

American Recovery and Reinvestment Act of 2009 Recovery Zone Bonds

WAIVER AND RE-ALLOCATION PROCESS



Recovery Zone (RZ) Bonds

- RZ Bonds - History and Applicable Laws
- Types of Recovery Zone Bonds
- Allocation of RZ Bond Cap
- Re-allocation of RZ Bond Cap
- Timelines and Forms
- Contact Information

Overview

Recovery Zones Applicable Law

- Recovery Zone bonds were authorized in HR 1 (the “American Recovery and Reinvestment Act of 2009”)
- IRS Notice 2009-50 and 2009-26
- HB 581 amended the powers of the Georgia State Financing and Investment Commission (GSFIC) in O.C.G.A 50-17-22 to:

(iv) Apply or arrange to participate in and take all actions the commission determines appropriate to obtain the benefits of federal programs which provide tax credits, incentives, or other inducements to the state or to holders of public debt;

(v) Apply or arrange to participate in federal programs which require the allocation of funds or bonding authority among geographical areas, governmental jurisdictions and entities, or other categories, and perform such allocation unless another officer, agency, or instrumentality is explicitly authorized by state law to perform such allocation and all officers, agencies, or instrumentalities are required to provide such assistance, cooperation, and information as the commission directs related to any federal programs; and

(vi) Apply or arrange to participate in any other federal program which provides benefits consistent with state law and supportive of functions of the commission.

- May 6, 2009 GSFIC resolution designated DCA as the lead agency for coordinating the state’s role in the RZ allocation process

Recovery Zone Economic Development Bonds

- A sub-category of Build America Bonds (BAB) for **public infrastructure and facilities** in areas designated by state and local governments as areas with:
 - a) significant poverty, unemployment, or home foreclosure rates,
 - b) federally designated empowerment zones and renewal communities, and
 - c) areas negatively impacted by military base closures.
- Option to issue as tax credit bond or “direct pay” taxable bond – BAB benefit to borrower is a **45%** direct subsidy from the US Treasury on interest payments
- Proceeds must be used for a “qualified economic development purpose” defined as
 - Capital expenditures paid or incurred with respect to property located in a recovery zone, including
 - Land
 - Buildings
 - Equipment
 - Expenditures for public infrastructure and construction of public facilities

Recovery Zone Economic Development Bonds

- Proceeds can NOT be used for private activity
- No refundings or refinancings—new money only
- Issuance costs limited to 2% of proceeds
- Davis-Bacon wage and benefit requirements apply
- US allocation of **\$10** billion allocated among the States in proportion to their relative 2008 job losses
- Suballocations to counties and large municipalities within a State also made on the basis of relative job losses
- **Must be issued by 12/31/10**

Recovery
Zone
Economic
Dev
Bonds

Recovery Zone Facility Bonds

- A new category of tax-exempt **private activity** bonds for financing economic development in recovery zones:
 - a) significant poverty, unemployment, or home foreclosure rates,
 - b) federally designated empowerment zones and renewal communities, and
 - c) areas negatively impacted by military base closures
- Used to finance new capital improvements owned and used by almost any:
 - Industrial
 - Commercial
 - Retail
 - Office
 - Or other business activity located in a “recovery zone”
- Exceptions are rental housing, airplanes, health clubs, liquor stores, race tracks, luxury boxes, gambling massage parlors etc.

Recovery Zone Facility Bonds

- Issued for private projects
- No refundings or refinancings—new money only
- Debt service is funded by the private business that owns and uses the property
- Interest is tax-exempt (this is the sole subsidy)
- No cash subsidy from Treasury
- US allocation of **\$15** billion allocated among the States in proportion to their relative 2008 job losses
- Suballocations to counties and large municipalities within a State also made on the basis of relative job losses
- **Must be issued by 12/31/10**

Designation of Recovery Zone

- “Recovery zones” are designated by resolution/ordinance of the city/county receiving an allocation
 - Option A – Early adoption of a resolution/ordinance designating the entire community (or significant portion) as a Recovery Zone
 - Option B – Designate Recovery Zone as projects become known
- Designating the zone should generally not be a barrier to use
- For Recovery Zone Facility Bonds - only expenditures incurred after a Recovery Zone is designated can be reimbursed
- For Recovery Economic Development Bonds – ordinary reimbursement resolution rules apply
- Form resolution/ordinance will be available at www.dca.ga.gov/economic/financing/programs/RZB.asp
- Local governments should consult with bond counsel

Recovery Zone Allocations and Process for Re-allocation

Georgia RZ Economic Development Allocation **\$355,785,000**

Georgia RZ Facility Bond Allocation **\$533,677,000**

111 counties, 3 consolidated governments and 2 cities received an allocation

These local governments are referred to in the August 20, 2009 GSFIC resolution as “allocation designees”

“Allocation designees” may:

- Authorize a public entity such as a Development Authority to issue RZB’s.
- Allocate all or a portion to an unrelated political subdivision within its jurisdiction (such as a city in a county)

Recovery Zone Allocations and Process for Re-allocation

- The short lifespan (12/31/2010) may result in some entities not using all or a part of their allocation
- Many local governments with severe unemployment and economic distress did not receive an allocation
- Some local governments may have large-scale, viable economic development projects that have regional impact and could benefit from lower cost financing
- Some state-led economic development projects may benefit from lower cost of financing
- The reallocation process will assure maximum use of the tool in the state and maximum economic impact for Georgia as a whole

Recovery Zone Allocation Waivers

Waiver Process

- Each “allocation designee” may waive all or part of its allocation
- Waiver forms are provided by DCA and found at www.dca.ga.gov/economic/financing/programs/RZB.asp
- Each allocation will be deemed waived on November 1, 2009 unless a Notice of Intent to Issue form is submitted to DCA (forms found at www.dca.ga.gov/economic/financing/programs/RZB.asp)
- The Notice of Intent to Issue still applies when the allocation designee reallocates its allocation to another eligible entity
- Allocation designees are not required to have specific projects or financing by November 1 in order to retain their allocation but should have plans and capacity to issue RZ bonds before July 1, 2010.

Recovery Zone Allocation Waivers

Waiver Process (continued)

- Each allocation designee must notify DCA upon issuance of bond cap, including issuance of that allocation used by another eligible entity
- Governments intending to use all or a portion of their allocation must complete their financing by July 1, 2010
- Any allocation (either Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds) not used by July 1, 2010 is “deemed waived” and automatically recaptured by the DCA for reallocation by GSFIC
- Extensions may be granted for viable projects

Recovery Zone Process for Re-allocation

Re-allocation Process

- Economic Development allocation returned to the State can be:
 - Used by the State to lower borrowing costs on general obligation bonds or authority revenue bonds for public projects in recovery zones
 - Re-allocated to other local gov'ts that have viable projects
- Private activity allocation returned to the State can be:
 - “Banked” at the state level (if needed) for a State-led economic development project
 - Re-allocated to other local gov'ts that have viable projects

Recovery Zone Allocations and Process for Re-allocation

Re-allocation Process

- DCA will track amounts of Recovery Zone Bonds
 - Issued at the local level
 - Waived to the State
 - Reallocated by GSFIC
- DCA RZ Re-allocation guidelines outline information requirements to apply for use of waived bond allocations
- Applications for RZ allocation will be accepted up until December 1, 2010
- Local governments who initially waive their allocation are eligible to apply for re-allocation
- Forms and procedures for relocating RZ Bond cap within a County should be established – DCA advises contacting your bond counsel
- Subsequent GSFIC action will be needed to approve any re-allocations

Timelines and Forms

- August 21, 2009 – notice to all local governments of RZ allocation
- November 1, 2009 – due date for submitting Notice of Intent to DCA
- November 1, 2009 – due date for submitting resolution waiving allocation (if applicable)
- November 1, 2009 – allocations to governments NOT responding to notice of intent “deemed waived”
- June 15, 2010 – deadline for submission of request for extension
- July 1, 2010 –date of recapture of any un-used bond allocation
- December 1, 2010 – last day to apply for RZ re-allocation
- December 31, 2010 – last day to issue RZ Bonds

Key Dates