

SUBCHAPTER 5. DEFERRED-PAYMENT REHABILITATION LOANS
DETAILED ANALYSIS

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7400. General.

These regulations set forth the policies and procedures governing the management and use of the Deferred-Payment Rehabilitation Loan Fund established by Sections 50660-50670 of the California Health and Safety Code.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. New Subchapter 5 (Sections 7400-7436, not consecutive) filed 2-28-79 as an emergency; effective upon filing. Certificate of Compliance included (Register 79, No. 9).
2. Certificate of Compliance filed 6-12-79; transmitted to OAH 6-8-79 (Register 79, No. 24).
3. Repealer of Subchapter 5 (Sections 7400-7436, not consecutive) and new Subchapter 5 (Sections 7400-7436 not consecutive) filed 5-2-80; effective thirtieth day thereafter (Register 80, No. 18).

7402. Definitions.

The following terms and definitions shall apply to this subchapter.

"Ability to afford" means that the total shelter expense does not exceed 30 percent of the gross income of the owner-occupant borrower pursuant to the provisions of this section. Components of shelter expenses may include, but are not limited to, rent, property taxes, owner-paid utilities, insurance, existing mortgage costs, existing home improvement loan payments, and any proposed rehabilitation costs.

"Affordable rent" means rents for low and very low income households as defined in Section 6922.

"Assisted units" means those units which directly benefit from funds from the Fund.

"Borrower" means a property owner receiving deferred-payment loans from a local entity pursuant to provisions of this subchapter.

"Commitment" means a specific fund award from the Housing Rehabilitation Loan Fund.

"Concentrated rehabilitation area" means an area characterized by substantial deterioration of residential structures which is designated as such by the California Housing Finance Agency pursuant to Section 51302 of the Health and Safety Code.

"Department" means the California Department of Housing and Community Development.

"Deferred payment loans" means loans made by a local entity to borrowers with funds from the Housing Rehabilitation Loan Fund.

"Director" means the Director of the California Department of Housing and Community Development.

"Elderly" means a family in which the head of the household is 60 years of age or older or a single person who is 60 years of age or older.

"Enforcement agency" means a local entity eligible pursuant to the provisions of this subchapter that is enforcing applicable codes on residential properties and is eligible for loans from the Housing Rehabilitation Loan Fund without interest.

"Fair Market Rent" means rent limits as established by HUD for the Section 8 Existing or Moderate Rehabilitation Housing Assistance Payments Program.

"Fair Rate of Return" means an annual before-tax rate of return not to exceed 8% of cash investment in rental property to for-profit owners.

"Fund" means the Housing Rehabilitation Loan Fund.

"Household" means one or more persons who are (1) low or moderate income household owner-occupants or (2) low income renters.

"Housing development" means a rental or cooperatively-owned residential property, including a residential hotel, eligible to receive loan funds pursuant to the provisions of this subchapter for the primary purpose of providing affordable, decent, safe, and sanitary housing. A housing development may include any buildings, land, equipment, facilities or other real or personal property including, but not limited to, streets, sewers, utilities, and other non-housing facilities such as administrative, health, recreational, educational and child-care facilities which are an integral part of a housing development.

"Loan Agreement" is the lender's agreement between the ultimate borrower and the local entity.

"Loan Committee" means the Rehabilitation and Construction Finance Loan and Grant Committee established pursuant to Section 6902(d).

"Local entity" means a local public entity or a non-profit corporation as defined in these regulations.

"Local public entity" includes all entities set forth in Section 50079 of the Health and Safety Code.

"Low-income" means the income limit established by Section 6928.

"Moderate-income" means the income limit established by Section 6930.

"Monthly debt service" means the amount of money a borrower must pay each month on a loan for principal and interest.

"Mortgage assistance area" means that area defined in Section 50085 of the Health and Safety Code.

"Net income" means the income of a person or family as defined in Section 6916.

"Nonprofit corporation" means a corporation incorporated pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title I of the Corporations Code governing public benefit corporations or a corporation subject to said Part pursuant to the terms of Section 9912 of the Corporations Code.

"Owner" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, or other legal entity or any combination thereof, whether for profit, nonprofit, or organized for limited

profit, owning residential property in fee simple pursuant to the provisions of this subchapter.

"Owner-occupant" means an owner of one to four unit residential property who use one of the units as a principal residence..

"Program" means the Deferred Payment Rehabilitation Loan Program.

"Rehabilitation" means repairs and improvements to a substandard structure necessary to make it meet rehabilitation standards and may include common non-commercial areas used by residents of the property.

"Rehabilitation program" means an ongoing program involving construction assistance, financial assistance or technical assistance in the rehabilitation of residential property.

"Rehabilitation standards" means applicable state or local building or housing standards adopted by a city or county pursuant to the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code and specifically Section 17958.8. Rehabilitation standards include room additions necessary to alleviate overcrowding for eligible households.

"Rental unit" means a dwelling in a single-family or multi-family structure of two or more units, including a guest room in a residential hotel, which is rented or leased to a person or household. For purposes of this subchapter, a unit in a stock cooperative or limited-equity housing cooperative is a rental unit.

"Residential hotel" means any building containing six or more guest rooms intended or designed to be used for, or which are occupied for, sleeping purposes by tenants, which is also the primary residence of these tenants, provided that a majority of these rooms are residential hotel units.

"Residential hotel unit" means a room in a residential hotel used or intended or designed to be used as a primary residence, which is subject to the provisions of Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code, but which lacks either or both a self-contained kitchen or bathroom.

"Room addition" means rooms which are added to a structure to alleviate documented overcrowding. "Room addition" shall not include an increase in the number of rooms within the existing living space of an existing structure.

"Rural area" means an area as defined by Section 50101 of the Health and Safety Code.

"Substandard building" means any residential building or any portion of a residential building, including, but not limited to, any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located, in which there exist any of the conditions listed in Section 17920.3 of the Health and Safety Code, to the extent that the conditions endanger the life, limb, health, property, safety, or welfare of the public or occupants thereof; violation of any rehabilitation standards adopted by the local public entity or nonprofit corporation as part of its residential rehabilitation program may contribute to the substandard nature of a structure if they are life- or health-endangering.

"Transfer of property" means to sell, convey, transfer, or alienate title, voluntarily or otherwise, to the property, except in the case of the transfer of the property to an owner occupant's spouse as a consequence of death or dissolution.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference cited: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. Amendment of subsection (r) filed 6-19-80; effective thirtieth day thereafter (Register 80, No. 25).
2. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
3. Amendment filed 11-2-82; effective thirtieth day thereafter (Register 82, No. 45).
4. Amendment filed 6-3-85; effective thirtieth day thereafter (Register 85, No. 23).
5. Amendment filed 3-17-87; effective thirtieth day thereafter (Register 87, No. 12).

7404. Eligibility Criteria.

(a) The local entity shall have available, and commit to the extent feasible, CHFA funds, CDBG grants and BMIR loans, HUD 312 loans, Marks-Foran rehabilitation and refinancing funds, FmHA loans or other funds to be used in combination with commitments from the Fund in designated areas. Local entities that are operating or will operate one or more of the following rehabilitation programs in conjunction with this program are eligible to apply for Fund commitments from the Department pursuant to the provisions of this subchapter.

(1) A rehabilitation loan program conducted in a CHFA Concentrated Rehabilitation Area designated pursuant to Section 51302 of the Health and Safety Code.

(2) A residential rehabilitation financing program conducted pursuant to the Marks-Foran Program commencing with Section 37910 of the Health and Safety Code.

(3) A city-wide or county-wide systematic enforcement program pursuant to which the CHFA has allocated sufficient funds for improvement loans for rehabilitation of housing pursuant to Section 51311 of the Health and Safety Code.

(4) A code enforcement agency repairing substandard structures following the owner's failure to commence work following a final notice or order from the enforcement agency.

(5) A program conducted by the CHFA in a mortgage assistance area as defined in Section 50085, Health and Safety Code, provided such area is located in a rural area.

(6) A rehabilitation or code enforcement program being undertaken by a local entity in an area in which federal funds are being used or will be used in conjunction with the Deferred Payment Rehabilitation Loan Program.

(b) Local entities applying for fund commitments to lend to local borrowers must demonstrate upon application:

(1) capacity to undertake or operate a rehabilitation loan program; and

(2) capacity to manage, monitor, and enforce the terms and conditions of this subchapter.

(c) When a local entity proposes, in an application for commitments from the Fund, to make rehabilitation loans within the jurisdiction of a city or county which has made or is considering its own application for funds from the Fund, the local entity must receive prior written authorization for such application from the governing body of the city or county. Such written authorization shall be included with the application made by the local entity.

(d) Applications by nonprofit corporations for new commitments or loans from new commitments from the Fund shall include approval for such applications from the governing body of each city or county having jurisdiction over the area or areas in which loans are to be made. Said approval shall specifically authorize the nonprofit corporation to make rehabilitation loans in the designated area or areas.

(e) The Department may provide deferred payment loans directly to the owner-occupant of a dwelling unit or owner of a rental housing development pursuant to Section 50668(b) of the California Health and Safety Code.

(f) An owner-occupant household of low or moderate income which satisfies the following criteria is eligible for a deferred payment loan pursuant to the provisions of this subchapter:

(1) It is the owner-occupant of the unit to be assisted.

(2) The property is eligible under a rehabilitation program designated under subsection (a) of this section. For projects which directly benefit from funds of

programs designated under (a) (1)–(a) (5) borrowers may be low or moderate income households. For projects which directly benefit from funds of programs designated under (a) (6), owner-occupant borrowers shall be low income households only, except that where program areas designated under (a) (6) overlap with other eligible program areas, the least restrictive income limits for borrowers shall apply.

(3) The monthly payments required by any combination of loans available through CHFA, Marks-Foran, CDBG, HUD 312, FmHA and rehabilitation/refinancing by private lending institutions or other sources to cover the cost of meeting rehabilitation standards would result in the total shelter expense exceeding the owner's ability to afford such shelter expenses.

(g) An owner of rental units which satisfies the following criteria is eligible for a deferred payment loan pursuant to the provisions of this subchapter:

(1) It owns a single-family or multi-family rental residential property in which the units are, or will be, occupied by low-income households pursuant to Section 7416(b).

(2) The property is in a rehabilitation program designated under subsection (a).

(3) The owner agrees to rent to low-income households pursuant to Section 7416.

(4) The owner agrees to limit rent increases pursuant to Section 7412(c).

(5) The loan is necessary to avoid increases in monthly debt service, necessitated by any combination of loans available through CHFA, Marks-Foran, CDBG, HUD 312, FmHA, refinancing/rehabilitation by private lending institutions, or local agency lending programs, which are necessary to cover the cost of meeting rehabilitation standards, as determined by increased rents, which either would exceed the affordable rents for low-income households residing in the rental property at the commencement of rehabilitation work funded by the local agency or by others; or which would make it economically infeasible to use available subsidies, such as Section 8, in order to provide affordable rents to low-income households.

(h) The Loan Committee may modify income requirements and definitions to allow a local entity to use standards more compatible with those used in local programs if the purpose of this program is furthered by such modification.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50668, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment filed 11-2-82; effective thirtieth day thereafter (Register 82, No. 45).
3. Amendment filed 6-3-85; effective thirtieth day thereafter (Register 85, No. 23).
4. Amendment if subsections (e) and (f) (2) filed 3-17-87; effective thirtieth day thereafter (Register 87, No. 12).

7406. Loan Limits.

The following limitations shall apply to all Fund commitments or deferred payment loans made by local entities:

(a) The Loan Committee shall authorize no more than 10 percent of the appropriation to the Fund for rehabilitation activities of code enforcement agencies pursuant to Section 7404(a) (4). Not less than 20 percent of the appropriations to the Fund on or after January 1, 1980 shall be expended in rural areas.

(b) Loans for direct rehabilitation and repairs by code enforcement agencies.

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(Register 87, No. 12—3-21-87)

(1) The maximum amount of funds loaned to a local entity shall be \$10,000 per unit.

(2) Funds received pursuant to this subsection shall be applied to the total permitted by subsection (a) of this section.

(3) The maximum loan from the Fund plus other indebtedness against the property shall not exceed 90 percent of the anticipated after-rehabilitation value of the property.

(c) Loans to low and moderate income owner-occupants of a unit to be assisted.

(1) The maximum deferred payment loan per unit shall be \$10,000 or \$20,000 when there are room additions, subject to the limitation of subdivisions (2) and (3), and may be subordinate to prior loans and liens.

(2) The maximum deferred payment loan plus other indebtedness against the property shall not exceed 90 percent of the anticipated after-rehabilitation value of the property. The existence of senior citizen tax deferral liens shall not be included in the calculation of indebtedness.

(3) Loans shall be limited to the amount necessary to cover the cost of meeting rehabilitation standards which cannot be financed by any combination of funds otherwise available without exceeding the borrower's ability to afford shelter expenses. Such funds may be derived from sources such as Marks-Foran, CHFA, CDBG, HUD 312, FmHA, or funds from private lenders. A loan to an elderly owner-occupant of low income may be permitted without requiring the other financing specified in subsection 7404(f)(3). With Department permission, this requirement may also be waived where its enforcement would require loans from other sources in such small amounts that the local entity determines that the administration and processing of such other loans is impractical or unreasonable.

(4) The borrower shall receive only one deferred payment loan.

(5) Exceptions to subparagraphs (c)(1), (c)(2), and (c)(4) may be recommended by a vote of the Loan Committee if it finds the presence of extraordinary circumstances, such as where the existing loan limit is not sufficient to cover costs attributed to retrofitting a unit for the handicapped, or where there are urgent health and safety needs, such as a polluted water supply or severe foundation problems. In either case, the local entity must document that no other funds are available for this purpose.

(d) Loans to owners of rental units.

(1) The maximum deferred payment loan to an owner of rental units shall be \$10,000 per unit, or \$20,000 when there are room additions, \$5,000 per residential hotel room, and \$200,000 per housing development, subject to the limitations of subdivisions (2) and (3). Maximum loan amounts shall be based on the number of units after rehabilitation. The deferred payment loan may be subordinate to prior loans and liens.

(2) The maximum deferred payment loan plus other indebtedness against the property shall not exceed 90 percent of the anticipated after-rehabilitation value of the property.

(3) Loans qualifying under Section 7404(g)(5) shall be limited to the amount of the cost of meeting rehabilitation standards which exceed the amount which can be financed by any combination of funds otherwise available without exceeding monthly debt service, as determined by increased rents, which either would exceed the affordable rents for one or more low-income households residing in the rental property or having been displaced from the rental property at the commencement of rehabilitation work funded by the local entity or by CHFA; or make it economically infeasible to accept subsidies, such as Section 8, available to provide affordable rents to low-income households. With Department permission, this requirement may be waived where its enforcement would require loans from other sources in such small amounts that the local entity determines that the administration and processing of such other loans is impractical or unreasonable.

(4) The borrower shall receive only one deferred payment loan for each housing development assisted.

(5) Exceptions to subparagraphs (d)(1), (d)(2), and (d)(4) may be recommended by a vote of the Loan Committee if it finds the presence of extraordinary circumstances, such as where the existing loan limit is not sufficient to cover costs attributed to retrofitting a unit for the handicapped, or where there are urgent health and safety needs, such as a polluted water supply or severe foundation problems. In either case, the local entity must document that no other funds are available for this purpose.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsection (d) filed 11-2-82; effective thirtieth day thereafter (Register 82, No. 45).
3. Editorial correction of subsection (d)(3) filed 1-6-83 (Register 83, No. 2).
4. Amendment filed 6-3-85; effective thirtieth day thereafter (Register 85, No. 23).

7408. Rates and Terms.

The following rates and terms apply to all commitments and loans from the Fund.

(a) Commitments of funds to local entities for borrowers.

(1) All funds committed from the Fund to local entities shall be loaned to borrowers within a period to be determined by the Department.

(2) The Loan Committee may provide for a waiver of interest payments when, and to the extent that, a local entity remits to the Department, in advance on behalf of the borrower, a sum equal to not less than 15 percent of the original principal balance of the loan to the borrower. This sum shall be in lieu of interest. Local entities may choose to make such advance payments when they make loans to borrowers at less than 3 percent.

(3) Funds, including loan principal and interest, including any interest attributable to delinquency paid thereon by borrowers, shall be repaid by local entities to the Department promptly as borrowers repay loans to local entities.

(b) Loans to local entities for direct rehabilitation and repair by code enforcement agencies.

(1) Loans made pursuant to this subsection shall not bear interest, except as provided under (b) (2).

(2) Any rehabilitation expenditures pursuant to this subsection shall be made a special assessment or lien against the properties affected and shall require that the full amount collected by the local entities, up to the cost of rehabilitation, and any interest collected on that sum, be promptly repaid to the Fund.

(3) Loan funds shall be expended within a period to be determined by the Department.

(c) Loans to low or moderate-income owner-occupants of units to be assisted.

(1) Loans from local entities to borrowers shall bear simple interest at the rate of 3 percent per annum on the original balance which shall be payable to the local entities when the loan is due.

(2) Payment of interest by the borrower may be waived or adjusted to less than 3 percent only when a local entity complies with the requirements of subsection (a) (3).

(3) Loans to elderly borrowers shall be due and repayable to the local entity upon sale, conveyance or transfer of the property or any interest therein, although the borrower may repay the entire amount of the loan earlier at his or her discretion. Loans shall also be due and repayable if the elderly borrower no longer occupies the unit as his or her principal residence for reasons other than medical treatment or disability, requiring a temporary alternative residence for the elderly borrower.

(4) Loans to non-elderly owner-occupants shall be due and repayable to the local entity if the borrower no longer occupies the unit as his or her principal residence or upon sale, conveyance or transfer of the property or any interest therein to any person other than a person of low or moderate income who is eligible pursuant to Section 7404 (f). Loans shall have five-year terms, which may be renewed as long as the property is not transferred, the borrower continues to occupy the property and the borrower's income and assets are such that the deferred payment loan could not be feasibly repaid by refinancing from other sources. A local entity shall only renew loans for one five-year period at a time. A borrower may repay the entire amount of the loan earlier at his or her discretion. If the borrower becomes elderly during the term of the loan, the loan shall be repaid pursuant to subsection (3).

(5) Local entities may not approve or agree to any refinancing, assumption or subordination with respect to a Program loan or real property securing the loan without the prior approval of the Department.

(d) Loans to owners of rental units.

(1) Loans from local entities to borrowers shall bear simple interest at the rate of 3 percent per annum on unpaid principal balance which shall be payable to the local entity when the loan is due.

(2) Loans shall have five-year terms unless the local entity and the Department determine that a longer term is required to ensure the economic feasibility of obtaining other rehabilitation financing or accepting subsidies. The initial five-year term may be renewed up to five additional five-year periods for a total term of up to thirty years, as long as the local entity determines that low income households residing in the rental units will benefit, pursuant to the loan agreement. Local entities shall renew loans only for one five-year period at a time unless multiple five-year periods are essential to the feasibility of continuing to benefit low-income households.

(3) Local entities may not approve, or agree to any refinancing, assumption or subordination with respect to a Program loan or real property securing the loan without the prior approval of the Department.

(e) Incremental repayments to either the Department or local entities shall not be permitted.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsection (d) (2) and repealer of subsection (f) filed 11-2-82; effective thirtieth day thereafter (Register 82, No. 45).
3. Editorial correction of subsection (c) (4) filed 1-6-83 (Register 83, No. 2).
4. Amendment filed 6-3-85; effective thirtieth day thereafter (Register 85, No. 23).

7410. Conditions of Fund Commitments to Local Entities.

The following special conditions shall apply to all fund commitments made to local entities.

(a) Before the Department disburses funds, the local entity will be required to submit to the Department the following documents which will have been prepared by the Department or at its direction:

(1) A resolution authorizing the acceptance of funds pursuant to the terms of these regulations;

(2) An executed Standard Agreement between the local entity and the Department;

(3) Borrower documents and completed application forms to be used between the local entity and borrowers, including copies of the loan agreement, promissory note, and security instrument(s); and

(4) Any other documents deemed necessary by the Department.

(b) Local entities shall agree not to discriminate or permit discrimination on account of race, color, religion, ancestry, sex, age, national origin, marital status, and mental or physical handicap, in accordance with all local, state, and federal laws governing and restricting such discrimination or requiring affirmative action. In addition, local entities shall agree not to discriminate, due in whole or in part to the consideration of conditions, characteristics or trends in the neighborhood or geographic area surrounding the housing development, unless it can demonstrate that such consideration in the particular case is required to avoid an unsafe and unsound business practice.

(c) Local entities shall agree not to substitute commitments from the Fund for similar local funds. This requirement applies to the local entities overall rehabilitation activities in the jurisdiction, rather than on a loan-by-loan basis.

(d) The Standard Agreement with local entities shall specify, in addition to the other items in this section, conditions including, but not limited to:

(1) Terms and conditions of borrower loans, including rate of interest, term, amount and purpose of such loans;

(2) Terms and conditions related to extensions and assumptions of borrower loans;

(3) Terms and conditions related to the making and monitoring of loans to borrowers or transactions with owners of buildings subject to code enforcement repairs and rehabilitation;

(4) Terms and conditions related to administration of the local program, including coordination and use of other sources of rehabilitation and refinancing funds in combination with deferred payment loans;

(5) Terms and conditions related to the ability of the Department or its agents to enter and inspect properties affected or to be affected by funds from the Fund, and records of the local entity and/or borrower related to funds from the Fund;

(6) Terms and conditions related to borrower default, late repayment and collection of the loans by the local entity;

(7) Terms and conditions related to remedies for breach of the Standard Agreement and extension of the period for fund commitments;

(8) Terms and conditions related to truth-in-lending disclosure;

(9) Terms and conditions related to requiring evidence of adequate casualty loss insurance; and

(10) Terms and conditions related to the assignment to the Department of all rights of the local entities arising from loans to borrowers.

(e) Local entities shall provide the Department with reports on the progress of rehabilitation and related purposes for which the funds have been used. Reports shall be submitted on a semi-annual basis or at other intervals required by the Department. The Department shall determine the required contents of the reports.

(f) Pertinent information on each loan to borrowers shall be provided promptly to the Department in the form required by the Department. All loan documents and agreements related to loans to borrowers shall be kept on file by the local entity as directed by the Department.

(g) Primary responsibility for monitoring and enforcing conditions of the loans shall be taken by local entities, and such enforcement shall be taken promptly by the local entity to protect the security of the loan or the benefits to low-income tenants. Local entities shall provide that inspections of the premises to be rehabilitated by loan proceeds are performed and that such work meets applicable code standards.

(h) Notwithstanding any other provisions of these regulations, and any amendments thereto, or any terms of any documents, agreements or notes executed by and between the Department and the local public entity, the obligation of the local public entity to repay principal and interest on a commitment made under these regulations shall be limited to that amount actually recovered from each loan made by the local public entity.

(i) Nonprofit corporations obtaining commitments from the Fund shall present evidence of adequate fidelity bonds.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsection (b) filed 11-2-82; effective thirtieth day thereafter (Register 82, No. 45).
3. Amendment filed 6-3-85; effective thirtieth day thereafter (Register 85, No. 23).

7412. Conditions of Loans to Borrowers.

The following general conditions shall apply to all loans made by local entities to borrowers.

(a) The following documents shall be executed by all borrowers and local entities as applicable:

(1) A loan agreement, which, in the case of loans to rehabilitate rental units, shall be recorded or referenced in a recorded document;

(2) A promissory note;

(3) A security instrument to be recorded;

(4) Truth-in-lending disclosure; and

(5) Other documents required by the Department or required by the local entity and approved by the Department.

(b) The loan agreement shall be in a form determined by the Department and contain, but not be limited to, the following provisions:

(1) Amount, term, and interest on the loan, including specific terms of payment and repayment of principal and interest;

(2) Terms and conditions regarding non-discrimination and affirmative action in hiring, as required by law;

(3) Terms and conditions regarding contractor selection, self-help, rehabilitation work to be done, bonding, and payments to contractors;

(4) Compliance with local, state or federal laws, ordinances and regulations applicable to proposed loans, rehabilitation, and use of the premises, including zoning ordinances, building codes, planning, historic preservation, environmental, and relocation regulations;

(5) Terms and conditions relating to defaults in repayment or compliance with the loan agreement;

(6) Provisions allowing the local entity or Department, their agents or employees, with the prior consent of the borrower and the occupant in each instance, to enter upon and inspect the lands, buildings, and equipment of the borrower at any time during or after rehabilitation of the subject property; or to inspect the books and records of the owner related to the subject loan funds, at any time during or after rehabilitation of the property assisted by the loan;

(7) Terms and conditions related to program reporting requirements;

(8) Terms and conditions related to extensions, refinancing, assumptions, or subordination of the loan; and

(9) Provisions that enforcement shall be by proceeding at law or in equity, at the option of the local entity or department, against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

(c) The loan agreement with borrowers to rehabilitate rental units shall include, in addition to the provisions contained in subdivision (b), provisions covering the following special conditions:

(1) Pursuant to Section 7416(a)-(d), rental units in the residential property shall be rented to low income households;

(2) Loans pursuant to Section 7404(a)(1) shall be made only if the borrower agrees to restrict rents as required by regulation of the California Housing Finance Agency pursuant to subdivision (g) of Section 51307;

(3) Loans pursuant to Section 7404(a)(2) shall be made if the borrower contracts during the term of the loan to limit rent increases as provided in Section 37922.5 of the Health and Safety Code;

(4) Loans pursuant to Section 7404(a) (3) shall be made if the borrower accepts a loan for rehabilitation from the California Housing Finance Agency and agrees to limit rents and profits as required by such a loan;

(5) Loans pursuant to Section 7404(a) (5) and (6) shall be made if the borrower agrees to execute an agreement, to be provided by the Department, whereby the borrower agrees during the term of the loan not to raise residential rents for all assisted units in a rental housing development by an annual amount greater than 50% of the annual average percentage increase in the Consumer Price Index for All Urban Consumers, Western Region, All Items ("CPI") as published by the U.S. Bureau of Labor Statistics. In the event such index is no longer published or available, an alternative index shall be selected by the Department. The alternative shall be based on the same factors which determine the CPI to the extent possible. However, if the units are located in a community which has adopted rent stabilization ordinances which would require a lower increase in rents, the local provisions shall apply.

(6) Where program areas under Section 7404(a) (5) and (6) overlap with other eligible program areas, the provisions which require the lowest increase in rents shall apply.

(7) Loans to rehabilitate one or more units for which Section 8 Housing Assistance Payments will be used, shall be made only if the borrower agrees during the term of the loan not to raise rents by an amount greater than the annual rent adjustments for Section 8 units as determined and published by the U.S. Department of Housing and Urban Development;

(8) Terms and conditions related to tenancy standards and procedures pursuant to Section 7416.

(9) The loan agreement shall be binding on the borrower and successors in interest for the full term of the loan, regardless of sale, transfer or prepayment.

(d) Loans by local entities shall be secured in a manner that adequately protects the interests of the Department. Security may include, but is not limited to, deeds of trust or mortgages.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment filed 6-3-85; effective thirtieth day thereafter (Register 85, No. 23).

7414. Authorized Expenses.

Funds from the Fund may be used only with respect to the following authorized expenses.

(a) Loans to local entities for direct code enforcement repair or rehabilitation pursuant to Section 7404(a) (4) may be used only for actual rehabilitation and repair costs. They may not be used for governmental administrative costs, overhead costs, costs of collection or foreclosures, or other items.

(b) Loans from the Fund made by local entities to borrowers may include the following costs:

(1) Costs of rehabilitating, or the reconstruction of, eligible properties in conformance with rehabilitation standards, except as excluded under subsection (c);

(2) Room additions or enlargements pursuant to Section 7402;

(3) Costs for improvements related to making the housing development accessible to and usable by the handicapped;

(4) In unusual cases, and if approved by the Department after consideration of need and cost by the local entity, the cost of design services for the preparation of plans, drawings, and specifications for the rehabilitation of the property;

(5) The cost of building permits and related fees required for the rehabilitation, if not included in the construction contract;

(6) Costs of title reports, credit reports, appraisal reports and fees for recording documents related to the loan; and

(7) The cost of repair and installation of alternative energy conservation systems and weatherization when done in conjunction with other rehabilitation work.

(c) Loans made by local entities pursuant to this subchapter may not include the following unauthorized expenses:

(1) Real property acquisition;

(2) New construction, except for room additions as authorized by this subchapter;

(3) Refinancing;

(4) General property improvements unless such improvements are necessary to correct unsafe, unhealthy or insanitary conditions, including renovations and remodeling, such as remodeling of kitchens and bathrooms, installation of new appliances; landscaping; or the purchase and/or installation of central air conditioning;

(5) Materials, fixtures or equipment of a type of quality which exceeds that customarily used in the locality for properties of the same general type as the property to be rehabilitated;

(6) Appliances not required by rehabilitation standards;

(7) The purchase, installation, or repair of furnishings or trade fixtures;

(8) Local entity administration, consulting, loan packaging, and overhead costs; and

(9) Expenses related to displacement and relocation of tenants in rental units rehabilitated under the program.

(d) Expenses related to rehabilitation activities which result in a decrease in the number of rooms or units in a residence or housing development may be authorized where the following criteria are met:

(1) no permanent displacement will result; and

(2) it is necessary to meet applicable building or housing codes; or

(3) the new unit composition meets a greater housing need than does the existing unit composition; or

(4) the new unit composition is necessary to ensure the economic feasibility of the project.

(e) Expenses related to rehabilitation activities which result in an increase in the number of residential units or conversion of non-residential structures to residential use may be authorized where the following criteria are met:

(1) the additional units will be made available to low income households pursuant to Section 7416 for the purpose of alleviating a shortage of standard rental housing affordable to such households in the community; and

(2) the additional units or conversions are necessary to make rehabilitation and continued maintenance economically feasible.

In cases where nonresidential structures are converted to residential use, the borrower must agree to execute documents to ensure that units created will be reserved for occupancy by low-income households pursuant to Section 7416 for a period of at least fifteen years by agreeing to extend the loan after each five-year term as provided for in Section 7408(d).

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(Register 85, No. 23—6-8-85)

(f) In buildings where there are mixed residential and commercial uses, authorized expenses shall include only those expenses attributable to portions of the structure which directly benefit residential uses. Where common elements, such as roofs, are to be rehabilitated, program funds may be used for the residential portion of the total costs, based on the percentage of residential floor area in the structure.

(g) Administrative costs of the Department shall be derived from the Fund.

(h) Related administrative costs of local entities may be derived from the Fund if it is determined by the Department that such payments are necessary for local entities to implement and assure compliance with this program.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsections (b) (1), (d) and (e) filed 11-2-82; effective thirtieth day thereafter (Register 82, No. 45).
3. Amendment filed 6-3-85; effective thirtieth day thereafter (Register 85, No. 23).

7415. Grants for Administrative Costs.

The following conditions shall apply to awards for related administrative costs.

(a) Local entities that are eligible to receive funds for administrative costs of operating the program are limited to:

(1) Local public entities that are not jurisdictions designated as entitlement grantees under HUD's Community Development Block Grant program, and that will operate the program and make loans in rural areas.

(2) Nonprofit corporations that will operate the program and make loans in rural areas.

(b) The Department may provide grant funds to eligible local entities for costs of administering the program in an amount up to 15 percent of the total loan commitment from the Fund.

(c) Eligible costs may include, but are not limited to, personal services, operating expenses, and rental of equipment. Proposed items of administration and other costs shall be set forth in the application. Only those costs specifically approved by the Department may be reimbursed from the Fund. Administrative costs will be accounted for on a direct cost basis unless an indirect cost rate has been approved by the Department.

(1) Personal services include:

- (A) Staff salaries, wages and benefits; and
- (B) Contract services in administration of the program.

(2) Operating expenses and equipment include:

- (A) Office supplies, printing and copying and telephone charges;
- (B) Travel;
- (C) Office rent and utilities related to the program operation;
- (D) Rented office equipment; and
- (E) Insurance and fidelity bonds.

(d) Ineligible costs include costs to be included in loans to borrowers as set forth in Section 7414(b).

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50651, 50662 and 50663, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsections (c) and (e) filed 11-2-82; effective thirtieth day thereafter (Register 82, No. 45).
3. Amendment of subsection (d) filed 5-3-85; effective thirtieth day thereafter (Register 85, No. 23).

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(Register 82, No. 45—11-8-82)

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7416. Tenancy Standards and Procedures.

The following terms and conditions govern tenant selection, relations, and evictions for low-income tenants of rental units rehabilitated with loans from the Fund.

(a) Initial priority for rental units shall be given to those households which resided on the premises prior to rehabilitation and were displaced due to, or during the process of, rehabilitation.

(b) Borrowers shall agree to rent 100 percent of the residential units in a housing development rehabilitated with loans from the Fund, other than owner-occupied residences or units, to low income households during the term of the loan, except where it is necessary to preserve the economic feasibility of the development or avoid displacement. In such cases, the Department may approve a lower percentage, however, in no case shall less than 50 percent of the units be designated for low income households. If the designated number of low income units are initially occupied by non-low income households but subsequently become vacant, the borrower shall agree to rent such units to low income households. The borrower shall affirmatively seek such households by contacting the local housing authority. Where the borrower cannot obtain such low income tenants by contacting the local housing authority, the borrower shall contact the local entity for guidance. The local entity shall contact the Department if its efforts do not result in low income tenants for the vacant units.

(c) If rental subsidies are available, borrowers may accept rent subsidies for assisted units.

(d) Rents shall remain at pre-loan application levels until rehabilitation is completed. After rehabilitation, increases in rents shall be limited to avoid displacement of low and moderate income households pursuant to Government Code Section 7265.3(b). Proposed after-rehabilitation rents shall be established by the local entity and borrower prior to approval of the loan agreement by the Department. Rents shall be set at levels in accordance with the provisions set forth in Section 7412(c) and consistent with the economic feasibility of the housing development and a fair rate of return to the owner of the housing development as determined by the Department.

(e) The borrower shall agree to use a lease prepared by the Department which conforms to California law and the requirements of Sections 11402 and 11405-11406 or other lease subject to the approval of the Department.

(f) The borrower and tenants shall comply promptly and fairly with their responsibilities under law and as set forth in the lease. In addition, the borrower shall make every effort feasible to ensure the stability and security of tenants.

(g) If a tenant's income exceeds the standard pursuant to which he or she was accepted for tenancy, that fact alone shall neither cause the tenant's eviction nor be a violation of the borrower's loan agreement or these regulations.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference cited: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment of subsection (b) filed 11-2-82; effective thirtieth day thereafter (Register 82, No. 45).

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7418. Loan Committee.

The loan committee shall operate as required by Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of this Part.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660–50670, Health and Safety Code.

HISTORY:

1. Amendment filed 6-19-80; effective thirtieth day thereafter (Register 80, No. 25).

7420. Review of Applications for Fund Commitments.

The following criteria shall be used to review applications in determining Fund commitments to local entities.

- (a) Compliance with State Housing Element requirements contained in Section 65302(c) of the Government Code;
- (b) The local entity's ability to lend the funds upon receipt of a commitment;
- (c) Evidence of need in terms of substandard housing; and
- (d) Other considerations as deemed appropriately by the Department.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. Repealer and new section filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).

7422. Application Process.

The Department shall prepare and provide application forms and program documents upon request. The process shall include, but not be limited to the following activities.

- (a) Applications for fund commitments to local entities will be reviewed by Department staff.
- (b) Information and staff recommendations regarding completed applications from eligible local entities will be submitted for consideration by the Loan Committee.
- (c) The Loan Committee shall make recommendations to the Director regarding the applications pursuant to Section 6904.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).

7424. Department Review of Local Activities.

(a) The Department shall review and approve or disapprove all loan applications for funds from the Fund involving assistance to rental units, as well as all assumptions and extensions of such loans.

(b) At the discretion of the Department, loan applications from owner-occupants or extensions of such loans may be reviewed in their entirety and are subject to approval by the Department.

(c) Any time during the operation of the program, the Department may request or perform a review or financial audit of any and all phases of the local entity's program operation. The local entity shall provide any requested documentation related to monitoring and enforcing the Standard Agreement.

(d) Any person or owner affected by this program may petition the Department to review any phase of implementation of the local entity's program. Grievances may relate to, but not be limited to, eligibility, terms of tenancy, or authorized expenditures. Review undertaken by the Department under this section may be informal or may follow the procedures outlined in Government Code Section 1180 *et seq.* at the option of the Department. Failure to petition the Department shall not limit a complainant's right to seek judicial review; nor shall the Department's review pursuant to a petition preclude de novo judicial review.

(e) Reports describing the progress and problems of the local entity's program, including loan disbursements and grant expenditures, if any, shall be submitted to the Department until such time as the local entity has loaned all of its

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commitment from the Fund. Reports shall be submitted at intervals determined by the Department. The Department may provide local entities with the format for such reports.

(f) As a result of any Department findings of noncompliance resulting from reviews pursuant to subsections (a)–(e), the Department may require that the local entity remedy the situation in order to remain in the program.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment filed 6-3-85; effective thirtieth day thereafter (Register 85, No. 23).

7426. Appeals Procedure.

The following appeals procedures shall apply to operation of the program.

(a) Local entities whose applications for fund commitments are not recommended for approval by the Loan Committee may appeal the Committee's decision in accordance with the procedures set forth in Section 6906.

(b) Borrowers whose loan applications have not been approved by the local entity may appeal to the local entity.

(c) A local entity may appeal any action by Department staff on applications for loans to borrowers to the Loan Committee. The Loan Committee shall make a recommendation on the appeal to the Director, whose decision shall be final.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).

7428. Disbursement of Funds.

The following procedure shall govern disbursement of funds to local entities.

(a) Funds for loans will be disbursed to, or on behalf of, the local entity as the need for funds arises in a manner determined by the Department. Such disbursements may include advance payments on the total approved loan fund commitment and payments thereafter as needed to facilitate effective administration of the program by local entities.

(b) The Department shall disburse administrative grant funds to local entities on a quarterly basis or on a loan-by-loan basis, at the discretion of the Department.

(c) The local entity must request disbursements of funds in writing at least twenty days before receipt is required.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).

7430. Cancellation of Commitments.

Commitments to local entities may be cancelled by the Department after they have been approved but before any disbursements have been made, or further disbursements may be cancelled after initial disbursements have been made if a local entity is not operating the program in accordance with the schedule or other provisions in the application or Standard Agreement or if the objectives of the commitment cannot be met. Upon notice of cancellation, the local entity shall have a right to a hearing before the Loan Committee. The

in rectification within 30 days from such notice, at the discretion of the Department the local entity shall declare the note evidencing the loan to be due and payable.

(g) In the event a local entity defaults on any material provision of the Standard Agreement with the Department or these regulations, the Department may demand rectification of the default. If substantial progress is not made in rectification within 60 days from such notice, the Department may seek such remedies as are available to it under the terms of the Standard Agreement.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50660-50668, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).
2. Amendment filed 6-3-85; effective thirtieth day thereafter (Register 85, No. 23).
3. Amendment of subsection (e) filed 3-17-87; effective thirtieth day thereafter (Register 87, No. 12).

7434. Disposition of Recaptured Funds.

All funds repaid to the Department because of termination, transfer, sale, conveyance, alienation, breach, or default will be deposited in the Housing Rehabilitation Loan Fund and be available for commitments to other eligible local entities and for administrative costs.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY:

1. Amendment filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).

7436. Technical Assistance.

The Department may offer technical assistance to eligible local entities in the preparation of applications and in the design and implementation of program activities, to the extent deemed feasible by the Department.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference cited: Sections 50660-50670, Health and Safety Code.

7438. Displacement and Relocation.

(a) Local entities shall ensure provision of affordable temporary housing to eligible households residing in a rental housing development prior to rehabilitation if such households are required to move temporarily during rehabilitation, in accordance with the requirements of subdivisions (c)-(f) of Government Code Section 7265.3.

(b) Local entities shall ensure provision of payments to eligible persons and families permanently displaced as a result of rehabilitation work in accordance with the requirements of subdivisions (a)-(b) and (e)-(f) of Government Code Section 7265.3.

NOTE: Authority cited: Section 50662, Health and Safety Code. Reference: Sections 50661, 50662 and 50663, Health and Safety Code.

HISTORY:

1. New section filed 10-2-81; effective thirtieth day thereafter (Register 81, No. 40).

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