



QECB Update and Waiver Process Overview

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QECCB Update

- Total known issued as of October 31, 2015:
\$1,192,321,82 out of of \$3.2 billion total allocation (**37%**)
- At least **210 projects** known financed to date in at least **37 states**
- **Significant increase in activity last quarter:** 22% more QECCBs issued in Q3 2015 (\$72.1m) than in the entirety of 2014 (\$59.19m)
- First known QECCB issuance in **New Mexico** now on record
- Issuances up in the **Southeast:**
 - 6% increase in issuances between December 2014 and October 2015

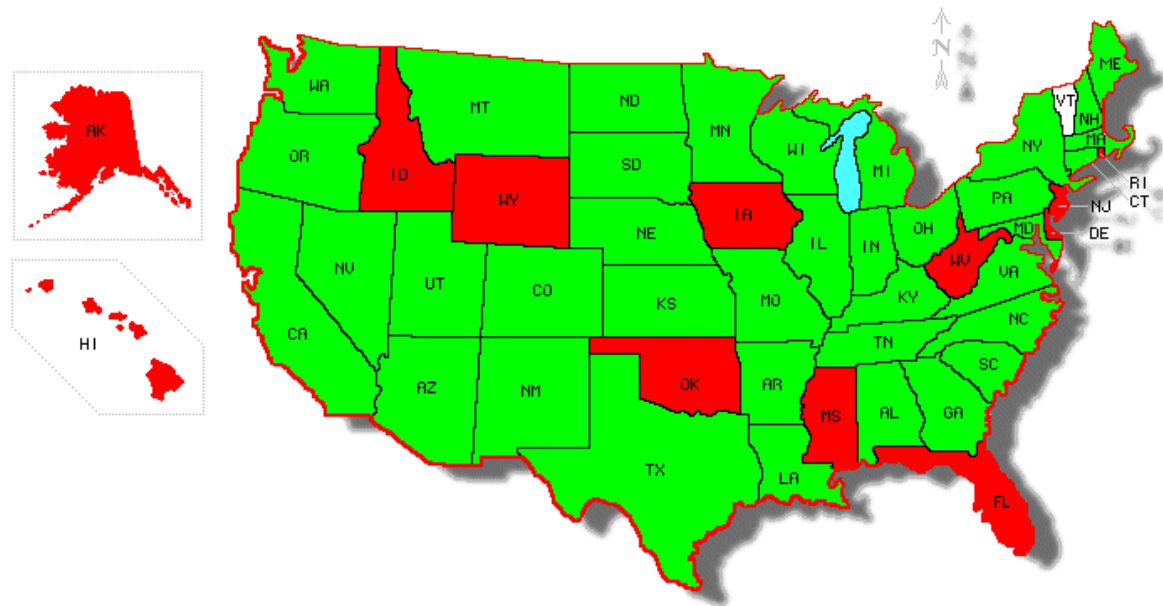
State QECB Leaders

As of October 2015:

State	Known Utilization Rate
Kansas	99.98%
Kentucky	99.79%
Colorado	96.38%
Nebraska	88.23%
Montana	83.03%
California	82.31%
Alabama	81.31%
South Dakota	78.81%

QECB Opportunities

- Up to 14 states (in red below) and 5 US territories have yet to use any of their allocations
- Of these, Florida has recently authorized QECBs and efforts are underway to support issuances.



Statutory Authority

- Section 54D(e)(2)(B) of the U.S. Internal Revenue Code states:
“The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.”

Change to *IRS Frequently Asked Questions on Qualified Tax Credit Bonds and Specified Tax Credit Bonds*

Q-38. How is QECB volume cap allocated and reallocated?

A-38 The national volume cap allocation for QECBs is \$3.2 billion. Notice 2009-29 allocates the national limitation to States and territories. Under section 54D(e)(2)(A), States must further allocate a portion of their allocation to large local governments based on population. The eligible costs for qualified conservation purposes financed with the proceeds of an issue of QECBs must relate to qualified conservation purposes that are located within or attributable to both the jurisdiction of the issuer of the QECBs and the jurisdiction of the entity authorized to allocate volume cap to an issue of QECBs.

Under section 54D(e)(2)(B), the amount of volume cap for QECBs allocated to a large local government may be reallocated by such local government to the State in which such local government is located. **The IRS will defer to any reasonable process under applicable State law by which a large local government, acting through its governing body or a duly authorized official of a large local government, voluntarily reallocates its volume cap for QECBs back to the State in which such large local government is located. The IRS will defer to any reasonable manner in which the State, in good faith and in its discretion, may allocate such reallocated volume cap, subject to the requirement of section 54D(e)(3) that not less than 70 percent of the reallocation be used for bonds other than private activity bonds.**

State Approaches to Facilitating Waivers of Local Allocations

- *Affirmative Waiver:* Local government must affirmatively waive its suballocation (generally by an act such as a resolution or motion of the county or city council)
- *Constructive Waiver:* The state requests each large local government to notify the state by a certain date of its intent to utilize its suballocation, with failure to notify being treated as waiver.

Letter of Intent (LOI): The authorized state agency sends a “Letter of Intent” to each large local government (LLG) asking whether the LLG was going to use its QECB allocation.

- May be either an affirmative or a constructive waiver depending in part on state law.
- Multiple variants, including:
 - If the LLG checks “no” the QECB funds are considered waived back to the state.

Why Does It Matter?

- Waived allocations are either slated for issuance by the state or re-allocated to another jurisdiction within the state for issuance
 - For example, Colorado has a constructive waiver process and has re-allocated (and seen issued) a significant number of suballocations pulled up from local governments
- When such waived or pulled back allocations are up for issuance, bond counsel will review
- Bond counsel should be comfortable with the validity of the waiver process used

Waiver Process Implementation Statistics

Type of Authorization*	Type of Waiver	Number of States
Legislation	Affirmative	16
	Constructive	4
	Letter of Intent	3
	Waiver Process Unknown	6
Executive Order	Affirmative	9
	Constructive	2
	Letter of Intent	1
	Waiver Process Unknown	1
Unknown	Unknown	5
Not Authorized	N/A	4

*Authorization may vary depending on state law determinations.

Questions? Comments?

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