



Ohio Administrative Code

Rule 122-4-02 Allocations of state ceiling to restricted bonds.

Effective: July 23, 2020

(A) Set-asides. The state ceiling is initially allocated as follows:

(a) For any year during which the Ohio housing finance agency may issue qualified mortgage bonds under section 143 of the Internal Revenue Code pursuant to that code and laws of the state in effect on the first day of such section, the lesser of three hundred million dollars or forty percent of the state ceiling is allocated to the Ohio housing finance agency for the issuance of bonds to provide additional moneys for acquisition of mortgage loans for single family residential housing under Chapter 175. of the Revised Code or for mortgage credit certificates to be issued in lieu of such bonds under section 25 of the Internal Revenue Code. The Ohio housing finance agency may, by writing signed by its chairman or executive director and delivered to the director, release, at one or more times, an amount of the allocation made by this paragraph, which amount shall be added to the allocation made to the director pursuant to paragraph (A)(6) of this rule.

(b) At the end of any year, the remaining portion, determined as set forth in the next following sentence, of the state ceiling set-aside by paragraph (A)(1)(a) of this rule which was not released as provided in paragraph (A)(1)(a) of this rule and was not otherwise used by the Ohio housing finance agency in that year shall be available to the Ohio housing finance agency for its single family housing program through a carryforward election under section 146(f) of the Internal Revenue Code upon filing with the director of a notice of intent for carryforward by five p.m. on January twentieth of the next subsequent year pursuant to which the director shall issue a confirmation if and to the extent that, under the federal laws in effect at the time of issuing such confirmation, the Ohio housing finance agency may effectively use that portion of the state ceiling thereafter. For this purpose, the remaining portion of the set-aside not otherwise used during that year is the unreleased portion of that set-aside for which bonds were not issued or an election to convert was not made on or before the thirty-first day of December of such year (for which purpose section 1.14 of the Revised Code shall not apply). Any amount of such remaining set-aside for the year which the Ohio housing finance agency does not include in a notice of intent for carryforward filed with the director by five p.m. on January twentieth of the next subsequent year (or which, although included in such a notice of intent



for carryforward, may not effectively be used by the Ohio housing finance agency after December thirty-first of that year) is reallocated to the director for purposes of any other carryforwards under rule 122-4-05 of the Administrative Code.

(2) The lesser of one hundred twenty million dollars or fifteen percent of the state ceiling is allocated for the issuance of restricted bonds to provide multi-family rental housing projects that at all times during the qualified project period fifty percent or more of the residential units will be rent-restricted and occupied by individuals whose income is sixty percent or less of the area median gross income. For purposes of this paragraph, "qualified project period," "income of individuals" and "area median gross income" shall have the meaning ascribed to such terms in section 142 of the Internal Revenue Code, and "rent-restricted," and "occupied by" shall have the meaning ascribed to such terms in section 42 of the Internal Revenue Code.

(3) The lesser of one hundred million dollars or ten percent of the state ceiling is allocated for the issuance of restricted bonds for the issuance of qualified small issue bonds.

(4) The lesser of one hundred twenty million dollars or ten percent of the state ceiling is allocated for the issuance of student loan bonds.

(5) The lesser of one hundred million dollars or ten percent of the state ceiling is allocated for the issuance of exempt facility bonds.

(6) The amount of the state ceiling remaining after the allocations provided in paragraphs (A)(1) to (A)(5) of this rule is allocated to the director for the purpose of issuing confirmations for restricted bonds for any purpose or for the purpose of carryforwards under rule 122-4-05 of the Administrative Code. The director's issuance of confirmations for the issuance of restricted bonds pursuant to this paragraph shall be based upon the relative needs for the issuance of the types of restricted bonds and the interests of the state, taking into account the factors set forth in section 133.021 of the Revised Code, and may be based on notices of intent or requests for volume cap received at any time suitable to the director. The director's confirmations for the issuance of restricted bonds pursuant to this paragraph are not subject to review.

(B) Reallocations. Amounts of the allocations made in paragraphs (A)(2) to (A)(6) of this rule may



be transferred, and any amounts transferred to such allocations under this chapter may be retransferred, by the director, upon guidance from the select committee, from one category to any other category of allocation. Any transfer made under this paragraph shall: be evidenced by written order of the director, be based on the relative needs for allocations among the categories of allocations, give consideration to the factors set forth in section 133.021 of the Revised Code, and be made with the objective of maximizing utilization of the state ceiling. Such transfers are not subject to review.

(C) Reallocation upon year-end termination of set-asides and allocation. The amounts of all set-asides and allocations of the current year state ceiling under paragraphs (A)(2), (A)(3), (A)(4) and (A)(5) of this rule that have not been used under effective confirmations by the issuance of bonds prior to eleven fifty-nine p.m. on December thirty-first of each year (for which purpose section 1.14 of the Revised Code is not applicable) and the filing of a notice of issuance on or before five p.m. on January fifteenth of the next succeeding year, are reallocated to the director for the purpose of carryforwards under rule 122-4-05 of the Administrative Code.

(D) Confirmations necessary. Notwithstanding any of the foregoing provisions of this rule, restricted bonds shall have an allocation of the state ceiling only by the obtaining and maintaining of a confirmation pursuant to this chapter, provided that with respect to a confirmation from the set-asides of state ceiling provided in paragraphs (A)(1) and (A)(6) of this rule, there shall be no time limit (other than the issuance and filing dates referred to in or pursuant to paragraph (E) or (F) of rule 122-4-03 of the Administrative Code) for the issuance of the bonds pursuant to such confirmation or for the filing of a notice of issuance thereof in order to continue the effectiveness of a confirmation for such bonds, and paragraph (B) of rule 122-4-03 of the Administrative Code is not applicable to those bonds. (Any confirmation of a notice of intent filed by the Ohio housing finance agency pertaining to bonds which allocate state ceiling other than from the set-aside under paragraph (A)(1) of this rule shall be subject to all of the provisions of paragraphs (A) and (B) of rule 122-4-03 of the Administrative Code.) Confirmations will be issued only pursuant to a notice of intent received by the director before the issuance of the bonds (or before the election to issue mortgage credit certificates in lieu of bonds, other than an election made against an amount previously carried forward for bonds), and no confirmation will be issued solely upon a notice of issuance or after issuance of the bonds or after an election to issue mortgage credit certificates is filed with the internal revenue service.



(E) The amount of the set-aside provided in paragraphs (A)(2), (A)(3), and (A)(5) of this rule shall be further allocated to all issuers, whether at the state, district or local level, for the purpose of that set-aside pursuant to a selection, as follows:

(1) Notices of intent for the set-aside provided in paragraphs (A)(2), (A)(3) and (A)(5) of this rule for eligible projects shall be reviewed by the director and evaluated against project criteria established by the director for multi-family rental housing projects, qualified small issue projects, and exempt facility projects, respectively. The project criteria shall reflect those factors which, in the judgment of the director, are characteristic of eligible projects that serve the best interests of the state and enhance the economic welfare of the people of the state. Following receipt of a notice of intent, the director may request such additional information regarding such notice of intent as the director determines necessary or useful to evaluate the notice of intent against the applicable project criteria.

(2) Notices of intent for the set-aside provided in paragraphs (A)(2), (A)(3) and (A)(5) of this rule shall be filed with the director to be considered for confirmations to be issued by the director in such year and by such dates and pursuant to such processes as are deemed appropriate by the director. The amount of the set-aside provided in paragraphs (A)(2), (A)(3) and (A)(5) of this rule shall be available for allocation as the director determines.

(3) Confirmations for the set-asides of state ceiling provided in paragraphs (A)(2), (A)(3) and (A)(5) of this rule will be issued by the director on such dates in each year as are deemed appropriate by the director in the director's discretion in respect of notices of intent filed with the director as provided in paragraph (E)(2) of this rule. If the aggregate amount of requests for allocation of state ceiling from a particular set-aside provided in paragraph (A)(2), (A)(3) or (A)(5) of this rule is less than the amount of state ceiling then available for allocation from such set-aside, the director shall issue confirmations in respect of all such notices of intent filed with the director for allocations of state ceiling as requested. If the aggregate amount of requests for allocation of state ceiling from a particular set-aside provided in paragraph (A)(2), (A)(3) or (A)(5) of this rule is more than the amount of the state ceiling then available for allocation from such set-aside, the director shall evaluate each eligible project for which an allocation of state ceiling has been requested based on the applicable project criteria and issue confirmations according to the director's ranking of such eligible projects up to the amount of state ceiling then available for allocation from the particular set-aside.



Any amounts of the set asides in paragraph (A)(2), (A)(3) or (A)(5) of this rule, respectively, for which the director has not issued a confirmation on or before the last business day of July each year will be added automatically to the allocation made to the director pursuant to paragraph (A)(6) of this rule.

(4) Any notice of intent for the set-aside provided in paragraphs (A)(2), (A)(3) and (A)(5) of this rule for which a confirmation is not issued by the director shall be held by the director for reconsideration, if the director receives a written request for reconsideration.

(5) To the extent that the amount of any confirmation provided pursuant to paragraph (E) of this rule, in whole or in part, expires or otherwise ceases to be effective, the amount of such confirmation shall be added automatically at the time the confirmation expires or otherwise ceases to be effective to the allocation made to the director pursuant to paragraph (A)(6) of this rule.

(F) Confirmations for student loan bonds. The amount of the set-aside provided in paragraph (A)(4) of this rule shall be allocated to all state issuers on a first come, first served basis pursuant to, and in the order and amounts of, the filing of notices of intent in the applicable year pertinent to that set-aside.

(G) Limitations on confirmations.

(1) The maximum confirmation the director may issue for a notice of intent filed pursuant to paragraphs (A)(3) and (A)(5) of this rule is the maximum amount permitted by applicable federal law for a qualified small issue bond or exempt facility bond.

(2) The director shall not issue a confirmation for a notice of intent filed pursuant to paragraph (A)(2) of this rule for any project that is part of, or otherwise related to, a project for which a previous confirmation has been issued for a notice of intent filed pursuant to paragraph (E) of this rule in the same year; provided, however, this paragraph will not apply to any project that experienced substantial increases in project costs and requires additional allocations of state ceiling to preserve an allocation of low income housing tax credits, as determined by the director in the director's sole discretion.



(3) All confirmations issued for the set-asides of state ceiling provided in paragraphs (A)(1), (A)(2), (A)(3), (A)(4), (A)(5) and (A)(6) of this rule will expire on December thirty-first of that calendar year, subject, however, to the issuance of carryforward confirmations as set forth in rule 122-4-05 of the Administrative Code.