

PROPOSED REGULATION

COUNTY OR REGIONAL INDUSTRIAL DEVELOPMENT CORPORATIONS

Purposes of Each Industrial Development Corporation: The purpose of each industrial development corporation organized pursuant to A.C.A. § 15-4-1201 et seq. is to promote, stimulate, develop, and advance the business of and economic welfare of the county or region included in its organization. The Bank Commissioner and the State Banking Board therefore rule that in order to implement the intentions of the act, companies should make every effort to use the assets raised by the corporation to pursue the intentions set out in the act. The Bank Commissioner and the State Banking board recognize that some projects will require a certain period of time to raise capital in order to fund a particular project or to identify a deserving project to fund. However, the Bank Commissioner and the State Banking Board will consider the failure of an industrial development corporation to seriously investigate worthwhile projects or make investments in economic development projects for an unreasonable period of time to be a violation of the intentions of the act.

An industrial development corporation shall not sell shares or units and fail to utilize the proceeds thereof in accordance with the purposes set forth in A.C.A. § 15-4-1214(a). Except as provided below, in the event that such proceeds are not invested, loaned or otherwise utilized in accordance with such purposes within eighteen (18) months from the date on which such funds are received, the industrial development corporation shall immediately cancel all such shares or units and refund to the purchasers of such shares or units all proceeds, plus interest or income derived thereon, on a pro rata basis, as well as all commissions or remuneration paid to any person on account of the sale thereof. Such refund, with the exception of the interest or profit derived thereon, shall not be considered to be a dividend or distribution within the meaning of A.C.A. § 15-4-1215, and shall be treated as set forth in A.C.A. § 15-4-1224 (a)(2)(A). Provided however, that upon written application and for good cause shown, the Bank Commissioner may in his discretion extend such period for two additional six (6) month periods, not to exceed a total of thirty (30) months from the date on which the proceeds from the sale of the stock or units were received by the industrial development corporation. Each extension shall require a separate application filed by the industrial development corporation with the Bank Commissioner at least ten (10) days prior to the expiration of the period sought to be extended. Proceeds, unless otherwise clearly accounted for by the industrial development corporation, shall be accounted for on a first in, first out basis.