

§ 143-433.9. Allocation.

(a) To provide for the orderly and prompt issuance of bonds the allocation of which is managed under this Article, the Committee must follow formulas for allocating the following: (i) the unified volume limitation, (ii) the state housing credit ceiling, (iii) the annual aggregate limitation on the face amount of qualified public educational facility bonds, (iv) the limitation on issuance of recovery zone facility bonds, (v) the limitation on issuance of recovery zone economic development bonds, and (vi) the limitation on issuance of qualified energy conservation bonds. The unified volume limitation for all issues of private activity bonds, other than qualified public educational facility bonds and recovery zone facility bonds, in North Carolina shall be considered as a single resource to be allocated under this Article. The annual aggregate limitation on the face amount of qualified public educational facility bonds for all issues in North Carolina shall be considered as a single resource to be allocated under this Article. The Committee shall issue the following: (i) allocations of the unified volume limitation, (ii) allocations of the state housing credit ceiling, (iii) allocations and reallocations of the aggregate limitation on the face amount of qualified public educational facility bonds, (iv) allocation and reallocation of the authority for issuance of recovery zone facility bonds allocated to the State, (v) allocation and reallocation of the authority for issuance of recovery zone economic development bonds allocated to the State, (vi) allocation and reallocation of authority for issuance of qualified energy conservation bonds allocated to the State, and (vii) allocation of other limitations on authority to issue bonds as may be directed by the Governor. The Committee shall set forth procedures for making such allocations and in the making of such allocations shall take into consideration the best interest of the State of North Carolina with regard to the economic development, school facility needs, energy conservation, green initiatives, and general prosperity of the people of North Carolina. In making the initial allocations for recovery zone facility bonds and recovery zone economic development bonds, the Committee shall follow the formula provided in section 1400U-1(a)(3) of ARRTA. In making the initial allocation for qualified energy conservation bonds, the Committee shall follow the guidelines provided in section 54D of the Internal Revenue Code of 1986. The Committee shall make all elective carryforwards of the unused unified volume limitation, the annual aggregate limitation on the face amount of qualified public educational facility bonds, recovery zone facility bonds, qualified energy conservation bonds, and any other bonds or tax credits over which it has allocation authority on behalf of the State. The Committee shall monitor the issuance of qualified energy conservation bonds to ensure that not more than thirty percent (30%) of such bonds are used for purposes that would be treated as private activity bonds under the Internal Revenue Code of 1986, as amended. The Committee is authorized to establish a procedure to monitor whether the initial allocations of recovery zone facility bonds or recovery zone economic development bonds to counties and large municipalities pursuant to ARRTA will be utilized, for an allocation that will not be utilized to be waived by notice to the Committee, and for the reallocation of the waived allocation to other projects that qualify pursuant to ARRTA.

(b) In administering the low-income housing credit program, the Committee shall adopt a Qualified Allocation Plan (the Plan) as required by 26 U.S.C. § 42(m) annually. Solely with respect to the adoption of the Plan, the Committee is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes. Prior to adoption or amendment of the Plan, the Committee shall:

- (1) Publish the proposed Plan in the North Carolina Register at least 30 days prior to the adoption of the final Plan;
- (2) Notify any person who has applied for the low-income housing credit in the previous year and any other interested parties of its intent to adopt the Plan;
- (3) Accept oral and written comments on the proposed Plan; and

(4) Hold at least one public hearing on the proposed Plan.

(c) In administering the allocation and reallocation of authority for issuance of qualified energy conservation bonds allocated to the State and reallocated to any "large local government" as defined in 26 U.S.C. § 54D(e), the Committee shall establish procedures (i) to monitor whether the initial sub-allocations of qualified energy conservation bonds to large local governments will be utilized by October 1, 2017; (ii) for the waiver and return to the Committee of sub-allocations that will not meet the deadline imposed by this subsection; and (iii) for the reallocation of returned sub-allocations for other projects or purposes that qualify under 26 U.S.C. § 54D(f) for financing with qualified energy conservation bonds. The Committee shall also develop programs described by 26 U.S.C. § 54D(f)(1)(A)(iii) and shall consider those programs along with other eligible uses for qualified energy conservation bonds in determining the reallocation of unused and returned qualified energy conservation bond allocation. (1987, c. 588, s. 4; 2001-299, s. 1.1; 2008-204, s. 6.3; 2009-140, s. 4; 2017-57, s. 15.23.)