

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.
Act 141 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 1416

5 By: Representative Maloch
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS
10 DEVELOPMENT FINANCE AUTHORITY ACT TO CONFORM THE
11 PRIVATE ACTIVITY BOND VOLUME CAP CARRY FORWARD
12 PROVISIONS TO REQUIREMENTS OF THE FEDERAL TAX
13 CODE; TO CLARIFY OTHER MATTERS PERTAINING TO
14 PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION; AND
15 FOR OTHER PURPOSES.
16

Subtitle

17 TO AMEND ARKANSAS CODE §§ 15-5-604 AND
18 15-5-606 CONCERNING ALLOCATION OF THE
19 PRIVATE ACTIVITY BOND VOLUME CAP.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 15-5-604 is amended to read as follows:
26 15-5-604. Filing by issuer of reservation of volume cap and notice of
27 issuance of bonds.

28 (a) In order to reserve an allocation of the state ceiling to an issue
29 of affected bonds prior to the issuance by delivery and payment of those
30 bonds, a reservation filing by or on behalf of the issuer must be made with
31 the President of the Arkansas Development Finance Authority not more than
32 sixty (60) days prior to the projected issuance date of the affected bonds.
33 Each reservation filing shall be assigned a priority number in accordance
34 with § 15-5-607.

35 (b) (1) ~~In order for a reservation of a portion of the state ceiling~~



1 ~~to be effective to allocate volume cap to the bonds, the bonds shall be~~
 2 ~~issued by delivery and payment, and a notice of the issuance of the bonds~~
 3 ~~shall be filed with the president within sixty (60) days after the date of~~
 4 ~~the reservation filing unless:~~ Once accepted as a reservation of volume cap
 5 by the president pursuant to the rules and regulations of the Arkansas
 6 Development Finance Authority, a reservation filing shall be effective to
 7 allocate state volume cap for purposes of compliance with federal tax law,
 8 subject only to the timely issuance of the affected bonds.

9 (2) The bonds shall be issued by delivery and payment within
 10 sixty (60) days after the date that the reservation filing is accepted as
 11 effective to allocate volume cap, unless:

12 ~~(1)(A)~~ The deadline is extended pursuant to § 15-5-604(d)
 13 15-5-604(e); or

14 ~~(2)(B)~~ If the The reservation is filed accepted as
 15 effective to allocate volume cap on or after November 1, by December 31 of
 16 the applicable calendar year; or

17 (C) The issuer is granted permission by the president to
 18 carry forward the allocation pursuant to § 15-5-606.

19 (c) The issuance of the affected bonds shall be evidenced by the
 20 filing of a notice of issuance with the president. However, the failure to
 21 file such notice of issuance shall not affect the allocation of volume cap to
 22 bonds that have been otherwise timely issued pursuant to subsection (b) of
 23 this section.

24 ~~(e)(1)(d)(1)~~ For reservation filings received by the president prior
 25 to September 1 of each calendar year, volume cap shall be reserved and
 26 allocated based on the priority number assigned in accordance with subsection
 27 (a) of this section.

28 (2) For reservation filings made on or after September 1 of each
 29 calendar year, or for reservation filings made once a volume cap shortage has
 30 been declared in accordance with the rules and regulations of the authority,
 31 volume cap shall be reserved and allocated in accordance with the rules and
 32 regulations of the authority.

33 (3) The authority shall promulgate rules and regulations to
 34 provide for the declaring of a volume cap shortage and to reserve and
 35 allocate volume cap in cases of a shortage declaration in accordance with the
 36 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

1 ~~(d)(1)(e)(1)~~ In the event that a ~~reservation filing so made an~~
 2 allocation expires by reason of failure to issue the bonds ~~or to give the~~
 3 ~~required notice~~ within the applicable period stated in subsection (b) of this
 4 section, a new filing shall be made which shall be accorded priority in
 5 accordance with its new time of filing.

6 (2)(A) The president may extend the applicable period for
 7 issuing the bonds by up to sixty (60) days in accordance with the rules and
 8 regulations promulgated by the authority.

9 (B) The rules and regulations may provide for the payment
 10 by the issuer of an additional a fee by the issuer to extend the issuance
 11 period and may provide for the filing of an explanatory statement as to the
 12 reasons the bonds were not issued during the original applicable period.

13 (C) The authority shall promulgate rules and regulations
 14 to provide for extending the applicable period for issuing the bonds in
 15 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
 16 seq.

17
 18 SECTION 2. Arkansas Code § 15-5-606 is amended to read as follows:
 19 15-5-606. Balance of state ceiling - Carryforwards.

20 ~~(a)(1)(A) If the aggregate number of all effective filings with the~~
 21 ~~President of the Arkansas Development Finance Authority does not exhaust the~~
 22 ~~state ceiling for any calendar year, the balance of the state ceiling may be~~
 23 ~~carried forward for one (1) or more carryforward purposes if any issuer makes~~
 24 ~~an irrevocable election identifying carryforward purposes and the balance to~~
 25 ~~be used for each carryforward purpose by filing an election with the~~
 26 ~~president on December 31 of that year. Volume cap that has not been~~
 27 allocated by the end of the calendar year may be allocated by the President
 28 of the Arkansas Development Finance Authority for one (1) or more
 29 carryforward purposes, and the issuer receiving such allocation shall carry
 30 forward the allocation of volume cap in the manner described in subdivision
 31 (a)(2) of this section.

32 (B)(i) Volume cap that has been an allocated prior to the
 33 end of the calendar year to another issuer by the Arkansas Development
 34 Finance Authority but as to which no bonds have been issued may only be
 35 carried forward upon the approval of the president.

36 (ii) The issuer seeking to carry forward an

1 allocated volume cap must request the written permission of the president.

2 (iii) The president may require the issuer to submit
 3 such information as he or she deems necessary to determine if approval of the
 4 request should be granted.

5 (iv) If the president approves the carryforward
 6 request, permission to carry forward the volume cap shall be evidenced by a
 7 letter from the president, and the issuer shall carry forward the volume cap
 8 in the manner described in subdivision (a)(2) of this section.

9 (v) If the president does not approve the
 10 carryforward request, the allocation shall be deemed to have expired as of
 11 the end of the calendar year, and the volume cap related to the expired
 12 allocation may be allocated by the president as set forth in subdivision
 13 (a)(1)(A) of this section.

14 (2)(A) In order to carry forward volume cap allocated pursuant
 15 to subdivision (a)(1)(A) or subdivision (a)(1)(B) of this section, the
 16 issuer, whether such issuer is the Arkansas Development Finance Authority or
 17 another issuer, must make a valid carryforward election statement under the
 18 provisions of federal tax law.

19 (B) The carryforward election statement must set forth the
 20 information required and must be filed at the place, in the manner, and by
 21 the date required for timely filing of a carryforward election statement
 22 under federal tax law as set forth in any federal statute, or in any
 23 regulation or published notice or ruling of the Internal Revenue Service.

24 ~~(2)(3) However, no such filing shall be effective unless~~
 25 ~~approved by the president~~ A copy of any federal carryforward election
 26 statement shall be filed with the president at the same time it is filed with
 27 the Internal Revenue Service.

28 (b) Carryforwards elected with respect to any purpose shall be used in
 29 order of the calendar years in which they arose. Carryforward purposes shall
 30 be those permitted by section 146(f)(5) of the Internal Revenue Code of 1986.

31 (c)(1) Carryforwards previously elected with respect to any purpose
 32 pursuant to the provisions of Section 4 of the Proclamation of the Governor
 33 dated November 30, 1986, for the calendar year ending December 31, 1986, are
 34 ratified and confirmed.

35 (2) Carryforwards ~~previously~~
 36 elected prior to January 2, 2007, with respect to any purpose pursuant to the

1 provisions of the law ~~prior to January 2, 2001~~, then in effect are ratified
2 and confirmed

APPROVED: 2/21/2007