

**CALIFORNIA ALTERNATIVE ENERGY AND  
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

***Request to Approve Readoption of Emergency Regulations for the  
Residential Energy Efficiency Loan Assistance Program***

**Tuesday, August 18, 2015**

Prepared By: *Sarah Taheri, Program Manager*

**REQUEST**

Staff requests approval to readopt the Residential Energy Efficiency Loan (“REEL”) Assistance Program emergency regulation with some modifications that will improve the program’s implementation without substantially changing the program design.

**SUMMARY**

On February 17, 2015, the CAEATFA Board approved the initial REEL Assistance Program regulations, which were adopted and made effective through the emergency rulemaking process on March 9, 2015. The initial regulations are effective for 180 days, through September 9, 2015. Emergency regulations may be readopted for up to two 90-day periods if necessary to allow CAEATFA to complete the regular rulemaking process.

CAEATFA must complete the first readoption of the emergency regulations by September 8, 2015, to ensure that there is no lapse in regulatory authority for the program. These regulations will remain in effect for 90 days, and will be followed by a second readoption of the regulations that will occur during which time CAEATFA will concurrently undertake the regular rulemaking process. A detailed timeline is included below.

**Proposed Modifications to the Regulations.**

Following is a summary of the key changes proposed. The specific modifications to the regulations can be found in Attachment A, denoted with strikeout and underlined text.

*Sections 10091.1-10091.15.*

Minor grammatical and formatting revisions were made throughout the entire Article. Additional changes were made to clarify whether days should be counted in calendar or business days.

*Section 10091.1(m). Eligible Loan Definition.*

This definition is modified to accommodate partial enrollment of a loan. The California Public Utilities Commission approved Decision 15-06-008 which allowed for the enrollment of a portion of a loan. This change allows borrowers to finance, in a single loan, other home improvements beyond the scope of those eligible for this program without impacting the

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ratepayer funds used to support the eligible portion of the loan. As such, it is expected that this will help increase program participation.

### *Section 10091.2. Eligible Financial Institution and Eligible Finance Lender Applications to Participate.*

An additional provision has been added to Section 10091.2(b) to clarify that upon enrollment, PFIs and PFLs will be required to complete a signature sheet indicating the individuals who are authorized to effect Loan Enrollment Applications and other Program documents. This change safeguards program transactions by requiring PFIs and PFLs to implement internal practices for quality assurance.

### *Section 10091.3. Additional Requirements for Finance Lenders.*

Section 10091.3(a)(5) is modified so that PFLs must certify that they will not cancel their insurance policies without providing a thirty (30) day written notice to the Authority. Previously, the language required that PFLs maintain a policy with this provision. Upon further review, Staff recommends this amendment to allow participating lenders the flexibility to enroll in the program using their existing insurance coverage, provided such coverage meets the remainder of the criteria in this section.

A certification is added to the Participating Finance Lender Application to indicate that the information provided is true and accurate to the best of the signatory's knowledge.

### *Section 10091.4. Loan Eligibility and Minimum Underwriting Criteria.*

Section 10091.4(c)(1) is added to clarify that the \$50,000 per unit cap only applies to the portion of an Eligible Loan that is enrolled in the Program. Section 10091.4(c)(2) is added to clarify that loans underwritten without a FICO score will still be subject to the \$35,000 cap, regardless of whether they have been partially enrolled in the Program. These changes are necessary to identify the impact of partial enrollment on various administrative requirements of the Program.

### *Section 10091.5. Contractor Qualification and Management.*

A certification is added to the Qualified Contractor Application to indicate that the information provided is true and accurate to the best of the signatory's knowledge.

### *Section 10091.6. Establishment and Funding of Loss Reserve Accounts.*

Section 10091.6(c)(1) is added to clarify the process for determining quarterly loss reserve adjustments with consideration of partially enrolled loans. This calculation will be determined by applying the proportion of the total loan amount that is enrolled to the outstanding principal balance of the loan. This change is necessary to identify the impact of partial enrollment on various administrative requirements of the Program.

### *Section 10091.7. Optional Loss Reserve Reservation and Project Pre-Approval.*

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Revisions to this section add certifications to the Loss Reserve Reservation and Project Pre-Approval form that indicate the information provided is true and accurate to the best of the signatory's knowledge. In addition, Section 10091.7(g)(2) is clarified to allow for the transfer of funds from an IOU-Program Reservation Account to an IOU-Program Holding Account in the event that an Eligible Loan that has previously received a Project Pre-Approval ultimately does not satisfy the requirements for enrollment.

### *Section 10091.8. Loan Enrollment.*

Section 10091.1(8)(b) is modified to clarify that loans must be closed before they can be enrolled in the Program.

Section 10091.8(c) and 10091.8 (d) are modified to accommodate a situation in which a Customer Data Release Form has been previously submitted, either via an online form submission process or with a Loss Reserve Reservation or Project Pre-Approval. The same sections include changes to require that a recent utility bill from within the last 60 days be submitted as part of the loan enrollment package. Provision of the utility bill will simplify the borrower and contractor application process, as well as streamline the administration of the program.

In addition, new data points related to each enrolled loan will be required as part of the loan enrollment submission: first payment date, principal and interest payment amount, date of origination, indication of whether a Customer Data Release Form has been previously submitted. These data points support the administration of the program and, in the long term, analysis of data from participating projects.

Section 10091.8(f) is modified to include the Contractor's State License Board ("CSLB") license number on the Certificate of Completion. This will simplify the administration of the program.

Various forms listed in Section 10091.8 are modified to include additional certifications that information provided is true and accurate to the best of the signatory's knowledge.

### *Section 10091.9. Claims.*

Edits to this section include clarifications to accommodate the partial enrollment of a loan. Section 10091.9(a)(1) is added to clarify that for partially enrolled loans the amount eligible for claim will take into consideration the proportion of the loan being enrolled. That is, the claim reimbursement calculation would be completed using 90% of the proportion of the outstanding principal balance of the loan that is attributable to the enrolled amount.

Additional data points are included to report the original total loan amount, including both the enrolled and unenrolled portion of the loan, as well as the amount recovered for a charged-off loan.

These changes will support CAEATFA's ability to ensure that claims payments are calculated with consideration of partial enrollment as well as any recoveries made.

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Additional certifications are added to the Claim Application to require the claim applicant to certify (1) that it will comply with reporting requirements for the Program, and (2) that the information provided is true and accurate to the best of the signatory's knowledge.

### *Section 10091.10(g). Project Requirements.*

The modifications in this section extend the amount of time during which an enrolled project may be subject to a post-project field verification. Currently, the regulations state that a field verification may be performed within 180 days of a loan being enrolled in the program. This revision would extend the 180 day window to one (1) year.

The REEL Assistance Program is expected to begin enrolling projects within the next month. This extension will ensure that there is ample time to complete a competitive procurement process during which CAEATFA will select a Contractor Manager to perform field verifications. The extension will mitigate the risk of projects that enroll early in the program being exempt from the field verification process.

### *Section 10091.11. Reporting.*

The amendments in this section change the frequency of PFI, PFL, and Successor mandatory reporting to CAEATFA from quarterly to monthly. This change is necessary to ensure that reported information is as accurate as possible for determining adjustments to loss reserve funding. As noted in Section 10091.6(c), CAEATFA will adjust lender loss reserve accounts on a quarterly basis to reflect the outstanding principal of Enrolled Loans for that account.

Section 10091.11(e) is modified to require 10-day advance notice from a PFI or PFL to the Authority if any change in servicing for an Enrolled Loan will occur. Advance notice is required to support the administration of the program by ensuring the Master Servicer and new servicer have adequate time to set-up reporting infrastructure.

### *Section 10091.12. Sale of Enrolled Loans.*

Section 10091.12(b) is revised to clarify that a PFI or PFL who is transferring the servicing of an Enrolled Loan to a Successor Servicer must notify the Authority at least 10 business days prior to the transfer occurring. The new language also specifies the information required as part of the notification, and clarifies that the new servicing entity must agree to the reporting in Section 10091.12(b)(2) before Loss Reserve Contributions can be transferred. These changes support program administration and ensure that reporting obligations and enrollment requirements are met by the new servicer.

In addition, the Successor Servicer Application is modified to include a certification from the applicant that the information provided is true and accurate to the best of the signatory's knowledge.

### *Section 10091.13 Termination and Withdrawal.*

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Amendments were included in Section 10091.13(a) to require that if a PFI, PFL or Successor Servicer withdraws from the program, they must also provide the reason for their withdrawal. This addition will allow Staff to monitor participation and identify structural issues with program design that should be considered in future amendments to the regulations.

Section 10091.13(b) is modified for clarification that, in the event a PFI, PFL, or Successor Servicer withdraws from the program, funds in its Loss Reserve Account(s) will only be returned to IOU Program Holding Account(s) if the PFI, PFL, or Successor Servicer is withdrawing pursuant to Section 10091.13(a)(1). This edit makes the language consistent with CAEATFA's original intent.

Section 10091.13(c) is modified to authorize the Executive Director of the Authority to terminate a PFI, PFL, or Successor Servicer from the Program for failure to submit required reports to the Authority.

### *Section 10091.15. California Hub for Energy Efficiency Financing Disclosure.*

This section is modified for consistency with changes to CAEATFA's contract with the investor-owned utilities. The revisions clarify that, while not required by the program, CAEATFA may come into possession of information identified in this section.

### **Regulatory Process.**

The initial emergency regulations adopted for the REEL Assistance Program in March 2015 are effective for 180 days, through September 9, 2015. These emergency regulations may be readopted for up to two 90-day periods if necessary to complete the regular rulemaking process. At this time, Staff requests approval of the first readoption while it continues to navigate through the regular rulemaking process.

To complete the readoption of the emergency regulations, Staff must provide notice of the emergency rulemaking action 5 days prior to submitting the emergency regulations to the Office of Administrative Law ("OAL") for approval. Such notice was provided on August 17, 2015, and the submission for readopting the emergency regulations will be submitted to OAL on August 25, 2015. OAL has 10 calendar days to approve the readoption. If approved, the emergency regulations will be filed with the Secretary of State and become effective upon filing. The emergency regulations will be valid until December 6, 2015, at which time the regulations adopted through the regular rulemaking process, if approved by OAL, will go into effect.

The regular rulemaking process requires CAEATFA to provide notice of the text of the proposed regulations, the Initial Statement of Reasons, and the Notice of Proposed Rulemaking and to publish the Notice of Proposed Rulemaking in the Notice Register. Upon notice and publication, the rulemaking file must remain open for a 45-day public comment period. After the conclusion of the comment period, CAEATFA may hold a public hearing on the proposed regulations. If CAEATFA makes any modifications to the proposed regulations originally made available in its initial notice and publication, CAEATFA must make the proposed modified regulations available to the public for an additional 15-day public comment period. After the 15-day comment period,

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CAEATFA may adopt the regulations and file the regular rulemaking package with the Office of Administrative Law (“OAL”). OAL has 30 business days to review the regulations.

#### **Tentative Timeline.**

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

February 17, 2015	CAEATFA Board approved the initial REEL Assistance Program regulations.
March 9, 2015	Emergency regulations became effective through September 9, 2015.
August 17, 2015	Staff issued a notice of proposed rulemaking for the first re-adoption of the emergency regulations.
August 18, 2015	CAEATFA Board reviews and approves proposed modified regulations
August 25, 2015	Emergency regulations are submitted to Office of Administrative Law (OAL) for review. OAL has 10 calendar days to review the emergency regulations.
September 4, 2015	OAL’s decision deadline for the first re-adoption of emergency regulations. Emergency regulations become effective for 90 days upon filing with the Secretary of State.
September 8, 2015	Deadline for filing first 90-day re-adoption of emergency regulations. First re-adoption becomes effective on this date.
December 6, 2015	Deadline for filing second 90-day re-adoption of emergency regulations. Second re-adoption becomes effective on this date.
March 4, 2016	Deadline for filing certificate of compliance for regular rulemaking.

**Recommendation.** Staff recommends adoption of a resolution to approve the proposed modifications to the regulations for the REEL Assistance Program and to authorize Staff to undertake emergency and regular rulemaking proceedings and other actions related to promulgation of the regulations.

**Attachment:** Proposed Modified Regulations: Modifications for Board consideration are in red text.

**RESOLUTION OF THE CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY APPROVING REGULATIONS AND AUTHORIZING EMERGENCY AND REGULAR RULEMAKING PROCEEDINGS AND OTHER ACTIONS RELATED THERETO, INCLUDING THE PUBLIC NOTICE AND COMMENT PROCEDURES TO IMPLEMENT THE RESIDENTIAL ENERGY EFFICIENCY LOAN ASSISTANCE PROGRAM**

August 18, 2015

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

WHEREAS, the Authority has determined that, under its Memorandum of Agreement with the California Public Utilities Commission and its contract with the investor-owned utilities to serve as the manager of the California Hub for Energy Efficiency Financing, it is necessary to adopt regulations to implement the Residential Energy Efficiency Loan Assistance Program (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 as regulations 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 emergency and regular 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**

**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 RESIDENTIAL ENERGY EFFICIENCY LOAN  
ASSISTANCE PROGRAM**

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**§10091.1. 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) or its agent.
- (b) “Borrower” means an individual or individuals who receive(s) an Eligible Loan from a Participating Financial Institution or Participating Finance Lender for the purpose of making Eligible Improvements to an Eligible Property.
- (c) “Bill Impact Estimate” means an estimate of the anticipated energy cost savings that are expected to result from the installation of Eligible Energy Efficiency Measures, which is provided by the Qualified Contractor to the Borrower prior to work being performed on the Eligible Property.
- (d) “California Hub for Energy Efficiency Financing Disclosure” or “CHEEF Disclosure” means the disclosure described in Section 10091.15.
- (e) “Commission” or “CPUC” means the California Public Utilities Commission.
- (f) “Community Choice Aggregator” or “CCA” is defined in Section 331.1 of the California Public Utilities Code.
- (g) “Customer Data” means all information and data regarding an IOU customer that is furnished, disclosed, or otherwise made available by an IOU to an authorized agent, including, without limitation personal information such as the customer’s name, address, contact information, service agreement number on the customer’s electric bill, user name, password, financial status and social security number and any information regarding the customer’s energy usage or billing. No confidential Customer Data shall be provided to CAEATFA or its Providers except pursuant to a Customer Data Release Form.
- (h) “Customer Data Release Form” is a legal release that is developed and provided by the IOUs, and executed by an IOU’s customer that is required to give authorization to a designated agent to provide Customer Data to the Authority.
- (i) “Eligible Contractor” means a contractor or contractor company with an active license with the Contractors State License Board to do the work he, she, or it performs.
- (j) “Eligible Energy Efficiency Measures” or “EEEMs” means energy efficiency measures identified by the Investor-Owned Utilities and approved by the CPUC as eligible for rebates or incentives. A list of EEEMs will be accessible from the Authority’s website. The list of EEEMs shall include demand response measures to the extent that they are approved for energy efficiency rebates or incentives.
- (k) “Eligible Finance Lender” means a finance lender licensed by the California

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Department of Business Oversight that meets the requirements specified in Section 10091.3 of these regulations.

- (l) “Eligible 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).
- (m) “Eligible Improvements” means improvements made to Eligible Properties.
  - (1) Eligible Improvements must be installed by Qualified Contractors, except as set forth in Section 10091.10 (b).
  - (2) Eligible Improvements may include:
    - (A) The installation of Eligible Energy Efficiency Measures as specified by the IOU(s) that provide(s) the Eligible Property with the corresponding gas and/or electric service.
    - (B) Related home improvements to the Eligible Property.
  - (3) Eligible Improvements do not include solar photovoltaic, solar thermal or other distributed generation or renewable energy systems.
- (n) “Eligible Loan” means a loan or retail installment contract or portion thereof made by a Participating Financial Institution or Participating Finance Lender to a Borrower to finance Eligible Improvements on an Eligible Property.
  - (1) The portion of An Eligible Loan that is being enrolled must meet the requirements specified in Section 10091.4 of these regulations.
  - (2) An Eligible Loan does not include any of the following:
    - (A) A loan secured by an interest in real property.
    - (B) Open end loans (e.g. line of credit, home equity line of credit).
    - (C) A loan for the construction or purchase of residential housing.
    - (D) A loan for the refinancing of existing debt.
- (o) “Eligible Property” means a residential property of no more than four (4) units that receives gas and/or electric service from one or more Investor-Owned Utilities, or Community Choice Aggregators. Rented or leased properties are eligible with the owner’s written consent to have the Eligible Improvements installed.
- (p) “Enrolled Loan” means an Eligible Loan approved by the Authority for enrollment in the Program pursuant to Section 10091.8.
- (q) “Executive Director” means the Executive Director of the Authority or her or his designee.
- (r) “Investor-Owned Utility” or “IOU” collectively referred to as “IOUs” means Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, or Southern California Gas Company.
- (s) “IOU-Program Holding Account” means the account established and maintained by the Trustee at the Authority’s direction to hold funds allocated by an IOU for the Program.

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- (t) “IOU-Program Reservation Account” means the account established and maintained by the Trustee at the Authority’s direction to hold funds reserved for PFIs and PFLs.
- (u) “Loss Reserve Account” means an account established and maintained by the Trustee at the Authority’s direction for the benefit of a Participating Financial Institution, Participating Finance Lender or Successor Servicer to hold the Loss Reserve Contribution for Enrolled Loans in a given IOU territory.
- (v) “Loss Reserve Contribution” or “Loan Loss Reserve Contribution” means the financial assistance provided to the Loss Reserve Account pursuant to these regulations for the benefit of a PFI or PFL for each Eligible Loan it enrolls in the Program as described in Section 10091.8, or for the benefit of a Successor Servicer for each Enrolled Loan it purchases pursuant to Section 10091.12.
- (w) “Loss Reserve Reservation” means funds set aside in an IOU-Program Reservation Account at the request of a PFI or PFL in accordance with Section 10091.7.
- (x) “Low-to-Moderate Income” or “LMI” means income at or below the current annual income limits as determined by the California Department of Housing & Community Development according to county and family size and adopted in Section 6932 of Division 1 of Title 25 of the California Code of Regulations.
- (y) “Participating Finance Lender” or “PFL” means an Eligible Finance Lender that has been approved by the Executive Director to participate in the Program.
- (z) “Participating Financial Institution” or “PFI” means an Eligible Financial Institution that has been approved by the Executive Director to participate in the Program.
- (aa) “Passive Measure” means an EEEM that does not directly use electricity or natural gas including, but not limited to, air sealing, duct sealing, insulation, and window replacements.
- (bb) “Program” means the Residential Energy Efficiency Loan Assistance Program described in these regulations, which is replacing the Single Family Loan Program (SFLP) in this and all subsequent references. The SFLP was established by the CPUC in Decision 13-09-044, and further referenced in the Single Family Loan Program Implementation Plan filed by the IOUs, as well as in Resolution E-4663.
- (cc) “Project Pre-Approval” means the Authority’s pre-approval of a project at the request of a PFI or PFL in accordance with Section 10091.7.
- (dd) “Qualified Contractor” means an Eligible Contractor who has been approved to participate in the Program by the Authority pursuant to Section 10091.5.
- (ee) “Regional Energy Network” or “REN” means a Regional Energy Network authorized by the California Public Utilities Commission.

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- (ff) “Self-Installer” means a Borrower who installs any EEEM that may be self-installed pursuant to Section 10091.10(b).
- (gg) “Successor Servicer” means an Eligible Financial Institution or Eligible Finance Lender approved by the Authority pursuant to Section 10091.12 to service Enrolled Loans sold by a PFI or PFL.
- (hh) “Trustee” means the bank or trust company chosen by the Authority to hold or administer some or all of the IOU-Program Holding Accounts and Loss Reserve Accounts.
- (ii) “Unique Program Identifier” or “Unique Program ID” means an identification number associated with a Borrower and/or Eligible Loan created by the Authority and provided to the PFI or PFL at the time of reservation, pre-approval, or enrollment of an Eligible Loan in the Program. The Unique Program ID will be used to identify the corresponding Eligible Loan in all subsequent correspondence between the PFI, PFL, or Successor Servicer and the Authority.

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

#### **§10091.2. Eligible Financial Institution and Eligible Finance Lender Applications to Participate.**

- (a) An Eligible Financial Institution or Eligible Finance Lender seeking to become a Participating Financial Institution (PFI) or Participating Finance Lender (PFL) in the Program, shall submit an enrollment application to the Authority that includes the following information in a form to be specified by the Authority:
  - (1) Name and address of the Eligible Financial Institution or Eligible Finance Lender.
  - (2) Name, business address, business telephone number, email address and title of contact person.
  - (3) Type of financial institution or finance lender, denoting insured depository institution, insured credit union, community development financial institution, or finance lender.
  - (4) A list of the counties in California where its loan program may be available, or an indication that the loan program may be available statewide.
  - (5) Names of the regulatory agency and the insuring agency to which the Eligible Financial Institution or Eligible Finance Lender is accountable and license number(s), if applicable.
  - (6) A detailed description of its loan program(s) to finance Eligible

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Improvements, including, but not limited to anticipated loan product details, such as collateral required (if any), maximum and minimum loan amounts, interest rates (including maximums and whether fixed or variable), loan terms, property type (owner occupied vs. leased or rented), and a description of underwriting criteria, with reference to any minimum FICO score or maximum total debt-to-income ratio.

- (7) A description of the transactional activities associated with the loan issuance, including any fees that will be assessed to the borrower or the contractor such as application, loan origination, and UCC-1 filing fees.
- (8) An indication as to whether the Eligible Financial Institution or Eligible Finance Lender's participation in the Program will result in benefits to the Borrower in one or more of the following ways:
  - (A) Lower interest rates.
  - (B) Longer loan terms.
  - (C) More inclusive underwriting criteria.
  - (D) Any other advantageous features.
- (9) A detailed description of the benefits to Borrowers resulting from the Eligible Financial Institution or Eligible Finance Lender's participation in the Program as indicated in subsection (a)(8) above. This description should include a comparison between the terms, underwriting criteria, interest rates, or other critical features of the loan program(s) described in subsection (a)(6) above and any existing, similar loan product offered by the Eligible Financial Institution or Eligible Finance Lender.
- (10) An acknowledgement and agreement that these regulations constitute a lender services agreement.
- (11) Certification that the Eligible Financial Institution or Eligible Finance Lender is not subject to a cease and desist order or other regulatory sanction from the appropriate federal or state regulatory body, which would impair its ability to participate in the Program.
- (12) The Eligible Financial Institution or Eligible Finance Lender's agreement to follow the Program regulations as set forth in this Article.
- (13) The Eligible Financial Institution or Eligible Finance Lender's agreement to permit an audit, by the Authority, of any of its records relating to Enrolled Loans during normal business hours on its premises, and to supply such other information concerning Enrolled Loans as shall be requested by the Authority.
- (14) The Eligible Financial Institution or Eligible Finance Lender's acknowledgment that the Authority and the State will have no liability to the PFI or PFL under the Program except from funds deposited in the

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Loss Reserve Account(s) for the PFI or PFL.

- (15) The Eligible Financial Institution or Eligible Finance Lender's agreement to include in its loan documentation the following documents, as applicable to each Eligible Loan submitted for enrollment in the Program: Customer Data Release Form, California Hub for Energy Efficiency Financing Disclosures, Self-Installer Project Submission, and the Certificate of Completion described in Section 10091.8 to be signed by the Borrower and/or Qualified Contractor.
- (16) The Eligible Financial Institution or Eligible Finance Lender's agreement to and acknowledgement of the following, upon enrollment in the Program:
  - (A) The PFI or PFL is solely responsible for identifying and making any and all disclosures and providing periodic reports to its Borrowers as required under applicable laws.
  - (B) The PFI or PFL shall comply with all applicable laws, possess and maintain all required state and federal licenses, and remain in good standing with all governmental authorities having jurisdiction over its business.
  - (C) The IOUs are third party beneficiaries of the lender services agreement and may pursue their rights against the PFI or PFL individually. Alternatively, any IOU may, in its sole discretion, authorize CAEATFA or another IOU to pursue such rights (including by instituting legal proceedings or alternative dispute resolution proceedings) on its behalf.
  - (D) The PFI or PFL shall indemnify, defend and hold harmless CAEATFA, each of the IOUs, their affiliates, and each of their respective officers, directors, employees, agents and representatives from and against any and all losses arising in connection with any claim:
    - (i) resulting from the negligent or unlawful acts or omissions, or willful or tortious conduct of the PFI or PFL, including any failure of the PFI or PFL, or its agents, to comply with applicable laws in connection with Enrolled Loans;
    - (ii) resulting from any error or omission by the PFI or PFL or any third party in the calculation or presentation of Enrolled Loan-related interest, fees and charges, the receipt and processing of payments received from customers, or any collection or enforcement action;
    - (iii) alleging any misrepresentation with respect to the energy

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- savings to be achieved in connection with an Enrolled Loan, or any failure or deficiency in the products, materials or work supplied to a Borrower in connection with an Enrolled Loan; and/or,
- (iv) arising from the PFI or PFL's failure or alleged failure to comply with the provisions of the regulations and/or its confidentiality or privacy obligations.
- (E) The PFI or PFL acknowledges that the IOUs are not responsible for, and shall have no liability for, (i) the energy efficiency improvements funded through the Enrolled Loans supported through the Loss Reserve Accounts, (ii) the assessment of potential benefits and costs associated with those improvements, (iii) the qualification of PFIs or PFLs, (iv) the PFI or PFL's marketing, and lending policies and practices, or (v) CAEATFA's educational and outreach activities.
- (17) The application shall include a certification that all of the information provided is true and accurate to the best of the signatory's knowledge.
  - (18) The application shall be signed by a person authorized to legally bind the Eligible Financial Institution or Eligible Finance Lender, and shall include the signatory's printed name, title and date.
  - (19) Eligible Finance Lenders will also submit evidence of compliance with or a certification that the Eligible Finance Lender meets the additional requirements specified in Section 10091.3.
- (b) Upon receipt of a completed application, the Authority 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 PFI or PFL. The Authority's decision regarding enrollment shall be final. The Authority will notify the PFI or PFL of its decision and provide a Program-assigned identification number for the PFI or PFL. The Authority shall provide the PFI or PFL with a signature sheet for authorizing officials, who are authorized by the PFI or PFL to sign documents binding the PFI or PFL. The PFI or PFL shall complete, sign and return to the Authority within 10 business days, or at the time the PFI or PFL's first loan is enrolled, whichever is first.

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

**§10091.3. Additional Requirements for Finance Lenders**

In addition to the requirements set forth in Section 10091.2, to be approved as a Participating Finance Lender, Eligible Finance Lenders must meet the following requirements in a form to be specified by the Authority:

- (a) Maintain and provide evidence of the following insurance coverage:
  - (1) General liability with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Eligible Finance Lender's limit of liability. The policy must include the State of California, its officers, agents, employees and servants as additional insureds, but only insofar as the operations under these regulations are concerned.
  - (2) Motor vehicle liability with limits of not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of a motor vehicle owned, hired, and non- owned motor vehicles.
  - (3) Statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the Program, including special coverage extensions where applicable. Employer's liability limits of \$1,000,000 shall be required.
  - (4) All insurance coverage shall be in force for the complete term during which the Eligible Finance Lender is enrolled as a PFL. If insurance expires during this term, a new certificate must be received by the Authority at least ten (10) business days prior to the expiration of the insurance. The new insurance must still meet the terms required in this section.
  - (5) ~~All insurance policies shall contain a provision~~ The PFL is responsible for ensuring that coverage will not be cancelled without thirty (30) days prior written notice to the ~~State~~Authority.
  - (6) The PFL is responsible for any deductible or self-insured retention contained within the insurance program.
  - (7) In the event the PFL fails to keep in effect at all times the specified insurance coverage, the Authority may, in addition to any other remedies it may have, terminate the PFL's participation in the Program on the occurrence of such event, subject to the provisions set forth in these regulations.
  - (8) Any insurance required shall be primary, and not excess, to any other insurance carried by the Authority.

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- (b) Have net worth in excess of \$1,000,000 and assets that exceed 0.5% of assets under servicing.
- (c) Unless seeking to become a Successor Servicer, demonstrate in writing a proven ability to originate consumer loans or retail installment contracts in accordance with all applicable laws, including related expertise and experience, trained and qualified personnel, and suitable systems, processes and facilities to support the business.
- (d) Demonstrate in writing experience with home improvement financing and the coordination of such financing with home improvement contractors and consumers.
- (e) Maintain quality control and management systems to evaluate and monitor the overall quality of its loan or financing-related activities, including, where applicable, underwriting reviews and consumer complaint resolution processes.
- (f) Hold a California Finance Lender license in good standing with the California Department of Business Oversight.
- (g) Make the following representations, warranties, and covenants to the Authority. These warranties are not limited to matters of which the Eligible Finance Lender had knowledge. Matters that are of public record will be deemed to be known by the Eligible Finance Lender.
  - (1) Organization and Good Standing. The Eligible Finance Lender is duly organized and validly existing under the laws of the state of its organization and California with due power and authority to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted, and had at all relevant times, and has, the power, authority and legal right to participate in this Program.
  - (2) Due Qualification. The Eligible Finance Lender is duly qualified to do business and has obtained all necessary licenses and approvals in all jurisdictions in which the ownership or lease of property or the conduct of its business will require such qualifications.
  - (3) Power and Authority. The Eligible Finance Lender has the power and authority to execute and to carry out the terms of the Program.
  - (4) No Proceedings. There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency nor other governmental instrumentality having jurisdiction over the Eligible Finance Lender or its properties: (i) asserting the invalidity of these regulations, (ii) seeking to prevent the consummation of any of the transactions contemplated by these regulations, or (iii) seeking any determination or ruling that might materially and adversely affect the performance by the Eligible Finance Lender of its obligations under these regulations.
  - (5) Due Experience. The Eligible Finance Lender has the experience and expertise to underwrite, originate, and service loans in accordance with

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all applicable regulations and laws.

- (6) Qualified Staff and Adequate Facilities. The Eligible Finance Lender has trained and qualified employees and suitable facilities and operating systems for the performance of the underwriting, origination, and servicing functions required to carry out the Program. Where an Eligible Finance Lender is seeking to become a Successor Servicer, such requirements related to employees, facilities and operating systems shall be sufficient to carry out all servicing functions required to carry out the Program. The Eligible Finance Lender must maintain a written disaster recovery plan that covers the restoration of the facilities, backup and recovery of information in electronic data processing systems. Alternate processing facilities and systems are required to ensure continuous operations. Eligible Finance Lender shall allow the Authority, at no additional cost, to inspect its disaster recovery plan and facilities.
- (7) Bad Acts. Eligible Finance Lender has established and shall maintain adequate internal audit and management control systems to guard against dishonest, fraudulent or negligent acts by employees and contractors involved in the origination process.
- (h) The application of the Eligible Finance Lender to enroll as a Participating Finance Lender shall include a certification that all of the information provided is true and accurate to the best of the signatory's knowledge.

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

#### **§10091.4. Loan Eligibility and Minimum Underwriting Criteria.**

- (a) Loans' terms and characteristics must be consistent with the loan program described by the PFI or PFL in its application to participate pursuant to Section 10091.2(a)(6), or any revised program details provided in a report to the Authority pursuant to Section 10091.11(b)(1).
- (b) Loan proceeds must be used for Eligible Improvements to Eligible Properties in accordance with the following requirements:
  - (1) At least 70 percent of the proceeds must be used to fund Eligible Energy Efficiency Measures as specified in Sections 10091.1 (j) and 10091.1 (m)(2)(A), other related costs such as installation, permitting, and legally required improvements.
    - (A) Where a measure is removed from the list of EEEMs or its

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specification is revised, that measure and specification will continue to be eligible for inclusion under this subsection where the Loan Enrollment Application is submitted within one-hundred and eighty (180) calendar days of its removal or revision. This grace period shall not apply to Project Pre-Approval requests.

- (2) No more than 30 percent of the proceeds may be used for other related home improvements as described in Section 10091.1 (m)(2)(B).
- (c) The Eligible Loan amount shall not exceed \$50,000 per unit of the Eligible Property. If the Eligible Loan is underwritten without a FICO score pursuant to subsection (e)(2) below, the Eligible Loan amount shall not exceed \$35,000 without regard to the number of units of the Eligible Property.
  - (1) Where only a portion of an Eligible Loan is enrolled in the Program, only the portion of the loan that is enrolled is subject to the \$50,000 per unit cap.
  - (2) Where an Eligible Loan is underwritten without a FICO score, the \$35,000 cap shall apply to the entire loan amount regardless of whether the loan is partially enrolled.
- (d) The interest rate, as calculated at a time pursuant to the PFI or PFLs standard business practices, shall not exceed the interest rate on new 10-year treasury bonds plus seven hundred and fifty (750) basis points as of the first business day of the applicable calendar quarter.
- (e) Borrower FICO score requirements:
  - (1) The Borrower must have a minimum FICO score of 580 except as allowed pursuant to subsection (2) below. For Borrowers with FICO scores between 580 and 640, the PFI or PFL must verify the Borrower's income as part of the underwriting process.
  - (2) Eligible Loans may also be provided to Borrowers with no FICO score and Low-to- Moderate Income, provided they do not have any unexplained derogatory credit reports.
- (f) The Borrower's total debt-to-income ratio shall not exceed fifty-five percent (55%).
- (g) In addition to the underwriting criteria described above, Participating Financial Institutions and Participating Finance Lenders may use a Borrower's utility billing and payment history to aid in underwriting an Eligible Loan.
- (h) A PFI or PFL may establish additional underwriting criteria beyond what is described in this Section. A PFI or PFL has responsibility for underwriting decisions and legal compliance with respect to the Eligible Loans it makes pursuant to these regulations.

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- (i) A PFI or PFL may not enroll an Eligible Loan in any substantially similar program.

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

### **§10091.5. Contractor Qualification and Management**

- (a) To participate in the Program as a Qualified Contractor, an Eligible Contractor must complete a Program training regarding these regulations and the requirements set forth herein offered by the Authority, the IOUs, or the Center for Sustainable Energy, and submit an application to the Authority including the following information in a form to be specified by the Authority:
  - (1) Business name and address of the Eligible Contractor.
  - (2) Name, business address, business telephone number, e-mail address and title of contact person.
  - (3) Contractors State License Board (CSLB) license number.
  - (4) Type(s) of CSLB licenses relevant to the work performed under the Program.
  - (5) The date, location and provider of the mandatory training attended by the Eligible Contractor, or an attachment from the provider of the mandatory training containing this information.
  - (6) Certification that the Eligible Contractor has no outstanding judgments or liens.
  - (7) The Eligible Contractor's agreement to follow the Program regulations as set forth in this Article, including the project requirements set forth in Section 10091.10.
  - (8) The Eligible Contractor's agreement to hold and maintain a commercial general liability insurance policy or policies of not less than \$1,000,000 per occurrence throughout their participation in the Program. If the policy maintains a policy aggregate, such aggregate shall not be less than twice the occurrence limit. The Eligible Contractor shall submit proof of such insurance in its application to the Authority.
  - (9) The Eligible Contractor's agreement to permit an audit, by the Authority, of any of its records relating to the projects financed by Enrolled Loans during normal business hours on its premises, and to supply such other information relating to those projects as shall be requested by the Authority.
  - (10) The Eligible Contractor's agreement that its representatives and agents are not hired by the Authority or any of the participating IOUs, and shall

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not represent themselves as such, or claim association or affiliation with the Authority or any of the participating IOUs in any capacity. Further, the Eligible Contractor shall not make false or misleading claims about any part of the Program or its performance, including energy performance savings, nor engage in fraudulent or deceitful conduct in the sale or installation of measures.

- (11) The Eligible Contractor's acknowledgement that its employees and representatives shall be solely responsible for all representations made to Borrowers regarding the Program or work performed for a Borrower under the Program, and shall be responsible for all sales, installations, warranties, maintenance and service for all products and systems installed.
- (12) The Eligible Contractor's acknowledgement that the Authority and the State will have no liability to the Eligible Contractor under the Program.
- (13) The Eligible Contractor's agreement to and acknowledgement of the following:
  - (A) The Eligible Contractor is solely responsible for identifying and making any and all disclosures required under applicable laws.
  - (B) The Eligible Contractor shall comply with all applicable laws, possess and maintain all required state licenses, and remain in good standing with all governmental authorities having jurisdiction over its business.
  - (C) The Eligible Contractor acknowledges, that the IOUs are not responsible for, and shall have no liability for, (i) the energy efficiency improvements funded through the Enrolled Loans supported through the Loss Reserve Accounts, (ii) the assessment of potential benefits and costs associated with those improvements,
    - (iii) the selection of Qualified Contractors, (iv) the Qualified Contractor's marketing policies and practices, or (v) CAEATFA's educational and outreach activities.
- (b) The application shall be signed by a person authorized to legally bind the Eligible Contractor, and shall include the signatory's printed name, title and date.
- (c) The application shall include a certification that all of the information provided is true and accurate to the best of the signatory's knowledge.
- (d) Upon receipt of a completed application, the Authority 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 Qualified Contractor. The Authority's decision regarding enrollment shall be final. The Authority will notify the Qualified Contractor of its decision.

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- (e) The Authority will add Qualified Contractors to a list that will be accessible from its website.
- (f) On an annual basis, the Authority may randomly select a sample of Qualified Contractors and conduct an audit to request updated proof of insurance, pursuant to Section 10091.5 (a)(8) above.
- (g) In the event an audit or post-project field verification by the Authority reveals misrepresentation or failure to comply with the requirements set forth in these regulations on the part of a Qualified Contractor, the Authority may suspend the Qualified Contractor. The Executive Director shall provide written notice of the suspension and the right to appeal in accordance with the procedures set forth in paragraphs (1) through (3) below.
  - (1) Any Qualified Contractor receiving a notice of suspension shall have the right to submit information to the Authority explaining the results of the post-project field verification and asking that the Executive Director reconsider the suspension within fifteen (15) business days of the date of the notice.
  - (2) The Executive Director shall have ten (10) business days to respond to any information submitted pursuant to paragraph (1) of this subdivision either reversing or affirming the suspension. The Executive Director shall provide written notice of the decision and the right to appeal the decision to the Authority pursuant to paragraph (3) of this subdivision.
  - (3) Within fifteen (15) business days of the date of the notice from the Executive Director pursuant to paragraph (2) of this subdivision, the contractor shall have the right to seek an appeal to the Authority. The appeal shall be in writing and shall set forth the information the contractor believes warrants a reversal of the Executive Director's decision. The Authority shall consider the appeal at the first regularly scheduled meeting occurring at least twenty (20) business days after the appeal is received.

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

#### **§10091.6. Establishment and Funding of Loss Reserve Accounts.**

- (a) Upon the Authority's acceptance of an application from an Eligible Financial Institution or Eligible Finance Lender to be a PFI, PFL, or Successor Servicer, the Authority shall instruct the Trustee to establish a Loss Reserve Account for the PFI, PFL, or Successor Servicer for each IOU territory in which the PFI,

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PFL, or Successor Servicer will be participating. The Loss Reserve Account(s) will be held by the Trustee and will be used to:

- (1) Receive and hold Loss Reserve Contributions deposited by the Authority for the benefit of a PFI, PFL, or Successor Servicer; and,
  - (2) Pay claims in accordance with Section 10091.9.
- (b) For each of the PFI or PFL's loan enrollments in a particular IOU service territory, the Authority shall direct the Trustee to transfer a Loss Reserve Contribution from the corresponding IOU- Program Holding Account to the corresponding Loss Reserve Account of that PFI or PFL pursuant to Section 10091.8 below.
- (1) Where an Eligible Loan is enrolled that previously received a Loss Reserve Reservation or Project Pre-Approval pursuant to Section 10091.7, the Authority shall direct the Trustee to transfer the Loss Reserve Contribution from the IOU-Program Reservation Account to the appropriate corresponding Loss Reserve Account. If the Loss Reserve Contribution exceeds the Loss Reserve Reservation amount for the Eligible Loan, the remainder of the Loss Reserve Contribution will be transferred from the IOU-Program Holding Account to the Loss Reserve Account, provided funds are available.
- (c) On a quarterly basis, the Authority shall compare the balance of each Loss Reserve Account to the outstanding principal of Enrolled Loans corresponding to that account as reported by the PFI, PFL, or Successor Servicer pursuant to Section 10091.11. The Authority shall instruct the Trustee to return any excess funds to the IOU-Program Holding Account where the Loss Reserve Account balance exceeds the outstanding principal of Enrolled Loans to LMI Borrowers multiplied by 20% plus the outstanding principal of Enrolled Loans to non-LMI Borrowers multiplied by 11%.
- (1) For loans that are partially enrolled in the Program, the outstanding principal amount shall be calculated using the proportion of the total loan amount that is enrolled.

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

#### **§10091.7. Optional Loss Reserve Reservation and Project Pre-Approval.**

- (a) A PFI or PFL may submit a request for a Loss Reserve Reservation to the Authority prior to enrolling an Eligible Loan so that loss reserve funds may be

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set aside. Funds reserved will be used as the Loss Reserve Contribution for the Eligible Loan upon the approval of a Loan Enrollment Application in accordance with Section 10091.8 below. A Loss Reserve Reservation request shall include the following information in a form to be specified by the Authority:

- (1) The PFI or PFL's name and Program-assigned identification number.
  - (2) Loan officer name, business telephone number and e-mail.
  - (3) PFI or PFL loan identification number.
  - (4) Indication of whether the Borrower is classified as a Low-to-Moderate Income borrower as defined by Section 10091.1(x).
  - (5) The anticipated Eligible Loan amount.
  - (6) The name of the utility providing gas service to the Eligible Property, if applicable.
  - (7) The name of the utility providing electric service to the Eligible Property, if applicable.
  - (8) The application shall include a certification that all of the information provided is true and accurate to the best of the signatory's knowledge.
- (b) In addition to requesting a Loss Reserve Reservation pursuant to subsection (a) above, a PFI or PFL may submit a request for a Project Pre-Approval to the Authority prior to enrolling an Eligible Loan to verify the eligibility of proposed measures and other proposed project characteristics. When requesting a Project Pre-Approval, a PFI or PFL shall submit the following information in a form to be specified by the Authority in addition to the information described in subsection (a) above:
- (1) The Borrower's IOU account number(s).
  - (2) A list of the proposed Eligible Improvements and the estimated costs for each in the manner specified in Section 10091.8(c)(5).
  - (3) The Qualified Contractor's name and company name, or an indication that the Eligible Improvements were installed by a Self-Installer.
  - (4) An executed Customer Data Release Form provided by each IOU providing service to the Eligible Property.
  - (5) An executed California Hub for Energy Efficiency Financing Disclosure, as described in Section 10091.15.
  - (6) The application shall include a certification that all of the information provided is true and accurate to the best of the signatory's knowledge.
- (c) Upon receipt of a request for Loss Reserve Reservation and/or Project Pre-Approval the Authority will:
- (1) Review the request for completeness and eligibility;
  - (2) Determine the Loss Reserve Reservation amount by calculating the Loss Reserve Contribution pursuant to Section 10091.8 below. Where the Eligible Property is served by more than one IOU, the Loss

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Reserve Reservation set aside in each IOU-Program Reservation Account will be equal to the Loss Reserve Contribution.

- (d) The Authority shall approve Loss Reserve Reservation and Project Pre-Approval requests from PFIs or PFLs if the Executive Director determines that the proposed Eligible Loan meets the requirements of this Article. The Authority shall notify the PFI or PFL of approval and reservation, the reservation amount(s) and the Unique Program ID for the proposed Eligible Loan within five (5) business days after receipt by the Authority of all documentation required by this Article. The Executive Director's determination to approve or deny a Loss Reserve Reservation or Loss Reserve Reservation and Project Pre-Approval request shall be final.
- (e) Where a Project Pre-Approval request is rejected, but the associated Loss Reserve Reservation request is valid, the Authority will notify the PFI or PFL. In this case, the PFI or PFL shall notify the Authority within five (5) business days whether it will withdraw the Loss Reserve Reservation request or maintain it while it seeks to correct the issues that led to the rejection of the Project Pre-Approval request.
- (f) Upon approving a Loss Reserve Reservation request, the Authority will instruct the Trustee to transfer the Loss Reserve Reservation from the IOU-Program Holding Account to the IOU-Program Reservation Account.
- (g) Funds reserved in the IOU-Program Reservation Account may be returned to the IOU-Program Holding Account under the following circumstances:
  - (1) If a PFI or PFL fails to enroll an Eligible Loan corresponding to a Loss Reserve Reservation in accordance with Section 10091.8 within one hundred eighty (180) calendar days of the reservation approval. The Executive Director may allow a sixty (60) calendar day extension of a reservation upon a written request from a PFI or PFL.
  - (2) Upon enrollment of an Eligible Loan that has received a Loss Reserve Reservation or Project Pre-Approval in accordance with this section, funds reserved for that Eligible Loan in excess of the final Loss Reserve Contribution shall be returned to the IOU-Program Holding Account.
  - (3) Upon rejection of the application to enroll an Eligible Loan that has received a Loss Reserve Reservation or Project Pre-Approval in accordance with this section.
- (h) The Authority's approval for a Loss Reserve Reservation or a Project Pre-Approval request only remains valid if all other regulatory requirements from this Article are met upon final loan enrollment.
- (i) Loss Reserve Reservations and Project Pre-Approvals are not valid beyond the program expiration.

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

**§10091.8. Loan Enrollment.**

- (a) The terms and conditions of Eligible Loans, including interest rates, fees and other conditions, shall be determined solely by agreement between the PFI or PFL and the Borrower.
- (b) A PFI or PFL shall be authorized to enroll an Eligible Loan in the Program, once that loan is closed, by submitting the documents described in subsections (c) – (d) below.
- (c) To enroll an Eligible Loan for a project completed by a Qualified Contractor, a PFI or PFL will submit the following documents to the Authority:
  - (1) a Loan Enrollment Application, as described in subsection (e) below;
  - (2) a Certificate of Completion, as described in subsection (f) below;
  - (3) an executed Customer Data Release Form (if not already provided pursuant to Section 10091.7), unless the Loan Enrollment Application indicates that the Customer Data Release Form was previously submitted;
  - (4) an executed California Hub for Energy Efficiency Financing Disclosure as described in Section 10091.15 (if not already provided pursuant to Section 10091.7);
  - (5) an itemized list of the Eligible Improvements described in sufficient detail to clearly identify the Eligible Energy Efficiency Measures, indicating whether measures are gas, electric, or without a fuel source, and the associated costs for each Eligible Improvement;
  - (6) a utility bill, for the IOU servicing the property at which Eligible Improvements will be installed, from within 60 days of the date the Loan Enrollment Application is being submitted for enrollment.
    - (A) Where a property receives electric and gas service from two different IOUs, a utility bill from each IOU providing service must be submitted.
- (d) To enroll an Eligible Loan for a project completed by a Self-Installer, a PFI or PFL will submit the following documents to the Authority:
  - (1) a Loan Enrollment Application, as described in subsection (e);
  - (2) a Self-Installer Project Submission, as described in subsection (g);
  - (3) an executed Customer Data Release Form (if not already provided pursuant to Section 10091.7), unless the Loan Enrollment Application indicates that the Customer Data Release Form was previously submitted;

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- (4) an executed California Hub for Energy Efficiency Financing Disclosure as described in Section 10091.15 (if not already provided pursuant to Section 10091.7);
  - (5) an itemized list of the Eligible Improvements described in sufficient detail to clearly identify the Eligible Energy Efficiency Measures, indicating whether measures are gas, electric, or without a fuel source, and the associated costs for each Eligible Improvement;
  - (6) written proof of purchase for the Eligible Improvements, e.g., a receipt for the Eligible Improvements;-
  - (7) a utility bill, for the IOU servicing the property at which Eligible Improvements will be installed, from within 60 days of the date the Loan Enrollment Application is being submitted for enrollment.
    - (A) Where a property receives electric and gas service from two different IOUs, a utility bill from each IOU providing service must be submitted.
- (e) The Loan Enrollment Application shall be in a form specified by the Authority and shall include the following information:
- (1) Participating Financial Institution or Participating Finance Lender name and Program- assigned identification number.
  - (2) Loan officer name, business telephone number and e-mail address.
  - (3) An indication as to whether the Eligible Loan received a Loss Reserve Reservation or Project Pre-Approval.
  - (4) Loan Identification number or Unique Program ID, if applicable.
  - (5) Whether the property is owner-occupied, or rented or leased.
  - (6) The number of units for which Eligible Improvements were undertaken.
  - (7) Name of the utility providing electric service to the Eligible Property, if applicable.
  - (8) Name of the utility providing gas service to the Eligible Property, if applicable.
  - (9) The IOU account number(s) for the Eligible Property.
  - (10) Borrower's FICO score range, denoting a score of 580-640, 641-700, 701-760, 761-820, 821 or higher, or no FICO score.
  - (11) An indication whether the Borrower qualifies as a Low-to-Moderate Income Borrower as defined in Section 10091.1(x).
  - (12) Borrower's income range, denoting a range of less than \$25,000, \$25,000-\$34,999, \$35,000-\$49,999, \$50,000-\$74,999, \$75,000-\$99,999, \$100,000-\$149,999, or \$150,000 or more.
  - (13) Borrower's total debt-to-income ratio, denoting a range of less than 25%, between 25 and 35%, between 36 and 45%, or between 46 and 55%.
  - (14) Amount of the Eligible Loan being enrolled.
  - (15) Total loan amount, including both the portion being enrolled and the

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- unenrolled portion of the loan.
- (16) Type of the Eligible Loan (e.g. term loan, retail installment contract).
  - (17) Term and maturity date of the Eligible Loan.
  - (18) Interest rate applicable to the Eligible Loan and whether it is fixed or variable.
  - (19) Date the interest rate for the Eligible Loan was finalized.
  - (20) Date the Eligible Loan was originated.
  - (21) First payment date.
  - (22) Principal and interest payment amount.
  - (23) An indication if the Customer Data Release Form(s) has been previously submitted.
  - (24) Certification that the loan is an Eligible Loan, and that the Borrower receiving the Eligible Loan meets the Minimum Underwriting Criteria set forth in this Article.
  - (25) Certification that all of the information provided is true and accurate to the best of the signatory's knowledge.
- (f) The Certificate of Completion shall be in a form specified by the Authority and shall include the PFI or PFL's name and Program-assigned identification number as well as the following information:
- (1) Project information to be provided by the Qualified Contractor or Borrower:
    - (A) The street address, city and zip code of the Eligible Property.
    - (B) The name of the utility or utilities providing gas and/or electric service to the Eligible Property.
    - (C) The IOU account number(s) for the Eligible Property.
    - (D) Whether the Qualified Contractor or Borrower has received or will apply for an IOU or REN energy efficiency rebate or incentive for the Eligible Improvements being installed. If the Qualified Contractor or Borrower is seeking a rebate or incentive, identification of the rebate and/or incentive amount received or expected for the project, the name of the corresponding rebate and/or incentive program, and whether the rebate and/or incentive amount will be directly applied towards the cost of the project. In the case of incentives, the expected incentive amount should be the estimated amount as reported by the IOU or REN incentive program at the time of incentive program pre-approval or reservation.
    - (E) The Qualified Contractor's name and company name.
    - (F) The Qualified Contractor's CSLB License Number.
    - (G) The date the Qualified Contractor began work on the Eligible Property.
    - (H) Permit numbers for all permits required by law for the installation of the Eligible Improvements.
    - (I) Where the Eligible Improvements required a Combustion

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Appliance Safety or Combustion Appliance Zone test pursuant to Section 10091.10(f), the following information from the Qualified Contractor or other individual performing the test:

- (i) Name and company name.
  - (ii) Contractors State License Board license type(s) and number.
  - (iii) The Building Performance Institute certification type(s) and number, if applicable.
  - (iv) A list of IOU territories where the Qualified Contractor or individual performing the test is approved to participate in the Energy Upgrade California Home Upgrade Program and/or Advanced Home Upgrade Program, if applicable.
- (J) An indication of whether the Borrower became aware of the financing offered through the Program from the Qualified Contractor, the PFI or PFL, the Energy Upgrade California website, or a description of another source.
- (2) Certification from the Qualified Contractor of the following:
- (A) He or she is licensed to perform the work for which the Eligible Loan is made and is a Qualified Contractor as identified in Section 10091.5.
  - (B) The improvements installed are Eligible Improvements.
  - (C) The installation complies with all applicable California building standards (all sections of Title 24) and any additional laws, ordinances, regulations and standards applicable in the jurisdiction where the installation occurred.
  - (D) All permits and approvals required to install the Eligible Improvements have been secured.
  - (E) The Qualified Contractor provided the Borrower with a Bill Impact Estimate.
  - (F) Combustion Appliance Safety or Combustion Appliance Zone testing was completed and passed if required by the project.
  - (G) Certification that all of the information provided is true and accurate to the best of the signatory's/Qualified Contractor's knowledge.
- (3) Certification from the Borrower of the following:
- (A) The Eligible Improvements have been completed to his or her satisfaction.
  - (B) He or she understands that the Authority and its directors, officers, and agents, and the IOUs and their directors, officers and agents, do not guarantee the performance, quality, or

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workmanship of the Eligible Improvements.

- (C) The Eligible Loan proceeds were used to pay for Eligible Improvements.
  - (D) Authorization for the Qualified Contractor and Participating Financial Institution or Participating Finance Lender to share information with the Authority, except as required by these regulations, including contact information, data on work performed and Eligible Improvements installed, information regarding the Eligible Loan, and other information relating to or arising from participation in the Program.
  - (E) All permits and approvals required to install the Eligible Improvements have been secured.
  - (F) The Qualified Contractor provided the Borrower with a Bill Impact Estimate.
  - (G) The information regarding rebates and/or incentives provided pursuant to Section 10091.8(f)(1)(D) above, is accurate to the best of his or her knowledge.
  - (H) Acknowledgement and agreement to be subject to random post-project field verifications, as described in Section 10091.10.
  - (I) Certification that all of the information provided is true and accurate to the best of the signatory's/Borrower's knowledge.
- (g) The Self-Installer Project Submission shall be in a form specified by the Authority and shall include the PFI or PFL's name and Program-assigned identification number as well as the following information:
- (1) Project Information to be provided by the Self-Installer:
    - (A) The street address, city and zip code of the Eligible Property.
    - (B) The name of the utility or utilities providing gas and/or electric service to the Eligible Property.
    - (C) The IOU account number(s) for the Eligible Property.
    - (D) Indication of whether the Self-Installer has received or will apply for an IOU or REN energy efficiency rebate or incentive for the Eligible Improvements being installed. If the Self-Installer is seeking a rebate or incentive, identification of the rebate and/or incentive amount received or expected for the project, the name of the corresponding rebate and/or incentive program, and whether the rebate and/or incentive amount will be directly applied towards the cost of the project. In the case of incentives, the expected incentive amount should be the estimated amount as

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- reported by the IOU or REN incentive program.
- (E) The date the measure was installed on the Eligible Property.
  - (F) Whether the Borrower became aware of the financing offered through the Program from the PFI or PFL, the Energy Upgrade California website, or a description of another source.
- (2) Certification from the Self-Installer of the following:
- (A) The improvements installed are Eligible Improvements.
  - (B) All Eligible Energy Efficiency Measures installed are eligible for self- installation under an IOU or REN rebate program available from the IOU that provides electric or gas service to the Eligible Property.
  - (C) He or she understands that the Authority and its directors, officers, and agents, and the IOUs and their directors, officers and agents, do not guarantee the performance, quality, or workmanship of the Eligible Improvements.
  - (D) The Eligible Loan proceeds were used to pay for Eligible Improvements.
  - (E) Authorization for the Participating Financial Institution or Participating Finance Lender 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 Eligible Loan, and other information relating to or arising from participation in the Program.
  - (F) The application shall include a certification that all of the information provided is true and accurate to the best of the signatory's knowledge.
- (h) The PFI or PFL shall be authorized to base the information requested in subdivision (e) above upon representations made to it by the Borrower and/or the Self-Installer 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 PFI or PFL who are directly involved in the negotiation of the Eligible Loan.
  - (i) Where the Authority determines that a Loan Enrollment Application is incomplete, a PFI or PFL shall be authorized to submit a revised and complete Loan Enrollment Application.
  - (j) The Authority shall, upon receipt of documentation as required under this section from the PFI or PFL, have (10) ten business days to enroll the Eligible Loan if the Executive Director determines that the Eligible Loan meets the requirements of this Article. The Executive Director's determination whether an Eligible Loan shall be enrolled in the Program shall be final.

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- (k) Upon enrollment of an Eligible Loan:
- (1) The Authority will determine the Loss Reserve Contribution:
    - (A) For Enrolled Loans to Borrowers with Low-to-Moderate Income, the Loss Reserve Contribution shall be twenty percent (20%) of the principal amount of the Enrolled Loan.
    - (B) For all other Enrolled Loans, the Loss Reserve Contribution shall be eleven percent (11%) of the principal amount of the Enrolled Loan.
    - (C) Where the Borrower or Self-Installer has indicated that she or he will seek an IOU or REN rebate or incentive for the Eligible Energy Efficiency Measures being installed, but will not be applying the rebate and/or incentive amount directly to the cost of the project, the principal amount shall be reduced by the anticipated or actual rebate or incentive amount as reported on the Certificate of Completion pursuant to Section 10091.8(f)(1)(D) or on the Self-Installer Project Submission pursuant to Section 10091.8(g)(1)(D) for the purposes of calculating the Loss Reserve Contribution.
    - (D) Where the Eligible Property is served by more than one IOU, the Loss Reserve Contribution shall be split between the PFI or PFL's Loss Reserve Accounts for the corresponding IOUs.
      - (i) Using the itemized list of Eligible Improvements described in Section 10091.8(c)(5), the Authority will calculate the percentage cost of gas EEEMs and electric EEEMs relative to the total EEEMs cost.
      - (ii) For Passive Measures:
        - a. the percentage cost for gas and electric will be divided equally if the other EEEMs installed include both gas and electric EEEMs.
        - b. the percentage cost will be assigned solely to gas or electric consistent with the other measures if the other EEEMs installed include only gas or only electric EEEMs.
      - (iii) These percentages will be applied to the Loss Reserve Contribution to determine the amount contributed from each IOU to each of the PFI or PFL's Loss Reserve Accounts.
  - (2) The Authority will instruct the Trustee to transfer the Loss Reserve Contribution in accordance with Section 10091.6.
  - (3) The Authority will notify the PFI or PFL of the enrollment, the Unique

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Program ID corresponding to the Eligible Loan, the Loss Reserve Contribution transferred, and how those contributions were split between accounts, if applicable.

- (l) Without regard to the term and maturity date of the Eligible Loan, the term of enrollment in the Program shall not exceed fifteen (15) years.
- (m) If upon review of the documentation provided by the PFI or PFL pursuant to this section, it appears that through inadvertence the loan does not comply with program requirements concerning Eligible Improvements as set forth in Section 10091.4(b), the Authority in its sole discretion may reduce the Enrolled Loan amount to bring the Enrolled Loan into compliance with the requirements of Section 10091.4(b).

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

#### §10091.9. Claims.

- (a) A PFI, PFL, or Successor Servicer shall be authorized to make a claim for reimbursement for up to ninety percent (90%) of a loss from the outstanding principal amount of an ~~Eligible~~ Enrolled Loan prior to the liquidation of collateral, or realization on personal or other financial guarantees or from other sources.
  - (1) Where an Enrolled Loan is a portion of a total loan, the calculation for claim reimbursement will be based upon the proportion of the outstanding principal balance at the time of charge-off attributable to the enrolled amount of the loan.
- (b) A PFI, PFL, or Successor Servicer shall notify the Authority within sixty (60) calendar days of after charging off an Enrolled Loan and the amount of the Enrolled Loan that was charged off.
- (c) To make a claim, the PFI, PFL, or Successor Servicer shall submit a claim application to the Authority within one hundred eighty (180) calendar days of the date of charge off of an Enrolled Loan. The claim application shall include the following information in a form to be specified by the Authority:
  - (1) Name and Program-assigned identification number of the PFI, PFL, or Successor Servicer.
  - (2) Name, address, business telephone number and e-mail address of contact person.
  - (3) Unique Program ID number of the Enrolled Loan.
  - (4) Original enrolled principal amount of the Eligible Loan.
  - (5) Original total loan amount, including both the enrolled and unenrolled

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- portion of the loan.
- (6) Outstanding principal amount at the time of charge-off.
  - (7) Amount of charge-off.
  - (8) Amount recovered.
  - (9) Amount of claim.
  - (10) Date of charge-off.
  - (11) If the loan is secured, a statement of whether the PFI, PFL, or Successor Servicer has commenced enforcement proceedings.
  - (12) If a PFI, PFL, or Successor Servicer files a claim while one or more claims are already pending the Authority's review, a statement of the priority of payment of the claim compared to the other claims in the event the balance of the Loss Reserve Account is not sufficient to pay all claims.
  - (13) Certification that notice was filed with the Authority as required by Section 10091.9(b), and certification that such charge-off was made in a manner consistent with the PFI, PFL, or Successor Servicer's usual methods for taking action on loans which are not enrolled as Eligible Loans under the Program.
  - (14) The claim application shall be signed by a person authorized to bind the Participating Financial Institution, Participating Finance Lender, or Successor Servicer and shall include the signatory's printed name, title and date.
  - (15) Certification that the PFI, PFL, or Successor Servicer will comply with reporting requirements on recoveries, as laid out in Section 10091.9 (d).
  - (16) The application shall include a certification that all of the information provided is true and accurate to the best of the signatory's knowledge.
- (d) All claims will be paid net of any recovery made by the PFI, PFL, or Successor Servicer prior to the filing of the claim. If, subsequent to the payment of a claim by the Authority, the PFI, PFL, or Successor Servicer recovers from the Borrower, from liquidation of collateral or from any other source, amounts for which the PFI, PFL, or Successor Servicer was reimbursed by the Authority, the PFI, PFL, or Successor Servicer shall promptly pay to the Authority or its agent, for deposit in the IOU-Program Holding Account, the amount received, net of reasonable and customary costs of collection, that in aggregate exceeds the amount needed to fully cover the PFI, PFL, or Successor Servicer's loss on the Enrolled Loan. The PFI, PFL, or Successor Servicer may retain recoveries that exceed reimbursements to the ~~Loss Reserve Account~~ IOU Program Holding Account.
- (e) The Authority shall approve claims within thirty (30) calendar days of the

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Authority's receipt of a completed and qualified 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 PFI, PFL, or Successor Servicer pursuant to Section 10091.8 at the time of enrolling the Eligible Loan were false, or where the PFI, PFL, or Successor Servicer is not in compliance with its obligations, including reporting obligations, under these regulations. The Authority, upon providing written notice to the PFI, PFL, or Successor Servicer, may defer approval 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. Prior to authorizing a disbursement from a Loss Reserve Account, the Authority may request documentation from the PFI, PFL, or Successor Servicer that the loan was an Eligible Loan.

- (f) Upon approval of a claim, the Authority shall direct the Trustee to disburse the approved claim amount to the PFI, PFL, or Successor Servicer within five (5) business days.
- (1) Where a PFI or PFL makes its first claim request within one (1) year of enrolling its first loan in the Program, the Authority will instruct the Trustee to withdraw the approved claim amount from the IOU-Program Holding Account and disburse those funds to the PFI or PFL. This claim reimbursement will not affect the PFI or PFL's corresponding Loss Reserve Account balance. This provision shall not apply to Enrolled Loans where the servicing responsibility has been assumed by a new PFI, PFL, or Successor Servicer pursuant to Section 10091.12.
  - (2) ~~For all other approved claims~~ Except as set forth in Section 10091.9(f)(1), the Authority will instruct the Trustee to withdraw the approved claim amount from the PFI, PFL, or Successor Servicer's corresponding Loss Reserve Account.
  - (3) Where an approved claim corresponds to an Enrolled Loan that received a split Loss Reserve Contribution pursuant to Section 10091.8(k)(1)(D) above, the claim will be reimbursed from each IOU-Program Holding Account in the case of subsection (1) above or each Loss Reserve Account in the case of subsection (2) above, in the same proportion.

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

#### **§10091.10. Project Requirements.**

- (a) All Eligible Improvements financed by the Program must meet applicable quality assurance requirements as outlined in this section.
- (b) Where work is performed by a Self-Installer, all Eligible Improvements must be eligible for self- installation under an IOU or REN rebate program available

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- from the IOU that provides electric or gas service to the Eligible Property.
- (c) Except where work is performed by a Self-Installer, the contractor performing the work must be a Qualified Contractor as of the date he or she began work on the Eligible Property as noted on the Certificate of Completion pursuant to Section 10091.8.
  - (d) The Qualified Contractor must ensure all applicable permits and approvals have been obtained and must comply with all applicable laws for the work being performed.
  - (e) The Qualified Contractor must provide the Borrower with a Bill Impact Estimate.
  - (f) A Combustion Appliance Safety or Combustion Appliance Zone test must be performed after the work is complete by a contractor who is approved to participate in the Energy Upgrade California Home Upgrade or Advanced Home Upgrade program in the corresponding IOU territory; or certified by the Building Performance Institute (BPI) as a Building Analyst, Envelope Professional, Heating Professional, Air Conditioning and Heat Pump Professional, or BPI GoldStar Contractor where a project includes three or more EEEMs including at least one of the measures described in (1) through (3) below and the Eligible Property contains one or more combustion appliances. The Eligible Property must pass this test prior to enrollment of the Eligible Loan.
    - (1) Whole building air sealing.
    - (2) Duct sealing and/or duct replacement.
    - (3) Attic insulation and air sealing.
  - (g) The Authority may conduct field verifications at the Eligible Property within ~~one hundred and eighty (180) days~~ one (1) year of enrolling the Eligible Loan to verify that the Eligible Improvements were installed in accordance with these regulations.
  - (h) The Authority shall notify the Borrower at least ten (10) business days prior to conducting a field verification.
  - (i) Field verifications may be completed on a random sample of projects that have not received an IOU or REN energy efficiency rebate or incentive for each applicable EEEM installed. The frequency of the verifications shall depend on the Qualified Contractor's participation in the Program and the type of Eligible Improvements installed:
    - (1) For projects that require a Combustion Appliance Safety or Combustion Appliance Zone test pursuant to Section 10091.10, the Authority shall conduct field verifications according to the following tiers:
      - (A) Tier I: The Authority shall verify one-hundred percent (100%) of projects performed by the Qualified Contractor and funded by Enrolled Loans. Upon completing five (5) consecutive

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inspections with no substantive issues, the Authority will begin verifying the Qualified Contractor's work according to Tier II as described in subsection (i)(1)(B) below.

- (B) Tier II: The Authority shall verify twenty percent (20%) of projects performed by the Qualified Contractor and funded by Enrolled Loans. Upon completing twenty (20) consecutive inspections with no substantive issues, the Authority will begin verifying the Qualified Contractor's work according to Tier III as described in subsection (i)(1)(C) below.
  - (C) Tier III: The Authority shall verify five percent (5%) of projects performed by the Qualified Contractor and funded by Enrolled Loans.
  - (D) If at any point the Authority finds substantive issues in the field verifications, the Authority shall provide written notice to the Qualified Contractor of any issues that may need to be addressed. Upon the third such notice, the Authority shall begin verifying the Qualified Contractor's work according to the previous tier.
- (2) For projects that do not require a Combustion Appliance Safety or Combustion Appliance Zone test, the Authority shall conduct field verifications on five percent (5%) of projects performed by the Qualified Contractor and funded by Enrolled Loans. If at any point the Authority finds substantive issues in the field verifications, the Authority shall provide written notice to the Qualified Contractor of any issues that may need to be addressed.
  - (3) For projects completed by Self-Installers, the Authority shall conduct field verifications on five percent (5%) of all projects participating in the Program that contain Eligible Improvements installed by a Self-Installer.
- (j) Except as set forth in subparagraph 1 below, if the Authority finds that the Eligible Improvements were not installed in accordance with these requirements or that the Qualified Contractor misrepresented information related to the work, the Authority may suspend the Qualified Contractor from Program participation pursuant to the processes described in Section 10091.5 of these regulations and/or may notify other government agencies and entities.
    - (1) Where Eligible Improvements are installed by a Self-Installer, if the Authority finds that the Eligible Improvements were not installed in accordance with these requirements or that the Self-Installer misrepresented information related to the work, the Authority may notify other government agencies and entities.

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Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

**§10091.11. Reporting.**

- (a) PFIs, PFLs, and Successor Servicers shall provide a ~~quarterly~~ monthly report to the Authority on the status of each Enrolled Loan by the 15<sup>th</sup> day of the following month ~~following the end of the quarter~~.
- (1) These reports shall include the name and identification number of the PFI, PFL, or Successor Servicer and the following information for each Enrolled Loan:
- (A) The Unique Program ID number.
  - (B) The Enrolled Loan amount.
  - (C) The total loan amount, including both the portion being enrolled and the unenrolled portion of the loan.
  - (D) The total amount of the loan outstanding.
  - (E) The delinquency status.
  - (F) Indication whether the Enrolled Loan has been charged off, and the date of charge-off.
  - (G) Any inchoate losses or acceleration notices.
- (2) Closed Enrolled Loans shall be reported in the month the Borrower pays or the PFI, PFL, or Successor Servicer charges off the loan as a zero balance. Once the PFI, PFL, or Successor Servicer has reported the Enrolled Loan as having a zero balance, it does not need to be included on future monthly reports.
- (b) No later than January 15<sup>th</sup> of each year:
- (1) PFIs, PFLs, and Successor Servicers shall provide a report to the Authority on any material changes to information or certifications provided in the initial application to participate or indicating that all statements made in the application remain materially unchanged.
  - (2) PFLs and Successor Servicers that are Eligible Finance Lenders shall also provide written evidence of current licenses and insurance.
- (c) If a PFI, PFL, or Successor Servicer becomes subject to a cease and desist order or other regulatory sanction with the appropriate federal or state regulatory body, the PFI, PFL, or Successor Servicer shall inform the Authority in writing within thirty (30) calendar days of such action.
- (d) If a PFI, PFL, or Successor Servicer changes the loan term of an Enrolled Loan within the allowed term of enrollment in the Program, the PFI, PFL, or Successor Servicer must notify the Authority in the subsequent quarterly report. Under no circumstances shall the Authority provide additional Loss Reserve Contributions for an ~~Eligible~~ Enrolled Loan whose loan term has changed, nor

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will the Authority extend the time for which a claim may be filed beyond the fifteen (15) years set forth in Section 10091.8(l).

- (e) If a PFI or PFL has a change of servicer of an Enrolled Loan, without selling the Enrolled Loan, the PFI or PFL shall notify the Authority ~~in advance of the change of servicers~~ at least ten (10) business days prior to the new entity assuming servicing of the Enrolled Loan(s). Such notification should include the date on which the change in servicing shall be effective and contact information for the new servicer.
- (f) If a PFI, PFL, or Successor Servicer charges off an Enrolled Loan, the PFI, PFL, or Successor Servicer shall notify the Authority within sixty (60) calendar days pursuant to Section 10091.9(b).

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

#### **§10091.12. Sale of Enrolled Loans.**

A PFI or PFL may sell an Enrolled Loan or portfolio of Enrolled Loans at its discretion.

- (a) A PFI or PFL may, in conjunction with the sale of Enrolled Loans, collaterally assign rights to proceeds from the Loss Reserve Account associated with those Enrolled Loans. In such cases, the PFI or PFL shall:
  - (1) retain all reporting obligations relative to participation in the Program as set forth in Section 10091.11, unless a new servicer has agreed to do so pursuant to subsection (b) below;
  - (2) remain the sole entity that can file a claim for reimbursement from the loss reserve pursuant to Section 10091.9, unless a new servicer has agreed to do so pursuant to subsection (b) below; and,
  - (3) report the collateral assignment to the Authority within three (3) business days.
- (b) A PFI, PFL, Eligible Financial Institution, or Eligible Finance Lender approved to be a Successor Servicer pursuant to subsection (c) below may also assume new servicing responsibility for existing Enrolled Loans. In such cases:
  - (1) The original PFI or PFL will report the change in servicing to the Authority ~~within three (3) business days~~ at least 10 business days prior to the transfer of servicing. Such notification shall include a listing of all Enrolled Loans subject to the transfer.
  - (2) After notification pursuant to Section 10091.12(b)(1) above, and prior to the transfer of Loss Reserve Contributions for all listed Enrolled

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Loans. The new servicer shall notify the Authority in writing ~~within three (3) business days~~ that it agrees to assume the reporting obligations for the Enrolled Loan(s) pursuant to Section 10091.10, and will be responsible for filing any claims pursuant to Section 10091.9.

- (3) The Authority will instruct the Trustee to transfer the corresponding Loss Reserve Contributions for the purchased Enrolled Loan(s) from the original PFI or PFL's Loss Reserve Account to the Loss Reserve Account of the new PFI, PFL, or Successor Servicer.
- (c) An Eligible Financial Institution or Eligible Finance Lender seeking to become a Successor Servicer will submit an enrollment application to the Authority that includes the following in a form to be specified by the Authority:
- (1) Name and address of the Eligible Financial Institution or Eligible Finance Lender.
  - (2) Name, business address, business telephone number, e-mail address and title of contact person.
  - (3) Type of Eligible Financial Institution or Eligible Finance Lender, denoting insured depository institution, insured credit union, community development financial institution, or California Finance Lender.
  - (4) Names of the regulatory agency and the insuring agency to which the Eligible Financial Institution or Eligible Finance Lender is accountable and license number(s), if applicable.
  - (5) Certification that the Eligible Financial Institution or Eligible Finance Lender is not subject to a cease and desist order or other regulatory sanction from the appropriate federal or state regulatory body, which would impair its ability to participate in the Program.
  - (6) The Eligible Financial Institution or Eligible Finance Lender's agreement to follow the Program regulations as set forth in this Article.
  - (7) The Eligible Financial Institution or Eligible Finance Lender's agreement to permit an audit, by the Authority, of any of its records relating to Enrolled Loans during normal business hours on its premises, and to supply such other information concerning Enrolled Loans as shall be requested by the Authority.
  - (8) The Eligible Financial Institution or Eligible Finance Lender's acknowledgment that the Authority and the State will have no liability to it under the Program except from funds deposited in its Loss Reserve Account(s) pursuant to Section 10091.12(b)(3) above.
  - (9) An acknowledgement and agreement that these regulations constitute a lender services agreement.
  - (10) The Eligible Financial Institution or Eligible Finance Lender's

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agreement to and acknowledgement of the following, upon enrollment in the Program:

- (A) The Successor Servicer is solely responsible for identifying and making any and all disclosures and providing periodic reports to its borrowers as required under applicable laws.
- (B) The Successor Servicer shall comply with all applicable laws, possess and maintain all required state and federal licenses, and remain in good standing with all governmental authorities having jurisdiction over its business.
- (C) The IOUs are third party beneficiaries of the lender services agreement and may pursue their rights against the Successor Servicer individually. Alternatively, any IOU may, in its sole discretion, authorize CAEATFA or another IOU to pursue such rights (including by instituting legal proceedings or alternative dispute resolution proceedings) on its behalf.
- (D) The Successor Servicer shall indemnify, defend and hold harmless CAEATFA, each of the IOUs, their affiliates, and each of their respective officers, directors, employees, agents and representatives from and against any and all losses arising in connection with any claim:
  - (i) resulting from the negligent or unlawful acts or omissions, or willful or tortious conduct of Successor Servicer, including any failure of the Successor Servicer, or its agents, to comply with applicable laws in connection with Enrolled Loans;
  - (ii) resulting from any error or omission by the Successor Servicer or any third party in the calculation or presentation of Enrolled Loan-related interest, fees and charges, the receipt and processing of payments received from Borrowers, or any collection or enforcement action;
  - (iii) alleging any misrepresentation with respect to the energy savings to be achieved in connection with a Enrolled Loan, or any failure or deficiency in the products, materials or work supplied to a Borrower in connection with an Enrolled Loan; and/or,
  - (iv) arising from the Successor Servicer's failure or alleged failure to comply with the provisions of the regulations and/or its confidentiality or privacy obligations.
- (E) The Successor Servicer acknowledges, that the IOUs are not responsible for, and shall have no liability for, (i) the energy

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efficiency improvements funded through the Enrolled Loans supported through the Loss Reserve Accounts, (ii) the assessment of potential benefits and costs associated with those improvements, (iii) the qualification of PFIs, PFLs, or Successor Servicers, (iv) the PFI, PFL, or Successor Servicer's marketing, and lending policies and practices, or (v) CAEATFA's educational and outreach activities.

- (11) The application shall be signed by a person authorized to legally bind the Successor Servicer, and shall include the signatory's printed name, title and date.
  - (12) The application shall include a certification that all of the information provided is true and accurate to the best of the signatory's knowledge.
  - (13) Eligible Finance Lenders seeking to enroll as a Successor Servicer must also submit evidence of compliance with or a certification that the Eligible Finance Lender meets the additional requirements specified in Sections 10091.3(a), (b), (e), (f), and (g).
- (d) Upon receipt of a completed application, the Authority will, within ten (10) business days, review and determine whether additional information is required, or whether the application is sufficient to enroll the applicant as a Successor Servicer. The Authority's decision regarding enrollment shall be final. The Authority will notify the Successor Servicer of its decision and provide a Program-assigned identification number for the Successor Servicer.

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6),  
and 26040, Public Resources Code

#### **§10091.13. Termination and Withdrawal.**

- (a) A PFI, PFL, or Successor Servicer may withdraw from the Program after giving written notice to the Authority. Such notice shall specify either:
  - (1) That the PFI, PFL, or Successor Servicer waives any further interest in the Loss Reserve Account(s) and the reason for the PFI, PFL, or Successor Servicer's withdrawal from the Program (including for the reason that all Enrolled Loans covered by the Loss Reserve Account have been repaid or sold to a different PFI, PFL, or Successor Servicer's portfolio); or,
  - (2) That the PFI or PFL will not enroll any further loans under the Program but that the Loss Reserve Account(s) shall continue in existence to secure all Enrolled Loans that were enrolled prior to such notice and the

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reason for the PFI or PFL's withdrawal from the Program.

- (b) For any such notice received pursuant to Section 10091.13(a)(1), The remaining balance in the PFI, PFL, or Successor Servicer's Loss Reserve Account(s) shall be distributed to the appropriate IOU-Program Holding Account(s) upon receipt of a notice under Section 10091.13(a)(1) or receipt of a notice from a PFI or PFL that has withdrawn pursuant to subsection (a)(2) certifying that all Enrolled Loans secured by the Loss Reserve Account(s) have been repaid and that there are no pending claims for reimbursement under Section 10091.9.
- (c) The Executive Director shall be authorized to terminate participation of a PFI, PFL, or Successor Servicer 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 PFI, PFL, or Successor Servicer by a regulatory agency that may impair its ability to participate in the Program; or
  - (2) Failure of the PFI, PFL, or Successor Servicer to abide by the Law or this Article; or
  - (3) Failure of the PFI or PFL to enroll any Eligible Loans under the Program for a period of one (1) year; or
  - (4) Failure of the Successor Servicer to ~~assume~~ undertake servicing of any Enrolled Loans purchased pursuant to Section 10091.12~~under the Program~~ for a period of one (1) year; or
  - (5) Failure of the PFI, PFL, or Successor Servicer to report to the Authority pursuant to Section 10091.11 for sixty (60) calendar days.
  - (6) Provision of false or misleading information regarding the PFI, PFL, or Successor Servicer to the Authority, or failure to provide the Authority with notice of material changes in submitted information regarding the PFI, PFL, or Successor Servicer.
  - (7) In the event of such termination, the PFI, PFL, or Successor Servicer shall not be authorized to enroll any further Eligible Loans, but all previously Enrolled Loans shall continue to be covered by the Loss Reserve Account(s) until they are paid, claims are filed, or the PFI, PFL, or Successor Servicer withdraws from the Program pursuant to Section 10091.13(a).
    - (A) A terminated PFI, PFL, or Successor Servicer must continue to report on Enrolled Loans pursuant to Section 10091.11 for the Loss Reserve Account to continue in existence to secure all Enrolled Loans that were enrolled prior to the PFI, PFL, or Successor Servicer's termination.
    - (B) If ~~the~~ a terminated PFI, PFL, or Successor Servicer fails to report to the Authority pursuant to Section

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10091.11 for sixty (60) calendar days, the remaining balance in the PFI, PFL, or Successor Servicer's Loss Reserve Account(s) may be distributed to the appropriate IOU-Program Holding Account(s).

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6), and 26040, Public Resources Code

#### **§10091.14. Reports of Regulatory Agencies.**

The Executive Director shall be authorized to seek information directly from any federal or state regulatory agency concerning any PFI, PFL, Successor Servicer, or Qualified Contractor participating in the Program.

Authority: Section 26009, Public Resources Code  
Reference: Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6), and 26040, Public Resources Code

#### **§10091.15. California Hub for Energy Efficiency Financing Privacy Rights Disclosure.**

The Borrower will be required to sign affirming that he or she has read and acknowledges the following privacy rights disclosure in a form to be specified by the Authority:

State and federal laws protects the Borrower's right to privacy regarding information pertaining to you. ~~The Residential Energy Efficiency Loan Assistance Program ("Program") as approved by the California Public Utilities Commission and administered by the California Alternative Energy and Advanced Transportation Financing Authority ("CAEATFA") requires~~ As a result of your participation in the Residential Energy Efficiency Loan Assistance Program, as approved by the California Public Utilities Commission and administered by the California Alternative Energy and Advanced Transportation Financing Authority ("CAEATFA"), CAEATFA may come into possession of some or all of the following information be provided by individuals applying for loans to be enrolled in the Program:

- (a) Information disclosing the fact that you are a customer of the lender.
- (b) The loan or account number associated with the loan.
- (c) Name, address, social security number, and other contact information.
- (d) Financial status and underwriting criteria, including but not

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- limited to credit scores.
- (e) The amount of and terms for repayment of the loan.
  - (f) Information regarding your loan payment history.
  - (g) The equipment or improvements funded with the proceeds of the loan.
  - (h) Service agreement number on your utility bill, monthly energy use and utility account payment history.
  - (i) Usernames and passwords.

The information ~~will~~ may be provided by your lender to CAEATFA or a contractor acting on its behalf. The information will be maintained by CAEATFA or its contractor for the life of the loan. The information will be combined with energy usage information provided by your utility

**The information provided to CAEATFA may be released to other state agencies and the federal government pursuant to interagency agreements or if required by law. The information provided to CAEATFA will be released in an anonymized form aggregated with information from other loan recipients throughout the state to make both loan and energy efficiency project performance available to the public. The information released to the public will be anonymized and aggregated to reduce (but may not eliminate) the risk of anyone viewing the data making an association between specific information and the provider of that information. Information that cannot be anonymized and aggregated will not be released to the public.**

The officials responsible for maintaining the information provided regarding your loan are program personnel at the agency or its contractors. You have the right of access to records established from the information provided to the agency as it pertains to you.

Authority: Section 26009, Public Resources Code Reference:  
Sections 26003 (a)(3)(A), 26003 (a)(8)(A), 26003(a)(6), and  
26040, Public Resources Code