



NOTICE OF RULE MAKING

Arizona Commerce Authority Rule Notice of Rule Making No. 12-04

1. Rule(s).

ACA Policies on Incentive Programs Fees

2. Preamble.

A. Reference to the specific statutory authority for the rule.

A.R.S. § 41-1504(C)(1)

B. An explanation of the rule, including the agency's reasons for initiating the rule making.

The ACA Incentive Fee Policies set forth the ACA's incentives fees, and when and how they are charged.

3. The exact wording of the rule.

See attached.

4. The name and contact information of agency personnel with whom persons may communicate regarding the rule.

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5. Where written submissions on the proposed rule may be inspected (by appointment only).

Arizona Commerce Authority
333 North Central, Suite 1900
Phoenix, Arizona 85004

6. The time during which written submissions may be made and the time and place, if scheduled, where oral comments may be made.

Written submissions may be made within thirty (30) days after the date of posting of the Notice of Rule Making. No hearing to receive oral comments has been scheduled at this time.

7. Any known timetable for agency decisions or other action in the proceeding.

None at this time.

8. The date of posting the Notice of Rule Making.

June 29, 2012

9. The deadline for the Authority to file a notice of adoption of the rule.

One hundred and Eighty Days from the date of posting of the Notice of Rule Making.



ACA Policies on Incentive Programs Fees

Pursuant to A.R.S. § 41-1504(C)(1), the ACA is required to assess and collect fees for the processing of applications and administration of incentive programs. Under §41-1504(C)(1), the ACA board of directors was required to adopt the manner in which such fees are to be charged, and the ACA was required, within 30 days after board approval, to submit the approved fee schedule to the Joint Legislative Budget Committee (JLBC) for review. The ACA board adopted the fees listed below on January 11, 2012, and the JLBC approved the fees for a period of one year on April 3, 2012.

The following policies ensure that the correct fee is charged to the applicant and received by the ACA. Further, the policies ensure that no fee is charged to an applicant who is not required to remit a fee due to ineligibility or otherwise. The following policies apply only to ACA fees adopted under A.R.S. § 41-1504(C)(1) and not to fees previously adopted under other statutes.

I. General Rules

The following policies apply to all ACA fees adopted under A.R.S. § 41-1504(C)(1) except as otherwise expressly provided in Section II, below.

- A. The ACA will begin assessing and collecting the fees for all applications for incentives received on or after July 1, 2012.
- B. The fee will be 1% of the incentive amount, not to exceed \$100,000.
- C. No fee will be charged upon applicants of the following programs:
 - 1. Enterprise Zone 1) tax credits and 2) property tax reductions.
 - 2. Environmental Technology
 - 3. Commerce and Economic Development Commission (CEDC)
 - 4. Motion Picture Tax Incentive
 - 5. Economic Strength Projects
 - 6. Qualified Energy Conservation Bonds (QECCB)
- D. No fee is to be submitted with an application for incentives. Rather, the applicable fee will be requested by the ACA at the appropriate time.

- E. No approval letters or certifications will be issued by the ACA, including following a successful appeal of a denial of an application, until the applicable fee has been collected.
- F. If an application is denied, in no instance will a fee be collected from the applicant.
- G. If a fee charged upon pre-approval ends up exceeding 1% of the incentive ultimately approved by the ACA, the difference shall be refunded by the ACA to the applicant. No fee refunds will be issued based on any difference between incentives approved by the ACA and incentives actually realized through the Arizona Department of Revenue income tax collection process.

II. Program Specific Rules

- A. Small Business Capital Investment Incentives Program (Angel) (A.R.S. § 41-1518) - The amount of the fee for investor applications will be based on the total authorized tax credit amount, notwithstanding that the credit is claimed over three years with the Arizona Department of Revenue. Small business applications for certification will be assessed a separate, flat fee \$50 prior to issuance of certification.
- B. Research & Development Refundable Tax Credit Program (A.R.S. § 41-1507) - The amount of the fee will be based on the potential 75% tax credit amount to be refunded to the applicant, excluding the waived portion of 25%.
- C. Solar Energy Tax Incentives Program (A.R.S. § 41-1510.01) - The fee will be charged when the applicant applies for a Solar Credit Certificate. No fee will be required for the initial application. The amount of the fee will be based on the actual tax credit amount for which the client is approved.
- D. Renewable Energy Tax Incentive Program (A.R.S. § 41-1511) - The fee will be collected at issuance of pre-approval. No fee will be collected at post-approval. The amount of the fee will be based on the maximum tax credit amount available to the applicant.
- E. Qualified Facility Refundable Tax Credit Program (A.R.S. § 41-1512) - The fee will be collected at issuance of pre-approval. No fee will be collected at post-approval. The amount of the fee will be based on the maximum tax credit amount available to the applicant.
- F. Quality Jobs Tax Credit Program (A.R.S. § 41-1525) – A fee will be charged each time the applicant submits an Application for Tax Credits. No fee will be charged at pre-approval. The amount of the fee will be based on the amount of tax credits being claimed during the company’s taxable year pursuant to the Application for Tax Credits. The amount is not based on first, second or third year credits that can be claimed in future years under the same pre-approval.

- G. Healthy Forest Tax Incentives (A.R.S. § 41-1516) - A flat \$50 fee will be charged prior to issuance of certification, whether obtained following an application for certification or an application for re-certification. Additionally a separate \$50 flat fee will be charged each year the applicant submits an annual report.
- H. Military Reuse Zones (A.R.S. § 41-1531) - A flat \$50 fee will be charged prior to issuance of certification of a company or an insurer. Additionally a separate \$50 flat fee will be charged each year the company or insurer submits an annual report
- I. Arizona Competes Fund Grant Program (A.R.S. § 41-1545 et seq.) - The fee will be netted out of the grant award. For companies receiving the grant over multiple disbursements, the full amount of the fee will be netted out of the first disbursement.
- J. Job Training Program (A.R.S. § 41-1541 et seq.) - The fee will be collected prior to issuance of a fully executed contract. The amount of the fee will be based on the contract award amount reserved for the applicant. No fee will be charged with any quarterly or final reports submitted by the applicant as required by the contract.