



## CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

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### EXECUTIVE DIRECTOR

Shela Tobias-Daniel

September 12, 2023

### California Pollution Control Financing Authority The California Capital Access Program Notice of Emergency Regulations

The California Pollution Control Financing Authority (“CPCFA” or the “Authority”), organized and operating pursuant to Sections 44500 through 44563 of the Health and Safety Code, proposes to adopt emergency regulations after considering all comments, including objections and recommendations, regarding the proposed action.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency.

After submission of the proposed emergency regulations to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five (5) calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Upon filing, the Office of Administrative Law will have ten (10) calendar days to review and make a decision on the proposed emergency regulations. If approved by the Office of Administrative Law, the emergency regulations will become effective immediately upon filing with the Secretary of State for one hundred and eighty (180) days. Within the 180-day effective period, CPCFA will proceed with regular rulemaking action, including a public comment period. The emergency regulations will remain in effect during the regular rulemaking action.

CPCFA proposes to adopt the emergency regulations in accordance with its authority under Health and Safety Code Section 44520(b). The proposed emergency regulations amends Article 7 Sections **§8078.29 – §8078.33**, Title 4 of the California Code of Regulations concerning the California Capital Access Program.

Attached to this notice are the Finding of Emergency and proposed text of the emergency regulations. You may also review the Finding of Emergency and proposed text of the emergency regulations on CPCFA's website at the following address:

<https://www.treasurer.ca.gov/cpcfca/calcap/regulations.asp>.

If you prefer to receive a hard copy of the proposed emergency regulations, please contact Kamika McGill at (916) 653-0289.

The proposed emergency regulations will be heard by the Authority at a public hearing on September 19, 2023, at 10:30 A.M. in Room 102 at 901 P Street, Sacramento, California 95814.

Sincerely,

DocuSigned by:

*Shela Tobias-Daniel*

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Shela Tobias-Daniel  
Executive Director

Enclosures: Finding of Emergency  
Proposed Text of Regulations

cc: Theodore "Ted" Ballmer, CPCFA Legal Counsel  
Christina Sarron, Deputy Executive Director  
Doreen Smith, CalCAP Program Manager  
Isabel Becerra, CalCAP Program Manager  
Lauren Dominguez, CalCAP Program Manager

ST: ds/km

# FINDING OF EMERGENCY

## CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

Title 4, Division 11

### Finding of Emergency

Pursuant to Section 44520(b) of the Health and Safety Code, the regulations being amended herewith by the California Pollution Control Financing Authority (the "Authority") as emergency regulations (the "Emergency Regulations") are, by legislative mandate, necessary for the immediate preservation of the public peace, health and safety, and general welfare.

### Necessity

These Emergency Regulations are necessary to implement, interpret, and make specific Article 7 of the California Pollution Control Financing Authority (the "Authority") Act (the "Act").<sup>1</sup> The Authority's Capital Access Loan Program (CalCAP) is the intended recipient of Federal funds. Amendments to the CalCAP regulations are necessary to bring the regulations in line with the U.S. Treasury requirements in expending the federal SSBCI funds and meeting U.S. Treasury timelines.

### Authority and Reference

Authority: Sections 44520 (a), 44520(b) and 44559.5(f), Health and Safety Code. Section 44520(b) of the Act authorizes the Authority to adopt regulations relating to small business financing as emergency regulations and instructs the Office of Administrative Law to consider such regulations to be "necessary for the immediate preservation of the public peace, health and safety or general welfare." Sections 44520(a) and 44559.5(f) of the Act authorize the Authority to adopt necessary regulations relating to the Capital Access Loan Program established by the Act (CalCAP).

Reference: Sections 44559-44559.9 of the Health and Safety Code. These Emergency Regulations implement, interpret and make specific Sections of the Act by adding Section 8078.1 of Title 4, Division 11, Article 7 of the California Code of Regulations.

Reference: 12 U.S. Code § 5703 (b)(4). The State program receiving Federal funds must conform to the requirements established by the U.S. Treasury.

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<sup>1</sup> The Act is codified at Health and Safety Code sections 44500 through 44563 and Article 7 is codified at Health and Safety Code section 44559 through 44559.9.

## Informative Digest

Existing law establishes the Capital Access Loan Program and authorizes the Authority to contract with specified financial institutions to make loans to eligible small businesses that fall just outside of most conventional underwriting standards. (Health and Safety Code, § 44559.2.)

The U.S. Treasury requires allocated funds to begin being expended within 90 days of signing the allocation agreement. The State of California signed its allocation agreement with the U.S. Treasury on September 15, 2022. In order for CPCFA to receive additional funding, SSBCI funds must be expended, transferred, or obligated 80% or more of the prior disbursement of allocated funds. It is anticipated that the amendments to the Collateral Support Program will accelerate SSBCI funding to Participating Financial Lenders. The proposed amendments to the CalCAP Collateral Support Program regulations will amend Program eligibility and guidelines to increase lender engagement and participation. The amended regulations provide additional incentives, within U.S. Treasury and the State Small Business Credit Initiative (SSBCI) Program guidelines, which encourage lenders to enroll more loans into the Collateral Support Program.

The Authority has performed a search of existing regulations and has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

### **The Proposed Amendments and Objectives for Each Section are as follows:**

#### **§ 8078.29. Definitions.**

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Section 8078.29 (a). Amends the term “Annual Fee” to extend the term of lines of credit from 48 months to 60 months.

Section 8078.29 (b). Removes the term “Annual Recapture.”

Section 8078.29 (k). Removes the term “Green & Manufacturing Loans.”

Section 8078.29 (n). Amends and reduces the minimum “Principal Loan Amount” from \$50,000 to \$25,000.

Section 8078.29 (r)(i)(ii)(iii)(iv). Adds the definition of “Socially and Economically Disadvantaged Individuals (SEDI) Contribution,” and eligibility requirements that are required by U.S. Treasury in order to provide additional support for Borrowers that qualify.

Section 8078.29 (s). Amends and increases “Term of Support” from 48 months to 60 months.

Necessity. In consultation with Participating Financial Institutions, it was determined that these changes will encourage more loan enrollments and incentivize Participating Financial Institutions, thus accelerating funding to Participating Financial Institutions.

### **§ 8078.31. Loan Enrollment.**

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Section 8078.31(a)(1)(A) and (B). Removes A Green & Manufacturing Loan or a Small Business Loan as a requirement of a Qualified Loan to streamline the eligibility criteria for an eligible loan.

Section 8078.31(a)(2). Amends and increases the maximum term of support from 48 months to 60 months.

Section 8078.31(b)(4)(C). Amends the initial approval to include confirmation of the total amount of Collateral Support to include provisions for Borrowers who are in a Severely Affected Community or Socially and Economically Disadvantaged Individuals.

Section 8078.31(d). Amends how Collateral support will be determined to streamline support calculations for eligible loans.

Section 8078.31(d)(1)(2). Removes loan amount requirements for Green & Manufacturing Loans to streamline the eligibility criteria for an eligible loan and removes maximum contribution amounts.

Section 8078.31 (A) and (B). Removes tiered loan amount requirements to streamline the eligibility of all small business loans.

Section 8078.31(d)(2). Amends and increases the term of support for all loans from 4 years to 5 years.

Section 8078.31(d)(3). Amends criteria for increased contribution by including Socially and Economically Disadvantaged Qualified Businesses.

Sections 8078.31(e) and (e)(1) and (2). Amends how Closing Fees are calculated for the additional term of support exclusive of Severely Affected Community or Socially and Economically Disadvantaged Individual incentives.

Section 8078.31(e)(2)(E). Adds fee criteria for increased Term of Support for loans with a term greater than 48 months but does not exceed 60 months.

Section 8078.31(e)(3). Amends and increases support for lines of credit from 48 months to 60 months.

Necessity. In consultation with Participating Financial Institutions, it was determined that these changes will encourage more loan enrollments and incentivize Participating Financial Institutions, thus accelerating funding to Participating Financial Institutions.

#### **§ 8078.32. Loss Reserve Accounts.**

Sections 8078.32(b) – (c). Amends and removes elements for Annual Recapture.

#### **§ 8078.33. Claim for Reimbursement**

Sections 8078.33(a) and (c). Removes Annual Recapture element from loan defaults.

Necessity. In consultation with Participating Financial Institutions, it was determined that these changes will encourage more loan enrollments and incentivize Participating Financial Institutions, thus accelerating funding to Participating Financial Institutions.

#### **Other Matters Prescribed by Statutes Applicable to the Specific State Agency or to any Specific Regulation or Class of Regulations**

No other matters are prescribed by statute applicable to the Authority or to any specific regulation or class of regulation pursuant to Section 11346.1(b) or 11346.5(a)(4) of the Government Code pertaining to the Emergency Regulations or to the Authority.

#### **Mandate on Local Agencies or School Districts**

The Executive Director of the Authority has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts.

#### **Fiscal Impact**

The Executive Director of the Authority has determined that the Emergency Regulations do not impose any additional cost or savings requiring reimbursement under Section 17500 et al of the Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any State Agency pursuant to Section 11346.1(b) or 11346.5(a)(6) Government Code.

## § 8078.29. Definitions.

In addition to the definitions in Section 8070, the following definitions shall apply only to the Collateral Support Program, Sections 8078.29 to 8078.35 inclusive. To the extent the definitions contained herein conflict with definitions contained in Section 8070, the definitions in this section shall control for purposes of the Collateral Support Program.

(a) "Annual Fee" means the fee charged by the Authority for annual renewals of Collateral Support for lines of credit up to a total of 4860 months.

~~(b) "Annual Recapture" means the percentage of the original Collateral Support Contribution repaid to the Authority on an annual basis.~~

~~(e)(b)~~ "Bridge Loan" means a loan needed prior to obtaining permanent financing or support, including Small Business Administration, 504 bridge loans, where the Participating Financial Institution is at increased risk pending future take-out financing or guarantee.

~~(e)(c)~~ "Collateral Support" or "Collateral Support Contribution" means an amount of cash deposit offered and underwritten by the Authority covering a collateral shortfall of a Qualifying Loan of an otherwise credit-worthy Borrower.

~~(e)(d)~~ "Collateral Support Program Approval" means the Authority's approval of Collateral Support for a Qualified Loan.

~~(f)(e)~~ "Collateral Support Program Request" means the request that a Participating Financial Institution must submit to the Authority to apply for Collateral Support.

~~(e)(f)~~ "Closing Fee" means the fee charged to the Borrower to participate in the Collateral Support Program when the Qualified Loan closes, based on the original amount and term of support, and type of Qualified Loan.

~~(h)(g)~~ "Default Notification" means the written notice that a Participating Financial Institution must submit to the Authority upon the default of an enrolled loan.

~~(i)(h)~~ "Final Approval" means the discretionary approval of the Collateral Support offered and underwritten by the Authority after the submission of final loan documents and payment of the Closing Fee by the Participating Financial Institution.

~~(i)(i)~~ "Final Enrollment" means loan enrollment in the Program after the submission of final loan documents and payment of the Closing Fee by the Participating Financial Institution after receiving the Initial Approval.

~~(k) "Green & Manufacturing Loans" means (1) loans used primarily for supporting new or expanded business processes, products, services, and tenant improvements consistent with specific state policy goals or regulations furthering energy and water conservation, alternative energy, and environmental protection; (2) loans to provide working capital to contractors and other businesses providing specific services furthering energy and water conservation, alternative energy, and environmental protection; (3) loans to be used primarily for new or expanded production of materials and products for use or sale using labor and machines, tools, chemical and biological processing, assembly or formulation.~~

~~(i)(j)~~ "Initial Approval" means the discretionary, preliminary approval by the Authority of a Collateral Support Program Request submitted to the Authority, including any conditions, contingencies or additional parameters specified by the Authority necessary for Final Approval of the Collateral

Support offered and underwritten by the Authority.

~~(m)~~(k) "Program" means the Collateral Support Program.

~~(n)~~(l) "Qualified Business" means the same as specified in Section 8070, except that, together with affiliates, the Qualified Business may have 750 or fewer employees.

~~(o)~~(m) "Qualified Loan" means the same as specified in Section 8070, and any Small Business Loan, except that:

- i. It may not be any loan that exceeds \$20,000,000;
- ii. The proceeds of the loan may not be disbursed to the Borrower prior to the Authority's Initial Approval; and
- iii. The Participating Financial Institution must certify that the loan is being made to an otherwise credit-worthy Borrower with a strong credit profile that meets all the Participating Financial Institution's regular underwriting policy, but for a collateral shortfall.

~~(p)~~(n) "Principal Loan Amount" means the Qualified Loan disbursed to an eligible Borrower with a minimum amount of \$~~50~~25,000 and a maximum amount of \$20,000,000.

~~(q)~~(o) "Risk Assessment" means the valuation made by the Participating Financial Institution consistent with its usual credit policy, which must include: the value of the collateral based on the industry standard of measurement, such as through an appraisal; the Participating Financial institution's valuation of the collateral; the Borrower's risk rating; summary of the relationship and history of the business; the Borrower's cash flow; and financial analysis of the Borrower.

~~(r)~~(p) "Small Business Loans" means a Qualified Loan.

(q) "Severely Affected Community (SAC) Contribution" means the additional support for which the Borrower may qualify when the Qualified Business is located in a Severely Affected Community.

(r) "Socially and Economically Disadvantaged Individuals (SEDI) Contribution" means the additional support for which the Borrower may qualify when:

- i. the Qualified Business is owned and controlled by individuals who have had their access to credit on reasonable terms diminished as compared to others in comparable economic circumstances or,
- ii. the Qualified Business is owned and controlled by individuals whose residences are in CDFI Investment Areas, as defined in 12 C.F.R. § 1805.201(b)(3)(ii) or,
- iii. the Qualified Business will build, open, or operate a location in a CDFI Investment Area, as defined in 12 C.F.R. § 1805.201(b)(3)(ii); or
- ~~(s)~~iv. the Qualified Business is located in a CDFI Investment Area, as defined in 12 C.F.R. § 1805.201(b)(3)(ii).

~~(t)~~(s) "Term of Support" means the amount of time a loan is enrolled in the Collateral Support Program, up to a maximum of ~~48-~~60 months from the date of the first disbursement of the loan.

Note: Authority cited: Sections 39601(a), 39650, 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Sections 44559.1, 44559.3, 44559.5 and 44559.11, Health and Safety Code.



**§ 8078.30. Application by Financial Institution.**

Financial Institutions shall follow the procedures set forth in Section 8071 to apply to become Participating Financial Institutions in the Program.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

**§ 8078.31. Loan Enrollment.**

In addition to the terms and conditions set forth in Section 8072, the following additional provisions shall apply to the Collateral Support Program:

(a) Participating Financial Institutions must submit to the Authority a Collateral Support Program Request and receive an Initial Approval prior to the funding of the loan. The Collateral Support Program Request shall include, all of the information required in Section 8072, in addition to the following:

(1) The type of the Qualified Loan, including whether the Qualified Loan is:

(A) A term loan, a bridge loan, or a line of credit; and

~~(B) A Green & Manufacturing Loan or a Small Business Loan.~~

(2) The term of support, which shall be up to a maximum of ~~48~~60 months.

(3) The requested amount of Collateral Support, subject to the limits in this Section.

(4) The anticipated date of loan disbursement.

(5) Risk Assessment of the Borrower that shall include the following:

(A) Collateral Support Contribution, based on the Participating Financial Institution's usual credit policy;

(B) Any appraisals applicable to the use of the proceeds or collateral;

(C) An evaluation demonstrating the need for the Collateral Support, including an evaluation demonstrating a strong credit profile of the borrower and the loan except for the lack of collateral;

(D) Description of all other available collateral, including that of any co-guarantors; and

(E) Confirmation that all such other available collateral shall be pledged and liquidated first in the event of a default, work-out or charge-off; and the order in which it shall be liquidated prior to making a claim against the Collateral Support.

(b) The Authority shall, upon receipt of a Collateral Support Program Request from the Participating Financial Institution, provide an Initial Approval if the Executive Director determines that the Qualified Loan meets the requirements of the Collateral Support Program.

(1) The Authority shall review each Collateral Support Program Request for completeness, for consistency with the terms and conditions for a Qualified Business and a Qualified Loan, and to determine whether the Authority shall offer and underwrite the Collateral Support.

(2) The Executive Director shall notify the Participating Financial Institution of the Executive Director's determination within 15 business days after receipt by the Authority of all documentation required to make such determination. The Executive Director's determination shall be final.

(3) At the time of Initial Approval, the Executive Director shall also be authorized to require reasonable conditions, contingencies, or additional parameters necessary to support a prudent underwriting of the Collateral Support by the Authority, including but not limited to additional requirements to ensure the eligibility of the Borrower and the loan, the availability of cash flow, the value of the available collateral, and the liquidation plan in the event of a default.

(4) The Initial Approval will include confirmation of the following:

(A) The total anticipated amount of the Qualified Loan.

(B) The term of enrollment of the Qualified Loan.

(C) The total amount of the Collateral Support, including Severely Affected Community or Socially and Economically Disadvantaged incentives/Individual incentives if applicable.

(D) The applicable Closing Fee.

(E) Any conditions, contingencies, or additional parameters deemed reasonable by the Executive Director.

(5) Upon the Initial Approval of the Collateral Support Program Request, the Authority will issue notice of such approval with instructions for the Participating Financial Institution to open a Loss Reserve Account pursuant to Section 8078.32 and deposit the Borrower's Closing Fee prior to the disbursement of the loan.

(6) The Initial Approval of the Collateral Support Program Request is valid for ninety (90) days.

(c) Within fifteen (15) business days of the closing of a Qualified Loan that has received with Initial Approval, the Participating Financial Institution shall complete and submit to the Authority the following for Final Enrollment:

(1) Changes, if any, to the total amount of the Qualified Loan.

(2) Changes, if any, to the term of enrollment of the Qualified Loan.

(3) Revisions, if any, to the Risk Assessment of the Borrower.

(4) Documentation responsive to any conditions, contingencies, or additional parameters placed on the Collateral Support Program Request.

(5) All certifications and representations required by the Participating Financial Institution and Borrower.

(6) Proof of Closing Fee deposit and Loss Reserve Account opening.

(7) The date of the disbursement of loan proceeds to the Borrower. The date of the disbursement must be after the date of the Initial Approval, and prior to the Final Enrollment.

(d) Collateral Support shall be determined based on the ~~type of loan,~~ amount of loan, and term of loan enrollment as follows:

~~(1) Green & Manufacturing Loans are eligible to receive up to 40% of the loan value, up to a maximum Contribution of \$2,500,000.~~

~~(2)(1) Small Business Loans are eligible to receive up to 40% of the loan value, a maximum Contribution of \$500,000 as follows:-~~

~~(A) Total loan values in the amount of \$50,000 to \$250,000 are eligible to receive Collateral Support~~

up to 40% of the loan value.

~~(B) Total loan values in the amount of \$250,001 but no greater than \$20,000,000 are eligible to receive Collateral Support up to 30% of the loan value.~~

~~(3)(2) All loans are eligible for a four-five (54) year term of support.~~

~~(4)(3) All loans are eligible for an additional Severely Affected Community (SAC) Contribution if the Qualifying Business is located in a Severely Affected Community, or if the Qualified Business is considered to be Socially and Economically Disadvantaged in an amount of 10% of the loan value, not to exceed 25% of the Collateral Support, as long as the total amount of the Collateral Support in addition to the Severely Affected Community (SAC) Contribution does not exceed the maximum Contribution permitted for the type of loan.~~

(e) Closing Fees shall be calculated based on the amount of Collateral Support (exclusive of the additional Severely Affected Community (SAC) Contribution or Socially and Economically Disadvantaged (SEDI) Contribution), the type of loan, and determined by the term of loan enrollment. Collateral Support as follows:

(1) For all loans types, there shall be a minimum Closing Fee of 0.50% of the Collateral Support, or \$1000, whichever is greater.

(2) All loans types will be subject to Closing Fees based on the Term of Support as follows:

(A) If Term of Support is less than or equal to 12 months, the fee will be 0.5% of the Collateral Support.

(B) If Term of Support is greater than 12 months, but does not exceed 24 months, the fee will be 0.75% of the Collateral Support, unless the loan is for a Bridge Loan, in which case the fee will be 0.50% of the Collateral Support.

(C) If Term of Support is greater than 24 months, but does not exceed 36 months, the fee will be 2.00% of the Collateral Support.

~~(D)~~ (D) If Term of Support is greater than 36 months, but does not exceed 48 months, the fee will be 2.75% of the Collateral Support.

~~(D)(E)~~ (E) If the Term of Support is greater than 48 months, but does not exceed 60 months, the fee will be 3.00% of the Collateral Support.

(3) For lines of credit, the fee will be calculated based on the Collateral Support amount as provided subdivision (e)(2). Prior to the expiration of the original Term of Enrollment, the Participating Financial Institution may request an extension, contingent upon current underwriting and subject to a 1.0% fee per year for each annual renewal up to a maximum of 48-60 months.

(4) For Bridge Loans, prior to the expiration of the original Term of Enrollment, the Participating Financial Institution may request an extension in writing. There is no fee associated with an approved extension as long as the total Term of Support as extended does not exceed 24 months. If the effect of any extension or series of extensions would increase the total Term of Support for the Bridge Loan into a tier associated with a higher Closing Fee, then any difference between the fees paid at closing and the newly calculated fees associated with the amended Term of Support would be charged to the Participating Financial Institution upon approval of the extension.

Note: Authority cited: Sections 44520 and 44559.5, Health and Safety Code. Reference: Sections 44559.2, 44559.4 and 44559.12, Health and Safety Code; and Section 1798.17, Civil Code.

**§ 8078.32. Loss Reserve Accounts.**

In addition to the requirements and procedures applicable to Loss Reserve Accounts provided in Section 8073, the following requirements and procedures shall apply only to the Collateral Support Program.

(a) A Loss Reserve Account shall be created for each Qualified Loan enrolled in the Collateral Support Program.

~~(b) Except for Bridge Loans and lines of credit, in conjunction with the loan anniversary for each Qualified Loan, the Authority shall recapture from each Loss Reserve Account, a 100 percent percentage of the Collateral Support at the expiration of the term of Support according to an incremental recapture schedule, for use for future Collateral Support Program cash deposits, Contributions, and administrative expenditures. The percentage to be returned for each Annual Recapture will be based on the original Term of Support. The entire amount of Collateral Support for Bridge Loans and lines of credit will be recaptured at the expiration of the Term of Support.~~

~~(c) Annual Recapture is based on the Term of Support as follows:~~

~~(1) If Term of Support is less than or equal to 12 months, then 100% of the Collateral Support and Severely Affected Community (SAC) Contribution is recaptured at the expiration of the term of support.~~

~~(2) If Term of Support is greater than 12 months, but does not exceed 24 months, then 50% of the Collateral Support and Severely Affected Community (SAC) Contribution is recaptured upon the Annual Recapture date and at the expiration of the term of support.~~

~~(3) If Term of Support is greater than 24 months, but does not exceed 36 months, then 33.3% of the Collateral Support and Severely Affected Community (SAC) Contribution is recaptured upon each Annual Recapture date and at the expiration of the term of support.~~

~~(4) If Term of Support is greater than 36 months, but does not exceed 48 months, then 25% of the Collateral Support and Severely Affected Community (SAC) Contribution is recaptured upon each Annual Recapture date and at the expiration of the term of support.~~

~~(5)~~(1) The Authority shall deposit all Recaptured funds in the CalCAP for Collateral Support Program Fund dedicated solely for future program and administrative expenditures of the CalCAP for Collateral Support Program. The Authority may set aside up to 7 percent of all Recaptured funds for reasonable direct and indirect administrative costs of the Program.

~~(d)~~(c) Upon receipt of a Default Notification from the Participating Financial Institution, the expiration of the term of Support Annual Recapture is suspended. Submittal of Default Notification does not suspend the Authority's withdrawal of interest and other income from the Loss Reserve Account. If the default or delinquency affecting the Qualifying Loan is subsequently resolved through a Change in Terms, settlement, or other workout which avoids charge-off of the loan, the Participating Financial Institution shall promptly withdraw the Default Notification, and the Annual Recapture will resume according to the original schedule and loan anniversary date.

Note: Authority cited: Sections 44520 and 44559.5(f), Health and Safety Code. Reference: Sections 44559.3 and 44559.8, Health and Safety Code.

**§ 8078.33. Claim for Reimbursement.**

(a) Upon the default of an enrolled loan, the Participating Financial Institution must submit a written Default Notification, or prior to the expiration of the Term of Support, ~~in order to suspend further Annual Recapture.~~

(b) For a loan in default, the Participating Financial Institution shall provide in each Quarterly Report a short report of the status of the loan, including a short narrative of the loan collection history, and the status of the attempt to work out the default including the sale of proceeds or attempts to liquidate collateral.

(c) If the default or delinquency affecting the Qualifying Loan is subsequently resolved through a Change in Terms, settlement or other workout which avoids charge-off and collateral liquidation of the loan, the Participating Financial Institution shall promptly withdraw the Default Notification, ~~and the Annual Recapture will resume according to the original schedule and loan anniversary date.~~

(d) Within thirty (30) calendar days following charge-off and collateral liquidation, whichever is later, the lender will submit a written claim for Collateral Support Payment, including: a history of the account payments, the date of charge-off, the complete loan collection history, any attempts to work out the default prior to charge off, the sale of proceeds, and the success of attempts to liquidate collateral and guarantees pledged at closing in advance of the Collateral Support.

(e) The Collateral Support shall not be claimed by a Participating Financial Institution in lieu of pursuing and liquidating pledged collateral. All pledged collateral must be liquidated consistent with the participating financial institution's usual method for loans not enrolled in the Collateral Support Program.

(f) After liquidation of all pledged collateral for a charged-off loan, a Participating Financial Institution may be reimbursed for: the amount of loan principal charged-off net liquidated collateral; reasonable out-of-pocket expenses incurred in pursuing its collection efforts, including the preservation of collateral, and other related costs; and accrued and unpaid interest. Proper documentation of any claimed expenses shall be presented at the time of the claim. The amount paid on a claim will never exceed the present amount in the Collateral Support Loss Reserve account.

(g) If, in the attempt to work out a default or charge-off, a Participating Financial Institution seeks to have an amended or new loan or debt structure with the Borrower covered by Collateral Support, the Participating Financial Institution shall submit a Collateral Support Program Request pursuant to Section 8078.31 and the Authority shall review it as a new loan or Refinance subject to all Program requirements, including fees if applicable.

Note: Authority cited: Sections 44520 and 44559.5(f), Health and Safety Code. Reference: Section 44559.5, Health and Safety Code.

#### **§ 8078.34. Subrogation.**

The procedures for subrogation set forth in Section 8075 shall be followed for loans enrolled in the Collateral Support Program.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.

#### **§ 8078.35. Termination and Withdrawal from the Program.**

The procedures for termination and withdrawal from the program set forth in Section 8076 shall be followed for loans enrolled in the Collateral Support Program.

Note: Authority cited: Sections 44520, 44559.5(f) and 44559.11(b), Health and Safety Code. Reference: Section 44559.2, Health and Safety Code.