



NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

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Memorandum #2010-9

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TO: Officials of Local Governments and Public
Authorities and Their Independent Auditors

FROM: Tim Romocki, Director
Debt Management Section

SUBJECT: Sample Resolution for Declaring a Recovery Zone Necessary for Issuance of
Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds

Previous memoranda #1116, #1131 and #2010-6 from our office provided information on the allocations and issuance of Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds. Recovery Zone Economic Development Bonds must be spent for capital expenditures and public infrastructure for the purpose of promoting development or other economic activity in a recovery zone. Recovery Zone Facility Bonds can be used to finance almost any private capital investment in areas designated as "Recovery Zones." Recovery zones are areas designated by an issuer as:

- a) having significant poverty, unemployment, home foreclosure rate or general distress, or
- b) being economically distressed due to Base Realignment and Closure, or
- c) being designated an empowerment zone or renewal community.

In order for local government units and authorities to be eligible to issue either Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds, a unit or authority's governing body must take formal action by resolution designating a specific area (or the entire County) as a "recovery zone." Attached is a sample resolution that has been provided by a bond counsel that units may use to designate a recovery zone if a unit plans to issue either type of these bonds. As noted in a previous memorandum, it is important that a recovery zone be designated at the earliest possible date when considering an issuance of either of these types of bonds. It is also always advisable for units to consult their own bond counsel when considering project financings of this type.

Our staff is available to provide additional information to units or authorities who may have an interest in or the need for these types of financings or who may have questions regarding these bonds. For more information related to debt issues, please contact Jim Baker at (919) 807-2370 or jim.baker@nctreasurer.com or Tim Romocki at (919) 807-2360 or tim.romocki@nctreasurer.com.

THE BOARD OF COMMISSIONERS OF THE COUNTY OF _____
RESOLUTION DESIGNATING RECOVERY ZONE

WHEREAS, the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (“ARRA”) modifies the Internal Revenue Code of 1986, as amended (the “Code”) to authorize, among others, two new types of bonds entitled “recovery zone economic development bonds” and “recovery zone facility bonds;” and

WHEREAS, “recovery zone economic development bonds are a subcategory of taxable build America bonds (as defined in section 54AA(d) of the Code), issued under provisions of ARRA that have been codified as Section 1400U-2 of the Code, the proceeds of which are to be used for qualified economic development purposes in a recovery zone; and

WHEREAS, qualified economic development purpose include expenditures for the purpose of promoting development or other economic activity in a recovery zone, including capital expenditures for property located in the zone or expenditures for public infrastructure and construction of public facilities in the zone; and

WHEREAS, ARRA also authorizes a new type of federally tax exempt private activity bonds entitled “recovery zone facility bonds” in Sections 1400U-1 and 1400U-3 of the Code to finance construction, renovation, or acquisition of depreciable property by a private taxpayer of a qualified business in a recovery zone, with “qualified business” defined to include any trade or business other than residential rental property and certain prohibited uses outlined in the Code;

WHEREAS, sections 1440U-2 through 1400U-3 of the Code, and related Notice 2009-50 issued by the U.S. Treasury Department (collectively, the “Recovery Zone Act”) define a recovery zone as any area designated by the County as an area of significant poverty, unemployment, rate of home foreclosure, or general distress;

WHEREAS, the County has determined that [the County][some designated portion of the County] has experienced significant unemployment and general distress because [recite factors that reasonably lead to this conclusion, such as significant plant foreclosures, high unemployment, increase in unemployment over short period of time, etc.]

WHEREAS, the County has determined that it is in the best interest of the County and its citizens to designate [define recovery zone] as a “recovery zone” for purposes of the Recovery Zone Act;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of _____, that:

1. The County hereby finds that there is significant unemployment and general distress in the [County][area of the County to be designated as a recovery zone], and therefor hereby designates the [County][area of the County to be designated as a recovery zone] as a recovery zone for purposes of the Recovery Zone Act.

2. The officers of the County are hereby authorized and directed to take all actions as may be required in furtherance of the designation of the recovery zone.