

SHORT TITLE: Bond oversight; abolishing the Executive Bond Oversight Commission, the Legislative Bond Oversight Commission, and the position of Oklahoma State Bond Advisor; repealer; codification; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 868

By: Herbert

AS INTRODUCED

An Act relating to bond oversight; abolishing the Executive Bond Oversight Commission, the Legislative Bond Oversight Commission, and the position of Oklahoma State Bond Advisor and transferring power and duties to Attorney General; providing for transfer of unexpended funds, property, records, and outstanding obligations and encumbrances to the Attorney General; maintaining full force and effect of certain rules and actions until certain action is taken; stating meaning of certain references; amending 62 O.S. 1991, Sections 695.7, 695.23, as amended by Section 5, Chapter 233, O.S.L. 1993, 695.24, as last amended by Section 4, Chapter 349, O.S.L. 1995 and 695.25, as amended by Section 7, Chapter 233, O.S.L. 1993 (62 O.S. Supp. 1995, Sections 695.23, 695.24 and 695.25) and Sections 4 and 7, Chapter 346, O.S.L. 1994 (70 O.S. Supp. 1995, Sections 15-204 and 15-207), which relate to private activity bonds and school district bond guarantee program; changing statutory reference to reflect transfer of certain powers and duties to Attorney General; repealing 62 O.S. 1991, Sections 695.4, as amended by Section 23, Chapter 322, O.S.L. 1994, 695.5, 695.6, 695.8a, as amended by Section 24, Chapter 322, O.S.L. 1994 and 695.11A (62 O.S. Supp. 1995, Sections 695.4 and 695.8a), which relate to membership, meetings, and revolving fund of Executive and Legislative Bond Oversight Commissions and to Council of Bond Oversight; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Executive Bond Oversight Commission, the Legislative Bond Oversight Commission, and the position of Oklahoma State Bond Advisor are hereby abolished. The powers, duties, and responsibilities exercised by the Commissions and the Oklahoma State Bond Advisor are hereby transferred to and shall be exercised by the Attorney General. All unexpended funds, property, records, and outstanding financial obligations and encumbrances of the

Commissions and the Oklahoma State Bond Advisor are hereby transferred to the Office of the Attorney General.

B. The Director of the Office of State Finance is hereby directed to coordinate the transfer of funds, allotments, purchase orders, and outstanding financial obligations or encumbrances, provided for by the provision of subsection A of this section.

C. All rules and actions of the Commissions and the Oklahoma State Bond Advisor shall remain in full force and effect until otherwise amended, repealed, or revised by the Attorney General.

D. All references in the laws of this state to the Executive Bond Oversight Commission, the Legislative Bond Oversight Commission, and the Oklahoma State Bond Advisor shall mean the Attorney General.

SECTION 2. AMENDATORY 62 O.S. 1991, Section 695.7, is amended to read as follows:

Section 695.7 A. ~~The Commissions jointly shall engage the services of a person knowledgeable in the current state of the art of national and international standards for the issuance of obligations by governmental entities and experienced in the negotiation of fees for various goods and services requisite to or deemed desirable in the issuance of such obligations as well as the negotiation of other matters essential to provide the best current price and terms of the issuance of such obligations for the benefit of Oklahoma firms, farms, individuals and local communities, with said consultant having the title "Oklahoma State Bond Advisor". The Commissions shall conduct a national search in seeking requests for proposals for the position of Oklahoma State Bond Advisor. The person selected as the Oklahoma State Bond Advisor shall be approved by an affirmative vote of the Executive Commission and the Legislative Commission at a joint meeting of the Commissions. The Oklahoma State Bond Advisor may be removed upon an affirmative vote~~

~~of the Executive Commission and the Legislative Commission at a joint meeting of the Commissions.~~

~~B. The Oklahoma State Bond Advisor shall be an independent position within the Office of Public Affairs. The Oklahoma State Bond Advisor may employ the necessary staff to carry out the duties of the Bond Advisor and the duties of the Commissions, with approval of the Commissions.~~

~~C.~~ Prior to engaging the services of underwriters, bond or other legal counsel, financial advisors, consultants, a financial institution to serve as trustee, paying agent or in any fiduciary capacity in connection with any program, indenture or general resolution of the State Governmental Entity, or any other experts, except as provided in Section 5062.8 of Title 74 of the Oklahoma Statutes, the State Governmental Entity shall request proposals for such services from a plurality of persons engaged in the particular activity for such services and the selection of such persons shall be made on the basis of the response to the request which is the most economical and will provide competent service which furthers the best interest of the State Governmental Entity and the state. In negotiating requests for proposals to engage such services, the State Governmental Entity shall seek the advice and assistance of the ~~Oklahoma State Bond Advisor~~ Attorney General. Under no circumstances shall proprietary inducements be granted. The ~~Oklahoma State Bond Advisor~~ Attorney General shall provide assistance and advice to State Governmental Entities with respect to the issuance of obligations by said State Governmental Entities, review, negotiate, and approve or disapprove the fees and expenses for goods and services requisite to or deemed desirable in the issuance of State Governmental Entity obligations and represent the interests of the state before rating agencies and credit enhancement providers.

The provisions of this subsection shall apply to any Local Governmental Entity that proposes to issue obligations to fund capital additions or expenditures which obligations are to be retired by rental payments from the state, user fees from the state or any other such payment made by any officer, department, board, commission, institution or agency of the state when such payment is a direct and expressed pledge made by the state for the retirement of debt by a Local Governmental Entity. Provided, funds which are collected by the state for distribution to a Local Governmental Entity or are appropriated or dedicated by the state to a Local Governmental Entity without the expressed purpose of retiring debt of said Local Governmental Entity shall not constitute a pledge as provided in this subsection.

~~D.~~ B. The ~~Oklahoma State Bond Advisor~~ Attorney General shall serve as an advisor to the Governor and to the Legislature with respect to issuance of indebtedness ~~reviewed by the Commissions~~ and shall prepare an annual report to be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives as of January 15 each year. The report shall contain a summary of the issuance of indebtedness by State Governmental Entities and Local Governmental Entities during the preceding year and such other information as the ~~State Bond Advisor~~ Attorney General may be required to submit or as may be relevant. The ~~State Bond Advisor~~ Attorney General shall assist Oklahoma Futures with respect to information, advice or assistance as may be required.

~~E.~~ C. The ~~Oklahoma State Bond Advisor~~ Attorney General or any member of the immediate family of the ~~Oklahoma State Bond Advisor~~ Attorney General shall not have any direct or indirect financial or contractual relationship with any firm or corporation or any officer, partner or principal stockholder of any firm or corporation directly involved in public finance.

SECTION 3. AMENDATORY 62 O.S. 1991, Section 695.23, as amended by Section 5, Chapter 233, O.S.L. 1993 (62 O.S. Supp. 1995, Section 695.23), is amended to read as follows:

Section 695.23 As used in the Oklahoma Private Activity Bond Allocation Act:

1. "Application for state ceiling allocation" means the written application form provided by the ~~State Bond Advisor~~ Attorney General which shall be filed by or on behalf of the issuer in compliance with the requirements of this act;

2. "Balance" means that amount of the state ceiling remaining after deducting the amounts reserved for the Qualified Small Issue Pool, the Exempt Facility Pool and the Student Loan Pool;

3. "Beginning Agricultural Producer Pool" means the portion of the state ceiling reserved for bonds relating to the Oklahoma Beginning Agricultural Producer Pool Act;

4. "Carryforward" shall have the same meaning as in Section 146(f) of the Internal Revenue Code;

5. "Confirmation" means a written confirmation of allocation issued by the ~~State Bond Advisor~~ Attorney General;

6. "Consolidated Pool" means an aggregation of unallocated sums of the state ceiling derived from Qualified Small Issue, Beginning Agricultural Producer, Exempt Facility, Student Loan, Local Issuer and State Issuer Pools;

7. "Exempt facility bonds" means exempt facility bonds as defined in Section 142(a) of the Internal Revenue Code;

8. "Exempt Facility Pool" means the portion of the state ceiling reserved for exempt facility bonds;

9. "Final certification" or "final certificate" means a certification or certificate filed with the ~~State Bond Advisor~~ Attorney General by or on behalf of the issuer specifying the exact amount of indebtedness issued by an issuer, or, in the case of mortgage credit certificates, a copy of the document or election

filed with the Internal Revenue Service exchanging bond issuance authority for mortgage credit certificate issuance authority;

10. "Internal Revenue Code" means the Internal Revenue Code of 1986 (26 U.S.C., Section 1 et seq.), as amended;

11. "Issued" means any issue of bonds which have been delivered and the purchase price therefor remitted to or for the account of the issuer, or a copy of the document or election filed with the Internal Revenue Service exchanging bond issuance authority for mortgage credit certificate issuance authority;

12. "Issuer" or "issuing authority" means any public trust or other public body which is authorized to issue bonds, notes and other like obligations, or has the authority to exchange single-family mortgage bond authority for mortgage credit certificate authority, under the Constitution or laws of the state;

13. "Local issuer" means any municipality, county or public trust having counties or municipalities or combinations thereof as beneficiary, or a public trust having the state as beneficiary with jurisdiction limited to one county of the state;

14. "Local Issuer Pool" means the portion of the state ceiling reserved for local issuers;

15. "Mortgage credit certificate election" means a document or election filed by an issuer with the Internal Revenue Service exchanging single-family mortgage bond issuance authority for mortgage credit certificate issuance authority;

16. "Mortgage credit certificates" shall have the same meaning as in Section 25(c) of the Internal Revenue Code;

17. "Private activity bonds" or "bonds" means any bonds or notes or other evidence of indebtedness, the interest on which is exempt from tax pursuant to the Internal Revenue Code, and mortgage credit certificates, except those bonds or certificates specifically excluded from the state ceiling under the terms of federal legislation;

18. "Qualified small issue" used in the context of "bond" or "bonds" or the "Qualified Small Issue Pool" shall have the meaning as in Section 144(a) of the Internal Revenue Code;

19. "Qualified Small Issue Pool" means the portion of the state ceiling reserved for qualified small issue bonds;

20. "Qualified student loan bonds" shall have the same meaning as in Section 144(b) of the Internal Revenue Code;

21. "State" means the State of Oklahoma;

22. ~~"State Bond Advisor"~~ "Attorney General" means the Oklahoma ~~State Bond Advisor~~ Attorney General or his designee;

23. "State ceiling" means the limit which is prescribed by the Internal Revenue Code in Section 146 and in such other applicable sections of the Internal Revenue Code on the amount of private activity bonds which may be issued collectively by all of the issuers of the state during a calendar year;

24. "State issuer" means any public trust having the state as beneficiary or any state agency with powers to issue private activity bonds, provided that the term shall not include a public trust or any local issuer with the state as beneficiary whose jurisdiction is limited to one county;

25. "State Issuer Pool" means the portion of the state ceiling reserved for state issuers; and

26. "Student Loan Pool" means the portion of the state ceiling reserved for qualified student loan bonds.

SECTION 4. AMENDATORY 62 O.S. 1991, Section 695.24, as last amended by Section 4, Chapter 349, O.S.L. 1995 (62 O.S. Supp. 1995, Section 695.24), is amended to read as follows:

Section 695.24 A. 1. Twenty-five percent (25%) of the state ceiling shall be reserved and placed in a pool to be designated the Qualified Small Issue Pool.

2. For the period commencing January 1 through September 1 of each calendar year, the Qualified Small Issue Pool shall be

allocated to qualified small issue bond projects undertaken by either state or local issuers. Allocations will be available to issuers on a first-come, first-serve basis.

B. 1. Ten percent (10%) of the state ceiling shall be reserved and placed in a pool to be designated the Beginning Agricultural Producer and Exempt Facility Pools.

2. For the period commencing January 1 through September 1 of each calendar year, the Beginning Agricultural Producer Pool shall be allocated pursuant to the criteria established in Section 5063.23 of Title 74 of the Oklahoma Statutes according to a ratio of fifty percent (50%) of the total amount allocated for the combined purposes, not to exceed Five Million Dollars (\$5,000,000.00), the remainder to be allocated to exempt facility bonds issued by either state or local issuers. Allocations will be available to issuers on a first-come, first-serve basis.

C. Five percent (5%) of the state ceiling shall be reserved for facilities owned or operated by a business entity which:

1. Has not been legally organized to do business for more than one (1) year prior to the date as of which operations begin at a food processing facility located within the state;

2. Has an annual gross direct payroll which does not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00); and

3. Is engaged in food processing resulting in a final product produced at the facility which consists of at least ninety percent (90%), exclusive of packaging, of agricultural or livestock inputs originating from within the State of Oklahoma. The actual cost incurred by the processor, exclusive of packaging, shall be used for purposes of determining the content of the final product and the processor shall be required to document both the content of the final product for which a reservation of the state ceiling is claimed and the source of the input. As used in this paragraph:

- a. "agricultural input" means severed crops, including, but not limited to, wheat, oats, barley, corn, cotton and rye, peanuts, pecans and other nuts, vegetables, fruits, flowers, herbs, spices, trees, shrubs, and similar flowering or nonflowering woody plants, exclusive of any plant or substance that is illegal to cultivate, and
- b. "livestock input" means cattle, horses, sheep, goats, swine, ratite, fish, fowl, reptiles or any other animal or insect raised or bred for sale or any material produced by an animal or insect for sale.

D. 1. Twenty percent (20%) of the state ceiling shall be reserved and placed in a pool to be designated the Student Loan Pool.

Provided, for any given year the amount of state ceiling reserved shall be reduced by the amount of any existing carryforward issuance authority available to student loan bond issuers.

2. For the period commencing January 1 through September 1 of each calendar year, the Student Loan Pool shall be allocated to qualified student loan bonds issued by eligible state issuers. Allocations will be available to issuers on a first-come, first-serve basis.

E. 1. From the balance of the state ceiling, thirty percent (30%) shall be reserved and placed in a pool to be designated the State Issuer Pool. For the period commencing January 1 of each calendar year through September 1 of the same year, the State Issuer Pool shall be allocated to those projects undertaken by state issuers on a first-come, first-serve basis. Provided, no single state issuer or project shall receive an allocation in excess of Twenty Million Dollars (\$20,000,000.00) from the State Issuer Pool.

2. Notwithstanding the provisions of this section, a state issuer specifically limited in jurisdiction to one county shall be treated as a local issuer for the purposes of allocation.

F. From the balance of the state ceiling, seventy percent (70%) shall be reserved and placed in a pool to be designated the Local Issuer Pool. For the period commencing January 1 of each calendar year through September 1 of the same year, the Local Issuer Pool shall be allocated to those projects undertaken by local issuers on a first-come, first-serve basis. Provided, except for local issuers which have a population in excess of three hundred thousand (300,000), no single local issuer or project shall receive an allocation in excess of Ten Million Dollars (\$10,000,000.00) from the Local Issuer Pool. No single local issuer which has a population in excess of three hundred thousand (300,000), shall receive an allocation in excess of Fifteen Million Dollars (\$15,000,000.00) from the Local Issuer Pool. No more than two Fifteen-Million-Dollar allocations shall be made to local issuers in a calendar year from the Local Issuer Pool.

G. Allocations of the state ceiling for the period commencing January 1 through September 1 of each calendar year for qualified small issue bonds and qualified student loan bonds may be made only from the respective pools reserved for these types of private activity bonds. Provided, small issue bonds may be funded from the State Issuer Pool or the Local Issuer Pool at such time as all the issuance authority in the Qualified Small Issue Pool has been allocated. Allocations of the state ceiling for the same period for exempt facility bonds may be made from the Exempt Facility Pool, the State Issuer Pool and the Local Issuer Pool; provided, no single issuer or project during any calendar year shall receive an allocation in excess of Twenty-five Million Dollars (\$25,000,000.00) from the three pools combined. The state ceiling for each calendar year shall be allocated within the categories set forth in

subsections A, B, C, D, E and F of this section to all private activity bonds, as follows:

1. Except as hereinafter provided, the state ceiling shall be allocated in the order in which confirmations are issued;

2. The ~~State Bond Advisor~~ Attorney General shall issue confirmations in the order in which fully and properly completed applications for state ceiling allocation are received. The ~~State Bond Advisor~~ Attorney General shall have the limited authority to defer or deny confirmation on applications for state ceiling allocation which appear to be incomplete or premature based upon information submitted or which fail to show demand for funds pursuant to subsections F and G of Section 695.25 of this title; and

3. The ~~State Bond Advisor~~ Attorney General shall have no discretionary control regarding the issuance of confirmations, except as specifically provided in the Oklahoma Private Activity Bond Allocation Act.

In the event a confirmation or application is denied, the ~~State Bond Advisor~~ Attorney General, within five (5) business days following such denial, shall send written notice of such denial to the applicant together with a brief recital of the reason therefor.

H. On September 2 of each calendar year, nonallocated sums remaining in the Qualified Small Issue Pool, the Beginning Agricultural Producer Pool, the Exempt Facility Pool, the Student Loan Pool, the State Issuer Pool and the Local Issuer Pool shall be consolidated into the Consolidated Pool. All local issuers and state issuers shall be entitled to obtain allocations from the Consolidated Pool for any private activity bond or mortgage credit certificate program based on the following system:

1. Allocations shall be made first to issuers based on the chronological order of completed applications received prior to September 2 of each calendar year who have not received an allocation; provided, seventy-five percent (75%) of the Consolidated

Pool shall be allocated first to issuers in this category; provided further, except for issuers which have a population in excess of three hundred thousand (300,000), no single issuer or project shall receive an allocation in excess of Ten Million Dollars (\$10,000,000.00). No single local issuer which has a population in excess of three hundred thousand (300,000), shall receive an allocation in excess of Fifteen Million Dollars (\$15,000,000.00);

2. From the remaining issuance authority, allocations shall be made to issuers based on the chronological order of applications received prior to September 2 of each calendar year who received a partial allocation of a requested allocation, provided said initial allocation was less than the lesser of fifty percent (50%) of the requested allocation or Ten Million Dollars (\$10,000,000.00); provided further, the total amount of allocations from the Consolidated Pool and all other pools shall not exceed Ten Million Dollars (\$10,000,000.00); and

3. From the remaining issuance authority, allocations shall be made to issuers based on the chronological order of completed applications received from September 2 through November 30 of each calendar year.

SECTION 5. AMENDATORY 62 O.S. 1991, Section 695.25, as amended by Section 7, Chapter 233, O.S.L. 1993 (62 O.S. Supp. 1995, Section 695.25), is amended to read as follows:

Section 695.25 A. On January 1 of each calendar year or the first business day thereafter, the ~~State Bond Advisor~~ Attorney General shall determine the maximum total volume of private activity bonds that may be issued pursuant to federal law by the state during that year.

B. On or before February 15 of each calendar year, the ~~State Bond Advisor~~ Attorney General shall cause to be published in The Oklahoma Register, or any successor publication, a notice specifying the amount of the state ceiling for the calendar year.

C. Allocations from the Qualified Small Issue Pool, Beginning Agricultural Producer Pool, Exempt Facility Pool, Student Loan Pool, State Issuer Pool, and Local Issuer Pool will be processed on the basis of the chronological order of receipt of completed applications for state ceiling allocation and on the basis of the information and provisions set forth in subsections D, E, F and G of this section. Allocations from the Consolidated Pool will be processed on the basis of the system set out in subsection G of Section 4 695.24 of this ~~act~~ title and on the basis of information and provisions set forth in subsections D, E, F and G of this section.

D. An issuer which proposes to issue private activity bonds for a specific project or purpose shall make application for an allocation of a portion of the state ceiling for the particular project or purpose by submitting to the ~~State Bond Adviser~~ Attorney General an application for state ceiling allocation together with copies of the following:

1. A certified copy of the resolution or other action adopted by the issuer for the purpose of taking "official action" as required by the Treasury Regulations relating to Section 103 of the Internal Revenue Code, if the issuer of private activity bonds for which the allocation is requested requires "official action" under applicable Treasury Regulations and the Internal Revenue Code; and

2. A final resolution of the beneficiary of the issuer evidencing its approval of the issuance of the issuer's obligations, if the issuer is a municipal or county public trust, or a certificate signed by the Governor of the state evidencing his approval of the issuance of the issuer's obligations, to the extent required under the Internal Revenue Code, if the issuer is a public trust having the state as its beneficiary.

E. The application for state ceiling allocation shall contain the following information:

1. The name and mailing address of the issuer, the beneficiary and jurisdiction thereof, the name of the presiding officer of the issuer and the respective pool from which an allocation is requested;

2. The name and mailing address or other definitive description of the location of the project or bonds and the purpose for which an allocation of the state ceiling is requested, the name and mailing address of both the initial owner or operator of the project, where applicable, and an appropriate person from whom information regarding the project or bonds can be obtained, and the name and address of the person to whom the confirmation should be sent;

3. The amount of the state ceiling which the Issuer is requesting;

4. A statement of bond counsel for the issuer that the proposed issue requires, pursuant to Section 103, Section 146 or such other applicable sections of the Internal Revenue Code, an allocation of a portion of the state ceiling; and

5. Where applicable, the intention to exchange single-family mortgage bond authority for mortgage credit certificates.

F. 1. Applications for single family mortgage bonds or mortgage credit certificate programs shall also include the submission of information demonstrating a reasonable expectation to use an allocation of the state ceiling for its intended purpose. This information shall include historical usage of mortgage revenue bond proceeds or mortgage credit certificates in the geographic area subject to an application over the previous twenty-four-month period and the impact of known or possible competing programs that would act to reduce demand. This information may also include demand surveys. Provided, in cases where historical usage cannot be documented, demand surveys shall be included with an application.

2. Applications for qualified student loan bonds shall also include the submission of information showing a reasonable

expectation to use the state ceiling for its intended purpose. This information shall include historical lending activity over the previous twenty-four-month period as well as a demonstration of need based upon such factors as increased enrollment costs, enrollment increases, or new federal regulations that act to increase demand by making changes to eligibility requirements to certain federally guaranteed or subsidized student loan programs. This information may also include demand surveys. Provided, in cases where historical usage cannot be documented, demand surveys shall be included with an application.

3. Applications shall also include evidence of a structure to deliver the financing derived from single-family mortgage bond proceeds or mortgage credit certificates or from qualified student loan bond proceeds to ultimate users, particularly the extent of lender participation in the case of mortgage revenue bonds or mortgage credit certificate programs.

G. 1. Upon receipt of the completed application for state ceiling allocation, copies of the official action and final resolutions or certificates as required by subsection D of this section and the information required by subsections E and F of this section and assuming availability of the sum requested and compliance with the Oklahoma Private Activity Bond Allocation Act, the ~~State Bond Advisor~~ Attorney General shall send, within five (5) business days of the receipt thereof, a confirmation of the allocation of the state ceiling for the subject project or purpose to the person designated in the application for state ceiling allocation. Provided, the ~~State Bond Advisor~~ Attorney General may reject an application or deny a confirmation pursuant to the provisions of this subsection.

2. The ~~State Bond Advisor~~ Attorney General may reject any application which is incomplete or filed with insufficient information. The ~~State Bond Advisor~~ Attorney General may reject any

application where, in the ~~State Bond Advisor's~~ Attorney General's judgment, a reasonable likelihood has not been shown that single-family mortgage and student loan bond proceeds or mortgage credit certificates will be used for their intended public purposes. In the event an application or confirmation is denied, within five (5) business days following such denial, the ~~State Bond Advisor~~ Attorney General shall send the applicant written notice of the denial of an application or confirmation together with the reason or reasons therefor. ~~In the case of disapprovals of applications or confirmations, an applicant may appeal the disapproval by submitting a new application to the Executive and Legislative Bond Oversight Commissions, along with an explanation addressing the reasons for disapproval cited in the State Bond Advisor's letter. The Bond Oversight Commissions, through affirmative action of both Commissions, may accept an application rejected by the State Bond Advisor, or order the State Bond Advisor to issue a confirmation of allocation, subject to provisions of the Oklahoma Private Activity Bond Allocation Act. Applicants may submit only one new application based on an appeal of any specific application previously submitted.~~

3. Only complete applications, as determined by the ~~State Bond Advisor~~ Attorney General, shall be used to establish the chronological order of applications. In the case of a new application submitted based on an appeal, chronological order shall be established at the time the new application is submitted.

H. An original confirmation shall cease to be effective to assure allocation of any portion of the state ceiling unless the bonds, notes, other evidences of indebtedness, or the appropriate election filed with the Internal Revenue Service exchanging mortgage bond authority for mortgage credit certificate authority have been issued or filed within seventy-five (75) days after the date of such confirmation. No extensions shall be granted. Such issuance shall be evidenced by the mailing, transmittal or delivery of a final

certification to the ~~State Bond Adviser~~ Attorney General within the time specified by this subsection. Receipt by an issuer of a confirmation as contemplated by this section shall entitle the issuer to rely conclusively upon the accuracy of the ~~State Bond Adviser's~~ Attorney General's mathematical calculation and the allocation for purposes of closing.

I. The confirmation given in advance of bond issuance or mortgage credit certificate election will assure allocation for only the amount of such bonds or mortgage credit certificate authority as is therein set forth, unless a supplementary application for state ceiling allocation for an increase in amount is filed with and a supplementary confirmation is issued by the ~~State Bond Adviser~~ Attorney General for such requested allocation prior to such bond issuance or such election, pursuant to the Oklahoma Private Activity Bond Allocation Act. The supplementary confirmation shall be effective for the same period as the prior confirmation which it supplements. Provided, however, no supplementary confirmation shall be effective to preempt any intervening confirmation as to allocation of a portion of the state ceiling.

J. Notwithstanding the provisions of this section, all confirmation dates for an issue of private activity bonds or mortgage credit certificate programs expire on December 20 of each calendar year. Final certification of issuance shall be delivered to the ~~State Bond Adviser~~ Attorney General by 9:00 a.m. on December 20 of each calendar year.

K. On or after 9:00 a.m. on December 20 of each calendar year, issuing authorities may apply to the ~~State Bond Adviser~~ Attorney General to carry forward a portion of the state ceiling for such calendar year allocated to any qualified carryforward project, as said term is used in Section 103(n)(10) and 146(f) of the Internal Revenue Code and which shall be evidenced by the issuance of confirmations for all carryforward projects within the limitations

of the state ceiling. Provided, issuers or projects with more than Twenty Million Dollars (\$20,000,000.00) of carryforward outstanding as of the date of the application for carryforward shall only be eligible for carryforward allocations to the extent other issuers with less than Twenty Million Dollars (\$20,000,000.00) of outstanding carryforward authority do not fully commit the state ceiling. Allocations on carryforward projects shall be processed on the basis of the chronological receipt of applications. No portion of the state ceiling carried forward for any given year may be carried forward for a period in excess of three (3) calendar years following the calendar year in which the carryforward arose, except as otherwise permitted under federal law.

L. The ~~State Bond Advisor~~ Attorney General shall maintain continuous and cumulative records which shall include a list and cumulative dollar total of the private activity bonds for which:

1. Private activity bonds have been issued or state ceiling exchanged for mortgage credit certificate authority and final certifications have been received by the ~~State Bond Advisor~~ Attorney General;

2. Confirmations of carryforward have been issued; and

3. Confirmations in effect and outstanding for which no private activity bonds or mortgage credit certificate elections have been issued or filed.

The ~~State Bond Advisor~~ Attorney General shall keep continuous and cumulative records and totals for each of the categories specified in paragraphs 1, 2 and 3 of this subsection as well as the aggregate total of all categories. The ~~State Bond Advisor~~ Attorney General shall not give further confirmations at such time as the aggregate amount of bonds, other indebtedness, carryforward or mortgage credit certificate elections specified by paragraphs 1, 2 and 3 of this subsection equals the state ceiling authorized for the applicable year. The ~~State Bond Advisor~~ Attorney General shall not award a

confirmation if such award would cause indebtedness, carryforward or elections as specified by paragraphs 1, 2 and 3 of this subsection to exceed the state ceiling. Confirmation records shall be compiled and furnished to any local issuer and state issuer upon written request and payment of a fee of Fifteen Dollars (\$15.00) which shall be apportioned to the General Revenue Fund. Upon issuance of a confirmation, the amounts of the proposed bond issue, mortgage credit certificate election and carryforward confirmation shall be included in the continuing, mathematical calculation, until the same shall have been terminated in accordance with this section.

M. The person signing any confirmation for any allocations granted pursuant to the Oklahoma Private Activity Bond Allocation Act shall certify under penalty of perjury that such allocation was not made in consideration of any bribe, gift, gratuity or direct or indirect contribution to any political campaign.

N. A state or local issuer administering a Mortgage Credit Certificate Program, who intentionally or unintentionally overissues mortgage credit certificates, shall be prohibited from making application for an allocation of the state ceiling for any purpose for a period of three (3) years following discovery of such overissuance.

SECTION 6. AMENDATORY Section 4, Chapter 346, O.S.L. 1994 (70 O.S. Supp. 1995, Section 15-204), is amended to read as follows:

Section 15-204. A school district seeking the guarantee of eligible bonds shall apply to the Commissioners on an application which must include:

1. The name of the school district and the principal amount of the bonds to be issued;
2. The maturity schedule, estimated interest rate and date of the bonds; and

3. Any other information as deemed necessary and appropriate by the Commissioners of the Land Office.

The application must be accompanied by a fee set by the Commissioners in an amount to cover costs of administering the guarantee program. The Commissioners and the ~~State Bond Advisor~~ Attorney General shall enter into an interagency agreement in order to administer their responsibilities pursuant to the provisions of this act.

From the fees collected, the Commissioners shall enter into a cooperative agreement with the ~~State Bond Advisor~~ Attorney General to defray any administrative costs of his office in carrying out the provisions of this act.

SECTION 7. AMENDATORY Section 7, Chapter 346, O.S.L. 1994 (70 O.S. Supp. 1995, Section 15-207), is amended to read as follows:

Section 15-207. Immediately following a determination that a school district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, but not later than the fifth business day before the maturity date, the district shall notify the ~~State Bond Advisor~~ Attorney General and the Commissioners of the Land Office.

SECTION 8. REPEALER 62 O.S. 1991, Sections 695.4, as amended by Section 23, Chapter 322, O.S.L. 1994, 695.5, 695.6, 695.8a, as amended by Section 24, Chapter 322, O.S.L. 1994 and 695.11A (62 O.S. Supp. 1995, Sections 695.4 and 695.8a), are hereby repealed.

SECTION 9. This act shall become effective July 1, 1996.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-2-2327

JY