



## TAX-EXEMPT INDUSTRIAL DEVELOPMENT BONDS



The State of West Virginia has available each calendar year the authority to issue tax-exempt Industrial Development Bonds up to the maximum established by Section 146(d) of the United States Internal Revenue Code (currently \$335,115,000, called the "statewide cap").

Under the provisions of the West Virginia Code, Section 21, Article 2C, Chapter 13, \$134,046,000 of the "statewide cap" is made available to the West Virginia Housing Development Fund for the purpose of issuing qualified mortgage bonds, mortgage certificates, or bonds for qualified residential rental projects.

The remainder of the "statewide cap" is allocated under the provisions of the statute as follows:

- 35% for nonexempt (small-issue) projects
- 10% for projects in Empowerment Zones and Enterprise Communities, that are a special class of exempt facilities
- 55% for exempt facility projects

The terms "exempt facility" and "small-issue" are fully defined in the United States Internal Revenue Code. Requests for allocation may not be received earlier than the first business day of any year. Any requests for bond allocation for "small-issue" projects must be received by November 1 of any year. After November 15, any remaining "small-issue" bonding authority will be allocated to any qualifying project that wants to apply, without regard to the project's classification as outlined above.

Any community wishing to endorse any business for issuance of tax-exempt bonding must first have passed by the appropriate local governmental unit, usually a county

commission, an Inducement Resolution, setting forth the community's intention to allow issuance of tax-exempt bonds in its name, as well as the purpose and size of such an issue. The project's sponsors must then file with the West Virginia Economic Development Authority (WVEDA) an application for allocation from the statewide cap with the appropriate disclosures as requested in that application and a copy of the Inducement Resolution properly executed by the appropriate official, usually the county clerk. The Cap Allocation Form must be submitted to the WVEDA by the fifth of each month for consideration at its monthly Board meeting.

The WVEDA Board meets periodically to review all applications received and to determine how much, if any, of the "statewide cap" to allocate to projects which have applied. The WVEDA makes its determination based upon an evaluation of the general economic benefit to be derived from the project, as well as any other criteria the Board may establish by rule or policy.

Allocations from the "statewide cap" for "small-issue" projects and traditional "exempt facility" projects must be closed within one hundred twenty (120) days from the date of approval by the Board (or December 31, if sooner). If the bond closing cannot occur within 120 days, the allocation for that project reverts to the "statewide cap" for application to another project.

However, Empowerment Zone/Enterprise Community projects, or projects for the production of energy depending in whole or in part on coal waste as fuel, will retain their authority to issue bonds until October 1 of the year in which the designation was made.

For additional information, please contact:

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