

Attachment

Item c1

The stricken language identifies that funds may be used to purchase environmental liability insurance. This provision has been relocated to section 25395.23(a), which identifies other permissible uses of loan funds for organizational purposes

HSC Section 25395.22

(a) The department, with the approval of the secretary, shall establish a Cleanup Loans and Environmental Assistance to Neighborhoods Program to provide loans to finance the performance of any action necessary to respond to the release or threatened release of hazardous material at an eligible property.

~~A recipient of a loan to perform an action to respond to a release or threatened release of a hazardous material at an eligible property that is granted pursuant to this section may also use the loan funds to pay the premium for environmental insurance products to facilitate the development of the site, if the insurance company has an A.M. Best Financial Strength Rating of A+ or better and an A.M. Best Financial Size Category of FSC X or larger and is authorized to offer environmental insurance in California.~~

The department shall take those necessary actions to promote the use of loans under the CLEAN program by local governments. A loan provided pursuant to this section shall not be used to pay for a phase I environmental assessment, a preliminary endangerment assessment, the department's oversight of actions necessary to respond to the release or threatened release of hazardous material at an eligible property, or any operation and maintenance activity at a site.

(b) The department shall develop an application form for a loan under the CLEAN program and shall include, in the form, any provisions that the department determines to be appropriate to carry out the CLEAN program. The application shall be signed by the loan applicant and shall be accompanied by all of the following:

(1) A preliminary endangerment assessment that has been approved by the department, or an environmental assessment with equivalent information, that discloses the presence of a release or threatened release of a hazardous material at the property at concentrations that may pose a risk to public health and safety and the environment.

(2) The name and address of the project coordinator for the site and the resumé of the coordinator that demonstrates that the coordinator possesses the requisite qualifications to manage the response action at the site.

(3) Documentation that the property is an eligible property and, if the department has implemented the priority scoring system set forth in [Section 25395.23](#),

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Field Code Changed

This modification clarifies that the cleanup level must match the future use of the site. The term "reasonably foreseeable future land use" is a term of art and may inadvertently introduce confusion.

The Secretary of Business, Transportation and Housing ceased to exist in 2012 following the implementation of the Governor's Reorganization Plan #2 of 2012. Additional consultation is not necessary, as the loan prioritization criteria are consistent with the Sustainable Communities and Climate Protection Act (SB 375 of 2008).

Additional text has been relocated here from section 25395.22 for organizational purposes.

sufficient information to enable the department to determine the priority score for the property.

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(4) Documentation that the planned future development of the site is consistent with the cleanup level being proposed~~current and reasonably foreseeable future land uses of the property.~~

(5) If the owner of the eligible property that is the subject of the loan application is not the loan applicant, one of the following:

(A) Documentation that demonstrates that the owner agrees to use the property as a security interest for the loan to finance necessary response action at the property.

(B) A copy of an agreement between the property owner and the loan applicant that gives the loan applicant an option to purchase the property.

(C) If the loan applicant is a local government entity, or a developer or prospective purchaser acting in concert with a local government entity pursuant to an enforceable agreement, a demonstration to the department that the local government entity, or developer or prospective purchaser acting in concert with a local government entity pursuant to an enforceable agreement, has legal access to perform any action necessary to respond to the release or threatened release of hazardous material at an eligible property, or will have legal access, prior to receiving loan funds.

(6) Any other information the department deems necessary.

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HSC Section 25395.23

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(a) The department ~~after consultation with the secretary, the Secretary of Business, Transportation and Housing, and the Director of the Office of Planning and Research,~~ may approve loan applications submitted pursuant to Section 25395.22. The department may approve a loan only to: develop a response plan; implement~~for~~ those response actions necessary to address a release or threatened release of a hazardous material at an eligible property; or pay the premium for environmental insurance products to facilitate the development of the site, if the insurance company has an A.M. Best Financial Strength Rating of A+ or better and an A.M. Best Financial Size Category of FSC X or larger and is authorized to offer environmental insurance in California.

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(b) If the department determines, based on estimates of the number of loan requests that will be submitted in any fiscal year and the amount of loan funds that will be available during that fiscal year, that sufficient funding to meet the demand for loans will not be available, the department shall establish a system for ranking loan applications based on priority scores. Priority scores shall be calculated for each loan application by scoring the project that is the subject of the loan application using scales that measure the factors listed in subdivision (c). The department shall approve loans for a project based on its priority scores.

(c) The system for ranking loan applications pursuant to subdivision (b) shall establish priority scores for projects that are the subjects of the loan applications using scales that measure all of the following factors:

(1) The degree of community support expressed for the project, including, but not limited to, letters of support from local governmental entities, state or local elected officials, community leaders, and the general public.

(2) ~~Location of the project within a disadvantaged community or benefiting low-income households or communities. Financial support for the project provided at the local level, including grants or other subsidies, and funding provided by the issuance of bonds pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Division 2 of Part 1 of Title 5 of the Government Code) or financing under the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24).~~

(3) The potential for the project to provide additional protection of the public health and safety.

(4) The potential for the project to enhance strategic community development, including, but not limited to, all of the following:

(A) The creation of new jobs.

(B) Generation of additional tax revenue.

The former language addressed leveraging of resources through redevelopment finance tools and Mello-Roos districts. As redevelopment agencies have been dissolved, this language has been replaced with a prioritization element consistent with SB 375, SB 515, AB 1500, and AB 32.

The term "inner city" is not a defined term, and may inadvertently exclude needed affordable housing in rural locations or tribal communities.

(C) The likelihood that the project will stimulate additional redevelopment in adjacent areas.

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(D) The degree to which implementation of the project will improve local property values.

(E) The degree to which implementation of the project will result in the development of new parks.

(F) The extent to which the project may have a beneficial effect on the construction of new schools.

(G) The extent to which the project will result in the construction of affordable ~~inner-city~~ housing.

(H) The potential for the project to have a beneficial impact on existing local and regional infrastructure or projected infrastructure needs, or otherwise promote infill development.

(5) The economic viability of the project, including, but not limited to, an analysis of the current value of the property as compared to its projected value after all necessary response actions have been completed.

(6) The ability of the loan applicant to successfully perform the response action at the site and repay the loan if funding is provided.

(7) The geographic location of the project, taking into consideration the number and amounts of loans approved for projects located in that area, as compared to those approved for other needy areas throughout the state.

(8) The degree of likelihood that the response action would not be completed if a loan pursuant to [Section 25395.22](#) is not made, including whether any necessary response action is already being paid for by a responsible party pursuant to an administrative order, an agreement issued or entered into with a federal, state, or local agency, a judicial order, or a consent decree.

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(9) The ability to obtain conventional financing absent a loan under this program.

HSC Section 25395.24

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(a) The department may approve all, or part of, a loan request pursuant to [Section 25395.23](#), except the maximum amount of a loan approved pursuant to [Section 25395.23](#) shall not exceed two million five hundred thousand dollars (\$2,500,000).

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(b) The department shall not approve a loan pursuant to [Section 25395.23](#) if the total debt against the eligible property subject to the release or threatened release of a hazardous material on which the response action will be taken exceeds 80 percent of the estimated value of the property after all necessary response actions are complete.

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