

EHB 2164

1 THE STATE SENATE  
2 Thursday, April 8, 2004

3 ENGROSSED

4 House Bill No. 2164

5 As Amended

6 ENGROSSED HOUSE BILL NO. 2164 - By: DEUTSCHENDORF, MORGAN (Fred),  
7 BRADDOCK and KIRBY of the House and MONSON and COFFEE of the Senate.

8 [ public finance - Oklahoma Private Activity Bond Allocation  
9 Act - modifying state ceiling pool designations -  
10 modifying procedures - effective date ]

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

12 SECTION 1. AMENDATORY 62 O.S. 2001, Section 695.23, is  
13 amended to read as follows:

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

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

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

23 3. "Carryforward" shall have the same meaning as in Section  
24 146(f) of the Internal Revenue Code;

1       4. "Confirmation" means a written confirmation of allocation  
2 issued by the State Bond Advisor;

3       5. "Consolidated Pool" means an aggregation of unallocated sums  
4 of the state ceiling derived from pools as set forth in subsection ~~±~~  
5 L of Section 695.24 of this title;

6       6. "Economic Development Pool" means that portion of the state  
7 ceiling reserved for projects specifically authorized by the  
8 ~~Executive and Legislative~~ Council of Bond Oversight ~~Commissions~~, as  
9 provided for in subsection ~~A~~ B of Section 695.24 of this title;

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

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

14       9. "Final certification" or "final certificate" means a  
15 certification or certificate filed with the State Bond Advisor by or  
16 on behalf of the issuer specifying the exact amount of indebtedness  
17 issued by an issuer, or, in the case of mortgage credit  
18 certificates, a copy of the document or election filed with the  
19 Internal Revenue Service exchanging bond issuance authority for  
20 mortgage credit certificate issuance authority;

21       10. "Internal Revenue Code" means the Internal Revenue Code of  
22 1986 (26 U.S.C., Section 1 et seq.), as amended;

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

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

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

15 14. "Local Issuer Single Family Pool" means the portion of the  
16 state ceiling reserved for local issuers of single-family, mortgage  
17 revenue bonds and mortgage credit certificates;

18 15. "Metropolitan Area Housing Pool" means the portion of the  
19 state ceiling reserved pursuant to subsection I of Section 695.24 of  
20 this title;

21 **16. "Rural Area Housing Pool" means the portion of the state**  
22 **ceiling reserved pursuant to subsection J of Section 695.24 of this**  
23 **title;**

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

5        ~~16.~~ 18. "Mortgage credit certificates" shall have the same  
6 meaning as in Section 25(c) of the Internal Revenue Code;

7        ~~17.~~ 19. "Oklahoma Housing Finance Agency Pool" means that  
8 portion of the state ceiling reserved for single-family bonds,  
9 multifamily bonds, and mortgage credit certificates issued by the  
10 Oklahoma Housing Finance Agency;

11        ~~18.~~ 20. "Private activity bonds" or "bonds" means any bonds or  
12 notes or other evidence of indebtedness, the interest on which is  
13 exempt from tax pursuant to the Internal Revenue Code, and mortgage  
14 credit certificates, except those bonds or certificates specifically  
15 excluded from the state ceiling under the terms of federal  
16 legislation;

17        ~~19.~~ 21. "Qualified small issue" used in the context of "bond"  
18 or "bonds" or the "Qualified Small Issue Pool" shall have the  
19 meaning as in Section 144(a) of the Internal Revenue Code;

20        ~~20.~~ 22. "Qualified Small Issue Pool" means the portion of the  
21 state ceiling reserved for qualified small issue bonds;

22        ~~21.~~ 23. "Qualified student loan bonds" shall have the same  
23 meaning as in Section 144(b) of the Internal Revenue Code;



1 ~~Seventy Million Dollars (\$170,000,000.00)~~ shall be reserved and  
2 placed in the Student Loan Pool.

3 2. a. ~~The second Thirty Million Dollars (\$30,000,000.00)~~  
4 ~~which is in excess of One Hundred Seventy Million~~  
5 ~~Dollars (\$170,000,000.00)~~

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

10 B. Twelve percent (12%) of the state ceiling shall be reserved  
11 and placed in a pool designated as the Economic Development Pool.  
12 For the period January 1 through September 1 of each calendar year,  
13 allocations from this pool may be made only upon the recommendation  
14 of the Director of the Oklahoma Department of Commerce and following  
15 review and approval by the ~~Executive and Legislative~~ Council of Bond  
16 Oversight Commissions. In order to approve the recommendation, the  
17 Council of Bond Oversight Commissions must find that the project  
18 seeking an allocation from this pool will result in the creation of  
19 manufacturing jobs in this state or will in some other way  
20 contribute to an economic development objective of this state.

21 ~~b.~~ For purposes of this subsection, "manufacturing jobs"  
22 means jobs created by manufacturing facilities as that  
23 term is defined in subparagraphs a, b, and c of

1 paragraph 1 of subsection B of Section 2902 of Title  
2 68 of the Oklahoma Statutes.

3 ~~e. The amount reserved and placed in the Economic~~  
4 ~~Development Pool shall be excluded from the~~  
5 ~~calculation of the state ceiling for the purposes of~~  
6 ~~determining the amounts to be reserved and placed in~~  
7 ~~the other Pools set forth in this section.~~

8 ~~3. Any remainder of the state ceiling which is in excess of the~~  
9 ~~amounts reserved pursuant to paragraphs 1 and 2 of this subsection~~  
10 ~~shall be reserved and placed in the Local Issuer Single Family Pool.~~

11 ~~B. C. 1. Eighteen and seventy-five one hundredths percent~~  
12 ~~(18.75%) Twelve percent (12%) of the state ceiling shall be reserved~~  
13 ~~and placed in a pool to be designated the Qualified Small Issue~~  
14 ~~Pool.~~

15 2. For the period January 1 through September 1 of each  
16 calendar year, the Qualified Small Issue Pool shall be allocated to  
17 qualified small issue bond projects undertaken by either state or  
18 local issuers. Allocations will be available to issuers on a first-  
19 come, first-serve basis.

20 ~~C. D. 1. Eight percent (8%) One percent (1.0%) of the state~~  
21 ~~ceiling shall be reserved and placed in a pool to be designated the~~  
22 ~~Beginning Agricultural Producer and Exempt Facility Pools Pool.~~

1           2. For the period January 1 through September 1 of each  
2 calendar year, the Beginning Agricultural Producer Pool shall be  
3 allocated pursuant to the criteria established in Section 5063.23 of  
4 Title 74 of the Oklahoma Statutes ~~according to a ratio of fifty~~  
5 ~~percent (50%) of the total amount allocated for the combined~~  
6 ~~purposes, not to exceed Two Million Seven Hundred Fifty Thousand~~  
7 ~~Dollars (\$2,750,000.00), the remainder to be allocated for a.~~

8           E. 1. Two and five-tenths percent (2.5%) of the state ceiling  
9 shall be reserved and placed in a pool to be designated the Exempt  
10 Facility Pool.

11           2. For the period January 1 through September 1 of each  
12 calendar year, the Exempt Facility Pool shall be allocated to exempt  
13 facility bonds issued by either state or local issuers. Allocations  
14 will be available to issuers on a first-come, first-serve basis.

15           ~~D. 1. In addition to the amount set forth in Section 695.24 of~~  
16 ~~this title, six and twenty-five one-hundredths percent (6.25%) of~~  
17 ~~the state ceiling is hereby set aside for student loan bonds and,~~  
18 ~~annually, shall be reserved and placed in a pool to be designated~~  
19 ~~the Student Loan Pool.~~

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

1        E. F. 1. ~~Fourteen and seventy-five one-hundredths percent~~  
2 ~~(14.75%)~~ Except as otherwise provided by this subsection, fifteen  
3 percent (15%) of the state ceiling shall be reserved and placed in a  
4 pool to be designated the Oklahoma Housing Finance Agency Pool.  
5 Provided, however, that the allocation of the state ceiling to the  
6 Oklahoma Housing Finance Agency as otherwise authorized pursuant to  
7 this subsection shall be increased up to ten percent (10%) of the  
8 state ceiling amount for any calendar year subsequent to a  
9 certification by the Oklahoma Strategic Military Planning Commission  
10 that the available housing stock in an area located on or near a  
11 military installation at risk for closure or adverse realignment  
12 pursuant to federal law is inadequate and an increase in available  
13 funds for construction or rehabilitation of such housing would make  
14 closure or an adverse realignment of the military installation less  
15 likely. The certification by the Oklahoma Strategic Military  
16 Planning Commission shall be made and communicated to the State Bond  
17 Advisor not later than November 15 each year. The Oklahoma  
18 Strategic Military Planning Commission shall make a specific  
19 recommendation to the State Bond Advisor regarding the percentage  
20 increase to be adopted for the Oklahoma Housing Finance Agency pool  
21 for the ensuing year. The State Bond Advisor shall make the final  
22 determination regarding the amount of such increase. Any  
23 certification made by the Oklahoma Strategic Military Planning

1 Commission shall be valid only for the calendar year immediately  
2 following such certification.

3 2. a. For the period January 1 through September 1 of each  
4 year, the Oklahoma Housing Finance Agency Pool shall  
5 be allocated to qualified single family bonds,  
6 multifamily bonds, or mortgage credit certificates  
7 issued by the Oklahoma Housing Finance Agency.

8 b. Provided, ~~twenty-five percent (25%)~~ thirty-five  
9 percent (35%) of the allocation from the Oklahoma  
10 Housing Finance Agency Pool shall be set aside for at  
11 least three (3) months for the origination of single-  
12 family loans in counties with populations of three  
13 hundred thousand (300,000) or less.

14 F. G. 1. ~~Six percent (6%)~~ Four percent (4%) of the state  
15 ceiling shall be reserved and placed in a pool to be designated the  
16 State Issuer Pool. For the period commencing January 1 of each  
17 calendar year through September 1 of the same year, the State Issuer  
18 Pool shall be allocated to those qualified small issuer projects  
19 undertaken by state issuers which have issued in excess of Seventy-  
20 five Million Dollars (\$75,000,000.00) in qualified small issue  
21 bonds.

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

4           ~~G. 1. The balance~~ H. Except as otherwise provided by this  
5 subsection, twenty-five and five-tenths percent (25.5%) of the state  
6 ceiling shall be reserved and placed in a pool to be designated the  
7 Local Issuer Single Family Pool; provided, however, that the  
8 percentage otherwise authorized by this subsection shall be reduced  
9 by the amount of any increase in the percentage authorized to the  
10 Oklahoma Housing Finance Agency as a result of a recommendation by  
11 the Oklahoma Strategic Military Planning Commission pursuant to  
12 paragraph 1 of subsection F of this section, but under no  
13 circumstances shall the reduction in the Local Issuer Single Family  
14 Pool be greater than ten percent (10%). For the period commencing  
15 January 1 of each calendar year through September 1 of the same  
16 year, the Local Issuer Single Family Pool shall be allocated ~~first,~~  
17 ~~Fifteen Million Dollars (\$15,000,000.00) to single-family projects~~  
18 undertaken by local issuers in counties with populations of three  
19 hundred thousand (300,000) or less on a first-come, first-serve  
20 basis with no single local issuer or project to receive an  
21 allocation in excess of Ten Million Dollars (\$10,000,000.00) from  
22 the Local Issuer Single Family Pool. An issuer which has not  
23 received any allocation from the State Issuer Pool and having a

1 single-family project limited in jurisdiction to twenty counties or  
2 less, each of which has a population of three hundred thousand  
3 (300,000) or less, shall be considered a local issuer for the  
4 purposes of this subsection.

5 I. Twelve and five-tenths percent (12.5%) of the state ceiling  
6 shall be reserved and placed in a pool to be designated the  
7 Metropolitan Area Housing Pool. Allocations from the Metropolitan  
8 Area Housing Pool may only be made to any public trust created to  
9 provide single-family housing having a county with a population in  
10 excess of three hundred thousand (300,000) as its sole beneficiary  
11 and which has issued tax exempt single-family housing revenue bonds  
12 in the amount of at least Four Hundred Million Dollars  
13 (\$400,000,000.00). ~~The balance of this pool shall be allocated to~~  
14 ~~single-family projects undertaken by other local issuers in counties~~  
15 ~~with populations of three hundred thousand (300,000) or less on a~~  
16 ~~first-come, first-serve basis with no single local issuer or project~~  
17 ~~to receive an allocation in excess of Seven Million Five Hundred~~  
18 ~~Thousand Dollars (\$7,500,000.00) from the Local Issuer Single Family~~  
19 ~~Pool.~~

20 ~~2. An issuer which has not received any allocation from the~~  
21 ~~State Issuer Pool and having a single family project limited in~~  
22 ~~jurisdiction to twenty counties or less, each of which has a~~  
23 ~~population of three hundred thousand (300,000) or less, shall be~~

1 ~~considered a local issuer for the purposes of this subsection~~  
2 Provided, no more than fifty percent (50%) of the amount allocated  
3 pursuant to this subsection shall be awarded to any single county.

4 H. J. Six and twenty-five hundredths (6.25%) of the state  
5 ceiling shall be reserved and placed in a pool to be designated the  
6 "Rural Area Housing Pool". Allocations from the Rural Area Housing  
7 Pool shall be allocated to any entity organized under the law of  
8 this state as a nonprofit corporation, which is exempt from federal  
9 income tax pursuant to Section 501 (c) (3) of the Internal Revenue  
10 Code of 1986, as amended, which is authorized by Section 868 of  
11 Title 18 of the Oklahoma Statutes to issue tax exempt or taxable  
12 obligations and which has issued at least One Hundred Million  
13 Dollars (\$100,000,000.00) in taxable obligations for single-family  
14 housing projects and which has previously received allocations from  
15 the state ceiling equal to or greater than Twenty Million Dollars  
16 (\$20,000,000.00). An entity authorized for allocation pursuant to  
17 this paragraph shall use the allocation for the purpose of qualified  
18 single-family bonds to be issued by the qualified nonprofit entity  
19 as a constituted authority of the State of Oklahoma and on behalf of  
20 and for the benefit of the State of Oklahoma for projects in  
21 counties with populations of fifty thousand (50,000) or less and  
22 multifamily bonds, if authorized by a resolution of the governing  
23 board of the political subdivision within which the project will be

1 located and mortgage credit certificates to be issued by the  
2 qualified nonprofit entity as a constituted authority of the State  
3 of Oklahoma on behalf of and for the benefit of the State of  
4 Oklahoma for projects in any county of this state.

5 K. The state ceiling for each calendar year shall be allocated  
6 within the categories set forth in subsections A, B, C, D, E, F and,  
7 G, H and I of this section to all private activity bonds, as  
8 follows:

9 1. Except as provided in Section 695.21 et seq. of this title,  
10 the state ceiling shall be allocated in the order in which  
11 confirmations are issued;

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

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

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

5 ~~F.~~ **L.** 1. On September 2 of each calendar year, nonallocated  
6 sums remaining in the Economic Development Pool, Qualified Small  
7 Issue Pool, the Beginning Agricultural Producer Pool, the Exempt  
8 Facility Pool, the Student Loan Pool, the Oklahoma Housing Finance  
9 Agency Pool, the State Issuer Pool ~~and,~~ the Local Issuer Single  
10 Family Pool and the Metropolitan Area Housing Pool shall be  
11 consolidated into the Consolidated Pool.

12 2. All local issuers and state issuers shall be entitled to  
13 obtain allocations from the Consolidated Pool for any private  
14 activity bond or mortgage credit certificate program based on the  
15 chronological order of completed applications received after January  
16 1 of each calendar year which applications have not received an  
17 allocation.

18 SECTION 3. AMENDATORY 62 O.S. 2001, Section 695.25, is  
19 amended to read as follows:

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

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

5           C. Allocations from the pools set forth in Section 695.24 of  
6 this title will be processed on the basis of the chronological order  
7 of receipt of completed applications for state ceiling allocation  
8 unless otherwise provided in said section, and on the basis of the  
9 information and provisions set forth in subsections D, E, F ~~and~~, G  
10 and H of this section. Allocations from the Consolidated Pool will  
11 be processed on the basis of the system set out in subsection ~~F~~ I of  
12 Section 695.24 of this title and on the basis of information and  
13 provisions set forth in subsections D, E, F ~~and~~, G and H of this  
14 section.

15           D. An issuer which proposes to issue private activity bonds for  
16 a specific project or purpose shall make application for an  
17 allocation of a portion of the state ceiling for the particular  
18 project or purpose by submitting to the State Bond Advisor an  
19 application for state ceiling allocation together with copies of the  
20 following:

21           1. A certified copy of the resolution or other action adopted  
22 by the issuer for the purpose of taking "official action" as  
23 required by the Treasury Regulations relating to Section 103 of the

1 Internal Revenue Code, if the issuer of private activity bonds for  
2 which the allocation is requested requires "official action" under  
3 applicable Treasury Regulations and the Internal Revenue Code; and

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

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

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

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

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

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

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

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

20           2. Applications for qualified student loan bonds shall also  
21 include the submission of information showing a reasonable  
22 expectation to use the state ceiling for its intended purpose. This  
23 information shall include historical lending activity over the

1 previous twenty-four-month period as well as a demonstration of need  
2 based upon such factors as increased enrollment costs, enrollment  
3 increases, or new federal regulations that act to increase demand by  
4 making changes to eligibility requirements to certain federally  
5 guaranteed or subsidized student loan programs. This information  
6 may also include demand surveys. Provided, in cases where  
7 historical usage cannot be documented, demand surveys shall be  
8 included with an application.

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

15 G. 1. Upon receipt of the completed application for state  
16 ceiling allocation, copies of the official action and final  
17 resolutions or certificates as required by subsection D of this  
18 section and the information required by subsections E and F of this  
19 section and assuming availability of the sum requested and  
20 compliance with the Oklahoma Private Activity Bond Allocation Act,  
21 the State Bond Advisor shall send, within five (5) business days of  
22 the receipt thereof, a confirmation of the allocation of the state  
23 ceiling for the subject project or purpose to the person designated

1 in the application for state ceiling allocation. Provided, the  
2 State Bond Advisor may reject an application or deny a confirmation  
3 pursuant to the provisions of this subsection.

4 2. The State Bond Advisor may reject any application which is  
5 incomplete or filed with insufficient information. The State Bond  
6 Advisor may reject any application where, in the State Bond  
7 Advisor's judgment, a reasonable likelihood has not been shown that  
8 single-family mortgage and student loan bond proceeds or mortgage  
9 credit certificates will be used for their intended public purposes.  
10 In the event an application or confirmation is denied, within five  
11 (5) business days following such denial, the State Bond Advisor  
12 shall send the applicant written notice of the denial of an  
13 application or confirmation together with the reason or reasons  
14 therefor. In the case of disapprovals of applications or  
15 confirmations, an applicant may appeal the disapproval by submitting  
16 a new application to the ~~Executive and Legislative~~ Council of Bond  
17 ~~Oversight Commissions~~, along with an explanation addressing the  
18 reasons for disapproval cited in the State Bond Advisor's letter.  
19 The Council of Bond Oversight Commissions, through affirmative  
20 action of ~~both Commissions~~ the Council, may accept an application  
21 rejected by the State Bond Advisor, or order the State Bond Advisor  
22 to issue a confirmation of allocation, subject to provisions of the  
23 Oklahoma Private Activity Bond Allocation Act. Applicants may

1 submit only one new application based on an appeal of any specific  
2 application previously submitted.

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

8 H. An original confirmation shall cease to be effective to  
9 assure allocation of any portion of the state ceiling unless the  
10 bonds, notes, other evidences of indebtedness, or the appropriate  
11 election filed with the Internal Revenue Service exchanging mortgage  
12 bond authority for mortgage credit certificate authority have been  
13 issued or filed within one hundred twenty (120) days after the date  
14 of such confirmation. No extensions shall be granted. Such  
15 issuance shall be evidenced by the mailing, transmittal or delivery  
16 of a final certification to the State Bond Advisor within the time  
17 specified by this subsection. Receipt by an issuer of a  
18 confirmation as contemplated by this section shall entitle the  
19 issuer to rely conclusively upon the accuracy of the State Bond  
20 Advisor's mathematical calculation and the allocation for purposes  
21 of closing.

22 I. The confirmation given in advance of bond issuance or  
23 mortgage credit certificate election will assure allocation for only

1 the amount of such bonds or mortgage credit certificate authority as  
2 is therein set forth, unless a supplementary application for state  
3 ceiling allocation for an increase in amount is filed with and a  
4 supplementary confirmation is issued by the State Bond Advisor for  
5 such requested allocation prior to such bond issuance or such  
6 election, pursuant to the Oklahoma Private Activity Bond Allocation  
7 Act. The supplementary confirmation shall be effective for the same  
8 period as the prior confirmation which it supplements. Provided,  
9 however, no supplementary confirmation shall be effective to preempt  
10 any intervening confirmation as to allocation of a portion of the  
11 state ceiling.

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

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

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

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

- 17 1. Private activity bonds have been issued or state ceiling  
18 exchanged for mortgage credit certificate authority and final  
19 certifications have been received by the State Bond Advisor;
- 20 2. Confirmations of carryforward have been issued; and
- 21 3. Confirmations in effect and outstanding for which no private  
22 activity bonds or mortgage credit certificate elections have been  
23 issued or filed.

1 The State Bond Advisor shall keep continuous and cumulative records  
2 and totals for each of the categories specified in paragraphs 1, 2  
3 and 3 of this subsection as well as the aggregate total of all  
4 categories. The State Bond Advisor shall not give further  
5 confirmations at such time as the aggregate amount of bonds, other  
6 indebtedness, carryforward or mortgage credit certificate elections  
7 specified by paragraphs 1, 2 and 3 of this subsection equals the  
8 state ceiling authorized for the applicable year. The State Bond  
9 Advisor shall not award a confirmation if such award would cause  
10 indebtedness, carryforward or elections as specified by paragraphs  
11 1, 2 and 3 of this subsection to exceed the state ceiling.  
12 Confirmation records shall be compiled and furnished to any local  
13 issuer and state issuer upon written request and payment of a fee of  
14 Fifteen Dollars (\$15.00) which shall be apportioned to the General  
15 Revenue Fund. Upon issuance of a confirmation, the amounts of the  
16 proposed bond issue, mortgage credit certificate election and  
17 carryforward confirmation shall be included in the continuing,  
18 mathematical calculation, until the same shall have been terminated  
19 in accordance with this section.

20 M. The person signing any confirmation for any allocations  
21 granted pursuant to the Oklahoma Private Activity Bond Allocation  
22 Act shall certify under penalty of perjury that such allocation was

1 not made in consideration of any bribe, gift, gratuity or direct or  
2 indirect contribution to any political campaign.

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

9 SECTION 4. This act shall become effective January 1, 2005.

10 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-30-04 - DO PASS,  
11 As Amended.