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House: COM DP 7-3-0-0

SB 1718: private activity bonding

Sponsor: Senator Kaiser, LD 2

Caucus & COW

Overview

Makes changes to requirements and allocation percentages of the state ceiling for private activity bonds.

History

The [Internal Revenue Code](#) (IRC) permits certain bonds to be issued as a tax-exempt bond if the bond meets the federal requirements as a qualified private activity bond. States are limited to a maximum amount of qualified private activity bonds that can be issued on an annual basis which is based on the state's population. The amount allocated to a state is called the *state ceiling*. The amount of the state ceiling is then allocated among the issuing authorities within a state, which is referred to as the issuing authority's volume cap.

The Arizona Finance Authority (AFA) is charged with allocating the state ceiling for private activity bonds. The AFA must issue state ceiling confirmations on a first-come first-served basis within enumerated project categories in accordance with set allocation percentages. The allocation percentages of the state ceiling are set at:

- 1) 30% to projects that are designated at the sole discretion of the AFA Director;
- 2) 35% to qualified mortgage revenue bonds and qualified mortgage credit certificate programs, excluding such bonds and programs for home improvement and rehabilitation;
- 3) 15% to qualified residential rental projects as described in the IRC;
- 4) 5% to qualified student loan projects;
- 5) 5% to manufacturing projects; and
- 6) 10% to all other financeable projects that are not described or provided for in the previous allocations ([A.R.S. § 35-902](#)).

According to the AFA, the 2023 Volume Cap is \$883,103,640, as divided into the allocation categories:

- 1) 30% - \$264,931,092 - Director's Discretion;
- 2) 35% - \$309,086,274 - Mortgage Revenue Bonds and Mortgage Credit Certificates;
- 3) 15% - \$132,465,546 - Residential Rental;
- 4) 5% - \$ 44,155,182 - Student Loan Projects;
- 5) 5% - \$ 44,155,182 - Manufacturing Projects; and
- 6) 10% - \$ 88,310,364 - Other.

[\(AFA Private Activity Bond Volume Cap\)](#)

Provisions

1. Modifies the allocation of the state ceiling for private activity bonds as follows:
 - a) decreases, from 30% to 20%, to projects designated at the sole discretion of the Director (Director) of AFA;

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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- b) decreases, from 35% to 30%, to qualified mortgage revenue bonds and qualified mortgage credit certificate programs, excluding bonds and programs for home improvement and rehabilitation;
 - c) increases, from 15% to 40%, to qualified residential rental projects;
 - d) maintains the 5% to manufacturing projects; and
 - e) decreases, from 10% to 5%, to qualified student loan projects and other financeable projects that are not described or provided for in the previous allocations. (Sec. 1)
2. Adds that state ceiling confirmation requests are subject to the requirement to have all received requests dated and numbered by lot for determining issuance order in the event of an oversubscription. (Sec. 1)
 3. Clarifies that the allocation to qualified residential rental projects are projects that meet the median gross income requirement as described in the IRC. (Sec. 1)
 4. Excludes qualified residential rental projects confirmation requests from the requirement that the confirmation expires if not issued by 5 P.M. on March 31. (Sec. 1)
 5. Eliminates the prohibition for a bond issuer to transfer or assign its rights to an allocation of the state ceiling from one project to another or from itself to another issuer. (Sec. 1)
 6. Stipulates that, beginning on the effective date of this Act until August 31, 2030, annually from March 31 through August 31:
 - a) 70% of the remaining state ceiling is allocated to qualified mortgages revenue bonds, qualified mortgage credit certificate programs and qualified residential rental projects; and
 - b) a confirmation cannot be allocated to qualified mortgage revenue bonds or qualified mortgage credit certificate programs that exceeds \$35,000,000. (Sec.1)
 7. Clarifies that a confirmation request is deemed to be filed with the AFA at 5 P.M. on the *business* day the request is actually received at the AFA, *whether by mail or email*. (Sec. 2)
 8. Requires the Director to issue, rather than *attempt to* issue, confirmations within three business days after receipt. (Sec. 2)
 9. Prohibits a state ceiling confirmation for an allocation to a project in an amount greater than \$35,000,000, unless otherwise provided, before August 31, rather than before December 17. (Sec. 3)
 10. Clarifies the notice of intent regarding obtaining and issuing a confirmation after 5 P.M. December 16 must be *dated, numbered and received* before 5 P.M. on December 15. (Sec. 4)
 11. Adds that any portions of the state ceiling for which bonds have not been *carried forward* must be allocated by the Director. (Sec. 4)
 12. Permits an issuer, on written notice to the AFA, to reallocate all or a portion of any carryforward allocation within the same carryforward purpose. (Sec. 4)
 13. Requires a reallocation to be consistent with state and federal law. (Sec. 4)
 14. Specifies that a reallocation does not increase the aggregate amount of the original carryforward allocation to which the reallocation relates or extend the term of the original carryforward allocation during which the bond must be issued. (Sec. 4)
 15. Asserts the reallocation of carryforward allocation by an issuer will not result in a refund of any security deposit previously received by the AFA on account of the original carryforward allocation. (Sec. 4)
 16. Makes technical changes. (Sec. 1-4)