

# “BONDS 101”

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Breadth. Depth. **Results.**

# WHAT'S A BOND?

- JUST A WAY TO BORROW MONEY
- LOCAL AUTHORITY'S AGREEING TO ISSUE INDUSTRIAL DEVELOPMENT REVENUE BONDS ("IDBS") IS NOT A PROMISE TO SELL BONDS BACKED BY THE COMMUNITY'S OWN CREDIT TO RAISE MONEY FOR THE COMPANY
- DEVELOPMENT AUTHORITY IS JUST A CONDUIT (I.E., A "CONDUIT ISSUER") FOR ISSUING BONDS REPRESENTING A FINANCING BY THE COMPANY (I.E., THE COMPANY IS A "CONDUIT BORROWER")
- DEVELOPMENT AUTHORITY'S NAME IS ON THE BONDS
- WHO IS RESPONSIBLE FOR REPAYING THE BONDS?

# SHOW ME A BOND!

SPECIMEN BOND

NO. \_\_\_\_\_

UNITED STATES OF AMERICA

STATE OF GEORGIA

DEVELOPMENT AUTHORITY OF \_\_\_\_ COUNTY

MULTIMODAL INDUSTRIAL DEVELOPMENT REVENUE BOND

(\_\_\_\_\_, INC. PROJECT),

SERIES 2009

MATURITY DATE	DATE OF INITIAL DELIVERY	INTEREST RATE	CUSIP
BEGINNING OF TERM RATE PERIOD		END OF TERM RATE PERIOD	INTEREST AMOUNT

THE DEVELOPMENT AUTHORITY OF \_\_\_\_ COUNTY, A PUBLIC BODY CORPORATE AND POLITIC CREATED AND EXISTING UNDER THE LAWS OF THE STATE OF GEORGIA (THE "ISSUER", WHICH TERM INCLUDES ANY SUCCESSOR CORPORATION UNDER THE INDENTURE HEREINAFTER REFERRED TO), FOR VALUE RECEIVED, HEREBY PROMISES TO PAY (BUT SOLELY FROM THE SOURCE HEREINAFTER DESCRIBED) TO

\_\_\_\_\_,  
OR REGISTERED ASSIGNS, THE PRINCIPAL SUM OF

\_\_\_\_\_ DOLLARS

ON THE MATURITY DATE SPECIFIED ABOVE AND TO PAY (BUT SOLELY FROM THE SOURCE HEREINAFTER DESCRIBED) INTEREST HEREON FROM THE DATE OF INITIAL DELIVERY OF THIS BOND, OR THE MOST RECENT DATE TO WHICH INTEREST HAS BEEN PAID OR DULY PROVIDED FOR, UNTIL THE PRINCIPAL HEREOF SHALL BECOME DUE AND PAYABLE AT THE WEEKLY RATE OR THE TERM RATE, AS HEREINAFTER PROVIDED.

INTEREST AT THE WEEKLY RATE AND INTEREST AT THE TERM RATE FOR ANY TERM RATE PERIOD OF 1 YEAR OR LESS SHALL BE COMPUTED ON THE BASIS OF A 365 OR 366-DAY YEAR, AS THE CASE MAY BE, FOR THE ACTUAL NUMBER OF DAYS ELAPSED. INTEREST AT THE TERM RATE FOR ANY TERM RATE PERIOD OF MORE THAN 1 YEAR SHALL BE COMPUTED ON THE BASIS OF A 360-DAY YEAR WITH 12 MONTHS OF 30 DAYS EACH.

INTEREST SHALL BE PAYABLE (BUT SOLELY FROM THE SOURCE HEREINAFTER DESCRIBED) ON OVERDUE PRINCIPAL ON THIS BOND AND (TO THE EXTENT LEGALLY ENFORCEABLE) ON ANY OVERDUE INSTALLMENT OF INTEREST ON THIS BOND AT THE RATE OF INTEREST LAST APPLICABLE TO THIS BOND WHEN SUCH OVERDUE PRINCIPAL OR INTEREST BECAME DELINQUENT.

INTEREST ON THIS BOND SHALL BE PAYABLE IN ARREARS ON THE FOLLOWING DATES:

(1) \_\_\_\_\_ WITH RESPECT TO INTEREST PAYABLE AT THE WEEKLY RATE, (A) ON THE FIRST BUSINESS DAY OF EACH MARCH, JUNE, SEPTEMBER AND DECEMBER WHILE THIS BOND IS IN THE WEEKLY RATE MODE, AND (B) ON THE EFFECTIVE DATE OF CONVERSION OF THIS BOND FROM THE WEEKLY RATE MODE TO THE TERM RATE MODE;

# WHAT BONDS CAN BE ISSUED?

- BONDS FOR ANY PURPOSE PERMITTED BY THE GEORGIA CONSTITUTION AND THE GOVERNING LAW
- DEVELOPMENT AUTHORITIES LAW--FOR “STATUTORY” DEVELOPMENT AUTHORITIES
- THEIR RESPECTIVE LOCAL CONSTITUTIONAL AMENDMENTS AND RELATED LOCAL LEGISLATION--FOR CONSTITUTIONAL DEVELOPMENT AUTHORITIES

# FOR BOND FEATURES, GO TO “THE MATRIX”

<u>THIS</u>	IS THE <u>OPPOSITE OF</u>	<u>THIS</u>
REVENUE BOND		GENERAL OBLIGATION BOND
TAX-EXEMPT BOND		“TAXABLE BOND”
PRIVATELY PLACED		PUBLICLY SOLD
INVESTMENT GRADE		“JUNK”/HIGH YIELD/ UNRATED
PRIVATE ACTIVITY		GOVERNMENTAL PURPOSE
FLOATING RATE		FIXED RATE
NON-AMT		AMT
“BANK QUALIFIED”		NOT “BANK QUALIFIED”
AUTHORITY-ISSUED		COMPANY-ISSUED
CAPITAL MARKETS		“BONDS FOR TITLE”

# DEVELOPMENT AUTHORITY BONDS ARE REVENUE BONDS

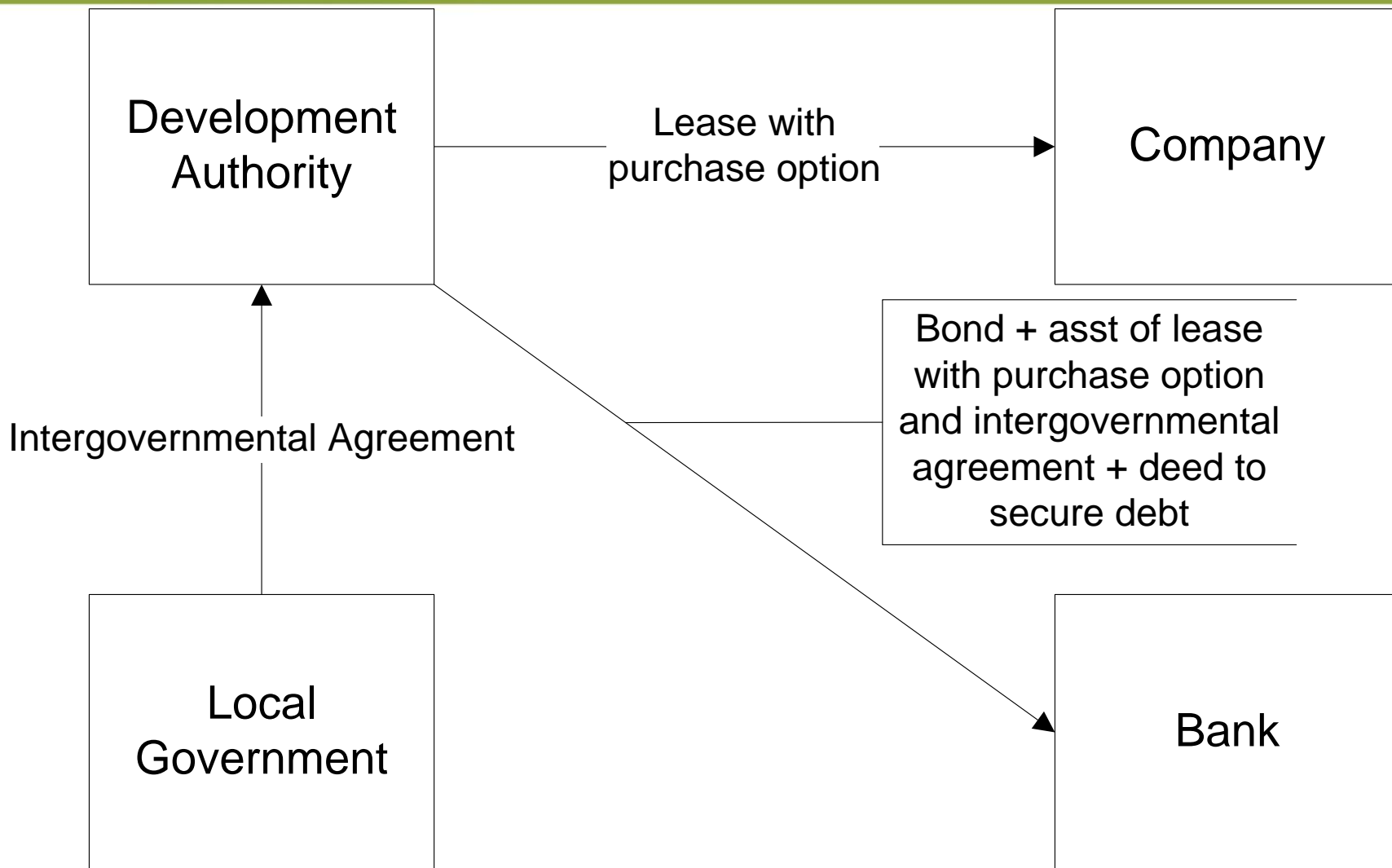
ONLY CONDUIT BORROWER IS LIABLE TO REPAY

- NOT STATE
- NOT LOCAL GOVERNMENT
- NOT DEVELOPMENT AUTHORITY

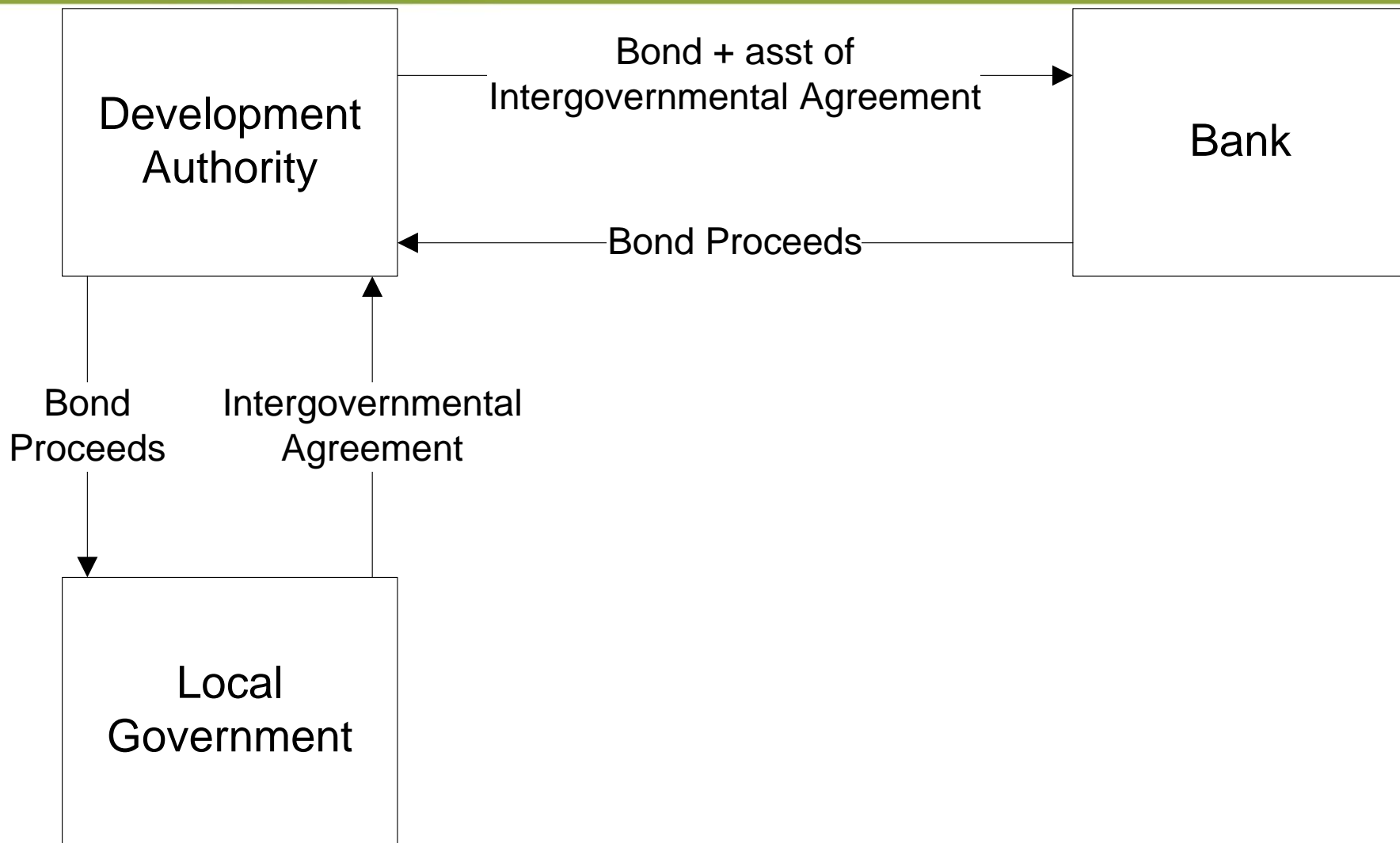
EXCEPTIONS -

- SOME CONSTITUTIONAL AUTHORITIES
- “CONTRACT REVENUE” BONDS BACKED BY AN INTERGOVERNMENTAL AGREEMENT

# EXAMPLE OF A “CONTRACT REVENUE” BOND



# ANOTHER EXAMPLE OF A “CONTRACT REVENUE” BOND



# NOT ALL DEVELOPMENT AUTHORITY BONDS ARE TAX-EXEMPT

## THIRD PLACE IN VOLUME - MANUFACTURING BONDS HURDLES

- \* Capital expenditure limit (\$10 million tax-exempt bond proceeds + \$10 million other) / \$40 million national limit on tax-exempt bonds for the “Company”
  
- \* Spending requirements –
  - \* no more than 25% on land costs
  - \* at least 15% on rehabilitation expenditures, if acquiring an existing building (and the equipment therefor)
  - \* at least 70% on “core manufacturing” facilities (e.g., manufacturing part of the building)
  - \* no more than 25% on “directly related and ancillary” facilities
  - \* up to 2% can be spent for issuance costs

# GREEN BONDS

- RENEWABLE ENERGY AND “GREEN” PROJECTS

- ▶ QUALIFIED ENERGY CONSERVATION BONDS”  
 (“**ENERGY CONSERVATION BONDS**”)

- FINANCE RESEARCH IN SUCH AREAS AS NONFOSSIL FUELS (E.G., CELLULOSIC ETHANOL); CAR BATTERIES, CARBON CAPTURE, ETC.

- ▶ NEW CLEAN RENEWABLE ENERGY BONDS (“**CREBS**”)

- FINANCE ENERGY FACILITIES FOR GOVERNMENTS, PUBLIC POWER PROVIDERS, AND NONPROFIT REA UTILITIES
  - THESE GENERALLY ARE FACILITIES THAT QUALIFY FOR THE FEDERAL PRODUCTION TAX CREDIT (ANOTHER SOURCE OF TAX CREDIT EQUITY)

# “QUALIFIED 501(C)(3) BONDS”- SECOND PLACE IN VOLUME

- BONDS FOR ORGANIZATIONS, LIKE PRIVATE HIGH SCHOOLS AND COLLEGES AND MEDICAL FACILITIES, THAT ARE TAX-EXEMPT UNDER THE INTERNAL REVENUE CODE
- THESE ORGANIZATIONS MORE FAMILIAR WITH TAX-EXEMPT FINANCING (BECAUSE THEY TEND TO USE BOND FINANCING REPETITIVELY)
- MIGHT WELL COME TO THE COMMUNITY FIRST TO ASK FOR HELP WITH THIS TYPE OF FINANCING

# FIRST PLACE IN VOLUME!

## **“TAXABLE” BONDS**

- THE MOST FLEXIBLE WAY TO FINANCE WITH REVENUE BONDS.**
- INTEREST RATES ARE NOT AS LOW AS WITH TAX-EXEMPT BONDS.**

# BACK TO “THE MATRIX”

- USUALLY OK FOR AUTHORITY-ISSUED BONDS THAT ARE PRIVATELY PLACED TO BE UNRATED
- AUTHORITY-ISSUED BONDS THAT ARE PUBLICLY SOLD SHOULD BE INVESTMENT GRADE
  - ▶ EXCEPTION – ACCEPTABLE “PROJECT FINANCE” DEALS

# WHAT DOES “INVESTMENT GRADE” MEAN?

- IN THE TERMINOLOGY USED BY S&P AND FITCH, FOR EXAMPLE, INVESTMENT GRADE IS A RATING OF BBB- THROUGH AAA
  - ▶ (MOODY’S IS THE OTHER MAJOR RATING AGENCY, AND HAS ITS OWN TERMINOLOGY)
- IF THE BONDS ARE SECURED BY A BANK LETTER OF CREDIT, THE BANK’S LETTERS OF CREDIT MUST BE RATED INVESTMENT GRADE
- ON THE STRENGTH OF THE LETTER OF CREDIT, THE RATING AGENCY WILL ASSIGN A RATING
  - ▶ (THE SAME RATING AS THE LETTER OF CREDIT) TO THE BONDS

# RATINGS SYMBOLS

SUMMARY OF RATING SYMBOLS AND DEFINITIONS			
MOODY'S	S&P	FITCH	BRIEF DEFINITION
<b>INVESTMENT GRADE—HIGH CREDITWORTHINESS</b>			
AAA	AAA	AAA	GILT EDGE, PRIME, MAXIMUM SAFETY
AA1	AA+	AA+	VERY HIGH GRADE, HIGH QUALITY
AA2	AA	AA	VERY HIGH GRADE, HIGH QUALITY
AA3	AA-	AA-	VERY HIGH GRADE, HIGH QUALITY
A1	A+	A+	VERY HIGH GRADE, HIGH QUALITY
A2	A	A	UPPER MEDIUM GRADE
A3	A-	A-	UPPER MED. GRADE
BAA1	BBB+	BBB+	UPPER MED. GRADE
BAA2	BBB	BBB	LOWER MED. GRADE
BAA3	BBB-	BBB-	LOWER MED. GRADE
<b>DISTINCTLY SPECULATIVE—LOW CREDITWORTHINESS</b>			
BA1	BB+	BB+	LOW GRADE, SPECULATIVE
BA2	BB	BB	LOW GRADE, SPEC.
BA3	BB-	BB-	LOW GRADE, SPEC.
B1	B+	B+	LOW GRADE, SPEC.
B2	B	B	HIGHLY SPECULATIVE
B3	B-	B-	HIGHLY SPECULATIVE
<b>PREDOMINANTLY SPECULATIVE—SUBSTANTIAL RISK OR IN DEFAULT</b>			
	CCC+		SUBSTANTIAL RISK, IN POOR STANDING
CAA	CCC	CCC	SAME AS ABOVE
	CCC-		SAME AS ABOVE
CA	CC	CC	MAY BE IN DEFAULT, EXTREMELY SPECULATIVE
C	C	C	EVEN MORE SPECULATIVE THAN THOSE ABOVE
	CL		CL=INCOME BONDS-NO INTEREST IS BEING PAID
		DDD	DEFAULT
		DD	DEFAULT
	D	D	DEFAULT

# LOC

- LETTER OF CREDIT IS ISSUED BY A COMMERCIAL BANK
- LETTER OF CREDIT IS A SEPARATE DOCUMENT, IN WHICH THE BANK ITSELF UNDERTAKES TO MAKE STIPULATED PAYMENTS ON THE CONDITIONS SPECIFIED IN THE LETTER OF CREDIT ITSELF
- THE BANK'S OWN CREDIT IS PASSED THROUGH TO THE BONDS
- TYPE OF LETTER OF CREDIT THAT IS INVOLVED IS CALLED A "DIRECT PAY" LETTER OF CREDIT (AS OPPOSED TO A "STAND-BY" LETTER OF CREDIT)
- BANK PAYS THE BONDHOLDERS (THROUGH THE TRUSTEE) DIRECTLY, RATHER THAN "STANDING BY" IN CASE THE COMPANY DEFAULTS ON ITS BASIC RENT PAYMENTS OR NOTE PAYMENTS
- DONE TO AVOID PROBLEMS UNDER THE BANKRUPTCY CODE IF THE COMPANY GOES BANKRUPT

# WHAT DOES A LETTER OF CREDIT LOOK LIKE?

IRREVOCABLE LETTER OF CREDIT  
DATE \_\_\_\_\_

ATTENTION: CORPORATE TRUST DEPARTMENT

DEAR SIRs:

WE HEREBY ESTABLISH IN YOUR FAVOR OUR IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_ FOR THE ACCOUNT OF \_\_\_\_\_ (THE "COMPANY") WHEREBY WE HEREBY IRREVOCABLY AUTHORIZE YOU TO DRAW ON US FROM TIME TO TIME FROM AND AFTER THE DATE HEREOF TO AND INCLUDING OUR CLOSE OF BUSINESS ON DECEMBER 15, 2009 (THE "EXPIRATION DATE") A MAXIMUM AGGREGATE AMOUNT NOT EXCEEDING U.S. \$3,544,723 (THE "STATED AMOUNT") OF WHICH THE SUM OF \$3,500,000 MAY BE DRAWN ON BY YOU TO PAY PRINCIPAL OR THE PRINCIPAL PORTION OF THE PURCHASE PRICE (THE "PRINCIPAL STATED AMOUNT") OF THE ISSUER'S \_\_\_\_\_ TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS \_\_\_\_\_, SERIES 2009 (THE "BONDS"), IN ACCORDANCE WITH THE TERMS HEREOF, AND THE SUM OF \$44,723 MAY BE DRAWN ON BY YOU TO PAY UP TO 46 DAYS' ACCRUED INTEREST (AT A PRESUMED RATE OF TEN PERCENT (10%) PER ANNUM BASED ON A YEAR OF 360 DAYS) ON THE BONDS (THE "INTEREST STATED AMOUNT") ON OR PRIOR TO THE EXPIRATION DATE; AVAILABLE AGAINST THE FOLLOWING DOCUMENTS (THE "PAYMENT DOCUMENTS") PRESENTED TO \_\_\_\_\_ (THE "BANK") AT OUR STANDBY LETTER OF CREDIT DEPARTMENT AT \_\_\_\_\_ (OR SUCH OTHER PLACE AS WE MAY FROM TIME TO TIME SPECIFY), OR BY TELECOPIER \_\_\_\_\_, ATTENTION: STANDBY L/C MANAGER (OR SUCH OTHER PLACE AS WE MAY FROM TIME TO TIME SPECIFY):

[LIST OF PAYMENT DOCUMENTS AND PROVISIONS]

THIS LETTER OF CREDIT IS ONLY TRANSFERABLE TO YOUR SUCCESSOR AS TRUSTEE, UNDER THE INDENTURE AND MAY BE SUCCESSIVELY TRANSFERRED. ANY SUCH TRANSFER (INCLUDING ANY SUCCESSIVE TRANSFER) SHALL BE EFFECTIVE UPON OUR RECEIPT OF THE ORIGINAL LETTER OF CREDIT AND AMENDMENTS AND AN EXECUTED TRANSFER FORM IN THE FORM OF EXHIBIT D ATTACHED HERETO APPROPRIATELY COMPLETED. THIS LETTER OF CREDIT MAY NOT BE TRANSFERRED TO ANY PERSON WITH WHICH U.S. PERSONS ARE PROHIBITED FROM DOING BUSINESS UNDER THE U.S. FOREIGN ASSETS CONTROL REGULATIONS OR OTHER APPLICABLE U.S. LAWS OR REGULATIONS.

THIS LETTER OF CREDIT IS INTENDED TO PROVIDE ONLY FOR THE PAYMENT OF THE PRINCIPAL OR PURCHASE PRICE OF AND INTEREST ON THE BONDS.

ALL PAYMENTS MADE BY US PURSUANT TO THIS LETTER OF CREDIT SHALL BE MADE FROM OUR OWN FUNDS.

COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE ADDRESSED TO US AT \_\_\_\_\_ STANDBY LETTER OF CREDIT DEPARTMENT, \_\_\_\_\_ SPECIFICALLY REFERRING TO THE NUMBER OF THIS LETTER OF CREDIT.

TO THE EXTENT NOT INCONSISTENT WITH THE EXPRESS TERMS HEREOF, THIS LETTER OF CREDIT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE TERMS OF THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500 (THE "UNIFORM CUSTOMS"). AS TO MATTERS NOT GOVERNED BY THE UNIFORM CUSTOMS, THIS LETTER OF CREDIT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.

THIS LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING, AND SUCH UNDERTAKING SHALL NOT IN ANY WAY BE MODIFIED OR AMENDED BY REFERENCE TO ANY OTHER DOCUMENT WHATSOEVER.

VERY TRULY YOURS,

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

# CAN ANY BANK ISSUE THE LETTER OF CREDIT?

- ANY BANK CAN ISSUE A LETTER OF CREDIT
- BUT NOT JUST ANY BANK'S LETTER OF CREDIT WILL WORK IN A PUBLICLY SOLD BOND DEAL
- A BANK'S LETTER OF CREDIT ITSELF MUST BE RATED
- NOT JUST THAT, IT HAS TO BE RATED "INVESTMENT GRADE"
- IF NOT, THEN CONSIDER -
  - ▶ "WRAP" (CONFIRMING) LETTER OF CREDIT

# FEDERAL HOME LOAN BANK (FHLB)

- COMMUNITY BANK CAN ALSO GET FHLB TO CONFIRM ITS LETTER OF CREDIT
- RESULT – “AAA” RATING

# WHAT'S THE WHOLE CAST OF CHARACTERS IN A BOND ISSUE?

## PRIVATE PLACEMENT

- IN THE CASE OF A TYPICAL PRIVATE PLACEMENT OF BONDS, THERE WOULD BE -

THE CONDUIT BORROWER (THE PROSPECT/COMPANY)

THE CONDUIT BORROWER'S COUNSEL

THE ISSUER (THE DEVELOPMENT AUTHORITY)

THE ISSUER'S COUNSEL

THE BOND COUNSEL

THE BOND PURCHASER

PERHAPS BOND PURCHASER'S COUNSEL

PERHAPS GUARANTORS THAT ARE STOCKHOLDERS OR AFFILIATES OF THE COMPANY

# PUBLIC OFFERING

- IN THE CASE OF A PUBLIC OFFERING OF LOWER FLOATERS, THERE WOULD BE--

THE CONDUIT BORROWER

THE CONDUIT BORROWER'S COUNSEL

THE ISSUER

THE ISSUER'S COUNSEL

THE BOND COUNSEL

THE UNDERWRITER

AN UNDERWRITER'S COUNSEL

THE BOND TRUSTEE

THE TRUSTEE'S COUNSEL

THE REMARKETING AGENT

THE LETTER OF CREDIT BANK

THE LETTER OF CREDIT BANK'S COUNSEL

THERE MAY BE GUARANTORS THAT ARE STOCKHOLDERS OR AFFILIATES OF THE COMPANY

THEY WOULD GUARANTEE THE OBLIGATION OF THE COMPANY TO REIMBURSE THE LETTER OF CREDIT BANK FOR AMOUNTS DRAWN UNDER THE LETTER OF CREDIT

# FIRST STEPS IN A BOND ISSUE

- ALL (TAX-EXEMPT OR TAXABLE) BOND ISSUES IN GEORGIA FOLLOW THESE STEPS-

## FIRST STEPS

- THE COMPANY FILES A REQUEST WITH THE DEVELOPMENT AUTHORITY FOR BOND FINANCING
  - ▶ NOT A LEGAL REQUIREMENT, BUT IS TYPICAL
  - ▶ SOME DEVELOPMENT AUTHORITIES HAVE FORMAL APPLICATION PROCEDURES AND FORMS
- THE DEVELOPMENT AUTHORITY ADOPTS AN INDUCEMENT RESOLUTION
- THE DEVELOPMENT AUTHORITY AND THE COMPANY EXECUTE A LETTER OF INTENT AND INDUCEMENT AGREEMENT

# MIDDLE STEPS

- THE COMPANY FINDS A PURCHASER FOR THE BONDS (A BANK, FINANCIAL INSTITUTION OR UNDERWRITER)
  - ▶ IF A LETTER OF CREDIT IS NEEDED, THE COMPANY FINDS A LETTER OF CREDIT BANK
  - ▶ THE COMPANY WILL OBTAIN WRITTEN COMMITMENTS FROM THESE PARTICIPANTS
  - ▶ THE COMMITMENT(S) WILL DICTATE THE TERMS OF THE BONDS
- ONCE THE FINANCING COMMITMENTS HAVE BEEN RECEIVED, BOND COUNSEL CAN BEGIN DRAFTING DOCUMENTS
- THESE DOCUMENTS ARE THEN DISTRIBUTED TO ALL OF THE PARTICIPANTS FOR REVIEW AND COMMENT

# FINAL STEPS

- WHEN THESE DOCUMENTS ARE FINALIZED, THE DEVELOPMENT AUTHORITY THEN ADOPTS A BOND RESOLUTION APPROVING THE BONDS AND THE FINAL BOND DOCUMENTS
  - ▶ IF THE BONDS ARE SUBJECT TO SEC DISCLOSURE REQUIREMENTS, UNDERWRITER'S COUNSEL AROUND THIS TIME WILL BE PREPARING THE DISCLOSURE DOCUMENT (I.E., THE OFFICIAL STATEMENT OR OFFERING MEMORANDUM).
- THE PARTIES INVOLVED IN THE JUDICIAL VALIDATION (DISTRICT ATTORNEY, CLERK OF COURT, ETC) ARE THEN BROUGHT INTO THE PROCESS
  - ▶ THE IMPENDING VALIDATION IS ADVERTISED IN THE LOCAL NEWSPAPER TWO WEEKS IN A ROW
- THE BONDS ARE THEN JUDICIALLY VALIDATED
- AFTER THE PARTIES SIGN CLOSING DOCUMENTS AND THE REQUIRED DOCUMENTS ARE RECORDED, THE BOND ISSUE IS CLOSED

# TAX-EXEMPT STEPS

- IN THE CASE OF TAX-EXEMPT BONDS, THE FOLLOWING ADDITIONAL STEPS ARE INVOLVED-
- AS BOND COUNSEL, WE TRY TO GET THE COMPANY TO FILL OUT A TAX QUESTIONNAIRE WE PROVIDE AS SOON AS POSSIBLE
  - ▶ WE DISCUSS THIS QUESTIONNAIRE WITH THE COMPANY, AND DETERMINE IF THE BONDS CAN BE ISSUED AS TAX-EXEMPT BONDS
- NOTICE (CALLED A “TEFRA NOTICE”) OF A PUBLIC HEARING IS PUBLISHED IN THE LOCAL NEWSPAPER AT LEAST 14 DAYS IN ADVANCE OF THE HEARING AT WHICH MEMBERS OF THE PUBLIC MAY APPEAR AND COMMENT ON THE BONDS, ON THE NATURE AND LOCATION OF THE PROJECT AND ON THE PLAN OF FINANCING
  - ▶ THIS ADVERTISEMENT IS IN ADDITION TO THE ADVERTISEMENTS OF THE VALIDATION
  - ▶ THE TEFRA NOTICE GENERALLY RUNS PRIOR TO THE VALIDATION ADVERTISEMENTS

# TEFRA

- THE HEARING (CALLED A “TEFRA HEARING”) IS HELD BEFORE THE DEVELOPMENT AUTHORITY (OR ITS HEARING OFFICER) OR THE BOARD OF COMMISSIONERS OF THE COUNTY (OR MAYOR AND CITY COUNCIL, IN THE CASE OF A CITY DEVELOPMENT AUTHORITY OR ITS HEARING OFFICER)
  - ▶ THE TEFRA HEARING MAY BE HELD BEFORE OR AFTER THE ADOPTION OF THE BOND RESOLUTION
- THE BONDS ARE THEN APPROVED (CALLED “TEFRA APPROVAL”) BY THE APPROPRIATE ELECTED OFFICIAL, WHICH WILL GENERALLY BE THE BOARD OF COMMISSIONERS OF THE COUNTY (OR MAYOR AND CITY COUNCIL, IN THE CASE OF A CITY DEVELOPMENT AUTHORITY), OR A DESIGNATED ELECTED OFFICIAL, SUCH AS THE CHAIRMAN OF THE BOARD OF COMMISSIONERS OR MAYOR
  - ▶ THE SCHEDULE FOR THIS APPROVAL IS USUALLY DICTATED BY THE MEETING SCHEDULE OF THE COUNTY OR CITY

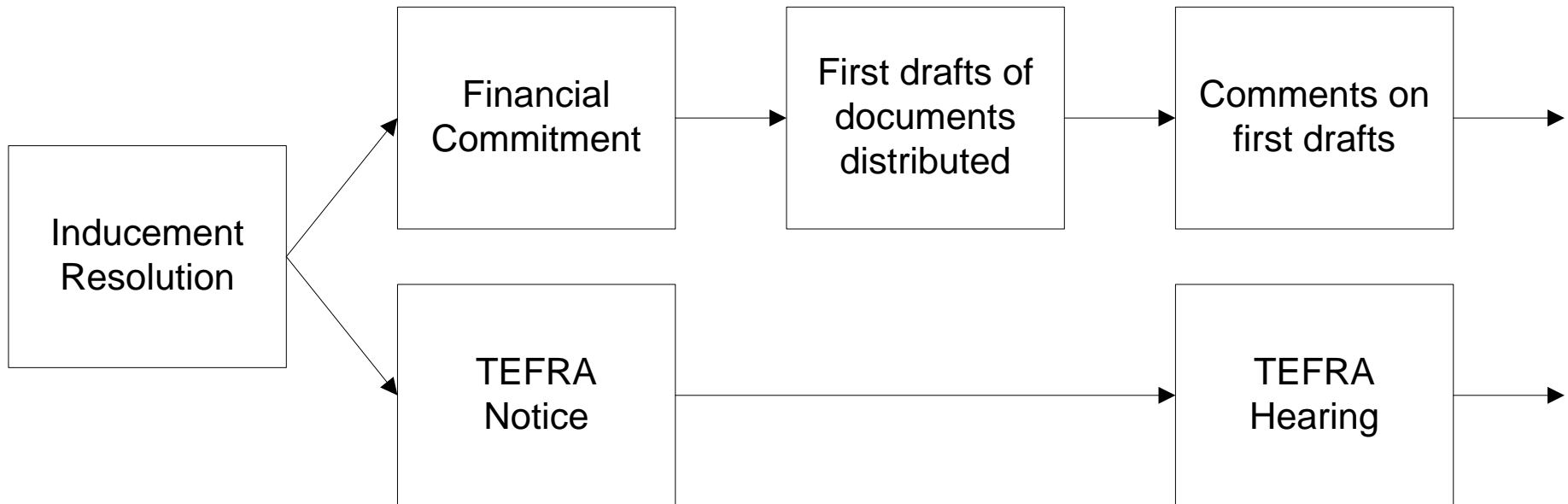
# DCA AND IRS

- AN APPLICATION IS FILED WITH THE DEPARTMENT OF COMMUNITY AFFAIRS FOR AN ALLOCATION OF A PART OF THE STATE OF GEORGIA'S PRIVATE ACTIVITY BOND VOLUME CAP
  - ▶ AN ALLOCATION IS NOT NEEDED FOR QUALIFIED 501(C)(3) BONDS
  - ▶ THE DEVELOPMENT AUTHORITY WILL SIGN THE APPLICATION, WHICH USUALLY WILL BE FILED BY BOND COUNSEL  
WE TRY TO FILE THE APPLICATION AS SOON AS ALL THE REQUIREMENTS HAVE BEEN MET (OBTAINING FINANCING COMMITMENT, HOLDING TEFRA HEARING, ETC)
- DCA ISSUES THE PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION
- AT THE CLOSING, THE DEVELOPMENT AUTHORITY AND THE COMPANY EXECUTE A TAX COMPLIANCE CERTIFICATE AND CERTAIN OTHER TAX-RELATED DOCUMENTS ARE EXECUTED IN ADDITION TO THE OTHER BOND DOCUMENTS
- AFTER THE CLOSING, AN IRS FORM 8038 IS FILED

# COSTS OF ISSUANCE (COI)

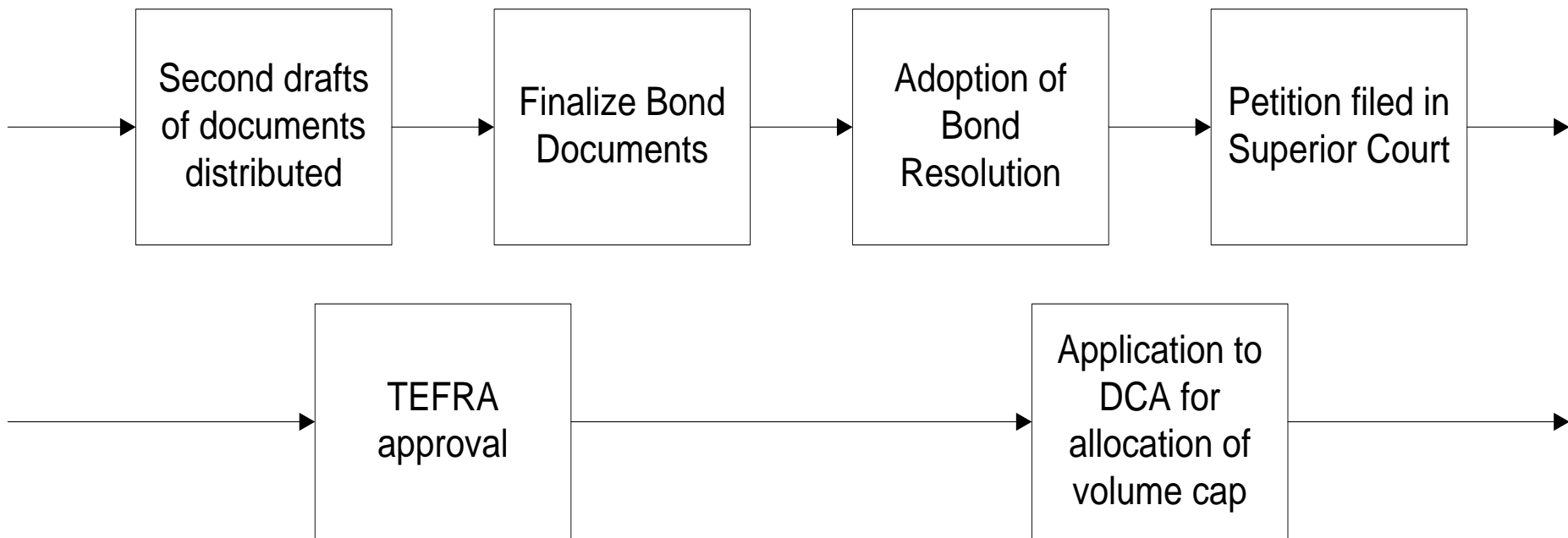
- THE COMPANY IS RESPONSIBLE FOR THE COSTS OF ISSUING THE BONDS TO THE EXTENT NOT PAID FROM BOND PROCEEDS (ONLY 2% OF THE PROCEEDS OF TAX-EXEMPT PRIVATE ACTIVITY BONDS MAY BE APPLIED TO COSTS OF ISSUANCE)
- THE DEVELOPMENT AUTHORITY SHOULD BE SURE THAT THIS OBLIGATION IS SET FORTH IN THE INDUCEMENT AGREEMENT THAT THE COMPANY SIGNS EARLY IN THE PROCESS

# SUMMARY- THE BONDING PROCESS

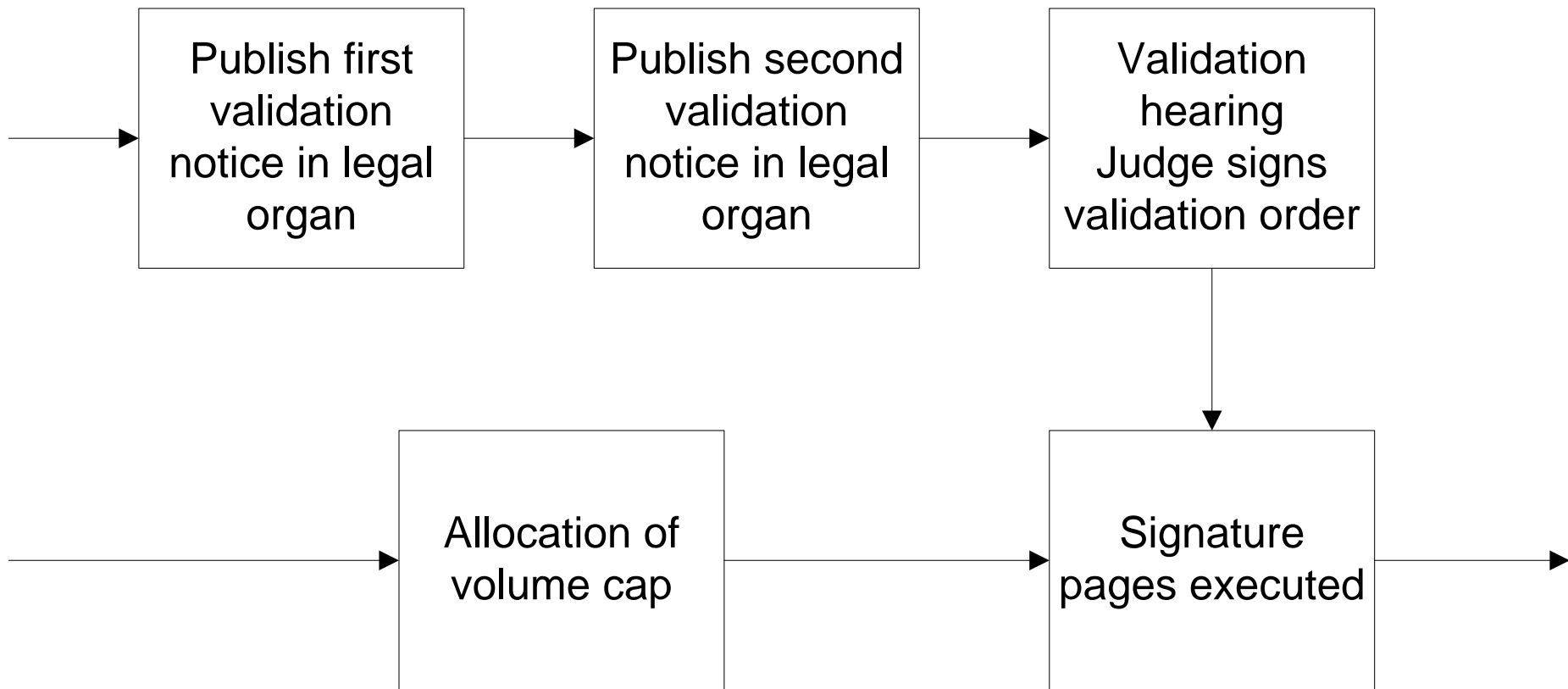


Note: TEFRA not required for governmental purpose bonds

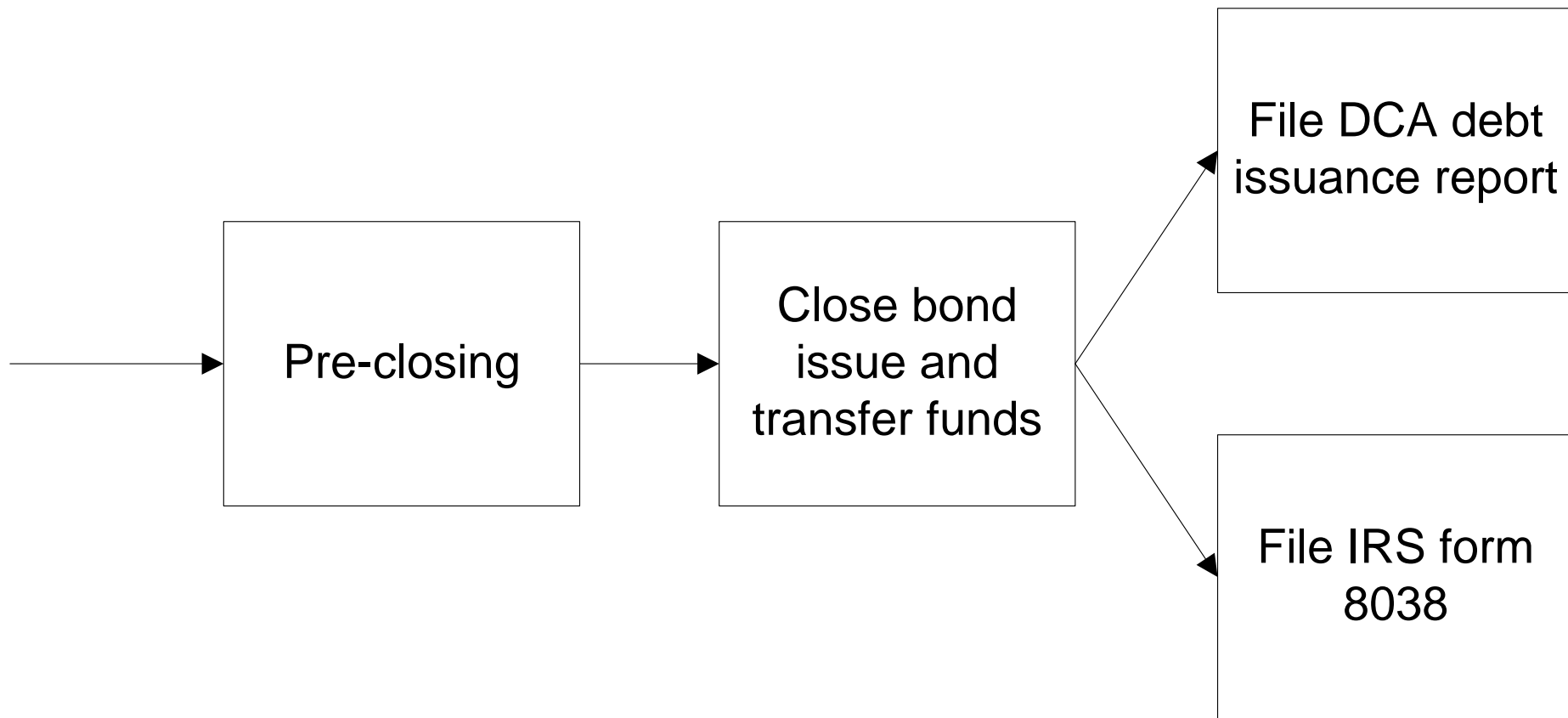
# THE BONDING PROCESS



# THE BONDING PROCESS



# THE BONDING PROCESS



# FINANCING FEES

**WHAT'S THE "CAP" ON WHAT A DEVELOPMENT AUTHORITY CAN RECEIVE FROM A FINANCING?**

# IRS RULES

- IRS' "ARBITRAGE" RULES PREVENT PUBLIC BODIES FROM SELLING BONDS AS A WAY TO MAKE MONEY (BY REINVESTING THE PROCEEDS), AS OPPOSED TO FINANCING PROJECTS APPROVED BY THE TAX LAWS
- SPREAD BETWEEN THE YIELD ON PURPOSE INVESTMENTS (THE APPROVED PROJECT) AND THE YIELD ON THE BONDS IS LIMITED BY THESE RULES TO 1/8 OF 1%
- PRESENT VALUE CALCULATIONS ARE USED TO DETERMINE THE SPREAD
- A DEVELOPMENT AUTHORITY'S FEE (TOGETHER WITH ANYTHING ELSE THAT MIGHT BE CONSIDERED YIELD), CAN'T EXCEED 1/8 OF 1% OF THE PRINCIPAL AMOUNT OF THE BONDS AS OF THE DATE(S) USED IN THE CALCULATION
- EXAMPLE -- A ONE-TIME UPFRONT FINANCING FEE OF 1/8 OF 1% OF THE ORIGINAL PRINCIPAL AMOUNT OF THE BONDS WOULD BE OK
- ARBITRAGE RULES DON'T APPLY TO TAXABLE BONDS

# CONCLUSION

- A LONG TIME AGO, A DEVELOPMENT AUTHORITY VIEWED ITS ONLY FUNCTION AS MEETING ONLY WHEN NECESSARY TO ISSUE BONDS
- THEN, THE DEVELOPMENT AUTHORITY'S EXECUTIVE VIEWED HIS OR HER ONLY FUNCTION AS "SHOWING DIRT" TO PROSPECTS
- TODAY, IT'S A DIFFERENT WORLD-
  - ▶ "FINANCIAL ENGINEERING" HAS MADE THE BOND PROCESS MORE COMPLICATED
  - ▶ THE DEVELOPMENT AUTHORITY, AND ITS BONDS, ARE INDISPENSABLE IN PROVIDING INCENTIVES TO PROSPECTS

# IF YOU HAVE QUESTIONS

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# MORE INFORMATION

This presentation is a quick-reference guide for elected and appointed officials and their staffs, company executives and managers, economic developers, participants in the real estate and financial industries, and their advisors. The information in this presentation is general in nature. Various points which could be important in a particular case have been condensed or omitted in the interest of readability. Specific professional advice should be obtained before this information is applied to any particular case. Any tax information or written tax advice contained herein is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)