

RULES AND REGULATIONS

Title 13—COMMERCE AND TRADE

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

[13 PA. CODE CH. 57]

Private Activity Bonds—Allocation

The Department of Community and Economic Development (Department) amends § 57.1 (relating to allocations) to read as set forth in Annex A. The section is amended under authority of section 7(4) of the Tax-Exempt Bond Allocation Act (act) (73 P. S. § 397.7(4)).

Background

The Federal Internal Revenue Code of 1986 (IRC) imposes a State ceiling on the aggregate amount of private activity bonds that may be issued in each calendar year by or on behalf of the Commonwealth and its political subdivisions.

The General Assembly adopted the act in 1985 to provide for the allocation of the State ceiling. Section 7(4) of the act authorizes the Secretary of Community and Economic Development to promulgate regulations as may be necessary to carry out the purposes set forth in the act.

This amendment provides for the 1997 allocation of the State ceiling. The amendments are needed because the current regulations provide allocations only for calendar year 1996.

Amendment

Section 57.1 is amended to establish the private activity bond allocations for calendar year 1997.

Notice

Notice of proposed rulemaking has been omitted under section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204) (CDL), which specifies that a regulation may be adopted without notice of proposed rulemaking if proposed rulemaking procedures are in the circumstances impracticable, unnecessary or contrary to the public interest. The proposed rulemaking procedures are unnecessary, since the amendment simply establishes the private activity bond allocations for calendar year 1997. Since the allocations are made under the formula set forth in the act, public comments will have no impact upon the allocation.

Fiscal Impact

This amendment has no fiscal impact on the Commonwealth, political subdivisions or the public. This amendment does not affect the total dollar amount of private activity bonds, as these ceilings are determined by Federal law. No Commonwealth funds are involved in the issuance of private activity bonds. Costs of bond issuance are paid for by bond proceeds or through funds of the issuer or borrower. This amendment will result in the use of private activity bonds to their maximum benefit, thereby increasing available resources.

Paperwork Requirements

Additional paperwork requirements are not imposed as a result of this amendment.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on March 3, 1997, the Department submitted a copy of this amendment with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Commerce and Economic Development Committee and the Senate Community and Economic Development Committee. On the same date, the amendment was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506). In accordance with section 5(c) of the Regulatory Review Act, this amendment was deemed approved by the House Committee on March 23, 1997, and was deemed approved by the Senate Committee on March 23, 1997. IRRC approved the amendment on March 20, 1997.

Contact Person

For further information regarding the amendment, contact Jill Busch, Deputy Chief Counsel, Office of Chief Counsel, Department of Community and Economic Development, Room 530 Forum Building, Harrisburg, PA 17120, (717) 783-8452.

Findings

The Department finds that:

(1) The proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are unnecessary, since the amendment simply establishes the private activity bond allocations for calendar year 1997. Since the allocations are made under the formula set forth in the act, public comments will have no impact upon the allocation.

(2) Public notice of intention to adopt the amendment has been omitted under section 204 of the CDL and the regulation thereunder, 1 Pa. Code § 7.4.

(3) Delay in implementing the amendment will have a serious adverse impact on the public interest.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 13 Pa. Code Chapter 57, are amended by amending § 57.1 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

THOMAS B. HAGEN,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 1705 (April 5, 1997).)

Fiscal Note: 4-61. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 13. COMMERCE AND TRADE
PART I. DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
CHAPTER 57. PRIVATE ACTIVITY
BONDS—ALLOCATION

§ 57.1. Allocations.

(a) *Authority for allocations.* The State unified volume cap for the issuance of qualified private activity bonds provided by section 146(d) of the Internal Revenue Code (26 U.S.C.A. § 146(d)) for calendar year 1997 will be allocated utilizing the authority provided by section 146(e) of the Internal Revenue Code and section 7(4) of the Tax-Exempt Bond Allocation Act (73 P. S. § 397.7(4)) in the manner provided by this chapter.

(b) *Housing related bonds.* An amount equal to \$175 million will be allocated for housing related bonds, including qualified residential rental projects and qualified mortgage bonds as defined by sections 142(d) and 143(a) of the Internal Revenue Code (26 U.S.C.A. §§ 142(d) and 143(a)). Requests to apply the housing related bond allocation to specific projects or uses, including mortgage credit certificate programs, will be reviewed and may be approved or disapproved by the Board of the Housing Finance Agency. Applications for housing related bond allocations shall be made to the Executive Director of the Housing Finance Agency.

(c) *Qualified student loan bonds.* No amount will be allocated to the Higher Education Assistance Agency for qualified student loan bonds provided by section 144(b) of the Internal Revenue Code (26 U.S.C.A. § 144(b)).

(d) *Qualified small issue bonds.*

(1) An amount equal to \$152.8 million will be allocated for qualified small issue bonds under section 144(a) of the Internal Revenue Code. Of this amount, \$26.8 million will be used to allocate \$400,000 to each county. The remaining \$126 million will be allocated among the counties in accordance with the following formula:

(i) The Secretary will determine the ratio of the county's total 1995 and 1996 allocation usage to the sum of every county's 1995 and 1996 allocation usage.

(ii) The Secretary will multiply the ratio determined in subparagraph (i) by \$126 million.

(2) Requests to apply this allocation to specific projects or uses will be reviewed and may be approved or disapproved by the Secretary. Applications for allocations shall be made to the Bonds Office in the Department. The Secretary will provide allocations for qualified small issue bonds utilizing the procedures and subject to the requirements imposed by § 55.6 (relating to allocation procedures).

(e) *Other qualified private activity bonds.* An amount equal to \$225 million will be allocated to other qualified private activity bonds, including qualified redevelopment bonds as defined by section 144(c) of the Internal Revenue Code, exempt facility bonds as defined by section 142 (excluding section 142(d)) of the Internal Revenue Code, and enterprise zone bonds as defined by section 1394 of the Internal Revenue Code, all of which are subject to the unified volume cap provided by section 146 of the Internal Revenue Code (26 U.S.C.A. § 1394). Requests to apply this allocation to specific projects or uses will be reviewed and may be approved or disapproved by the Secretary. Applications for allocations shall be made to the Bonds Office in the Department. The

Secretary will provide allocations for qualified private activity bonds utilizing the procedures and subject to the requirements imposed by § 57.3 (relating to procedures). An allotment of at least 25% of the total amount for other qualified private activity bonds is reserved for solid waste disposal projects.

(f) *Special allocation pool.* The Secretary may utilize not more than \$50 million for a special allocation pool for projects which require more bond authority than a given county currently has available to it. To qualify for consideration to use this pool, local issuing authorities shall demonstrate to the Secretary's satisfaction that they have acted responsibly in selecting projects which maximize long-term net new job creation, consistent with the intent of the Tax-Exempt Bond Allocation Act (73 P. S. §§ 397.1—397.8). Decisions regarding use of the special allocation pool for small issue purposes will be based upon the characteristics and merits of individual projects proposed, and upon the record of the issuing authority in utilizing industrial development financing to create or retain jobs. A project may be considered if the entire allocation for the county in which the project is proposed has been obligated. In determining approval or disapproval of allocation requests from this pool, the Secretary will consider the following:

- (1) The amount of the allocation available.
- (2) The size of the project.
- (3) The level of economic distress.
- (4) The number of net new jobs to be created.
- (5) The ability to undertake the project without approval.
- (6) The amount of private funds leveraged.
- (7) The project's consistency with the economic development plans of the Commonwealth and of municipalities and regions.
- (8) The date the bonds are to be issued.

[Pa.B. Doc. No. 97-505. Filed for public inspection April 4, 1997, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION
[58 PA. CODE CH. 135]
Lands and Buildings

1. *Introduction*

During meetings held between representatives of the Game Commission (Commission) and representatives of organizations of sportsmen with disabilities (Sportsmen), Sportsmen requested changes to Commission regulations relating to persons with disabilities access to State game lands. After careful staff consideration of these requests, Commission, at its October 8, 1996, meeting, proposed and at its January 14, 1997, meeting finally adopted an amendment to § 135.2 (relating to unlawful acts on State game lands), to permit additional access for sportsmen permanently confined to wheelchairs. This change is adopted under the authority contained in section 721(a) of the Game and Wildlife Code (relating to control of property) (code) and is consistent with the spirit of Title II of the Federal Americans with Disabilities Act.

2. *Purpose and Authority*

As was indicated in the introduction, representatives of the Commission are regularly meeting with representatives of groups of sportsmen with disabilities to discuss matters of mutual concern. During one meeting, a request was made to allow wheelchairs on State game lands. After staff consideration, it was decided that individuals permanently confined to wheelchairs could be permitted on game lands in electric wheelchairs without excessive damage to wildlife and wildlife habitat.

Section 721(a) of the code authorizes the Commission to promulgate regulations necessary to properly manage lands under its control. Section 2923 of the code (relating to disabled person permits) provides for disabled person permits and allows individuals holding these permits to hunt from a vehicle.

3. *Regulatory Requirements*

This change relaxes current restrictions. Individuals taking advantage of this change must be permanently confined to a wheelchair and may use an electric powered wheelchair.

4. *Persons Affected*

Individuals permanently confined to wheelchairs will be affected by the change.

5. *Comments and Response Summary*

The amendment was proposed at 26 Pa.B. 5442 (November 9, 1996). No written comments were received and the amendment is adopted as proposed.

6. *Cost and Paperwork Requirements*

This change does not involve any additional cost or paperwork.

7. *Effective Dates*

This change takes effect on final adoption and publication in the *Pennsylvania Bulletin* and remains in effect until changed by the Commission.

8. *Contact Person*

For further information on the change, contact James R. Fagan, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797 (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendment by the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.2 to read as set forth at 26 Pa.B. 5442.

(b) The Executive Director of the Commission shall submit this order and 26 Pa.B. 5442 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order amending § 135.2 shall become effective upon final publication in the *Pennsylvania Bulletin*.

DONALD C. MADL,
Executive Director

(Editor's Note: A proposal to amend § 141.25 (relating to early and late goose hunting seasons), included in the proposal at 26 Pa.B. 5442, was adopted at 27 Pa.B. 313 (January 18, 1997).)

Fiscal Note: 48-95B. No fiscal impact; recommends adoption.

[Pa.B. Doc. No. 97-506. Filed for public inspection April 4, 1997, 9:00 a.m.]