

STATE OF CONNECTICUT
BY HER EXCELLENCY
M. JODI RELL

EXECUTIVE ORDER NO. 41

WHEREAS, the United States Congress has passed and President Obama has signed into law a comprehensive federal economic stimulus package to create jobs and stimulate economic growth known as the American Recovery and Reinvestment Act of 2009 ("ARRA"); and

WHEREAS, the ARRA contains a new allocation of Qualified Energy Conservation Bonds, which are subject to pre-existing requirements contained in Section 54D of the Internal Revenue Code of 1986, as amended ("the Code"); and

WHEREAS, Section 54D of the Code authorizes state and local governments to issue Qualified Energy Conservation Bonds to finance expenditures incurred for purposes of reducing energy consumption in publicly-owned buildings, implementing green community programs, rural development involving the production of electricity from renewable energy resources or certain other qualified facilities; expenditures with respect to research facilities, and research grants, to support research in development of cellulosic ethanol or other nonfossil 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 nonfossil fuels, automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or technologies to reduce energy use in buildings; mass commuting facilities and related facilities that reduce consumption of energy; demonstration projects designed to promote the 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; and public education campaigns to promote energy efficiency ("Qualified Conservation Purposes"); and

WHEREAS, Qualified Energy Conservation Bonds are a significant resource for the State to provide funding for projects which meet the criteria to be Qualified Conservation Purposes as set forth in Section 54D(f) of the Code, and will stimulate economic activity, increase employment opportunities and mitigate the harmful effects of the national recession; and

WHEREAS, Section 54D(d) of the Code imposes a \$3.2 billion national bond volume limitation (the "Qualified Energy Conservation Bond Volume Cap") on the issuance of Qualified Energy Conservation Bonds which is allocated among the states in proportion to the population of the States based on the most recent available state population information released by the United States Census Bureau as of December 31, 2008; and

WHEREAS, the State of Connecticut has received an allocation of Qualified Energy Conservation Bond Volume Cap in the amount of \$36,323,000, as described in Notice 2009-29 issued by the Internal Revenue Service on April 6, 2009 (the "Notice"); and

WHEREAS, pursuant to Section 54D(e)(2)(A) of the Code and the Notice, any state with a municipality or county that has a population of 100,000 or more (each a Large Local Government) is required to allocate to each such Large Local Government a portion of the state's allocation of Qualified Energy Conservation Bond

Volume Cap that bears the same ratio to the state's allocation (determined without regard to the reallocation) as the population of the Large Local Government bears to the population of the state based on population figures for Large Local Governments based on available data from the United States Census Bureau for the period that is closest in time to that used for the state allocations and released by the Census before 2009, adjusted as required by Section 54D(g)(2) of the Code; and

WHEREAS, Hartford, New Haven, New London, Fairfield, Windham, Litchfield, Middlesex and Tolland Counties (the "Abolished Counties"), being all the counties previously existing in the State, were abolished as of October 1, 1960 by Public Act No. 59-152 and all powers and duties of the Abolished Counties have been vested in the State and therefore the existing counties are geographic designations only and do not constitute governments which might be considered "Large Local Governments"; and

WHEREAS, the State of Connecticut has five remaining Large Local Governments, being the cities of Bridgeport, Hartford, New Haven, Stamford and Waterbury; and

WHEREAS, Section 54D(e)(2)(B) of the Code and the Notice provide that any Large Local Governments may reallocate any portion of its Qualified Energy Conservation Bond Volume Cap to the State and upon such reallocation the State is authorized to reallocate such Qualified Energy Conservation Bond Volume Cap; and

WHEREAS, under Section 54D(e)(3) of the Code, any allocation to a state or Large Local Government shall be reallocated in turn by the state or Large Local Government to issuers within the state in a manner that results in the use of not less than seventy percent (70%) of the allocation to such state or Large Local Government being used to designate bonds that are not "private activity bonds" as that term is applied in Section 54D of the Code; and

WHEREAS, the State has been authorized by general and special laws heretofore enacted to issue bonds to finance projects and purposes which may constitute Qualified Conservation Purposes; and

WHEREAS, the Connecticut Development Authority ("CDA") is authorized to issue bonds pursuant to Chapter 579 of the General Statutes of Connecticut, Revision of 1958, as amended, to finance projects and purposes which may constitute Qualified Conservation Purposes;

NOW, THEREFORE, I, M. JODI RELL, Governor of the State of Connecticut, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Connecticut do hereby issue this Order and determine and direct as follows:

1. Of the State's \$36,323,000.00 allocation of Qualified Energy Conservation Bond Volume Cap, an aggregate \$6,337,885.08 is reallocated to the Large Local Governments of the State in the amounts shown in Exhibit A hereto, leaving a \$29,985,114.92 balance of the Qualified Energy Conservation Bond Volume Cap allocated to the State.
2. To ensure that the State does not lose available Qualified Energy Conservation Bond funds, the Executive Director of the CDA, in consultation and agreement with the Department of Economic and Community Development ("DECD"), shall seek affirmative reallocations to the State from Large Local Governments of any Qualified Energy Conservation Bond Volume Cap allocated to such Large Local Governments that the Executive Director determines has not been allocated to Qualified Conservation Purposes by July 31, 2010

3. \$14,150,000 of the \$29,985,114.92 balance of the Qualified Energy Conservation Bond Volume Cap remaining allocated to the State as referenced in paragraph 1 of this order and all Qualified Energy Conservation Bond Volume Cap that is affirmatively reallocated to the State by a Large Municipality pursuant to paragraph 2 of this order is hereby reallocated to CDA. CDA, in consultation and agreement with DECD, may reallocate all or any portion of such Qualified Energy Conservation Bond Volume Cap to such Qualified Conservation Purposes as CDA shall determine to be in the best interests of the State. All Qualified Energy Conservation Bonds issued under any reallocations shall be issued by CDA or by such other issuer as CDA shall approve. All reallocations of Qualified Energy Conservation Bond Volume Cap by CDA shall be consistent with and pursuant to Section 54D of the Code (as the same may be amended from time-to-time), the Notice (as the same may be amended or supplemented) and this Order.
4. Each reallocation of Qualified Energy Conservation Bond Volume Cap made by CDA shall be in writing, shall be made for specific Qualified Conservation Purposes, as applicable, and shall specify the date on or before which the Qualified Energy Conservation Bonds to which such reallocated Qualified Energy Conservation Bond Volume Cap pertains shall be issued in order for the reallocation to be effective. Allocations may be made subject to those conditions that CDA, in consultation and agreement with DECD, deems appropriate and consistent with this Order, including without limitation such conditions as are necessary to ensure that such reallocation is used in a manner that results in the use of not less than seventy percent (70%) of the allocation to the State or a Large Local Government being used to designate bonds that are not "private activity bonds" as that term is applied in Section 54D of the Code.
5. CDA or CDA's designee, in consultation and agreement with DECD, is authorized to make all representations, file all documents and take all other actions in the name and on behalf of the State as may be required for compliance with Section 54D of the Code and to implement this Order. In the event that responsibilities under this Order are assigned to any issuer of Qualified Energy Conservation Bonds other than CDA, appropriate provisions for designations shall be made by CDA in consultation and agreement with DECD. All designations made pursuant to this section shall be evidenced in writing.
6. CDA shall make available to the public information as to the amount of the Qualified Energy Conservation Bond Volume Cap allocated to the State and to any Large Local Government that has not yet been reallocated to Qualified Conservation Purposes, as applicable, and the expiration dates for all reallocations by CDA, and shall confirm, upon request, an allocation of the Qualified Energy Conservation Bond Volume Cap to a particular Qualified Conservation Purpose, as applicable, and the duration thereof.
7. Prior to making any allocations of Qualified Energy Conservation Bond Volume Cap, CDA, in consultation and agreement with DECD, shall adopt guidelines governing the allocation and reallocation of Qualified Energy Conservation Bond Volume Cap by the State.
8. This Order shall take effect immediately.

Dated at Hartford, Connecticut this 23rd day of March 2010

M. Jodi Rell, Governor

By Her Excellency's Order

Susan Bysiewicz, Secretary of the State