

110TH CONGRESS
1ST SESSION

S. 672

To amend the Internal Revenue Code of 1986 to provide tax-exempt financing for qualified renewable energy facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2007

Mr. SALAZAR (for himself and Mr. SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide tax-exempt financing for qualified renewable energy facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural Community Re-
5 newable Energy Bonds Act”.

6 **SEC. 2. TAX-EXEMPT FINANCING OF QUALIFIED RENEW-**
7 **ABLE ENERGY FACILITIES.**

8 (a) IN GENERAL.—Subsection (a) of section 142 of
9 the Internal Revenue Code of 1986 (relating to exempt
10 facility bond) is amended—

1 (1) by striking “or” at the end of paragraph
2 (14),

3 (2) by striking the period at the end of para-
4 graph (15) and inserting “, or”, and

5 (3) by inserting at the end the following new
6 paragraph:

7 “(16) qualified renewable energy facilities.”.

8 (b) DEFINITION.—Section 142 of the Internal Rev-
9 enue Code of 1986 is amended by inserting at the end
10 the following new subsection:

11 “(n) QUALIFIED RENEWABLE ENERGY FACILI-
12 TIES.—For purposes of subsection (a)(16)—

13 “(1) IN GENERAL.—The term ‘qualified renew-
14 able energy facility’ means any facility—

15 “(A) described in paragraph (1), (2), (3),
16 (4), (5), (6), or (9) of section 45(d) (relating to
17 facilities using wind, closed-loop biomass, open-
18 loop biomass, geothermal, solar, small irriga-
19 tion, land fill gas, or qualified hydropower to
20 produce electricity),

21 “(B) except in the case of a facility de-
22 scribed in section 45(d)(5), the nameplate ca-
23 pacity rating of which is not more than 40
24 megawatts, and

25 “(C) at least—

1 “(i) 49 percent of which is owned and
2 controlled, including unrestricted voting
3 rights, by 1 or more persons who are resi-
4 dents of the State in which such facility is
5 located, and

6 “(ii) 10 percent of which is owned and
7 controlled, including unrestricted voting
8 rights, by 1 or more persons who are resi-
9 dents of the local area in which such facil-
10 ity is located.

11 “(2) DETERMINATION OF OWNERSHIP.—For
12 purposes of paragraph (1)(C), ownership sufficient
13 to meet the requirement of clause (ii) thereof may
14 be taken into account for purposes of determining if
15 the requirement of clause (i) thereof is met.

16 “(3) DEFINITIONS.—For purposes of this sub-
17 section—

18 “(A) RESIDENT.—The term ‘resident’
19 means—

20 “(i) in the case of an individual, an
21 individual whose primary residence is in
22 the State or local area in which the facility
23 is located, and

24 “(ii) in the case of an entity, at least
25 50 percent of such entity is owned by indi-

1 viduals who are treated as residents of
 2 such State or local area under clause (i).
 3 For purposes of clause (ii), section 318 (relat-
 4 ing to constructive ownership of stock), as
 5 modified by section 382(l)(3)(A), shall apply for
 6 purposes of determining ownership of stock in
 7 a corporation. Similar principles shall apply for
 8 purposes of determining ownership of interests
 9 in any other entity.

10 “(B) LOCAL AREA.—The term ‘local area’
 11 means, with respect to any facility, an area
 12 within the 200-mile radius of such facility.”

INSERT 4A →

13 (c) EXEMPTION FROM VOLUME CAP.—Paragraph
 14 (3) of section 146(g) of the Internal Revenue Code of
 15 1986 (exempting certain exempt facility bonds from the
 16 state volume caps) is amended by striking “or (15)” and
 17 inserting “(15), or (16)”.

INSERT 4B →

18 (d) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply with respect to bonds issued on
 20 or after the date of the enactment of this Act.

(f)

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Proposed Inserts for S.672
Rural Community Renewable Energy Bonds Act

Insert 4A, page 4, after line 12:

“(5) Involuntary Transfers.—The requirements of paragraph (1)(C) shall not apply in the case of a change in the ownership of a facility by reason of foreclosure, deed-in-lieu-of-foreclosure or other similar involuntary transfer. Such change will not be treated as a change in use of bond proceeds.”.

Insert 4B, page 4, after line 17:

(d) ACCELERATED COST RECOVERY.—Section 168(g)(5) is amended by inserting at the end the following new subparagraph:

“(D) QUALIFIED RENEWABLE ENERGY FACILITIES.—The term ‘tax-exempt bond financed property’ shall not include any qualified renewable energy facilities (within the meaning of section 142(n)).”.

(e) ALLOCATION OF PRODUCTION TAX CREDITS.—Section 704 is amended by redesignating subsection (f) as subsection (g) and adding the following new subsection (f):

“(f) ALLOCATION OF CERTAIN PRODUCTION TAX CREDITS. —The allocation of any renewable electricity production credit for production from a qualified facility which is financed by bonds for a qualified renewable energy facility (within the meaning of section 142(n)) will not fail to have substantial economic effect or otherwise fail to comply with the provisions of this section solely because the partnership allocates to some partners their allocable share of the full amount of the credit determined before application of section 45(b)(3) and allocates to other partners an amount of credit that is less than their allocable share of the credit after reduction under section 45(b)(3).”.