

Part 5B – Qualified Energy Conservation Bonds (QECCBs)

Permitted Issuers

All types of state and local government issuers

Eligible Projects

A broad array of “green” expenditures including: (1) implementing green community programs, (2) grants to support research in emerging energy technologies, (3) rail and bus facilities, (4) public education programs, (5) renewable energy facilities, and (6) demonstration projects for emerging energy technologies

Key Elements

At least 70% of each state’s volume cap allocation must be used for governmental purpose bonds

Up to 30% of each state’s volume cap allocation may be used for private activity bonds, meaning proceeds may be loaned to private companies and/or for privately owned or operated projects

A traditional “tax-credit bond” designed to provide the issuer with a 70% interest subsidy through tax credits to bondholders. The balance of any interest is paid by the issuer

Federal Davis-Bacon prevailing wage rules apply to projects financed with proceeds of QECCBs

Volume Cap

\$3.2 billion

The Recovery Act provides authority to issue an additional \$2.4 billion (for a total of \$3.2 billion) of Qualified Energy Conservation Bonds (“QECCBs”) originally authorized by legislation in 2008. QECCBs may be issued by state and local governments to finance a broad array of qualified conservation purposes.

Projects that may be financed with QECCBs include the following categories:

Type I – Capital expenditures incurred for purposes of—

- Reducing energy consumption in publicly owned buildings by at least 20%,
- Implementing green community programs,
- Rural development involving the production of electricity from renewable energy resources, or
- Any facility eligible for the production tax credit under Section 45 of the Internal Revenue Code (*i.e.*, New CREBs projects).

Type II – Expenditures with respect to research facilities and research grants to support research in—

- Development of cellulosic ethanol or non-fossil fuels,
- Technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,
- Increasing the efficiency of existing technologies for producing non-fossil fuels,
- Automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or
- Technologies to reduce energy use in buildings.

Type III – Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

Type IV – Demonstration projects designed to promote commercialization of—

- Green building technology,
- Conversion of agricultural waste for use in the production of fuel or otherwise,
- Advanced battery manufacturing technologies,
- Technologies to reduce peak use of electricity, or
- Technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

Type V – Public education campaigns to promote energy efficiency (other than movies, concerts and other events held primarily for entertainment purposes).

Private Use

QECBs are subject to a specific regime regarding private business use. Under existing rules, at least 70% of each state's cap allocation must be used for bond financings that do not meet either the "private business use test" or the "private loan test." Accordingly, up to 30% of the volume cap may be used for private activity bonds, meaning that proceeds may be loaned to private companies and/or used for privately owned or operated purposes. Importantly, the legislative history of QECBs provides that all of the proceeds applied for private activity bond purposes must be applied to capital expenditures.

Allocation of Cap

States are allocated volume cap according to population.