

**CALIFORNIA ALTERNATIVE ENERGY AND  
ADVANCED TRANSPORTATION FINANCING AUTHORITY**  
**Meeting Date: April 16, 2013**

***Discussion and Consideration of Regulations for the Loan Loss Reserve Program under the  
Clean Energy Upgrade Financing Program (ABX1 14)***

Prepared By: *Jennifer Gill and Deana Carrillo*

**Issue.** The California Alternative Energy and Advanced Transportation Financing Authority (“Authority” or “CAEATFA”) has established a Loan Loss Reserve Program (the “Program”) under the Clean Energy Upgrade Financing Program authorized by Assembly Bill 14 (Skinner, First Extraordinary Session of 2011) (“ABX1 14”). As of April 5, 2013, five lenders participate in the Program, over 25 loans have been enrolled in the Program, and additional loans are in the pipeline.

CAEATFA staff (“Staff”) developed the initial Program structure and emergency regulations, under which the Program has since been administered, with extensive stakeholder input. Subsequent Program marketing efforts and early implementation experience informed the launch of the regular rulemaking process, which began in January 2013. Since, CAEATFA has held three public workshops during two public comment periods. The most consistent comment from the various stakeholders was the request to align the Program with existing energy efficiency programs supported by the State.

**Request.** Staff requests approval of the revised regulatory text for submission to the Office of Administrative Law (“OAL”) under the formal Administrative Procedure Act (“APA”) rulemaking process that will enable CAEATFA to successfully implement the Program.

**Program and Regulation Development.** ABX1 14, signed into law on August 2, 2011, authorized CAEATFA to provide financial assistance in the form of credit enhancements to eligible participating financial institutions making loans to residential property owners for energy efficiency improvements and distributed generation renewable energy sources.

The initial Program structure and emergency regulations were developed and refined through an eight-month process including eight public workshops and stakeholder focus groups during late 2011 and early 2012.

**Emergency Regulation Timeline.**

|                  |                                                         |
|------------------|---------------------------------------------------------|
| May 4, 2012      | Adoption of initial emergency regulations.              |
| July 16, 2012    | Adoption of revised emergency regulations.              |
| October 29, 2012 | Initial re-adoption of emergency regulations effective. |

January 28, 2013                      Second re-adoption of emergency regulations effective (through April 30, 2013).

April 29, 2013                      Submission of Certificate of Compliance of the regular rulemaking process.

**Regular Rulemaking Process.**

On January 4, 2013, Staff proposed regulatory text to be adopted under the regular rulemaking process. Two workshops were held during the 45-day public comment period (through February 21, 2013) to discuss the regulations and receive stakeholder input. In response to comments received, as well as discussions with staffs of the California Energy Commission (“CEC”) and the California Public Utilities Commission (“CPUC”), CAEATFA made modifications to the regulation text and posted a notice on March 25, 2013 opening a subsequent 15-day public comment period on the modifications. A public workshop was held on April 4, 2013 to solicit feedback, and the 15-day comment period ended on April 10, 2013. Staff believes the proposed regulations balance stakeholder input with statutory, legal and administration requirements; while improving consistency with existing energy efficiency programs and standards.

**Leveraging Existing Energy Efficiency Programs.**

The substantive proposed changes to the regulatory text predominantly align CAEATFA’s Program with the whole house energy efficiency efforts that are being spearheaded by the CPUC under the Energy Upgrade California Program. Energy Upgrade California (“EUC”) is a program of the CPUC in collaboration with the CEC, California counties, cities, nonprofit organizations, and the state’s investor-owned utilities (IOUs). Funding comes from the utilities’ ratepayers under the auspices of the CPUC in addition to incremental funding from the Department of Energy. EUC was initially funded by the American Reinvestment and Recovery Act (“ARRA”) and administered by the CEC, and was recently adopted by the CPUC.

The goals of this statewide effort are four-fold:

1. Help residential and commercial consumers and the building industry become knowledgeable about the many energy and water efficiency programs and financing options that will be available during the next several years including the State Energy Programs, utility company home upgrade programs, local rebates, appliance and renewable energy rebates, and energy financing programs.
2. Provide a consistent and clear message regarding how consumers can choose the best energy-efficient measures and the right contractors to provide those services.
3. Drive consumers and contractors to a central resource that provides educational information that links all the state energy efficiency upgrade, rebates, and incentive programs.

4. Educate the building trades and home improvement industry on jobs, training, and required certifications.<sup>1</sup>

CAEATFA's Program will leverage this existing statewide infrastructure, and assist by adding the missing link of financing assistance. In addition, as explained in more detail below, the Program will leverage the quality assurance standards and protocols established by the IOUs and approved by the CPUC, as well as those established by publicly owned utilities that are consistent with federal standards.

The proposed regulatory language also provides flexibility that will enable CAEATFA's Loan Loss Reserve Program to be consistent with any future modification to the CPUC's whole house energy efficiency programs.

**Proposed Modifications to the Regulations.** Following is a brief summary of the key changes made in the proposed regulatory modifications. In addition, CAEATFA staff took this opportunity to make other technical changes to the regulatory text, providing additional clarification and removing redundant provisions. The proposed modifications to the regulations can be found in Attachment A and are denoted by blue underline or red ~~strikethrough~~. The text reflects the proposed changes to the regulations that the CAEATFA Board initially approved in July 2012 (the regulation text that is currently enacted).

The key revisions to the regulations focus on three main areas:

- Expanded eligibility criteria for eligible improvements and quality assurance to be consistent with CPUC-approved whole house programs;
- Expanded flexibility to meet the loading order requirement for distributed generation renewable energy source projects; and
- The elimination of one form previously required for loan enrollment.
- Clarification of provisions and additional specificity on requirements for distributive generation.

These substantive proposed revisions are made to the following sections of the regulation text:

**§10050: Definitions.**

§10050 (d) "Eligible Improvements"

The enacted emergency regulation text defines Eligible Improvements as those identified in a pre-project assessment and designed to meet at least 10% energy savings.

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<sup>1</sup> [https://energyupgradeca.org/about\\_us](https://energyupgradeca.org/about_us)

Staff has engaged in discussions with several stakeholders who have requested that CAEATFA align the Program with existing whole house energy efficiency programs, specifically those approved by the CPUC. Staff has determined that incorporating these types of eligible projects will leverage public and ratepayer funds, ensure consistency with state energy efficiency goals and existing infrastructure established under the EUC program. This serves the interest of the public by providing additional lower cost energy efficiency financing options and is in accordance with the intent of the statute. Projects eligible under this path will also be required to comply with all Program regulations, including quality assurance standards and contractor certification requirements.

The proposed modifications expand the definition of “Eligible Improvements” to be consistent with existing utility programs by including a third path: *“Where the Eligible Improvements are to be installed on behalf of a Borrower participating in a California Public Utilities Commission (CPUC)-approved residential whole-house energy efficiency retrofit program, the Eligible Improvements may be selected in accordance with that program.”*

§10050 (g) “Independent Third-Party Inspector”

The Program currently requires that an independent third-party inspector perform the Post-Project Assessment on all projects. Stakeholders requested a definition of “independent third party.” This new definition provides specificity to Contractors, and balances quality assurance with the various contractor business models.

The following definition is added to the currently enacted regulatory text: *“‘Independent Third-Party Inspector’ means an inspector who is an owner or employee of a separate legal entity from the Qualified Contractor that is not controlled by the Qualified Contractor, and has no common ownership with the Qualified Contractor.”*

§10050 (m) “Pre-Project Assessment”

To improve ease of use and eliminate redundancy in the loan enrollment process, the required pre-project energy efficiency assessment has been standardized as a defined term: *“‘Pre-Project Assessment’ means an on-site pre-retrofit energy efficiency assessment performed in accordance with the California Home Energy Rating System (HERS) Whole-House Home Energy Rating, Building Performance Institute (BPI) Building Analyst Professional Standard or BPI Home Energy Auditing Standard requirements, which explicitly describes the recommended Eligible Improvements and the overall estimated energy savings anticipated by their installation.”*

§10050 (n) “Post-Project Assessment”

Similar to the rationale for defining the Pre-Project Assessment, in order to improve Program efficiency and eliminate redundancy in the loan enrollment process, the required post-project energy efficiency assessment has been standardized as a defined term:

*“‘Post-Project Assessment’ means an on-site post-retrofit energy efficiency assessment which explicitly describes the installed Eligible Improvements and overall estimated energy savings demonstrated by their installation.”*

§10050 (q) “Qualified Contractor”

Modifications to the definition of Qualified Contractor were made to address the expanded definition of Eligible Improvements and provide clarity for requirements of distributed generation contractors:

*“‘Qualified Contractor’ means a contractor who is licensed for the work they perform and who must complete all work according to all applicable laws, rules, and regulations.*

- (1) Except as set forth in subparagraph (2), for energy efficiency improvements only, the work must be performed by a BPI certified professional.*
- (2) Where the work is being performed on behalf of a Borrower participating in a CPUC-approved residential whole-house energy efficiency retrofit program, the contractor need only meet the approval requirements of that program.*
- (3) For distributed generation renewable energy sources, the work must be performed by a contractor who holds a valid A, B, C-4, C-10, C-36 or C-46 license from the California Contractors State License Board.”*

**§10051: Quality Assurance Standards.**

§10051 (a)(2): Post-Project Assessment.

The proposed modifications correspond to the expanded definition of Eligible Improvements, expanding the quality assurance requirements for a post-retrofit energy efficiency assessment to be consistent with existing utility programs. The addition of quality assurance protocols specific to CPUC-approved residential whole-house energy efficiency retrofit programs or to the Home Performance with ENERGY STAR program serves to expand the usefulness of the Program by leveraging existing quality assurance standards.

*“Post-Project Assessment. The Eligible Improvements shall be evaluated by a Post-Project Assessment. The cost of the Post-Project Assessment may be included as part of the total cost of the Eligible Improvements.*

- (A) Except as set forth in subparagraph (B) or (C), the Post-Project Assessment must be conducted by an Independent Third-Party Inspector who is a HERS Whole House Rater, a BPI Building Analyst or BPI Energy Auditor in accordance with the BPI Building Analyst Professional Standard or BPI Home Energy Auditing Standard.*
- (B) Where the Eligible Improvements are completed on behalf of a Borrower participating in a CPUC-approved residential whole-house energy efficiency retrofit program, the Post-Project Assessment must be conducted in accordance with that program’s quality assurance protocols.*
- (C) Where the Eligible Improvements are completed on behalf of a Borrower participating in a residential whole-house energy efficiency retrofit program operated by a utility*

*that is not subject to approval by the California Public Utilities Commission, the Post-Project Assessment must be conducted in accordance with the quality assurance protocols established under the Home Performance with ENERGY STAR joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy.”*

§10051 (a)(4): Loading order.

The addition of a third method to achieve compliance with the loading order requirement under subsection (A) 2., “*Installation of recommended Eligible Improvements as set forth in Section 10050(d)(2),*” provides further flexibility for the inclusion of distributed generation renewable energy source improvements as well as compatibility with utility programs the CPUC is in the process of developing.

**§ 10054: Loan Enrollment.**

Modifications have been made to the loan enrollment application process to streamline Program administration, improve ease of use for Participating Financial Institutions, and eliminate redundancy, most notably by removing the Eligible Improvements Specification Report. This form is no longer necessary to track project data that will be reported in the Pre-Project Assessment and Post-Project Assessment.

**Tentative Timeline.**

All of the dates below are tentative and subject to change.

|                |                                                                                                                                                        |
|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| April 16, 2013 | CAEATFA Board considers and approves revised regulations                                                                                               |
| April 17, 2013 | CAEATFA files rulemaking package with OAL.<br>OAL has 30 working days to review the regulations.                                                       |
| April 25, 2013 | CAEATFA submits Certificate of Compliance to OAL.                                                                                                      |
| April 29, 2013 | Certificate of Compliance due to OAL. Text of regulations becomes effective if OAL approves Statement of Good Cause submitted with rulemaking package. |
| May 30, 2013   | OAL Decision Deadline. Regulations are enacted if OAL approved Statement of Good Cause (otherwise effective July 1, 2013).                             |

**Recommendation.** Staff recommends adoption of a resolution to approve the proposed regulations modifying the Loan Loss Reserve Program under the ABX1 14 Clean Energy Upgrade Financing Program and the authorization of Staff to undertake regular and

emergency rulemaking proceedings and other actions related to promulgation of the regulations.

**Attachments:**

- Attachment A – Proposed Text of Regulations. The proposed modifications to the regulations can be found in Attachment A. Blue underline or red ~~striketrough~~ denote the changes proposed compared to the text initially approved by the CAEATFA Board and currently enacted.
- Attachment B – Proposed Program Forms
- Attachment C – Text of Assembly Bill 14 (First Extraordinary Session of 2011)

**RESOLUTION OF THE CALIFORNIA ALTERNATIVE ENERGY  
AND ADVANCED TRANSPORTATION FINANCING AUTHORITY  
APPROVING REGULATIONS AND OTHER ACTIONS RELATED THERETO  
INCLUDING THE PUBLIC NOTICE AND COMMENT PROCEDURES TO  
IMPLEMENT THE LOAN LOSS RESERVE PROGRAM UNDER THE  
CLEAN ENERGY UPGRADE FINANCING PROGRAM**

April 16, 2013

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (“Authority”) is authorized by California Public Resources Code Sections 26009 and 26011.8 to adopt regulations to implement and make specific the statutory provisions governing the Authority; and

WHEREAS, the Authority has determined that amendments to the Authority’s regulations relating to its implementation of the Loan Loss Reserve Program under the ABX1 14 Clean Energy Upgrade Financing Program (“ABX1 14 Program”), as authorized in Section 26130 of the Public Resources Code, are necessary to be adopted at this time to implement the Program.

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority as follows:

Section 1. The proposed form of Regulations, on file with the Authority, is hereby approved. The Chair, Executive Director and Deputy Executive Director are hereby authorized to file the Regulations, with the supporting documentation required by law, with the Office of Administrative Law in the form currently on file with the Authority.

Section 2. The Chair, Executive Director and Deputy Executive Director are hereby authorized to proceed with the public notice and comment procedures required by California Rulemaking Law prior to submitting permanent regulations to the Office of Administrative Law.

Section 3. The Chair, Executive Director and Deputy Executive Director of the Authority are hereby authorized to take necessary actions, including making any necessary changes to the Regulations to secure approval by the Office of Administrative Law, and to execute and deliver any and all documents necessary or advisable in order to effectuate the purposes of this resolution.

Section 4. This resolution shall take effect immediately upon its approval.

Attachment A

**TEXT OF REGULATIONS**  
**CALIFORNIA CODE OF REGULATIONS**  
**Title 4. Business Regulations**  
**Division 13. California Alternative Energy and Advanced Transportation**  
**Financing Authority**

CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION  
FINANCING AUTHORITY REGULATIONS IMPLEMENTING

THE CLEAN ENERGY UPGRADE FINANCING PROGRAM

**Enacted July 16, 2012**

Regulation Text Proposed January 4, 2013  
Modifications to Regulation Text Posted as of March 25, 2013

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## ARTICLE 3. CLEAN ENERGY UPGRADE FINANCING PROGRAM

### § 10050. Definitions.

- (a) “Authority” means the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) established pursuant to Division 16 (commencing with Section 26000 of the Public Resources Code).
- (b) “Borrower” means a property owner who is making Eligible Improvements to an Eligible Property.
- (c) “Executive Director” means the Executive Director of the Authority or his or her designee.
- (d) “Eligible Improvements” means energy saving home improvements which are Permanently Affixed to the real property and which meet the requirements as outlined in this Section.
  - (1) ~~Except as set forth in subparagraph (2),~~ Eligible Improvements shall be recommended by ~~a pre-project energy efficiency assessment conducted on the Eligible Property in accordance with Home Energy Rating System (HERS) Whole House or Building Performance Institute (BPI) Building Analyst requirements~~the Pre-Project Assessment, and shall be designed to achieve a minimum of ten percent (10%) total energy savings.
  - ~~(2)~~ Where the Eligible Improvements are to be installed on behalf of a Borrower participating in a California Public Utilities Commission (CPUC)-approved residential whole-house energy efficiency retrofit program, the Eligible Improvements may be selected in accordance with that program.
  - (3) Eligible Improvements may also include the installation of distributed generation renewable energy sources as long as they meet the loading order requirement pursuant to Section 10051.
- (e) “Eligible Property” means a residential property of three units or less in the State of California.
- (f) “Financial Institution” means any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in Section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702); or a municipal utility district as described in Section 12850 of the Public Utilities Code.
- ~~(g)~~(g) “Independent Third-Party Inspector” means an inspector who is an owner or employee of a separate legal entity from the Qualified Contractor that is not controlled by the Qualified Contractor, and has no common ownership with the Qualified Contractor.
- (h) “Loss Reserve Account” means an account held by a Program Trustee that is established and maintained by the Authority for the benefit of a Participating Financial Institution for the purposes set forth in Section 10056.
- ~~(h)~~(i) “Loss Reserve Contribution” means the financial assistance provided by the Authority to the Loss Reserve Account for the benefit of a Participating Financial Institution for each Qualified Loan it enrolls in the Program. The initial Loss Reserve Contribution shall be not less than fifteen percent (15%) of the enrolled principal amount of the Qualified Loan until the Participating Financial Institution’s enrolled Qualified Loan volume reaches \$250,000. Thereafter, the Loss Reserve Contribution shall be not less than ten percent (10%) of the enrolled principal amount of the Qualified Loan.
- ~~(i)~~(j) “Minimum Underwriting Criteria” means the criteria established by the Authority as defined in Section 10052.

- (j) “Participating Financial Institution” means a Financial Institution that has been approved by the Authority’s Executive Director to enroll Qualified Loans in the Program and has agreed to all terms and conditions set forth in the Law and this Article.
- (k) “Permanently Affixed” means goods that have become so related to particular real property that an interest in them arises under real property law.
- (m) “Pre-Project Assessment” means an on-site pre-retrofit energy efficiency assessment performed in accordance with the California Home Energy Rating System (HERS) Whole-House Home Energy Rating, Building Performance Institute (BPI) Building Analyst Professional Standard or BPI Home Energy Auditing Standard requirements, which explicitly describes the recommended Eligible Improvements and the overall estimated energy savings anticipated by their installation.
- (n) “Post-Project Assessment” means an on-site post-retrofit energy efficiency assessment which explicitly describes the installed Eligible Improvements and overall estimated energy savings demonstrated by their installation.
- (o) “Program” means the Clean Energy Upgrade Financing Program established pursuant to Chapter 2.5 (commencing with Section 26130) of Division 16.2 of the Public Resources Code.
- (p) “Program Trustee” means a bank or trust company, or the State Treasurer, chosen by the Authority to hold or administer some or all of the Loss Reserve Accounts on behalf of the Authority.
- (q) “Qualified Contractor” means a contractor who is licensed for the work they perform and who must complete all work according to all applicable laws, rules, and regulations.
- (1) ~~For~~Except as set forth in subparagraph (2), for energy efficiency improvements only, the work must be performed by a BPI-~~certified contractor~~ certified professional.
- (2) Where the work is being performed on behalf of a Borrower participating in a CPUC-approved residential whole-house energy efficiency retrofit program, the contractor need only meet the approval requirements of that program.
- (3) For distributed generation renewable energy sources, the work must be performed by a contractor who holds a valid A, B, C-4, C-10, C-36 or C-46 license from the California Contractors State License Board.
- (r) “Qualified Loan” means a loan or a portion of a loan made by a Participating Financial Institution to a Borrower to finance Eligible Improvements made to Eligible Properties.
- (1) A Qualified Loan is one which meets the Minimum Underwriting Criteria as established by the Authority in Section 10052.
- (2) A Qualified Loan does not include any of the following:
- (A) A loan in the form of a line of credit.
- (B) A loan for the construction or purchase of residential housing.
- (C) A loan for the refinancing of debt already held by the Participating Financial Institution other than a prior Qualified Loan enrolled under the Program, except to the extent of any increase in the outstanding balance.
- (D) Any loan which exceeds ten percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.
- (E) Open end loans (e.g. home equity lines of credit).

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Sections ~~26130~~26070 and ~~26133~~26073, Public Resources Code.

**§ 10051. Quality Assurance Standards.**

- (a) All Eligible Improvements financed by the Program must meet applicable quality assurance standards as outlined in this Section.
  - (1) ~~(1) — Pre-project energy efficiency assessment. A pre-project energy efficiency assessment conducted on the Eligible Property in accordance with HERS Whole House or BPI Building Analyst requirements~~Pre-Project Assessment. A Pre-Project Assessment is required to assist in identifying appropriate and comprehensive energy efficiency retrofits and operational improvements. The cost of the ~~pre-project energy efficiency assessment~~Pre-Project Assessment may be included as part of the total cost of the Eligible Improvements.
  - (2) ~~Post-project energy assessment.~~Project Assessment. The Eligible Improvements shall be evaluated by a ~~post-project energy assessment conducted on the Eligible Property. This post-project energy assessment must be conducted by an independent third-party inspector who is a HERS Whole House Rater or a BPI Building Analyst.~~Post-Project Assessment. The cost of the ~~post-project energy assessment~~Post-Project Assessment may be included as part of the total cost of the Eligible Improvements.
    - (A) Except as set forth in subparagraph (B) or (C), the Post-Project Assessment must be conducted by an Independent Third-Party Inspector who is a HERS Whole House Rater, a BPI Building Analyst or BPI Energy Auditor in accordance with the BPI Building Analyst Professional Standard or BPI Home Energy Auditing Standard.
    - (B) Where the Eligible Improvements are completed on behalf of a Borrower participating in a CPUC-approved residential whole-house energy efficiency retrofit program, the Post-Project Assessment must be conducted in accordance with that program's quality assurance protocols.
    - (C) Where the Eligible Improvements are completed on behalf of a Borrower participating in a residential whole-house energy efficiency retrofit program operated by a utility that is not subject to approval by the California Public Utilities Commission, the Post-Project Assessment must be conducted in accordance with the quality assurance protocols established under the Home Performance with ENERGY STAR joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy.
  - (3) Distributed generation renewable energy sources final approval. If the ~~project involves~~Eligible Improvements include distributed generation renewable energy sources, a ~~certification~~copy of the letter permitting the interconnection of each distributed generation renewable energy source from the ~~Qualified Contractor that it has secured all permits and approvals needed to install the Eligible Improvements~~utility servicing the Eligible Property shall be required. If the project does not include energy efficiency improvements because the loading order requirement has been met through Section 10051(a)(4)(A)(2) or (3), the foregoing ~~Qualified Contractor certification~~letter(s) permitting interconnection shall be in lieu of the ~~post-project energy assessment~~Post-Project Assessment.

- (4) Loading order. Any project involving distributed generation renewable energy sources must be part of a single Qualified Loan in which the energy efficiency improvements achieve a minimum ten percent (10%) reduction in total property energy use.

(A) Compliance with the loading order can be established in one of ~~two~~three ways:

1. Installation of recommended Eligible Improvements necessary to achieve a minimum ten percent (10%) improvement over the pre-project baseline, as demonstrated by the ~~post-project energy assessment~~Post-Project Assessment required pursuant to subsection (a)(2) above.
2. Installation of recommended Eligible Improvements as set forth in Section 10050(d)(2).
3. Demonstrating a HERS Index Home Energy Rating~~(HERS)~~ score of 85 or lower provided air sealing, attic insulation, duct test and seal or replacement, and insulation of domestic hot water or replacement have all been installed if recommended by the ~~pre-project energy assessment~~Pre-Project Assessment.

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Section ~~26133~~26073, Public Resources Code.

#### **§ 10052. Minimum Underwriting Criteria.**

- (a) A Participating Financial Institution may enroll Qualified Loans that meet the Minimum Underwriting Criteria and may set more stringent underwriting criteria. A Participating Financial Institution has responsibility for underwriting decisions and legal compliance with respect to the Qualified Loans it makes pursuant to these regulations.
- (b) A Participating Financial Institution agrees that for each Qualified Loan it makes it will investigate and evaluate the creditworthiness of the applicant in a manner consistent with the regulations and its customary practices for loans in the amount proposed.
- (c) The Minimum Underwriting Criteria are:
  - (1) Loan type. Qualified Loans may be secured or unsecured closed end loans.
  - (2) Maximum loan amount. A Qualified Loan must not exceed ten percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.
  - (3) Loan recipient. Borrowers must be the legal owners of the Eligible Property.
  - (4) Mortgage delinquencies. Borrowers must be current on their mortgage and property tax payments and not in default or in bankruptcy proceedings.

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Section ~~26133~~26073, Public Resources Code.

#### **§ 10053. Application by Financial Institution.**

- (a) A Financial Institution seeking to participate in the Program will complete a Financial Institution Application that shall include the following information:
  - (1) Name and address of applicant Financial Institution.
  - (2) Name, address, telephone and fax numbers, email address and title of contact person.

- (3) Type of Financial Institution.
  - (4) A list of the anticipated geographic area(s) ~~served~~ in California where the loan program may be available, by county.
  - (5) Names of the Regulatory Agency and the Insuring Agency to which the Financial Institution is accountable. This provision is not required if the Financial Institution is a municipal utility district as described in Section 12850 of the Public Utilities Code.
  - (6) A detailed description of the loan program to finance Eligible Improvements, including, but not limited to anticipated loan product details, such as collateral required (if any), maximum and minimum loan amounts, interest rates (whether fixed or variable), loan terms, property type, and underwriting criteria including FICO score and debt-to-income ratio.
  - (7) A detailed description of the transactional activities associated with the loan issuance, including all transactional costs such as application, loan origination, UCC-1 filing, property valuation cost, and title and tax search fees.
  - (8) The mechanism by which cost savings produced by this Program are passed on to the Borrowers in the form of lower cost financing. This includes a comparison of interest rates and loan terms between existing loan products for Eligible Improvements and the interest rates the Financial Institution anticipates providing if a Qualified Loan is enrolled in the Program. If the Financial Institution does not have an existing loan product for energy efficiency or renewable energy installations, a comparison should be made of the interest rates and loan terms between other similar loan products and the proposed loan program. Include additional benefits associated with enrolling Qualified Loans in the Program, such as expanded loan terms and underwriting criteria.
  - (9) Certification that the applicant Financial Institution is not subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, which would impair its ability to participate in the Program. This provision is not required if the Financial Institution is a municipal utility district as described in Section 12850 of the Public Utilities Code.
  - (10) The Financial Institution's agreement to follow the Program regulations as set forth in this Article.
  - (11) The Financial Institution's agreement to permit an audit of any of its records relating to enrolled Qualified Loans, during normal business hours on its premises, by the Authority or its agents, and to supply such other information concerning enrolled Qualified Loans as shall be requested by the Executive Director.
  - (12) The Financial Institution's acknowledgment that the Authority and the State will have no liability to the Participating Financial Institution under the Program except from funds deposited in the Loss Reserve Account for the Participating Financial Institution.
  - (13) The application shall be signed by a person authorized to bind the Financial Institution, and shall include the signatory's printed name, title and date.
- (b) Upon receipt of a completed application, the Executive Director will within ten (10) business days review and determine whether additional information is required, or whether the application is sufficient to permit the applicant to be a Participating Financial Institution. The Executive Director's decision whether an application is sufficient shall be final.

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Sections ~~26133~~26072, 26073 and ~~26134~~26074, Public Resources Code.

**§ 10054. Loan Enrollment.**

- (a) The terms and conditions of Qualified Loans, including interest rates, fees and other conditions, shall be determined solely by agreement of the Participating Financial Institution and the Borrower.
- (b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan by notifying the Authority in writing, within fifteen (15) business days after it receives a signed Certificate of Completion from the Qualified Contractor and/or Borrower certifying that the project is complete and has satisfied all Program requirements, that it is enrolling a Qualified Loan. For Qualified Loans involving multiple Certificates of Completion from Qualified Contractors, the fifteen (15)-business-day period shall start upon the date of receipt by the Participating Financial Institution of the last required Certificate of Completion.
- (c) In order to enroll a Qualified Loan, a Participating Financial Institution must submit the following documents ~~specified in subdivisions (d) through (f) of this Section:~~
  - (1) Loan Enrollment Application.
  - (2) Certificate of Completion. ~~and~~
  - (3) A copy of the ~~quality assurance documentation specified in Section 10051.~~ Pre-Project Assessment.
  - (4) A copy of the Post-Project Assessment, including, if applicable:
    - (A) If the Post-Project Assessment is conducted in accordance with the requirements of Section 10051(a)(2)(B) or (C), a copy of the utility's post-retrofit approval notification from the utility in whose service area the project is located.
    - (B) If the Eligible Improvements include a distributed generation renewable energy source, a letter permitting the interconnection of the distributed generation renewable energy source from the utility servicing the Eligible Property.
    - (C) If the project does not include energy efficiency improvements because the loading order requirement has been met through Section 10051(a)(4)(A)(2) or (3), the foregoing letter permitting interconnection shall be in lieu of the Post-Project Assessment.
  - (5) The Participating Financial Institution shall redact Borrower name, street address and any other personal identifying information from the copies of all documents prior to submission to the Authority.
- (d) The Loan Enrollment Application to the Authority shall include the following, based in part on information provided by the Borrower and the Qualified Contractor:
  - (1) Participating Financial Institution name and Program-assigned identification number.
  - (2) Loan officer name, telephone number and email.
  - ~~(3) Loan Identification Number~~ (3) Participating Financial Institution loan identification number that does not convey any personal identifying information about the Borrower.
  - (4) Borrower's FICO score and debt-to-income ratio.
  - (5) City, county and zip code where the project is located.
  - (6) Brief summary of the Eligible Improvements and the intended use of the proceeds of the Qualified Loan.

- (7) Indication whether the Qualified Loan being enrolled is in the first \$250,000 of Program Qualified Loans enrolled by the Participating Financial Institution.
  - (8) Amount of the Qualified Loan being enrolled (and indication if less than the full amount of the Qualified Loan is being enrolled).
  - (9) Type of the Qualified Loan (e.g., home equity loan, term loan, second mortgage), and whether the loan is secured.
  - (10) Date the Certificate of Completion is received by the Participating Financial Institution.
  - (11) Term and maturity date of the Qualified Loan.
  - (12) Interest rate applicable to the Qualified Loan and whether it is fixed or variable.
  - (13) The interest rate the Qualified Loan would have received had the loan not been enrolled in this Program.
  - (14) Estimated savings to the Borrower in the form of lower cost financing over the term of the loan.
  - (15) The Participating Financial Institution's estimate of the Authority's Loss Reserve Contribution to the Loss Reserve Account.
  - (16) Certification that the loan is a Qualified Loan, and that the Borrower receiving the Qualified Loan meets the Minimum Underwriting Criteria set forth in this Article.
  - (17) Certification that the total outstanding principal balance of all enrolled Qualified Loans specific to the Borrower does not exceed ten percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.
  - ~~(18) Certification that the Participating Financial Institution has obtained a written representation from the Qualified Contractor that it has secured all permits and approvals needed to complete the retrofits.~~
  - ~~(19)~~ (18) Notification if the Participating Financial Institution has enrolled or will enroll the same loan or a portion thereof in any government program substantially similar to the Program including, but not limited to, other loan loss reserve or loan guarantee programs.
- (e) The Certificate of Completion shall be in a form specified by the Authority and shall include the following information (the Participating Financial Institution shall redact any Borrower personal identifying information prior to submission to the Authority~~);~~). The Certificate of Completion shall be signed and completed for each Eligible Property and shall be signed and completed by the primary Qualified Contractor who performed the energy efficiency and/or distributed generation energy sources work:
- (1) Information provided by the Qualified Contractor who performs the work:
    - (A) Qualified Contractor's name.
    - (B) Qualified Contractor's license number.
    - (C) Qualified Contractor's certification type(s) and certification number(s).
    - (D) If the Post-Project Assessment is conducted in accordance with Section 10051(a)(2)(A), the name and appropriate qualifying certification number of the Independent Third-Party Inspector.
    - (E) City and zip code where the project is located.
  - (2) The Qualified Contractor must also sign and date certain certifications, including:
    - (A) Certification that he or she is licensed to perform the work for which the Qualified Loan is made.
    - (B) ~~Certification that he or she is a BPI-certified contractor if~~ If performing energy efficiency improvements, certification that he or she is a BPI Certified Professional

or a contractor approved for participation in the CPUC-approved residential whole-house energy efficiency retrofit programs.

~~(C) Certification that the Eligible Improvements have been completed in accordance with the Eligible Improvements Specification Report.~~

(C) If performing distributed generation renewable energy source improvements, certification that he or she holds a valid A, B, C-4, C-10, C-36 or C-46 license from the California Contractors State License Board.

(D) Certification that all of the Eligible Improvements installed are energy saving home improvements recommended ~~by~~in the ~~pre-project~~Pre-Project Assessment, or Eligible Improvements selected in accordance with a CPUC-approved residential whole-house energy efficiency assessment conducted on the Eligible Property retrofit program.

(E) Certification that the installation complies with all applicable California building standards (all sections of Title 24), local electricity utility interconnection requirements, and any additional laws, ordinances, regulations and standards applicable in the jurisdiction where the installation occurred.

(F) Certification that ~~they have secured~~ all permits and approvals ~~needed~~required to install the Eligible Improvements have been secured.

(G) Certification ~~that the post-project energy assessment was conducted by an independent third-party inspector who is HERS or BPI-certified.~~of the quality assurance standard under which the Post-Project Assessment requirement was met in accordance with Section 10051(a)(2).

(H) If the Eligible Improvements include distributed generation renewable energy sources, ~~a~~-certification of ~~how~~the method by which the Program's loading order requirement was met.

(3) The Borrower must sign and date certain certifications, including:

(A) Certification that the Eligible Improvements ~~listed on the Eligible Improvements Specification Report~~ have been completed to their satisfaction.

(B) Certification ~~that they understand~~of understanding that the Authority and its directors, officers, and agents do not guarantee the performance, quality, or workmanship of the Eligible Improvements.

(C) Certification that the loan proceeds were used to pay for the Eligible Improvements.

(D) Acknowledgement that the Authority, to the extent allowed by these regulations, including its officers, directors, employees, agents, or designees, has received and will receive information related to the project. The Authority may use this information for program management and evaluation and shall treat the information as confidential unless otherwise required by law.

(E) Authorization for the Qualified Contractor and Participating Financial Institution to share information with the Authority, except as required by these regulations, including contract information, data on work performed and Eligible Improvements installed, information regarding the Qualified Loan, and other information relating to or arising from participation in the Program.

(F) Certification that all permits and approvals required to install the Eligible Improvements have been secured.

~~(4) Lender to complete:~~

- ~~(A) Participating Financial Institution name.~~
- ~~(B) Loan identification number.~~
- ~~(C) Participating Financial Institution address and telephone number.~~
- ~~(f) The Eligible Improvements Specification Report must be completed by the Qualified Contractor and shall include the following information (the Participating Financial Institution shall add its name and the loan identification number, and redact any Borrower personal identifying information prior to submission to the Authority):~~
  - ~~(1) General project data:~~
    - ~~(A) Project location such as city and zip code.~~
    - ~~(B) Building type.~~
    - ~~(C) Name of the Qualified Contractor's company.~~
    - ~~(D) Total project invoiced cost.~~
    - ~~(E) Qualified Loan amount.~~
    - ~~(F) Amount of rebates.~~
    - ~~(G) Project start date and project completion date.~~
  - ~~(2) General building data:~~
    - ~~(A) Year constructed.~~
    - ~~(B) Building floorspace.~~
    - ~~(C) Electricity service provider name.~~
    - ~~(D) Natural gas service provider name.~~
    - ~~(E) Other primary energy fuel.~~
  - ~~(3) Total energy savings:~~
    - ~~(A) Source or method for prediction.~~
    - ~~(B) Estimated electricity saved per year (kWh).~~
    - ~~(C) Estimated percent savings of kWh per year.~~
    - ~~(D) Estimated natural gas savings per year (therms).~~
    - ~~(E) Estimated percent savings of natural gas per year.~~
    - ~~(F) If other primary fuels are applicable, the expected annual energy savings per year in units of the energy fuel indicated, and the estimated percent savings per year.~~
    - ~~(G) Estimated annual cost savings, in dollar amount.~~
  - ~~(4) Distributed generation renewable source data:~~
    - ~~(A) Type and capacity.~~
    - ~~(B) Estimated annual cost savings, in dollar amount.~~
  - ~~(5) List of installed Eligible Improvements.~~
  - ~~(6) Quality assurance and quality control information:~~
    - ~~(A) Qualified Contractor's license number.~~
    - ~~(B) Qualified Contractor's certification types and certification numbers, if applicable.~~
    - ~~(C) Building permit numbers, if applicable.~~
  - ~~(7) This report is not intended to be a contract or replace the contract between the Qualified Contractor and the Borrower, nor is it intended to be a contract between the Authority and any other party.~~
- ~~(g)~~(f) The Participating Financial Institution shall be authorized to base the information requested in subdivisions ~~(e)~~ and ~~(f)~~ above upon representations made to it by the Borrower and/or the Qualified Contractor, provided that no such representation may be relied upon if it is known to be false by the lending officers at the Participating Financial Institution who are directly involved in the negotiation of the Qualified Loan.

- (hg) If a Borrower seeking a Qualified Loan from a Participating Financial Institution is an employee, member, director, officer, principle shareholder, or affiliate of the Participating Financial Institution, the terms and the conditions of the Qualified Loan and the internal procedures used to approve the Qualified Loan must comply with the following requirements:
- (1) If the Participating Financial Institution is a federal-chartered bank, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 371c, 371c-1, 375a, and 375b of ~~the~~ Title 12 of the United States Code, and Sections 215.4 of Title 12 of the Code of Federal Regulations.
  - (2) If the Participating Financial Institution is a state-chartered bank, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions.
  - (3) If the Participating Financial Institution is a federal-chartered savings association, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Section 1468 of Title 12 of the United States Code.
  - (4) If the Participating Financial Institution is a state-chartered savings association, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Sections 6503 and 6529 of the Financial Code.
  - (5) If the Participating Financial Institution is a federal-chartered credit union, the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 1757 and 1761c of Title 12 of the United States Code and Section 701.21(d) of Title 12 of the Code of Federal Regulations.
  - (6) If the Participating Financial Institution is a state-chartered credit union, the Qualified Loan must be made in accordance with all applicable state banking laws that regulate conflicts of interests and insider transactions and Section 15050 of the Financial Code.
  - (7) If the Participating Financial Institution is a certified community development financial institution (CDFI), the Qualified Loan must be made in accordance with all applicable federal banking laws that regulate conflicts of interests and insider transactions and Sections 1805.807 of Title 12 of the Code of Federal Regulations.
- (ih) The Authority shall, upon receipt of documentation as required under Section 10054 from the Participating Financial Institution, enroll the Qualified Loan if the Executive Director determines that the Qualified Loan meets the requirements of this Article. The Executive Director shall notify the Participating Financial Institution of enrollment within fifteen (15) business days after receipt by the Authority of all documentation required by this Article. The Executive Director's determination whether a Qualified Loan shall be enrolled in the Program shall be final.
- (ji) Upon enrollment of a Qualified Loan, the Loss Reserve Contribution shall be transferred for deposit into the Loss Reserve Account held on behalf of the Participating Financial Institution by the Program Trustee. The Participating Financial Institution will be notified of the transfer.

- (~~k~~i) Without regard to the term and maturity date of the Qualified Loan, the term of enrollment in the Program shall not exceed ten (10) years.

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Sections ~~26133~~26073 and ~~26134~~26074, Public Resources Code.

**§ 10055. Loss Reserve Accounts.**

- (a) Upon the Executive Director's acceptance of an application by a Financial Institution under Section 10053, the Authority shall establish a Loss Reserve Account for that Participating Financial Institution for the following purposes:
  - (1) to receive Loss Reserve Contributions deposited by the Authority; and
  - (2) to pay claims in accordance with Section 10056.
- (b) The Loss Reserve Account shall be held by a Program Trustee selected by the Authority.
- (c) All moneys in a Loss Reserve Account are the property of the Authority. Interest or income earned on moneys credited to the Loss Reserve Account shall be deemed to be part of the Loss Reserve Account. The Executive Director shall be authorized to withdraw from the Loss Reserve Account all interest and income that has been credited to the Loss Reserve Account as set forth below and in Section 10059.
- (d) If the balance in a Participating Financial Institution's Loss Reserve Account is greater than the Participating Financial Institution's aggregate principal of its outstanding Qualified Loans for three (3) consecutive months, the Authority may withdraw the excess funds from the Participating Financial Institution's Loss Reserve Account.

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Sections ~~26133~~26073 and ~~26134~~26074, Public Resources Code.

**§ 10056. Claim for Reimbursement.**

- (a) A Participating Financial Institution shall notify the Authority within sixty (60) calendar days after it has charged off all or part of a Qualified Loan as a result of a default by the Borrower.
- (b) A Participating Financial Institution shall be authorized to make a claim for reimbursement of a loss from the enrolled portion of a Qualified Loan prior to the liquidation of collateral, or realization on personal or other financial guarantees or from other sources. A Participating Financial Institution may also defer, for a period not to exceed one hundred eighty (180) calendar days from the date of the charge-off, at its sole discretion, making a claim for reimbursement, but still must inform the Authority of charge-off status within sixty (60) calendar days.
- (c) The Authority shall pay claims within thirty (30) calendar days of receipt of a completed claim request; provided, however, that the Executive Director shall be authorized to reject a claim if it is determined that the representations and warranties provided by the Participating Financial Institution pursuant to Section 10054 at the time of enrolling the Qualified Loan were false. The Authority shall be authorized, upon providing written notice to the

- Participating Financial Institution, to defer payment of claims up to an additional thirty (30) calendar days if the Authority requires more information in order to determine if the claim shall be paid.
- (d) Claim reimbursement from all sources shall not exceed the enrolled amount of the Qualified Loan that forms the basis for the claim, except when reasonable out-of-pocket expenses are claimed. In the event only a portion of the loan was enrolled, reimbursement of out-of-pocket expenses will be limited to the ratio of the enrolled portion to the total loan amount.
- (e) To make a claim, the Participating Financial Institution shall submit a claim application to the Authority which shall include the following information:
- (1) Name and identification number of the Participating Financial Institution.
  - (2) Name, address, telephone number and email address of contact person.
  - (3) ~~Loan Identification Number~~ Participating Financial Institution loan identification number of the Qualified Loan that is subject of the claim.
  - ~~(4)~~ (4) Loan enrollment number.
  - ~~(5)~~ (5) Original principal amount and enrollment date of the Qualified Loan.
  - ~~(6)~~ (6) Amount of charge-off.
  - ~~(7)~~ (7) Date of charge-off.
  - ~~(8)~~ (8) Statement whether the loan is secured, and whether the Participating Financial Institution has commenced enforcement proceedings.
  - ~~(9)~~ (9) Amount of claim and breakdown of components of the claim between outstanding principal, accrued interest and reasonable out-of-pocket expenses of collection or preservation of collateral, accompanied by documentation of such expenses.
  - ~~(10)~~ (10) If two or more claims are filed simultaneously by one Participating Financial Institution, a statement of the priority of payment of the claim compared to the other claims in the event the Loss Reserve Account is not sufficient to pay all claims.
  - ~~(11)~~ (11) Certification that notice was filed with the Authority as required by this Section, and certification that such charge-off was made in a manner consistent with the Participating Financial Institution's usual methods for taking action on loans which are not enrolled as Qualified Loans under the Program.
  - ~~(12)~~ (12) Statement regarding claims made concerning the Qualified Loan with other government programs substantially similar to the Program—including but not limited to loan loss reserve or loan guarantee programs—including amounts of reimbursements anticipated or received. If no such claim is being made, the statement shall explain why and include an agreement by the Participating Financial Institution that no claim will be made, or in the event a claim is made that some or all of any reimbursement received shall be paid to the Authority in an amount necessary to ensure that the Participating Financial Institution does not receive more than the amount allowed pursuant to subdivision (d).
  - ~~(13)~~ (13) The claim application shall be signed by a person authorized to bind the Participating Financial Institution, and shall include the signatory's printed name, title and date.
- (f) If a Qualified Loan suffers a loss and at the time of the Participating Financial Institution's claim there are insufficient funds in the Loss Reserve Account to cover the total amount of the claim, the Participating Financial Institution shall be able to withdraw all of the amount in the Loss Reserve Account at the time of the claim, to cover the loss to the fullest extent possible. If the Participating Financial Institution then continues making Qualified Loans

under the Program and the Loss Reserve Account is replenished, the Participating Financial Institution shall be authorized to withdraw funds from the Loss Reserve Account one subsequent time in order to cover the earlier claim.

- (g) If, subsequent to the payment of a claim by the Authority, the Participating Financial Institution recovers from the Borrower, from liquidation of collateral or from any other source, amounts for which the Participating Financial Institution was reimbursed by the Authority, the Participating Financial Institution shall promptly pay to the Authority, for deposit in the Loss Reserve Account, the amount received, net of reasonable and customary costs of collection, that in aggregate exceeds the amount needed to fully cover the Participating Financial Institution's loss on the Qualified Loan (including the portion of a Qualified Loan which is not enrolled in the Program). Recoveries which exceed reimbursements to the Loss Reserve Account may be retained by the Participating Financial Institution.

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Sections ~~26133~~26073 and ~~26134~~26074, Public Resources Code.

#### § 10057. Participating Financial Institution Reporting.

- (a) A Participating Financial Institution shall provide a cumulative quarterly report to the Authority within two weeks of the end date of each quarter.
- (b) The quarterly report shall indicate the following information for each enrolled Qualified Loan:
- ~~(1) Loan Identification Number.~~
  - ~~(2) (1) Participating Financial Institution loan identification number.~~
  - ~~(2) Loan enrollment number.~~
  - ~~(3) Maturity date of the loan.~~
  - ~~(34) Total loan amount (original amount of loan).~~
  - ~~(45) Total enrolled amount outstanding (today's balance or enrolled amount, whichever is less).~~
  - ~~(56) The standard delinquency status of all outstanding Qualified Loans and collections, if any.~~
  - ~~(67) Any inchoate losses or acceleration notices.~~
  - ~~(78) Closed Qualified Loans shall be reported in the quarter they pay or charge off as a zero balance. Once the Participating Financial Institution has reported the Qualified Loan as zero, it does not need to be included on future quarterly reports and the Qualified Loan may be removed from the quarterly report at that time.~~
  - ~~(8) For Qualified Loans that resulted in a claim payment to the Participating Financial Institution, the quarterly report shall also include the following information:~~
    - ~~(A) Date of charge off.~~
    - ~~(B) Claim amount paid.~~
    - ~~(C) Recovery dates.~~
    - ~~(D) Recovery amounts.~~
- (c) If a Participating Financial Institution becomes subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, the Participating

Financial Institution shall inform the Authority in writing within thirty (30) calendar days of such action.

- (d) If at any time an enrolled Qualified Loan is enrolled in another substantially similar government program, the Participating Financial Institution must notify the Authority of such enrollment.
- (e) If a Participating Financial Institution changes the loan term within the allowed term of enrollment in the Program, the Participating Financial Institution must notify the Authority. Under no circumstances shall the Authority provide additional Loss Reserve Contributions for a Qualified Loan whose loan term has changed, nor will the Authority extend the time for which a claim may be filed beyond the ten (10) years set forth in Section 10054(j).

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Sections ~~26133~~26073 and ~~26134~~26074, Public Resources Code.

**§ 10058. Subrogation.**

- (a) The Authority will be subrogated to the rights of the Participating Financial Institution in collateral, personal guarantees and all other forms of security for the Qualified Loan including reimbursement claims that may be made with other government programs substantially similar to the Program including, but not limited to, other loan loss reserve or loan guarantee programs that have not been realized by the Participating Financial Institution, when the Participating Financial Institution's loss has been fully covered by payment of a loss claim, or by a combination of payment of a loss claim and recovery from the Borrower, liquidation of collateral, or from other sources.
- (b) At the time of subrogating its rights, the Participating Financial Institution shall provide the Authority with all original security agreements, any documents evidencing title to real property, certificates of title, guarantees, and any other documents representing security for the Qualified Loan, duly recorded and perfected, and accompanied by enforceable assignments and conveyances to the Authority, unless such security documents also secure indebtedness to the Participating Financial Institution which was not covered by the Qualified Loan. In such latter case, the Participating Financial Institution shall enter into an intercreditor agreement with the Authority, providing that the Participating Financial Institution shall be entitled to recover under such security documents, to the extent possible, the full amount of its loss on any indebtedness not covered by the Qualified Loan but secured by the same collateral as the Qualified Loan; the balance of any amounts recovered under such security documents shall be deposited in the Loss Reserve Account. The Participating Financial Institution shall provide monthly reports, and as requested by the Executive Director, concerning its activities in collecting moneys owed from a defaulted Borrower.

- (c) The Executive Director shall be authorized to enter into agreements with any Participating Financial Institution to provide for such institution to act as the Authority's agent to secure recovery under any agreement, collateral or security documents to which the Authority has been subrogated.

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Sections ~~26133~~26073 and ~~26134~~26074, Public Resources Code.

**§ 10059. Termination and Withdrawal from the Program.**

- (a) A Participating Financial Institution shall be authorized to withdraw from the Program after giving written notice to the Authority. Such notice shall specify either:
  - (1) that the Participating Financial Institution waives any further interest in the Loss Reserve Account (including for the reason that all Qualified Loans covered by the Loss Reserve Account have been repaid); or
  - (2) that the Participating Financial Institution will not enroll any further loans under the Program but that the Loss Reserve Account shall continue in existence to secure all Qualified Loans enrolled prior to such notice.
- (b) After receipt of a notice under subsection (a)(1) or receipt of a certificate from a Participating Financial Institution which has withdrawn from the Program pursuant to subsection (a)(2), certifying that all Qualified Loans secured by the Loss Reserve Account have been repaid and that there are no pending claims for reimbursement under Section 10056, the remaining balance in the Loss Reserve Account shall be distributed to the Authority.
- (c) The Executive Director shall be authorized to terminate participation of a Participating Financial Institution in the Program, by notice in writing, upon the occurrence of any of the following:
  - (1) Entry of a cease and desist order, regulatory sanction, or any other action against the Participating Financial Institution by a regulatory agency that may impair its ability to participate in the Program; or
  - (2) Failure of the Participating Financial Institution to abide by the Law or this Article; or
  - (3) Failure of the Participating Financial Institution to enroll any Qualified Loans under the Program for a period of one year; or
  - (4) Provision of false or misleading information regarding the Participating Financial Institution to the Authority, or failure to provide the Authority with notice of material changes in submitted information regarding the Participating Financial Institution. In the event of such termination, the Participating Financial Institution shall not be authorized to enroll any further Qualified Loans, but all previously enrolled Qualified Loans shall continue to be covered by the Loss Reserve Account until they are paid, claims are filed, or the Participating Financial Institution withdraws from the Program pursuant to Section 10059(a).

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Sections ~~26133~~26073 and ~~26134~~26074, Public Resources Code.

**§ 10060. Reports of Regulatory Agencies.**

- (a) The Executive Director shall be authorized to seek information directly from any federal or state regulatory agency concerning any Participating Financial Institution participating in the Program.

Authority: Section ~~26131~~26071, Public Resources Code.

Reference: Sections ~~26133~~26073 and ~~26134~~26074, Public Resources Code.

Attachment B

PROPOSED PROGRAM FORMS

Financial Institution Application .....B-2

Loan Enrollment Application .....B-3

Certificate of Completion .....B-5

Financial Institution Claim Application .....B-7

### FINANCIAL INSTITUTION APPLICATION\*

Name of Financial Institution: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Person Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email address: \_\_\_\_\_

**Type of Financial Institution:**

- ☐ Insured Depository Institution (12 USC 4702 (15))  
☐ Federal Certified Community Development Financial Institution (12 USC 4702 (13))  
☐ Insured Credit Union (12 USC 4702 (14))

☐ Consortium of these entities

**-OR-**

- ☐ Municipal Utility District as described in Section 12850 of the Public Utilities Code

List of the anticipated geographic area(s) in California where the loan program may be available, by county: \_\_\_\_\_

Regulatory Agency\*\*: \_\_\_\_\_ Insuring Agency\*\*: \_\_\_\_\_

**Description of Loan Program:** *Per Section 10053(a)(6)-(8) of the Program regulations, please attach a detailed description of the loan program* to finance Eligible Improvements, including, but not limited to:

anticipated loan product details, such as collateral required (if any), maximum and minimum loan amounts, interest rates (whether fixed or variable), loan terms, property type, and underwriting criteria including FICO score and debt-to-income ratio.

A detailed description of the transactional activities associated with the loan issuance, including all transactional costs such as application, loan origination, UCC 1 filing, property valuation cost, and title and tax search fees.

The mechanism by which cost savings produced by this Program are passed on to the Borrowers in the form of lower cost financing. This includes a comparison of interest rates and loan terms between existing loan products for Eligible Improvements and the interest rates the Financial Institution anticipates providing if a Qualified Loan is enrolled in the Program. If the Financial Institution does not have an existing loan product for energy efficiency or renewable energy installations, a comparison should be made of the interest rates and loan terms between other similar loan products and the proposed loan program. Include additional benefits associated with enrolling Qualified Loans in the Program, such as expanded loan terms and underwriting criteria.

**Certification:** *Per Section 10053 of the Program regulations, by enrolling as a Participating Financial Institution:*

The undersigned certifies that the applicant Financial Institution is not subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, which would impair its ability to participate in the Program.\*\*

The Financial Institution agrees to follow Program regulations regarding the Clean Energy Upgrade Financing Program.

The Financial Institution agrees to permit an audit of any of its records relating to enrolled Qualified Loans, during normal business hours on its premises, by the Authority or its agents, and to supply such other information concerning enrolled Qualified Loans as shall be requested by the Executive Director.

The Financial Institution acknowledges that the Authority and the State will have no liability to the Participating Financial Institution under the Program except from funds deposited in the Loss Reserve Account for the Participating Financial Institution.

|                      |              |       |      |
|----------------------|--------------|-------|------|
| Authorized Signature | Printed Name | Title | Date |
|----------------------|--------------|-------|------|

\* All capitalized terms are defined in Section 10050 of the Clean Energy Upgrade Financing Program regulations.

\*\*Not required if the Financial Institution is a municipal utility district as described in Section 12850 of the Public Utilities Code.

| California Alternative Energy and Advanced Transportation Financing Authority Use Only |                   |         |
|----------------------------------------------------------------------------------------|-------------------|---------|
| Executive Director Approval Signature                                                  | PFI Approval Date | PFI ID# |

|                             |                 |
|-----------------------------|-----------------|
| <b>CAEATFA<br/>Use Only</b> | Enrolled Loan # |
|                             | Date Received   |

### LOAN ENROLLMENT APPLICATION\*

#### Lender Information

Participating Financial Institution ("PFI"): \_\_\_\_\_ PFI ID#: \_\_\_\_\_

Loan Officer Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

#### Borrower Information

PFI Loan Identification Number\*\*: \_\_\_\_\_ FICO Score: \_\_\_\_\_ Debt-to-Income (DTI) Ratio: \_\_\_\_\_

\*\*that does not convey any personal identifying information about the Borrower

City: \_\_\_\_\_ County: \_\_\_\_\_ Zip: \_\_\_\_\_

#### Loan Information

Summary of Eligible Improvements *(Must be recommended in the pre-project energy efficiency assessment)*

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☐ Energy Efficiency    ☐ Distributed Generation Renewable Energy Source(s) *(Must comply with Program loading order requirements)*

Is this loan amount in the first \$250,000 of Program Qualified Loans enrolled by PFI?    ☐ Yes    ☐ No

Total Loan Amount: \$ \_\_\_\_\_ Amount of Loan covered by Program: \$ \_\_\_\_\_

Type of Loan:    ☐ Home Equity Loan    ☐ Term Loan    ☐ Second Mortgage    ☐ \_\_\_\_\_

Is the loan secured?    ☐ Yes    ☐ No

Date of Receipt of Certificate of Completion by PFI: \_\_\_\_\_

Term of the Qualified Loan: \_\_\_\_\_ Maturity Date (MM/DD/YY): \_\_\_\_\_

Interest Rate: \_\_\_\_\_ %    ☐ Fixed    ☐ Variable

What would the interest rate be if the loan was not enrolled in this Program? \_\_\_\_\_

Estimated savings to the Borrower in the form of lower cost financing over the term of the loan: \_\_\_\_\_

Estimated Authority's Loss Reserve Contribution amount to Loss Reserve Account: \$ \_\_\_\_\_

*(continued on other side of form)*

\* All capitalized terms are defined in Section 10050 of the Clean Energy Upgrade Financing Program regulations.

### Certification by Participating Financial Institution

Pursuant to Section 10054 of the Program regulations, \_\_\_\_\_ certifies that:

Participating Financial Institution

- ☐ The loan is a Qualified Loan as defined in the Program regulations.
- ☐ The Borrower receiving the Qualified Loan meets the Minimum Underwriting Criteria set forth in the Program regulations.
- ☐ The total outstanding principal balance of all enrolled Qualified Loans specific to the Borrower does not exceed ten percent (10%) of the value of the Eligible Property as determined by the Participating Financial Institution.

Authorized Signature

Date \_\_\_\_\_

---

Title

**Required Enclosures** *(must be attached to complete this Loan Enrollment Application per Program regulations Section 10054(c)(4)):*

- ☐ Notification if the Participating Financial Institution has enrolled the same loan or a portion thereof in any government program substantially similar to the Program.

***The Participating Financial Institution shall redact Borrower name, street address and any other personal identifying information from the copies of the all documents prior to submission to the Authority:***

- ☐ Certificate of Completion
- ☐ Pre-Project Assessment
- ☐ Post-Project Assessment ***including, if applicable (please check):***
  - ☐ ***Energy efficiency improvements:*** A copy of the utility's post-retrofit approval notification *(If participating in a California Public Utilities Commission (CPUC)-approved residential whole-house energy efficiency retrofit program, in accordance with that program's quality assurance protocols; OR if participating in a residential whole-house energy efficiency retrofit program operated by a utility that is not subject to approval by the CPUC, in accordance with the quality assurance protocols established under the Home Performance with ENERGY STAR joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy)*
  - ☐ ***Energy efficiency improvements:*** No additional documentation *(if not participating in one of the retrofit programs specified above, and the Post-Project Assessment was conducted by an Independent Third-Party Inspector who is a HERS Whole House Rater, a BPI Building Analyst or BPI Energy Auditor in accordance with the BPI Building Analyst Professional Standard or BPI Home Energy Auditing Standard)*
  - ☐ ***Distributed generation renewable energy source improvements:*** A copy of the letter permitting the interconnection of the distributed generation renewable energy source from the utility servicing the Eligible Property

**California Alternative Energy and Advanced Transportation Financing Authority Use Only**

|                                |                                |                                                     |
|--------------------------------|--------------------------------|-----------------------------------------------------|
| Approved Qualified Loan Amount | Loan Loss Reserve Contribution | PFI's Total Enrolled Loan Volume to Date            |
| \$ _____                       | \$ _____ ( _____ %)            | \$ _____<br><i>(including this loan enrollment)</i> |
| Authorized Signature           |                                | Loan Enrollment Date                                |
|                                |                                | Enrolled Loan #<br>_____                            |



Certificate of Completion received by PFI on:

(date)

TO BE COMPLETED BY LENDER:

Participating Financial Institution Name:

PFI Loan Identification Number:

## Certificate of Completion

THIS SECTION TO BE COMPLETED BY CONTRACTOR:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| <b>Qualified Contractor's Name:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Qualified Contractor's License Number:</b> |
| <b>City and ZIP Code Where the Project is Located:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>Certification Type and Number</b>          |
| <p align="center"><b>Qualified Contractor Certification – Energy Efficiency Improvements</b></p> <p>This Qualified Loan is being enrolled in the Clean Energy Upgrade Financing Program ("Program"). You are the "Qualified Contractor." By signing below, you certify the following:</p> <p><input type="checkbox"/> I am licensed to perform the work for which the Qualified Loan is made.</p> <p><input type="checkbox"/> I am a BPI-certified contractor <span style="margin-left: 20px;">-OR-</span> <input type="checkbox"/> I am a contractor approved for participation in the CPUC-approved residential whole-house energy efficiency retrofit programs.</p> <p>The Eligible Improvements installed are:</p> <p><input type="checkbox"/> energy saving home improvements recommended in the Pre-Project Assessment <span style="margin-left: 20px;">-OR-</span> <input type="checkbox"/> selected in accordance with a CPUC-approved residential whole-house energy efficiency retrofit program.</p> <p><input type="checkbox"/> The installation complies with all applicable California building standards (all sections of Title 24), local electricity utility interconnection requirements, and any additional laws, ordinances, regulations and standards applicable in the jurisdiction where the installation occurred.</p> <p><input type="checkbox"/> All permits and approvals required to install the Eligible Improvements have been secured.</p> <p>The Post-Project Assessment was conducted:</p> <p>by an Independent Third-Party Inspector (provide name) <span style="margin-left: 20px;">-OR-</span> <input type="checkbox"/> <i>If Borrower is participating in a CPUC-approved residential whole-house energy efficiency retrofit program, in accordance with that program's quality assurance protocols.</i></p> <p>who is (check and provide appropriate certification #):</p> <p><input type="checkbox"/> a HERS Whole House Rater # _____,</p> <p><input type="checkbox"/> a BPI Building Analyst # _____, or</p> <p><input type="checkbox"/> a BPI Energy Auditor # _____,</p> <p><i>in accordance with the BPI Building Analyst Professional Standard or BPI Home Energy Auditing Standard.</i></p> <p><span style="margin-left: 20px;">-OR-</span> <input type="checkbox"/> <i>If Borrower is participating in a residential whole-house energy efficiency retrofit program operated by a utility that is not subject to approval by the California Public Utilities Commission, in accordance with the quality assurance protocols established under the Home Performance with ENERGY STAR joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy.</i></p> |                                               |
| <b>Qualified Contractor's Signature:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>Date:</b>                                  |



**TO BE COMPLETED BY LENDER:**

**Participating Financial Institution Name:**

**PFI Loan Identification Number:**

**THIS SECTION TO BE COMPLETED BY CONTRACTOR:**

**Qualified Contractor Certification – Distributed Generation Renewable Source(s)**

This Qualified Loan is being enrolled in the Clean Energy Upgrade Financing Program (“Program”). You are the “Qualified Contractor.” By signing below, you certify the following:

I hold a valid *(check appropriate license)* ☐ A ☐ B ☐ C-4 ☐ C-10 ☐ C-36 ☐ C-46 license from the California Contractors State License Board.

I certify that the loading order requirement was met by:

- ☐ Energy efficiency improvements meet minimum ten percent (10%) reduction in total property energy use **-OR-** ☐ Installed energy efficiency improvements selected in accordance with a CPUC-approved residential whole-house energy efficiency retrofit program.

**-OR-**

- ☐ HERS Index Home Energy Rating score \_\_\_\_\_ *(85 or lower, provided the following requirement is met)*  
☐ Air Sealing/Attic Insulation/Duct Test & Seal/Hot Water Heater Insulation installed if recommended by the Pre-Project Assessment.

**Qualified Contractor’s Signature:**

**Date:**

**THIS SECTION TO BE COMPLETED BY BORROWER:**

**Borrower Certification**

**Completion of Work:** I certify that:

The Eligible Improvements have been completed to my satisfaction.

I understand that the California Alternative Energy and Advanced Transportation Financing Authority (“Authority”) and its directors, officers, and agents do not guarantee the performance, quality, or workmanship of the Eligible Improvements.

The loan proceeds were used to pay for the Eligible Improvements.

All permits and approvals required to install the Eligible Improvements have been secured.

**Release of Information:** I acknowledge that the Authority, to the extent allowed by the Program regulations, including its officers, directors, employees, agents, or designees, has received and will receive information about me related to the project. The Authority may use this information for program management and evaluation, and will treat the information as confidential unless otherwise required by law. I authorize my Qualified Contractor and Participating Financial Institution to share information with the Authority, except as required by the Program regulations, including contract information, data on work performed and Eligible Improvements installed, information regarding my Qualified Loan, and other information relating to or arising from participation in the Program.

**Signature of Borrower:**

**Print Name:**

**Date:**

**Signature of Co-Borrower, if applicable:**

**Print Name:**

**Date:**

*\*All capitalized terms are defined in Section 10050 of the Program regulations.*

*Entries bordered in red should be redacted by PFI prior to submission to the Authority.*

## FINANCIAL INSTITUTION CLAIM APPLICATION\*

NOTE: A Participating Financial Institution ("PFI") is required to notify the Authority within 60 calendar days after it has charged off all or part of a Qualified Loan as a result of default by a Borrower. If the form is filled out properly and the PFI has faithfully complied with the Program regulations, the Authority will authorize the Program Trustee to reimburse the PFI from the PFI's Loss Reserve Account within 30 calendar days of receipt.

### Participating Financial Institution Information

PFI's Name: \_\_\_\_\_ PFI ID #: \_\_\_\_\_  
PFI Contact: Name: \_\_\_\_\_ Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email: \_\_\_\_\_

### Loan Information (Please attach loan history report.)

Loan Enrollment Date: \_\_\_\_\_ Loan Enrollment Number \_\_\_\_\_  
PFI Loan Identification Number \_\_\_\_\_ Original Principal Amount of Loan: \_\_\_\_\_  
Charge-off Amount: \_\_\_\_\_ Date of Charge-off: \_\_\_\_\_  
Is this loan secured? ☐ Yes ☐ No If yes, form of security: \_\_\_\_\_  
Have enforcement proceedings begun? ☐ Yes ☐ No

### Claim Information

Outstanding Principal \$ \_\_\_\_\_  
Accrued Interest \$ \_\_\_\_\_  
Out-of-pocket expenses \$ \_\_\_\_\_  
(Attach detailed explanation)  
**Total Claim Amount** \$ \_\_\_\_\_

PFI's priority of claim (If two or more claims filed by PFI): \_\_\_\_\_

### Participating Financial Institution Certifications

- The PFI certifies that: ☐ notice of charge-off of this Qualified Loan was filed with the Authority as required by Section 10056 of the Program regulations, and that ☐ such charge-off was made in a manner consistent with the Participating Financial Institution's usual methods for taking action on loans which are not enrolled as Qualified Loans under the Program.
- The PFI warrants that it ☐ has ☐ has not made claims concerning the Qualified Loan with other government programs substantially similar to the Program—including but not limited to loan loss reserve or loan guarantee programs.

If other claims have been made, \$ \_\_\_\_\_ amounts of reimbursements anticipated or received.

If no such claim is being made, explain why: \_\_\_\_\_

**and** the PFI warrants that no claim will be made, or in the event a claim is made that some or all of any reimbursement received shall be paid to the Authority in an amount necessary to ensure that the Participating Financial Institution does not receive more than the amount allowed pursuant to Section 10056(d) of the Program regulations.

Authorized Signature \_\_\_\_\_ Printed Name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

#### California Alternative Energy and Advanced Transportation Financing Authority Use Only

|                      |      |                   |                                  |
|----------------------|------|-------------------|----------------------------------|
| Authorized Signature | Date | Loan Enrollment # | Reimbursement Amount<br>\$ _____ |
|----------------------|------|-------------------|----------------------------------|

\* All capitalized terms are defined in Section 10050 of the Clean Energy Upgrade Financing Program regulations.

**Assembly Bill No. 14****CHAPTER 9**

An act to amend Sections 26003, 26102, 26140, and 26141 of, to amend the heading of Division 16.2 (commencing with Section 26100) of, to add Sections 26100.5 and 26103.5 to, and to add Chapter 2.5 (commencing with Section 26130) to Division 16.2 of, the Public Resources Code, relating to energy, and making an appropriation therefor.

[Approved by Governor August 2, 2011. Filed with  
Secretary of State August 2, 2011.]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 14, Skinner. Energy: energy upgrade financing.

(1) Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a Property Assessed Clean Energy (PACE) Reserve program to assist local jurisdictions in financing the installation of distributed generation renewable energy sources or energy or water efficiency improvements meeting specified requirements that are permanently affixed on real property through the use of a voluntary contractual assessment. Existing law, until January 1, 2015, appropriates up to \$50,000,000 from the Renewable Resource Trust Fund to the authority for the purposes of the PACE Reserve program and authorizes the authority to expend up to \$300,000 of that appropriation for initial administrative costs in implementing the PACE Reserve program.

This bill would additionally require the authority to administer a Clean Energy Upgrade Program that would be developed by the State Energy Resources Conservation and Development Commission and the authority to reduce the costs to property owners of a loan provided by a financial institution that has a loan program that satisfies the specified requirements. Because this bill would authorize the use of the money appropriated for the PACE Reserve program for the Clean Energy Upgrade Program, this bill would make an appropriation. The bill would require the authority to report annually specified information regarding the program. The bill would increase the amount of the appropriation that may be expended for initial administrative costs to \$550,000, thereby making an appropriation.

(2) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 26003 of the Public Resources Code is amended to read:

26003. As used in this division, unless the context otherwise requires:

(a) “Authority” means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(b) “Cost” as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; the cost of the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of a project.

(c) (1) “Alternative sources” means the application of cogeneration technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels.

(2) “Alternative sources” does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) “Advanced transportation technologies” means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state’s commitment to energy conservation,

pollution reduction, and transportation efficiency. Those technologies may include, but are not limited to, any of the following:

- (1) Intelligent vehicle highway systems.
- (2) Advanced telecommunications for transportation.
- (3) Command, control, and communications for public transit vehicles and systems.

- (4) Electric vehicles and ultralow-emission vehicles.
- (5) High-speed rail and magnetic levitation passenger systems.
- (6) Fuel cells.

(e) “Financial assistance” includes, but is not limited to, either, or any combination, of the following:

(1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the board.

(2) Any other type of assistance the authority determines is appropriate.

(f) “Participating party” means either of the following:

(1) A person, or an entity or group of entities engaged in business or operations in the state, whether organized for profit or not for profit, that does either of the following:

(A) Applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(B) Participates in the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.

(2) A public agency or nonprofit corporation that does either of the following:

(A) Applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(B) Participates in the purchase or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.

(g) (1) “Project” means a land, building, improvement to the land or building, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies, or an arrangement for the purchase, including prepayment, or sale of energy derived from an alternative source pursuant to subdivision (g) of Section 26011.

(2) “Project,” for the purposes of Section 26011.8, means any tangible personal property that is utilized for the design, manufacture, production, or assembly of advanced transportation technologies or alternative source products, components, or systems.

(h) “Public agency” means a federal or state agency, department, board, authority, state or community college, university, or commission, or a county,

city and county, city, regional agency, public district, school district, or other political entity.

(i) (1) “Renewable energy” means a device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:

- (A) Biomass.
- (B) Solar thermal.
- (C) Photovoltaic.
- (D) Wind.
- (E) Geothermal.

(2) For purposes of this subdivision, “conventional energy fuel” means any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquefied natural gas, or nuclear fissionable materials.

(3) Notwithstanding paragraph (1), for purposes of this section, “renewable energy” also means ultralow-emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(j) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

SEC. 2. The heading of Division 16.2 (commencing with Section 26100) of the Public Resources Code is amended to read:

**DIVISION 16.2. PROPERTY ASSESSED CLEAN ENERGY (PACE)  
AND CLEAN ENERGY FINANCING ASSISTANCE**

SEC. 3. Section 26100.5 is added to the Public Resources Code, to read:  
26100.5. The Legislature further finds and declares both of the following:

(a) Actions by federally chartered home loan entities have frustrated efforts to accelerate the implementation of the PACE financing program, creating a need to establish effective alternative approaches that can be rapidly deployed to advance the purposes of this division.

(b) Among the most promising alternatives that can be implemented rapidly are those intended to increase access to capital for projects that advance the purposes of this division.

SEC. 4. Section 26102 of the Public Resources Code is amended to read:

26102. “Applicant” means, for the purposes of Chapter 2 (commencing with Section 26120), a public agency as defined in paragraph (3) of subdivision (c) of Section 5898.20 of the Streets and Highways Code and,

for the purposes of Chapter 2.5 (commencing with Section 26130), a financial institution providing a loan pursuant to that chapter to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements.

SEC. 5. Section 26103.5 is added to the Public Resources Code, to read:

26103.5. “Clean Energy Upgrade Program” means a statewide energy and water efficiency and renewable energy generation building retrofit financing program developed by the State Energy Resources Conservation and Development Commission and the authority pursuant to Section 26130.

SEC. 6. Chapter 2.5 (commencing with Section 26130) is added to Division 16.2 of the Public Resources Code, to read:

#### CHAPTER 2.5. CLEAN ENERGY UPGRADE PROGRAM

26130. The authority shall administer a Clean Energy Upgrade Program to reduce overall costs to the property owners of a loan provided by an applicant to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements on real property by providing a reserve or other financial assistance at a level to be determined by the State Energy Resources Conservation and Development Commission and the authority. Improvements financed pursuant to this program shall be for a residential project of three units or fewer or a commercial project that costs less than twenty-five thousand dollars (\$25,000) in total.

26131. (a) The authority shall adopt regulations governing the implementation of this chapter, including quality assurance pursuant to subdivision (b) of Section 26132, at a publicly noticed meeting. Notwithstanding any other law, regulations adopted pursuant to this section may be adopted as emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including Section 11349.6 of that code, the Office of Administrative Law shall consider the adoption of the regulations pursuant to subdivision (a) to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

26132. (a) An applicant shall submit to the authority an application providing a detailed description of the loan program to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements on real property, a detailed description of the transactional activities associated with the loan issuance, including all transactional costs, and other information deemed necessary by the authority.

(b) The authority shall ensure that all improvements financed by the program meet quality assurance standards developed by the authority in

consultation with the State Energy Resources Conservation and Development Commission. The standards shall include contractor certification and third-party inspection of an appropriate portion of completed projects to ensure project performance and consumer protection.

26133. (a) In evaluating eligibility, the authority shall consider whether the applicant's loan program includes the following conditions:

- (1) Loan recipients are legal owners of underlying property.
- (2) Loan recipients are current on mortgage and property tax payments.
- (3) Loan recipients are not in default or in bankruptcy proceedings.
- (4) Loans are for less than 10 percent of the value of the property.
- (5) The program offers financing for energy and water efficiency improvements.

(6) Improvements financed by the program follow applicable standards of energy efficiency retrofit work, including any guidelines adopted by the State Energy Resources Conservation and Development Commission.

(b) In evaluating an application, the authority shall consider all of the following factors:

- (1) The use by the loan program of best practices, adopted by the authority, to qualify eligible properties for participation in underwriting the loan program.
- (2) The cost efficiency of the applicant's loan program.
- (3) The projected number of jobs created by the loan program.
- (4) The applicant's loan program requirements for quality assurance and consumer protection, as related to achieving efficiency and clean energy production, in accordance with the standards developed pursuant to subdivision (b) of Section 26132.

(5) The mechanisms by which savings produced by this program are passed on to the property owners.

(6) Any other factors deemed appropriate by the authority.

(c) The authority may approve a loan program that offers financing for electric vehicle charging infrastructure if the electric vehicle charging infrastructure is part of a project to install energy efficiency improvements and distributed generation renewable energy resources and is designed so that the project does not increase peak energy demand.

26134. (a) The authority shall require certification from a loan applicant that each loan offered pursuant to the applicant's loan program is consistent with the requirements of the Clean Energy Upgrade Program administered pursuant to this chapter.

(b) If the conditions of subdivision (a) are satisfied, the authority shall allocate to the applicant, at the closing of the loan, the amount made available from the Renewable Resource Trust Fund in the form of financial assistance as approved by the State Energy Resources Conservation and Development Commission and the authority. Prior to providing financial assistance pursuant to this section, the authority shall enter into an agreement with the applicant regarding the financial assistance, including the process for the possible return of moneys disbursed to or on behalf of the applicant.

SEC. 7. Section 26140 of the Public Resources Code is amended to read:

26140. (a) Until January 1, 2015, an amount of up to fifty million dollars (\$50,000,000) from the Renewable Resource Trust Fund, established pursuant to Section 25751, is hereby appropriated to the authority for the purposes of this division. The moneys appropriated shall remain in the Renewable Resource Trust Fund until the funds are needed by the authority pursuant to this division.

(b) Of the moneys appropriated in subdivision (a), up to five hundred fifty thousand dollars (\$550,000) may be expended by the authority for the initial administrative costs in implementing this division.

(c) All repayments of moneys disbursed pursuant to this division shall be deposited into the Renewable Resource Trust Fund.

SEC. 8. Section 26141 of the Public Resources Code is amended to read:

26141. (a) On March 31, 2011, and annually thereafter, the authority shall submit to the Legislature a report pursuant to Section 9795 of the Government Code on all of the following:

(1) The status of the account.

(2) A summary of the PACE bonds that received assistance pursuant to Chapter 2 (commencing with Section 26120) and a summary of the loans that received assistance pursuant to Chapter 2.5 (commencing with Section 26130).

(3) A summary of the benefits provided by this division, including reduced interest rates on the PACE bonds or on loans receiving assistance pursuant to this division.

(4) The number of jobs created by the PACE programs or loans that received assistance pursuant to this division.

(5) Information on energy and water savings resulting from the PACE programs or loans that received assistance pursuant to this division.

(6) Other information deemed appropriate by the authority.

(b) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 9. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

O