



## Ohio Administrative Code Rule 122-4-06 Administrative.

Effective: July 23, 2020

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(A) Evidence of filing. The director shall note on all notices of intent and notices of issuance the date of receipt by the director's office, and such noted date shall be conclusive evidence of the date such notices are received by the director's office.

(B) Record of confirmations. The director shall maintain continuous and cumulative records of the amounts of restricted bonds as to which confirmations have been given and notices of issuance received under this chapter. Confirmations under this chapter shall be dated and numbered by the director.

(C) Form and manner. Notices of intent, confirmations, notices of issuance, receipts, questionnaires, and certifications shall be made and given in the form and manner prescribed by the director, which shall be devised so as to discourage notices of intent which are premature or excessive. Notices of intent shall be accompanied by such additional items and information as the director may from time to time require by instructions or otherwise. The director may from time to time alter the forms and change the requirements for accompanying material or vary them for different types of bonds as he deems appropriate in the circumstances. Confirmations may be issued of shorter duration than provided in rule 122-4-03 of the Administrative Code if, and during such periods as is advisable, in the judgment of the director upon guidance from the select committee, confirmation of a shorter duration would enhance maximum utilization of the state ceiling. The director may do all other things necessary or desirable to carry out the purposes of this chapter and of section 133.021 of the Revised Code, including such alterations of the system provided under this chapter as may be necessary to conform the system to any requirements under the Internal Revenue Code in order to constitute an effective alternative formula of the state for allocating and assigning the state ceiling. The director may provide for the issuance of receipts and for certifications regarding the aggregate amounts of effective confirmations on restricted bonds and any other certifications as may be appropriate under the Internal Revenue Code. The director shall interpret this chapter in such manner as to effectuate the purposes of section 133.021 of the Revised Code. Because of the need for certainty at all times in all matters of allocations made of the state ceiling to particular issues of



bonds, all determinations by the director under this chapter (including the issuance, deferral or denial of confirmations) shall be final and are not subject to appeal. None of the determinations by the director under this chapter involves an adjudication order within the meaning of section 119.06 of the Revised Code.

(D) Fees.

(1) No fee will be required to be paid by the Ohio housing finance agency in connection with an allocation of the set-aside described in paragraphs (A)(1) and (A)(2) of rule 122-4-02 of the Administrative Code. A notice of intent filed for an allocation from the set-asides described in paragraphs (A)(2), (A)(3), (A)(4) and (A)(5) of rule 122-4-02 of the Administrative Code will not be deemed to be filed until and unless a fee in an amount equal to the lesser of three-quarters of one per cent of the amount requested in the notice of intent or one hundred fifty thousand dollars, plus one thousand dollars is received by the director with respect to that notice of intent. The amount of the fee equal to the lesser of three-quarters of one per cent of the amount requested in the notice of intent or one hundred fifty thousand dollars will be refunded within thirty days after the earlier of (a) the determination that a confirmation will not be issued pursuant to paragraph (E)(3) of rule 122-4-02 of the Administrative Code for the notice of intent and provided that no request for reconsideration is submitted as provided in paragraph (E)(4) of rule 122-4-02 of the Administrative Code, or (b) (i) a notice of issuance for an effective confirmation is received by the director or (ii) in connection with an issuance of escrow bonds, a notice of escrow release is received by the director. If a request for reconsideration of a notice of intent is submitted to the director as provided in paragraph (E)(4) of rule 122-4-02 of the Administrative Code, the amount of the fee equal to the lesser of three-quarters of one per cent of the amount requested in the notice of intent or one hundred fifty thousand dollars will be refunded within thirty days after the earlier of the determination that a confirmation will not be issued pursuant to paragraph (E)(3) of rule 122-4-02 of the Administrative Code following reconsideration of the notice of intent in subsequent round of allocations for the set-aside provided in paragraphs (A)(2), (A)(3) and (A)(5) of rule 122-4-02 of the Administrative Code; or a notice of issuance for an effective confirmation is received by the director or in connection with an issuance of escrow bonds, a notice of escrow release is received by the director. The amount of the fee equal to one thousand dollars will not be refunded under any circumstances.

(2) A notice of intent filed for an allocation from the set-asides described in paragraph (A)(6) of rule



122-4-02 of the Administrative Code will not be deemed to be filed until and unless a fee in a amount equal to the lesser of three-quarters of one per cent of the amount requested in the notice of intent or one hundred fifty thousand dollars, plus a filing fee not to exceed one thousand dollars is received by the director with respect to that notice of intent. The amount of the fee equal to the lesser of three-quarters of one per cent of the amount requested in the notice of intent or one hundred fifty thousand dollars will be refunded within thirty days after the earlier of (a) the determination that a confirmation will not be issued pursuant to paragraph (A)(6) of rule 122-4-02 of the Administrative Code for the notice of intent, or (b) (i) a notice of issuance for an effective confirmation received by the director or (ii) in connection with an issuance of escrow bonds, a notice of escrow release is received by the director. The amount of fee equal to one thousand dollars will not be refunded under any circumstance. Notwithstanding the foregoing, the Ohio housing finance agency will not be required to pay the fees contemplated by this paragraph.

(3) If a confirmation is issued pursuant to paragraph (D) or (E) of rule 122-4-02 of the Administrative Code for only a portion of the amount requested in a notice of intent, the borrower of the proceeds of the related bonds may elect within ten days after the confirmation is issued to:

(a) Decline to accept the confirmation and the amount of the fee equal to the lesser of three-quarters of one per cent of the amount requested in the notice of intent or one hundred fifty thousand dollars will be refunded within thirty days after a written election is filed with the director, or

(b) Accept the confirmation and an amount equal to the difference between (x) the lesser of three-quarters of one per cent of the amount requested in the notice of intent or one hundred fifty thousand dollars, whichever was paid, and (y) the lesser of three quarters of one per cent of the amount for which the confirmation is issued or one hundred fifty thousand dollars, will be refunded after a written election is filed with the director. If the confirmation is accepted pursuant to this paragraph, the fees related to that confirmation will be governed by paragraphs (D)(1) to (D)(2) of this rule.

(c) The amount of the fee equal to one thousand dollars required by paragraphs (D)(1) and (D)(2) of this rule will not be refunded regardless of the borrowers' election under paragraph (D)(3)(a) or (D)(3)(b) of this rule.

(4) A request for an extension of a confirmation pursuant to paragraph (C) of rule 122-4-03 of the



Administrative Code will not be deemed filed until and unless an additional fee in an amount equal to the lesser of three-quarters of one per cent of the amount requested in the original confirmation or one hundred fifty thousand dollars is received by the director, except that such fee will not be required of the Ohio housing finance agency. The fee required by this paragraph will be refunded within thirty days after a notice of issuance of an effective confirmation is received.

(5) Except as provided in paragraphs (D)(1) to (D)(4) of this rule, refunds of fees received by the director in connection with allocations from the set-asides described in paragraphs (A)(2), (A)(3), (A)(4) (A)(5) and (A)(6) of rule 122-4-02 of the Administrative Code will be made in the director's discretion.

(6) Fees required by paragraphs (D)(1), (D)(2), and (D)(4) of this rule, or by paragraph (A)(3) of rule 122-4-05 of the Administrative Code may be paid in the form of a check, draft, money order, or the like, payable to "Treasurer of State of Ohio" followed by the name of the individual then holding the office of Ohio treasurer. If such payment is not good, the filing with respect to which the fee pertains will be deemed not to be made and any confirmation issued pursuant to the notice of intent will be void unless the director otherwise determines in writing upon receiving good payment of the fee. Fees refunded pursuant to this rule shall be only for the amount of the fee required. No interest, investment earnings or investment loss shall be attributable to such fees.

(7) No fees required by paragraph (D) of this rule will be applicable to the Ohio housing finance agency in connection with an allocation of the set-aside described in paragraphs (A)(1) and (A)(2) of rule 122-4-02 of the Administrative Code or in connection with a carryforward confirmation under rule 122-4-05 of the Administrative Code.