

# STATE OF NEW YORK

5543

2017-2018 Regular Sessions

## IN SENATE

April 7, 2017

Introduced by Sen. GRIFFO -- (at request of the Energy Research Development Authority) -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT relating to qualified energy conservation bonds

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Definitions. As used in this act, unless the context  
2 requires otherwise:

3 "President" means the president and chief executive officer of the New  
4 York state energy research and development authority.

5 "Code" means the internal revenue code of 1986, as amended.

6 "Issuer" means the state, the New York State Energy Research Develop-  
7 ment Authority or a large local government which is authorized to issue  
8 QEGBs.

9 "Large local government" means a municipality or county, in either  
10 case, within the state having a population, as of July 1, 2007, of  
11 100,000 or more. For purposes of this act, large local government does  
12 not include an Indian tribal government.

13 "Municipality" means a city or town.

14 "NYSERDA" means the New York State Energy Research and Development  
15 Authority.

16 "Qualified Energy Conservation Bonds" or "QEGBs" means bonds, notes or  
17 other obligations issued as qualified energy conservation bonds under  
18 section 54D of the code.

19 "QEGB volume cap" means the aggregate dollar amount of QEGBs permitted  
20 to be issued by the state and large local governments pursuant to  
21 section 54D of the code.

22 "Unspecified portion" has the meaning ascribed to such term in para-  
23 graph (d) of section two of this act.

24 § 2. QEGB Volume Cap Utilization Reports; Abandonment and Relinquish-  
25 ment of QEGB Volume Cap. (a) The chief executive of every large local

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD09997-02-7

1 government, except for a city with a population of 1 million or more,  
2 or, if such local government has no chief executive officer, the govern-  
3 ing board of such local government, shall report to the President and  
4 CEO of NYSERDA no later than the 120 days following the date this act  
5 shall take effect:

6 (i) whether such large local government has already issued QECBs and,  
7 if so, copies of the information returns filed with the Internal Revenue  
8 Service relating to such QECBs shall also be included in its report, and  
9 if such large local government has otherwise reallocated all or a  
10 portion of its QECB volume cap, a description of such reallocation; and

11 (ii) if such large local government has not used and applied the full  
12 portion of its QECB volume cap to the issuance of QECBs, whether and  
13 when it intends to do so, and if so, the projects or purposes to which  
14 such cap will be applied.

15 (b) In filing the report required by paragraph (a) of this section, a  
16 large local government may affirmatively state in such report or may  
17 notify the President and CEO of NYSERDA at any time after the filing of  
18 such report that such large local government is reallocating to the  
19 state all or any portion of its unused QECB volume cap and such reallo-  
20 cation shall be deemed to be effective as of the date of the filing of  
21 such report or notification.

22 (c) Any large local government which does not file the report required  
23 by subparagraph (i) of paragraph (a) of this section by the date therein  
24 required shall be deemed as of such date to have abandoned, voluntarily  
25 relinquished and reallocated to the state any of its unused QECB volume  
26 cap.

27 (d) Any large local government which timely files the report required  
28 by subparagraph (i) of paragraph (a) of this section but does not speci-  
29 fy in such report that it intends to use and apply part, but not all, of  
30 the full portion of its QECB volume cap for the issuance of QECBs shall  
31 be deemed, as of the date of such filing, to have abandoned, voluntarily  
32 relinquished and reallocated to the state the portion of its unused QECB  
33 volume cap which is not specified in such report as being intended to be  
34 used (herein the "unspecified portion").

35 § 3. Unused local QECB volume cap reallocated to the state. If (a) the  
36 report of a large local government submitted pursuant to subparagraph  
37 (ii) of paragraph (a) of section two of this act expresses an intention  
38 to use and apply any unused portion of that large local government's  
39 QECB volume cap in connection with the issuance of QECBs, and (b) QECBs  
40 have not been issued by the date eighteen (18) months after the date  
41 this act shall take effect, or such later date as may be approved by the  
42 President and CEO of NYSERDA in accordance with section four of this  
43 act, then such unused QECB volume cap shall be deemed to have been aban-  
44 doned by such large local government and voluntarily relinquished and  
45 reallocated to the state as of such date.

46 § 4. Rules and Regulations. Notwithstanding any other law to the  
47 contrary, the President and CEO of NYSERDA may promulgate rules and  
48 regulations for the implementation of this act and may grant extensions  
49 to the deadline set forth in section three of this act with respect to  
50 all or a portion of the QECB volume cap allocable to a large local  
51 government to a date or dates not later than three years after the  
52 enactment of this act upon receipt of evidence satisfactory to the Pres-  
53 ident and CEO that such large local government has made sufficient  
54 commitments towards the issuance of QECBs and that it is reasonable to  
55 expect that such QECBs will be issued on or before the date three years  
56 after the date this act shall take effect.

1     § 5. Reallocation of QECB Volume Cap abandoned, relinquished and real-  
2 located pursuant to this act. Any QECB volume cap which is abandoned,  
3 relinquished or reallocated to the state pursuant to this act may be  
4 further reallocated by the Governor to NYSERDA or any other issuer the  
5 Governor may designate, such reallocated QECB volume cap to be applied  
6 to the issuance of QECBs; provided that in considering any reallocation  
7 of QECB volume cap in an aggregate amount equal to or greater than 5  
8 million dollars, the New York State Association of Counties shall be  
9 consulted prior to the final reallocation.

10    § 6. Deadline for Issuance of local QECBs. No large local government  
11 or local development corporation may issue QECBs after the date three  
12 years after the date this act shall take effect.

13    § 7. Severability. If any clause, sentence, paragraph, section, or  
14 part of this act shall be adjudged by any court of competent jurisdic-  
15 tion to be invalid, such judgment shall not affect, impair, or invali-  
16 date the remainder thereof, but shall be confined in its operation to  
17 the clause, sentence, paragraph, section, or part thereof directly  
18 involved in the controversy in which such judgment shall have been  
19 rendered.

20    § 8. Existing QECB allocations not altered. Nothing contained in this  
21 act shall be deemed to supersede, alter or impair any allocation of QECB  
22 volume cap for the issuance of QECBs by a large local government prior  
23 to the effective date of this act, as such prior allocation shall be  
24 evidenced by the issuance of such QECBs and the filing of the related  
25 information return with the internal revenue service or, if such QECBs  
26 have not yet been issued, the adoption of a resolution prior to the  
27 effective date of this act by the governing body of a large local  
28 government approving the issuance of QECBs and allocating QECB volume  
29 cap to such QECBs.

30    § 9. This act shall take effect immediately.