

PRIVATE ACTIVITY BONDS

(ESTABLISHED UNDER A.R.S. §35-901 et seq.)

SUMMARY

Private activity bonds were referred to as Industrial development bonds prior to the Tax Reform Act of 1986. The proceeds of these bonds are used for industrial and other private purposes. The interest on the bonds is exempt from federal income tax for most bondholders. The bonds are an obligation of the private user, not of the issuing authority.

In Arizona, private activity bonds are issued by local industrial development authorities on behalf of local governmental entities for the benefit of private users. Arizona state government and its agencies are not issuers of private activity bonds.

Since the 1986 Tax Act, private activity bond uses have been limited but still include industrial and manufacturing facilities and equipment; student loans; single- and multi-family housing (with restrictions); private utility projects; and some municipal facilities.

Federal law limits a small-issue private activity bond (bonds for manufacturing facilities and equipment) to \$10 million. Specifically, a user of the bond proceeds may not expend more than \$20 million within the jurisdiction of the issuing industrial development authority during the period of three years before and three years after bond issuance including the amount of the bonds. Nationwide, no one company may have more than \$40 million in private activity bonds outstanding at any one time.

Since passage of the Deficit Reduction Act of 1984, the Arizona Commerce Authority (ACA) has been responsible for allocating the state ceiling for private activity bonds imposed by the Act. The allocation process is accomplished following the procedures set out in the Arizona Revised Statutes §35-901 through §35-913.

The mechanics of the allocation process are as follows:

The 2013 volume cap is \$622,559,225 (\$95 per capita x the U.S. Bureau of the Census estimated Arizona population). A nonrefundable application fee is charged

for each request for allocation. The application fee is \$500-\$2,500 depending on the amount requested. In addition, a nonrefundable confirmation fee of \$320 per \$1,000,000 is charged for each confirmed request. As required by state statutes, five pools and allocation percentages are established:

- **Director's Discretion** - 10%; of which, until July 1st, 30% for urban areas, and 70% for non-urban areas
- **Mortgage Revenue Bonds and Mortgage Credit:**
 - **Certificates Programs** - 35%
 - **Student Loan Program** - 20%
- **Manufacturing projects** - 15%; of which, until April 1st, 30% for urban areas; and 70% for non-urban areas
- **Qualified Residential Rental projects** - 10%; of which, for 180 days, 30% for non-urban areas; and 70% for urban areas
- **All Other projects** - 10%.

Allocations from these pools are made on a first-come, first-served basis in accordance with state statutes, normally on the first working day of the calendar year.

After June 30th, any unconfirmed state ceiling remaining in the above categories, exclusive of director's discretion, will be combined. Thereafter (until December 16th), allocations from this new pool will require a refundable 1% security deposit, except for projects exempted by state statutes. Allocations from this new pool are made on a first-come, first-served basis in accordance with state statutes.

A final re-pooling will occur December 17th, and this final pool of remaining state ceiling will be available for state purpose or carryforward projects. As in prior years, projects not closing bonds before December 16th (unless extended until December 26th) will forfeit security deposits.

