraph (1), the issuing authority shall—

(A) identify the purpose for which the carryforward is elected, and

(B) specify the portion of the excess described in paragraph (1) which is to be a carryforward for each such purpose.

(3) Use of carryforward

(A) In general

If any issuing authority elects a carryforward under paragraph (1) with respect to any carryforward purpose, any private activity bonds issued by such authority with respect to such purpose during the 3 calendar years following the calendar year in which the carryforward arose shall not be taken into account under subsection (a) to the extent the amount of such bonds does not exceed the amount of the carryforward elected for such purpose.

(B) Order in which carryforward used

Carryforwards elected with respect to any purpose shall be used in the order of the calendar years in which they arose.

(4) Election

Any election under this paragraph (and any identification or specification contained therein), once made, shall be irrevocable.

(5) Carryforward purpose

The term "carryforward purpose" means—

- (A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142 (a),
- (B) the purpose of issuing qualified mortgage bonds or mortgage credit certificates,
- (C) the purpose of issuing qualified student loan bonds, and
- (D) the purpose of issuing qualified redevelopment bonds.

(6) Special rules for increased volume cap under subsection (d)(5)

No amount which is attributable to the increase under subsection (d)(5) may be used—

- (A) for any issue other than a qualified housing issue (as defined in subsection (d)(5)), or
- (B) to issue any bond after calendar year 2010.

(g) Exception for certain bonds

Only for purposes of this section, the term "private activity bond" shall not include—

- (1) any qualified veterans' mortgage bond,

(2) any qualified 501(c)(3) bond,

(3) any exempt facility bond issued as part of an issue described in paragraph (1), (2), (12), (13), (14), or (15) of section 142 (a), and

(4) 75 percent of any exempt facility bond issued as part of an issue described in paragraph (11) of section 142 (a) (relating to high-speed intercity rail facilities).

Paragraph (4) shall be applied without regard to “75 percent of” if all of the property to be financed by the net proceeds of the issue is to be owned by a governmental unit (within the meaning of section 142 (b)(1)).

(h) Exception for government-owned solid waste disposal facilities

(1) In general

Only for purposes of this section, the term “private activity bond” shall not include any exempt facility bond described in section 142 (a)(6) which is issued as part of an issue if all of the property to be financed by the net proceeds of such issue is to be owned by a governmental unit.

(2) Safe harbor for determination of government ownership

In determining ownership for purposes of paragraph (1), section 142 (b)(1)(B) shall apply, except that a lease term shall be treated as satisfying clause (ii) thereof if it is not more than 20 years.

(i) Treatment of refunding issues

For purposes of the volume cap imposed by this section—

(1) In general

The term “private activity bond” shall not include any bond which is issued to refund another bond to the extent that the amount of such bond does not exceed the outstanding amount of the refunded bond.

(2) Special rules for student loan bonds

In the case of any qualified student loan bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of—

(A) the average maturity date of the qualified student loan bonds to be refunded by the issue of which the refunding bond is a part, or

(B) the date 17 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

(3) Special rules for qualified mortgage bonds

In the case of any qualified mortgage bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of—

(A) the average maturity date of the qualified mortgage bonds to be refunded by the issue of which the refunding bond is a part, or

(B) the date 32 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

(4) Average maturity

For purposes of paragraphs (2) and (3), average maturity shall be determined in accordance with section 147 (b)(2)(A).

(5) Exception for advance refunding

This subsection shall not apply to any bond issued to advance refund another bond.

(6) Treatment of certain residential rental project bonds as refunding bonds irrespective of obligor

(A) In general

If, during the 6-month period beginning on the date of a repayment of a loan financed by an issue 95 percent or more of the net proceeds of which are used to provide projects described in section 142 (d), such repayment is used to provide a new loan for any project so described, any bond which is issued to refinance such issue shall be treated as a refunding issue to the extent the principal amount of such refunding issue does not exceed the principal amount of the bonds refunded.

(B) Limitations

Subparagraph (A) shall apply to only one refunding of the original issue and only if—

(i) the refunding issue is issued not later than 4 years after the date on which the original issue was issued,

(ii) the latest maturity date of any bond of the refunding issue is not later than 34 years after the date on which the refunded bond was issued, and

(iii) the refunding issue is approved in accordance with section 147 (f) before the issuance of the refunding issue.

(j) Population

For purposes of this section, determinations of the population of any State (or issuing authority) shall be made with respect to any calendar year on the basis of the most recent census estimate of the resident population of such State (or issuing authority) released by the Bureau of Census before the beginning of such calendar year.

(k) Facility must be located within State

(1) In general

Except as provided in paragraphs (2) and (3), no portion of the State ceiling applicable to any State for any calendar year may be used with respect to financing for a facility located outside such State.

(2) Exception for certain facilities where State will get proportionate share of benefits

Paragraph (1) shall not apply to any exempt facility bond described in paragraph (4), (5), (6), or (10) of section 142 (a) if the issuer establishes that the State's share of the use of the facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility.

(3) Treatment of governmental bonds to which volume cap allocated

Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141 (b)(5)—

(A) for an output facility, or

(B) for a facility of a type described in paragraph (4), (5), (6), or (10) of section 142 (a),

if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility.

(l) Issuer of qualified scholarship funding bonds

In the case of a qualified scholarship funding bond, such bond shall be treated for purposes of this section as issued by a State or local issuing authority (whichever is appropriate).

(m) Treatment of amounts allocated to private activity portion of government use bonds

(1) In general

The volume cap of an issuer shall be reduced by the amount allocated by the issuer to an issue under section 141 (b)(5).

(2) Advance refundings

Except as otherwise provided by the Secretary, any advance refunding of any part of an issue to which an amount was allocated under section 141 (b)(5) (or would have been allocated if such section applied to such issue) shall be taken into account under this section to the extent of the amount of the volume cap which was (or would have been) so allocated.

(n) Reduction for mortgage credit certificates, etc.

The volume cap of any issuing authority for any calendar year shall be reduced by the sum of—

(1) the amount of qualified mortgage bonds which such authority elects not to issue under section 25 (c)(2)(A)(ii) during such year, plus

(2) the amount of any reduction in such ceiling under section 25 (f) applicable to such authority for such year.

GOVERNMENT CODE

SECTION 8869.80-8869.94

Title 2
Division 1
Chapter 11.8

8869.80. The Legislature hereby finds and declares all of the following:

(a) The Tax Reform Act of 1986 (Public Law 99-514) establishes a unified volume ceiling on the aggregate amount of private activity bonds that can be issued in each state. The unified volume ceiling is the product of seventy-five dollars (\$75) multiplied by the state population in 1987 and fifty dollars (\$50) multiplied by the state population in each succeeding calendar year.

(b) The federal act requires each state to allocate its volume ceiling according to a specified formula unless a different procedure is established by Governor's proclamation or state legislation.

(c) Therefore, it is necessary to designate a state agency and create an allocation system to administer the state unified volume ceiling.

(d) A substantial public benefit is served by promoting housing for lower income families and individuals.

(e) A substantial public benefit is served by preserving and rehabilitating existing governmental assisted housing for lower income families and individuals.

(f) A substantial public benefit is served by providing federal tax credits or reduced interest rate mortgages to assist teachers, principals, vice principals, assistant principals, and classified employees who are willing to serve in high priority schools to purchase a home.

8869.81. This chapter is enacted to implement the state unified volume limit established in Section 1301 of the Federal Tax Reform Act of 1986 (Public Law 99-514) and Section 146 of the Internal Revenue Code.

8869.82. (a) As used in this chapter, unless the context otherwise requires, the terms defined in this section shall have the following meanings:

(1) "Committee" means the California Debt Limit Allocation Committee established pursuant to Section 8869.83.

(2) "Fund" means the California Debt Limit Allocation Committee Fund created pursuant to Section 8869.90.

(3) "Internal Revenue Code" means the Internal Revenue Code of 1986 (26 U.S.C. Sec. 1 et seq.), as amended from time to time.

(4) "Issuer" means any local agency or state agency authorized by the Constitution or laws of the state to issue private activity bonds.

(5) "Local agency" means any political subdivision of the state within the meaning of Section 103 of the Internal Revenue Code (26 U.S.C. Sec. 103); or any entity that has the power to issue private activity bonds on behalf of that political subdivision.

(6) "MBTCAC" means the California Tax Credit Allocation Committee created by Section 50199.8 of the Health and Safety Code.

(7) "Private activity bond" means a part or all of any bond, or other instrument, required to obtain a portion of the state's volume

cap pursuant to Section 146 of the Internal Revenue Code (26 U.S.C. Sec. 146) in order to be tax-exempt, including, generally, all of the following, as those bonds are defined in the Internal Revenue Code:

- (A) Exempt facility bonds, except bonds for airports, docks and wharves, and certain solid waste facilities.
- (B) Qualified mortgage bonds.
- (C) Qualified small issue bonds.
- (D) Qualified student loan bonds.
- (E) Qualified redevelopment bonds.
- (F) The nonqualified amount of an issue of governmental bonds (including advance refunds) exceeding fifteen million dollars (\$15,000,000), as provided in Section 141(b)(5) of the Internal Revenue Code (26 U.S.C. Sec. 141(b)(5)).
- (8) "Private activity bond limit" means any portion of the state ceiling allocated or transferred to a state agency or local agency pursuant to this chapter.

(9) "State" means the State of California.

(10) "State agency" means the state and all state entities, including joint powers authorities of which the state or agency or instrumentality thereof is a member, empowered to issue private activity bonds, the interest on which is exempt from income tax under Section 103(a) of the Internal Revenue Code (26 U.S.C. Sec. 103(a)), including nonprofit corporations described in Section 150(d) of the Internal Revenue Code (26 U.S.C. Sec. 150(d)), authorized to issue qualified scholarship funding bonds.

(11) "State ceiling" includes both of the following:

- (A) The amount specified by Section 146(d) of the Internal Revenue Code (26 U.S.C. Sec. 146(d)) for each calendar year commencing in 1986.
- (B) The amount reserved to the state pursuant to Sections 1112 and 1401 of the American Recovery and Reinvestment Act of 2009 (26 U.S.C. Secs. 54a and 1400U-1).
- (b) Pursuant to Section 146(e) of the Internal Revenue Code (26 U.S.C. Sec. 146(e)), this chapter governs the allocation of the state ceiling among the state agencies and local agencies in this state having authority to issue private activity bonds.
- (c) Any portion of the state ceiling allocated or transferred by or under the authority of this chapter shall become the private activity bond limit for the issuer of which that portion is allocated or transferred for any private activity bonds issued by that issuer.

8869.83. (a) There is in state government the California Debt Limit Allocation Committee, consisting of six members as follows:

- (1) The Treasurer, or his or her designee.
- (2) The Controller, or his or her designee.
- (3) The Governor, or his or her designee.
- (4) The Director of Housing and Community Development, who shall be a nonvoting member.
- (5) The Executive Director of the California Housing Finance Agency, who shall be a nonvoting member.
- (6) A representative from local government who shall be a nonvoting member, selected by two voting members of the committee.
- (b) The Treasurer shall serve as chairperson of the committee and the office of the Treasurer shall provide an executive director and any administrative assistance and support staff that is needed for the committee to operate. The chairperson shall keep, or cause to be kept, minutes and other records and documents of the committee. The

committee may, by resolution, delegate to one or more of its members, its executive director, or any other official or employee of the committee any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the committee.

(c) Members of the committee shall serve without compensation.

(d) Two voting members of the committee shall constitute a quorum. The affirmative vote of two voting members of the committee shall be necessary for any action taken by the committee. However, the committee may, by unanimous vote, delegate to its chairperson the authority to carry out any acts empowered to it under this chapter.

8869.84. (a) The committee shall, as soon as is practicable after the start of each calendar year, determine and announce the state ceiling for the calendar year.

(b) The entire state ceiling for each calendar year is hereby allocated to the committee to further allocate to state and local agencies as provided in this chapter.

(c) The committee shall prepare application forms and announce procedures for receipt and review of applications from state and local agencies desiring to issue private activity bonds.

(d) The committee may at any time, before or after granting any allocations in any calendar year to any state agencies or local agencies, announce priorities or reservations of any part of the state ceiling not theretofore allocated either for certain categories of bonds or categories of issuers.

(e) The committee may require any issuer making an application to the committee or MBTCAC for allocation of a portion of the state ceiling to make a deposit, as determined by the committee, of up to 1 percent of the portion requested. If an allocation is not given, the deposit shall be returned. If an allocation is given, the deposit shall be kept, in proportion to the amount of allocation given, until bonds are issued. Upon that issuance, the deposit shall be returned to the issuer in an amount equal to the product of (1) the amount of the deposit retained times (2) the ratio between the amount of bonds issued divided by the amount of allocation granted. If no bonds are issued prior to the expiration of the allocation, the deposit shall be kept. However, in cases where only a portion or none of the bonds are issued, the committee may return all or part of the deposit if it determines there is good cause to do so. Any portion of a deposit kept shall be deposited in the fund.

(f) The committee may transfer part of the state ceiling to the MBTCAC, to be used for qualified mortgage bonds and exempt facility bonds or for qualified residential rental projects, as those terms are used in the Internal Revenue Code, together referred to as "housing bonds," with directions and conditions pursuant to which MBTCAC may allocate those amounts to issuers of housing bonds at both the state and local levels. In carrying out these functions, MBTCAC shall act solely as directed or authorized by the committee. If the committee makes the transfer to MBTCAC authorized by this subdivision, the references in Sections 8869.85, 8869.86, 8869.87, and 8869.88 to the "committee" shall, for purposes of any housing bonds, be deemed to mean MBTCAC.

(g) (1) The committee may establish the Extra Credit Teacher Home Purchase Program to provide federal mortgage credit certificates and reduced interest rate loans funded by mortgage revenue bonds to eligible teachers, principals, vice principals, assistant principals,

and classified employees who agree to teach or provide administration or service in a high priority school. Priority for assistance shall be given to eligible teachers, principals, vice principals, and assistant principals.

(2) For purposes of this program, the following definitions shall apply:

(A) "High priority school" means a state K-12 public school that is ranked in the bottom half of the Academic Performance Index developed pursuant to subdivision (a) of Section 52052 of the Education Code. However, priority shall be given to schools that are ranked in the lowest three deciles.

(B) "Classified employee" means an employee of a school district, employed in a position not requiring certification qualifications.

(3) The committee may make reservations of a portion of future calendar year state ceiling limits for up to five future calendar years for that program. The committee may also make future allocations of the state ceiling for up to five years for any issuer under that program. Any future allocation made by the committee shall constitute an allocation of the state ceiling for a future year specified by the committee and shall be deemed to have been made on the first day of the future year so specified. The committee may condition allocations under the Extra Credit Teacher Home Purchase Program on any terms and conditions that the committee deems necessary or appropriate, including, but not limited to, the execution of a contract between the teacher, principal, vice principal, assistant principal, or classified employee and the issuer whereby the teacher, principal, vice principal, assistant principal, or classified employee agrees to comply with the terms and conditions of the program. The contract may include, among other things, an agreement by the teacher, principal, vice principal, assistant principal, or classified employee to teach or provide administration or service in a high priority school for a minimum number of years, and provisions for enforcing the contract that the committee deems necessary or appropriate.

(4) If a teacher, principal, vice principal, assistant principal, or classified employee does not fulfill the requirements of a contract entered into pursuant to paragraph (3), the issuer of the mortgage credit certificate or mortgage revenue bond may recover as an assessment from the teacher, principal, vice principal, assistant principal, or classified employee a monetary amount equal to the lesser of (A) one-half of the teacher's, principal's, vice principal's, assistant principal's, or classified employee's net proceeds from the sale of the related residence or (B) the amount of monetary benefit conferred on the teacher, principal, vice principal, assistant principal, or classified employee as a result of the federal mortgage credit certificate or reduced interest rate loan funded by a mortgage revenue bond, offset by the amount of any federal recapture, as defined by Section 143(m) of the Internal Revenue Code. The assessment may be secured by a lien against the residence, which shall decline in amount over the term of the contract as the teacher, principal, vice principal, assistant principal, or classified employee fulfills the term of the contract, and which shall be collected at the time of sale of the residence. Any assessment collected pursuant to this paragraph shall be used for the issuer's costs in administering the Extra Credit Teacher Home Purchase Program. The issuers shall report annually to the committee the total amount of any assessments collected pursuant to this paragraph and how those assessments were used by the issuer.

(5) If the committee establishes the Extra Credit Teacher Home Purchase Program pursuant to this subdivision, the committee shall

report annually to the Legislature the results of the program, including all of the following:

(A) The amount of state ceiling limits allocated to or reserved for the program.

(B) The agencies to which state ceiling limits were issued.

(C) The number of loans or mortgage credit certificates issued to teachers, principals, vice principals, assistant principals, and classified employees.

(D) The schools or school districts at which recipients of assistance are employed, aggregated by decile in which the schools rank on the Academic Performance Index and by the percentage of uncredentialed teachers employed at the schools.

(6) The committee shall not make any reservations of future calendar year state ceiling limits or future allocations of the state ceiling pursuant to this subdivision on or after January 1, 2004, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date. However, reservations and allocations made prior to that date shall remain valid.

8869.85. (a) Each state agency shall apply to the committee for allocation of a portion of the state ceiling, supplying any information which the committee may require. The application may be for a specific project, or it may be for a designated dollar amount, to be utilized for projects or programs at the discretion of the state agency. No private activity bonds issued by any state agency shall be deemed to receive the benefit of any portion of the state ceiling unless the committee has allocated or permitted the transfer of a portion of the state ceiling to the state agency. The allocation may be on any terms and conditions as the committee may determine.

(b) Any local agency may apply to the committee for an allocation of a portion of the state ceiling, supplying any information which the committee may require. Applications from local agencies may only be for specific projects or programs. No private activity bond issued by a local agency shall be deemed to receive the benefit of any portion of the state ceiling unless the committee has allocated or permitted the transfer of a portion of the state ceiling to the local agency. The allocation may be upon any terms and conditions as the committee may determine.

(c) Any allocation made pursuant to this section shall be irrevocable upon issuance of bonds pursuant thereto at least to the extent of the amount of the bonds so issued. No allocation shall permit the state agency or local agency which receives it to use all or any portion of the allocation for a carryforward pursuant to Section 146(f) of the Internal Revenue Code, unless the committee expressly allows use of the allocation for a carryforward.

(d) No allocation made to a state agency or a local agency pursuant to this section may be transferred by the initial recipient thereof to any other state agency or local agency unless the committee expressly permits the transfer. With the committee's permission, any state or local agency may, by resolution, transfer to any other local agency or to any state agency or back to the committee all or any portion of the agency's private activity bond limit. Any such transfer shall be made in writing and may be general or limited and subject to any terms and conditions as may be set forth in the resolution or under the committee's permission, as long as the transfer is irrevocable upon issuance of bonds pursuant to the transfer, at least to the extent of the amount of the bonds so issued. Each transferee shall maintain a written record of the

transfer in its records for at least the term of all private activity bonds issued pursuant to the transfer. No transfer may be made pursuant to this section in return for any payment of cash, property, or other marketable thing of value.

8869.86. (a) Subject to any limitations on transferred private activity bond limit as may be provided in subdivision (d) of Section 8869.85, any state agency or local agency may utilize its private activity bond limit for any of the following:

- (1) The issuance of private activity bonds.
- (2) If permitted by the committee, to make a carryforward election pursuant to Section 146(f) of the Internal Revenue Code.
- (3) If permitted by the committee, to make a transfer to any state agency, local agency, or the committee.

(b) Prior to issuing any private activity bonds, the issuer shall, in the bond resolution or other similar action giving approval for the issuance of bonds, specifically designate to the bond issue a portion of the private activity bond limit available or expected to be available to that issuer. The designation shall be irrevocable upon the issuance of the bonds to the extent of the amount thereof.

(c) Each state agency and local agency shall notify the committee in writing, as directed by the committee, after any of the following:

- (1) The issuance of any private activity bonds.
- (2) Any action taken pursuant to subdivision (d) of Section 8869.85 to transfer any portion of its private activity bond limit.
- (3) Any election to treat all or any portion of the state agency's or local agency's private activity bond limit as a carryforward pursuant to Section 146(f) of the Internal Revenue Code. The committee shall keep the notices in its records for a period no less than the term of all private activity bonds issued as described in the notices.

8869.87. The committee may request local agencies and state agencies to provide the committee with information pertaining to the amount and purpose of anticipated future private activity bond issues, or any other information which may be useful to the committee in performing its duties and responsibilities under this chapter.

8869.88. The committee may transfer any private activity bond limit directly to any joint powers authority created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1. This section is specifically intended to be an expressed statement of an alternative allocation as provided in Temporary Treasury Regulations Section 1.103(n)-3T, A-14 and A-15, to the extent the regulations, or any successor thereto or similar regulations, are applicable to private activity bonds.

8869.89. Notwithstanding any other provision of this chapter, the committee may, upon any terms and conditions as it determines, authorize the use of a portion of the state ceiling, as contemplated by Section 146(n) of the Internal Revenue Code, in connection with the issuance by any state agency or local agency or mortgage credit

certificates under a Qualified Mortgage Credit Certificate Program, as those terms are defined in Section 25(c) of the Internal Revenue Code.

8869.90. (a) The committee may charge fees to the lead underwriter, the bond purchaser, or the bond issuer to cover the committee's costs in carrying out the duties and responsibilities set out in this chapter. Any fees received shall be deposited in the California Debt Limit Allocation Committee Fund, which is hereby created. All money in the fund shall be available, when appropriated, for expenses of the committee and the Treasurer.

(b) Until the time that fees are received by the committee and appropriated pursuant to this chapter for the expenses of the committee, the committee may borrow any money as may be required for the purpose of meeting necessary expenses of initial organization and operation of the committee.

(c) Any moneys received by the committee from fees or deposits beginning in fiscal year 1987-88, shall also be deposited into the fund.

8869.91. This chapter is intended to provide a full, fair, flexible, and workable means of utilizing the state ceiling available under the Internal Revenue Code, and it shall be liberally construed and implemented to achieve those purposes.

8869.92. To the extent that any provision of this chapter is held to be inconsistent with or repugnant to the federal law, the provision shall be given effect in accordance with its terms to the greatest extent possible and consistent with federal law and an inconsistency shall have no effect on the remaining provisions of the chapter.

8869.93. The Treasurer, or his or her designee, is designated as the state official to certify that an issue of private activity bonds meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended, and to take any and all actions as may be necessary or appropriate in connection therewith.

8869.94. The committee may adopt, amend, or repeal rules and regulations pursuant to this chapter as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). The adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1.

Print

San Francisco Business and Tax Regulations Code

SEC. 515.01. HOTEL TAX ALLOCATIONS.

(a) All monies collected pursuant to the tax imposed by Section 502 of this Article ("Hotel Tax Revenues") shall be deposited to the credit of a fund to be known as the Hotel Room Tax Fund, and shall be allocated for the purposes specified in Subsection (b) in the amounts prescribed in Subsection (c).

(b) The monies allocated pursuant to this Section shall be appropriated to the following departments and used solely for the following purposes:

(1) **Allocation Number 1 (Convention Facilities):** To the City Administrator for Base Rental and Additional Rental as provided for and defined in the Project Lease, as amended, between the City and the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, for the acquisition, construction and financing of a convention center within the Yerba Buena Center Redevelopment Project Area, and for all expenses reasonably related to operation, maintenance and improvement of the Moscone Convention Center. Any unexpended balance remaining in Allocation Number 1 at the close of any fiscal year shall be deemed to be provided for a specific purpose within the meaning of Section 9.113 of the Charter and shall be carried forward and accumulated in said allocation for the purposes recited herein.

(2) **Allocation Number 2 (Administration):** To the Tax Collector for administration of the provisions of this Article.

(3) **Allocation Number 3 (Refunds):** To the Tax Collector for refunds of any overpayment of the tax imposed under this Article.

(4) **Allocation Number 4 (Publicity/Advertising):** To the City Administrator for publicity and advertising purposes pursuant to the provisions of Section 3.104 of the Charter.

(5) **Allocation Number 5 (Balance to General Fund):** After the specific purpose allocations and accumulations required by this Section, all remaining revenues shall be transferred to the General Fund.

(c) Each allocation for a purpose described in Subsection (b) shall be in the amount prescribed in the table below.

<i>Allocation No.</i>	<i>Amount</i>
1. Moscone Convention Center	50%
2. Administration	Up to .6%
3. Refunds of Overpayments	As required
4. Publicity & Advertising	As appropriated

5. To General Fund	Remainder
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Percentages shall be calculated based on the total amount collected pursuant to the tax imposed by Section 502 of this Article.

(Added by Ord. 300-97, App. 7/25/97; amended by Ord. 301-97, App. 7/25/97; Ord. 302-97, App. 7/25/97; Ord. 360-97, App. 9/5/97; Ord. 2-98, App. 1/16/98; Ord. 254-98, App. 7/31/98; Ord. 183-01, File No. 011174, App. 8/17/2001; Ord. 166-13, File No. 130541, App. 8/2/2013, Eff. 9/1/2013; Ord. 170-13, File No. 130545, App. 8/2/2013, Eff. 9/1/2013)

Print Form

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Introduction Form

By a Member of the Board of Supervisors or the Mayor

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Supervisor Jane Kim

Subject:

Multifamily Housing Revenue Bonds – 588 Mission Bay Boulevard North (aka, Mission Bay South Block 7 West) – Not to Exceed \$60,000,000

The text is listed below or attached:

See Attached

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

141007

