

**Title 23. Public Utilities and Regulated Industries**  
**Chapter III. State Bank Department, Department of Commerce**  
**Subchapter A. Generally**  
**Part 321. County or Regional Industrial Development Corporations**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"A.C.A. § 15-4-1201 through A.C.A. § 15-4-1228"

**Subpart 1. Generally**

**23 CAR § 321-101. Purposes of each industrial development corporation.**

(a)(1) The purpose of each industrial development corporation organized pursuant to the County and Regional Industrial Development Company Act, Arkansas Code § 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.

(2) The Bank Commissioner and the State Banking Board therefore rule that in order to implement the intentions of the County and Regional Industrial Development Company Act, companies should make every effort to use the assets raised by the corporation to pursue the intentions set out in the County and Regional Industrial Development Company Act.

(3) The commissioner and the 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.

(4) However, the commissioner and the 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 County and Regional Industrial Development Company Act.

(b)(1) 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 Arkansas Code § 15-4-1214(a).

(2) 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.

(3) 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 Arkansas Code § 15-4-1215, and shall be treated as set forth in Arkansas Code § 15-4-1224(a)(2)(A) [repealed].

(4) Provided, however, that upon written application and for good cause shown, the commissioner may in his or her discretion extend such period for two (2) additional six-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.

(5) Each extension shall require a separate application filed by the industrial development corporation with the commissioner at least ten (10) days prior to the expiration of the period sought to be extended.

(6) Proceeds, unless otherwise clearly accounted for by the industrial development corporation, shall be accounted for on a "first in, first out" basis.

**Authority.** Arkansas Code § 15-4-1226.

**Codification Notes.** Arkansas Code § 15-4-1224 was repealed by Acts 2017, No. 374, § 5.

### **23 CAR § 321-102. Information.**

The State Banking Board, in order to meet the statutory obligation to examine and supervise/regulate county or regional industrial development corporations organized pursuant to the County and Regional Industrial Development Company Act, Arkansas Code § 15-4-1201 et seq., require such organizations to submit the following information to the State Bank Department:

(1)(A) Quarterly financial reports containing financial information requested by the department.

(B) Each quarterly financial report must be filed with the department no later than forty-five (45) days following the calendar quarter ending on March 31, June 30, September 30, and December 31 of each year.

(C) Any county or regional industrial development corporation that fails or refuses to file a financial report with the department within the time limitations set forth by this section may be assessed a monetary penalty against the county or regional industrial development corporation in the amount of one hundred dollars (\$100) per day for the first thirty (30) days of violation and five hundred dollars (\$500) per day of violation for every day thereafter;

(2)(A) An annual independent audit of the corporation, which has been performed by a qualified accounting firm.

(B) This audit is required to be submitted to the department no later than April 15 of each year.

(C) Any county or regional industrial development corporation that fails or refuses to file an annual independent audit with the department by or before April 15 of each year may be assessed a monetary penalty against the county or regional industrial development corporation in the amount of one hundred dollars (\$100) per day for the first thirty (30) days of violation and five hundred dollars (\$500) per day of violation for every day thereafter;

(3)(A) The Bank Commissioner may extend the time for filing a quarterly or annual report upon the request in writing by a county or regional industrial development corporation.

(B) The request must:

- (i) Provide a good cause for such extension; and
- (ii) Have prior approval of the commissioner;

(4) An annual list of shareholders, which must be submitted to the department within thirty (30) days from December 31 each year; and

(5) Any changes or amendments made in the company's articles of incorporation.

**Authority.** Arkansas Code § 15-4-1226.

**23 CAR § 321-103. Impaired assets or capital.**

Arkansas Code § 15-4-1202(5) defines "impaired" capital or assets as when the capital of the company has been reduced to fifty thousand dollars (\$50,000) or less.

**Authority.** Arkansas Code § 15-4-1226.

**23 CAR § 321-104. Assessment fees.**

(a) The State Banking Board and the Bank Commissioner require that assessment fees payable on a semi-annual basis to the State Bank Department be remitted by automated processing as established by the commissioner.

(b) Exceptions for payment of assessment fees by any other method than the automated method established by the department must be upon prior request and approval by the commissioner.

(c) Exception requests will only be approved on an extraordinary basis.

**Authority.** Arkansas Code §§ 15-4-1226, 23-46-404.

**23 CAR § 321-105. Application requirements.**

(a)(1) Applications submitted to the Bank Commissioner for consideration of preliminary approval must include such information that the commissioner determines is necessary in order to consider the qualifications of the organizers.

(2) This information must include, but not be limited to:

(A) A complete financial background review;

(B) Permission to seek a current credit report;

(C) Past and current business involvement;

(D) Prior involvement with an industrial development corporation;

(E) A listing of the proposed board of directors or management committee; and

(F) A criminal background check.

(b) Single purpose applications shall include information, in sufficient detail for the commissioner to consider, the potential economic development or community development, or similar project, that the applicant has under serious consideration.

(c) Multiple purpose applications shall include, in sufficient detail for the commissioner to consider, at least three (3) potential economic development, community development, or similar projects that the applicant has under serious consideration.

(d) Upon a preliminary approval of an application, applicant is required to provide the State Bank Department with evidence that the required initial capital is being held in escrow pending final approval of the State Banking Board.

**Authority.** Arkansas Code § 15-4-1226.