

SUMMARY OF THE FLORIDA PRIVATE ACTIVITY BOND ALLOCATION ACT
Chapter 159, Part VI, Florida Statutes

(Administered by the Division of Bond Finance of the State Board of Administration)

January 1 - The federally imposed State volume limitation is \$85.00* per capita for each calendar year for those Private Activity Bonds which require an allocation (see Exhibit A).

If tax-exempt Private Activity Bonds for manufacturing facilities are allowed under the Internal Revenue Code on January 1, the first \$97.5 million (for calendar 2008) of the State volume limitation is allocated to the Manufacturing Facility Bond Pool for use statewide by manufacturing projects. The first 75% of this pool is available on a first-come, first-served basis. The Governor's Office of Tourism, Trade and Economic Development and the Department of Community Affairs will decide which allocation requests will receive allocation from the remaining 25% of the pool. Fifteen percent of the Manufacturing Facility Bond Pool is reserved until July 1 for use by certain small counties as described in Section 159.8081(2)(b), Florida Statutes.

50% of the remaining State volume limitation is divided among 17 geographical Regional Pools (10 multi-county, 7 single county) on a per capita basis and is available on a first-come, first-served basis to any agency within each region that issues Private Activity Bonds.

25% of the remaining State volume limitation is allocated to the Florida Housing Finance Corporation (FHFC) to be used by it or its assigns for multi-family and single family housing bonds.

20% of the remaining State volume limitation is allocated to the Florida First Business Allocation Pool to provide written confirmation for private activity bonds to finance Florida First Business projects certified by the Governor's Office of Tourism, Trade and Economic Development as eligible to receive a written confirmation (application for allocation from this pool will not be considered without such a certification). Projects which meet the criteria set forth in Section 288.106(3)(b), Florida Statutes, for qualified target industry businesses or which provide substantial economic benefit to the State may be certified by the Governor's Office of Tourism, Trade and Economic Development as Florida First Business projects.

5% of the remaining State volume limitation is held in the State Pool until May 1, during which time applications are accepted for funding "Priority Projects" (solid waste disposal and sewage facilities, certain water facilities, and projects located within an enterprise zone). Priority projects don't have access to the regional pools if there is allocation remaining in the state pool or the Florida First Business pool. The State Pool is also available at any time for (1) Private Activity Bonds issued by State agencies (except the FHFC, until it and/or its assigns, if any, have issued bonds utilizing its initial 25% apportionment) and (2) bonds requiring an allocation pursuant to Section 146(m) of the Internal Revenue Code (for the "non-governmental" portion of otherwise "governmental" bonds).

May 1 - Priority Project applications requesting an allocation from the State Pool are due. The applications are reviewed by the Division of Bond Finance and:

(A) all requests are granted an allocation, assuming the aggregate amount applied for is equal to or less than the amount of volume limitation available in the State Pool; or

(B) all requests are sent to the Governor's Office for a decision as to which projects are granted an allocation, assuming the aggregate amount of volume cap requested is greater than the amount available in the State Pool.

June 1 - The Governor's Office notifies the Division of Bond Finance which projects are to receive an allocation of volume cap from the State Pool. Any allocation remaining in the State Pool is transferred to the Florida First Business Allocation Pool.

July 1 - The Regional Pools are dissolved. Any unallocated volume cap from the regional pools is transferred to the Florida First Business Allocation Pool and becomes available to grant allocations of volume cap to Florida First Business projects. Any amounts remaining in the FHFC Pool for which an issuance report or notice of intent to issue bonds has not been received also revert to the Florida First Business Allocation Pool.

* Periodically indexed for inflation.

- July 2 and thereafter - Volume cap which originally came from any Regional Pool or from the FHFC Pool which expires or is relinquished by the agency to which it was granted reverts to the State Pool.
- October 1 Any carryforward eligible (under the Code) project with Florida First Business allocation which has not issued bonds will lose its allocation unless it has been certified as being eligible for carryforward by the Governor's Office of Tourism, Trade and Economic Development.
- November 16 - Any unallocated or unused volume cap remaining in the Manufacturing Facility Bond Pool and the Florida First Business Allocation Pool reverts to the State Pool and becomes available to grant allocations of volume cap on a statewide, first-come, first-served basis.
- December 29 - All unused (i.e. bonds not issued using volume cap) allocation reverts to the State Pool and is reallocated on a first-come, first-served basis to "carryforward" projects as defined by the Internal Revenue Code (mass commuting facilities, facilities for the furnishing of water, sewerage facilities, solid waste disposal facilities, multi-family housing projects, local electric or gas generating facilities, local district heating or cooling facilities, hazardous waste facilities, high speed rail facilities, single family housing bonds, student loan bonds and redevelopment bonds). Under federal law, this allocation may then be used to issue bonds anytime during the next three years.
- December 31 - Under federal law, all State volume cap which has not been used to either issue bonds or fund carryforward requests lapses. Agencies on the waiting list that did not receive an allocation must re-apply for an allocation after the beginning of the new year.

NOTES

1. The first-come, first-served system is based on a twenty-four hour period from noon on one business day to noon the next business day. All applications received by the Division of Bond Finance during each period are considered together; if there is not enough allocation available from the appropriate pool(s) to fund all requests, a random drawing is held to determine who gets the allocation that is available. Unfilled applications are placed on a waiting list in case allocation becomes available at a later date. If, on any day, applications for allocation from the Florida First Business Allocation Pool are received in an amount greater than that which is available, the Division of Bond Finance will forward such applications to the Governor's Office of Tourism, Trade and Economic Development which will decide in what order the applications are processed. When no volume limitation is available from the Florida First Business Allocation Pool, allocations will also be granted to Florida First Business projects from the respective regional pools or the State Pool, if available.
2. Applications are not accepted by the Division of Bond Finance unless the "TEFRA" approval required by section 147(f) of the Internal Revenue Code has been obtained for the project (there is a space for the inclusion of the date of such approval on the application form). The application fee is \$100.00.
3. Bonds must generally be issued within 155 days from the date an allocation is granted, except for bonds for Priority Projects and for projects of \$50 million or more, which must be issued by December 29. Bonds utilizing volume cap from the Manufacturing Facility Bond Pool must be issued within 90 days of the date the allocation was issued or November 15, whichever is earlier. Allocations granted from the Florida First Business Allocation Pool are not subject to the 155 day issuance requirement but bonds must be issued at any time up to and including November 15 unless a carryforward has been granted for the allocation. Florida First Business projects must be certified by OTTED as eligible to receive carryforward before the Division can grant carryforward allocation. Florida First Business projects which are carryforward eligible under the Code will lose their allocation on October 1 unless they have been certified by OTTED as eligible to receive carryforward.
4. Bonds must be issued in an amount of at least 90% of the allocation granted.
5. Each notice of intent to issue a private activity bond filed with the Division must be accompanied by an opinion or statement of counsel that the project to be financed may be financed with private activity bonds and that allocation is required to issue such bonds.
6. The Manufacturing Facility Bond Pool will be increased by \$7.5 million on each January 1 if 75% of the preceding year's allocation was used to issue bonds by November 15 of that year. If manufacturing facilities no longer require or are eligible for an allocation under federal law, the allocation of the State volume limitation which would have gone to the Manufacturing Facility Bond Pool will be divided among the other pools based on their respective percentages of the total State volume limitation.

PRIVATE ACTIVITY BONDS PERMISSIBLE UNDER THE INTERNAL REVENUE CODE⁽¹⁾

(Requires allocation under Section 146 of the Code from the Division of Bond Finance unless otherwise noted)

1. Airports⁽²⁾
2. Docks and wharves⁽²⁾
3. Mass commuting facilities
4. Facilities for the furnishing of water
5. Sewage facilities
6. Solid waste disposal facilities
7. Multi-family housing projects
8. Local electric or gas generating facilities
9. Local district heating or cooling facilities
10. Hazardous waste facilities
11. Intercity high speed rail facilities⁽³⁾
12. Environmental enhancements of hydroelectric generating facilities⁽²⁾
13. Public educational facilities⁽⁴⁾
14. Green building and sustainable design projects⁽⁵⁾
15. Highway or surface freight transfer facilities⁽⁶⁾
16. Single family housing bonds
17. Veteran's mortgage bonds⁽²⁾
18. Small issue (i.e. manufacturing) bonds
19. Student loan bonds
20. Redevelopment bonds
21. 501(c)(3) bonds⁽²⁾

NOTES:

- (1) Due to periodic changes to the Internal Revenue Code, issuers should consult their bond counsel for a determination of the eligibility of a project for an allocation of volume limitation.
- (2) Does not require any allocation of volume cap.
- (3) Requires an allocation of volume cap in the amount of 25% of the project cost.
- (4) Separate volume cap and allocation procedures administered by the Florida Department of Education.
- (5) Separate volume cap and allocation procedures administered by the federal Secretary of the Treasury.
- (6) Separate volume cap and allocation procedures administered by the federal Secretary of Transportation.