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:

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

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

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

"Issuer" means the state, the New York State Energy Research Development Authority or a large local government which is authorized to issue QECBs.

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

"Municipality" means a city or town.

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

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

"QECB volume cap" means the aggregate dollar amount of QECBs permitted to be issued by the state and large local governments pursuant to section 54D of the code.

"Unspecified portion" has the meaning ascribed to such term in paragraph (d) of section two of this act.

§ 2. QECB Volume Cap Utilization Reports; Abandonment and Relinquishment of QECB 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

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

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

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

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

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

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

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

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

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

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

§ 7. Severability. If any clause, sentence, paragraph, section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

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

§ 9. This act shall take effect immediately.