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CHAPTER 22

William C. Mescher Local Housing Trust Fund Enabling Act

**SECTION 31‑22‑10.** Legislative findings.

(A) The General Assembly finds:

(1) Throughout this State, there is a shortage of adequate shelter for South Carolinians including the availability of an affordable residence or permanent domicile with adequate privacy, space, physical accessibility, security, structural stability and durability, and adequate electrical, plumbing, and heating systems.

(2) Private enterprise and investment has not produced, without government assistance, the needed construction of sanitary, decent, and safe residential housing that people with lower incomes can afford to buy or rent.

(3) The public’s health, safety, and economic interests are best served by the provision of permanent affordable housing because such housing enables South Carolinians to maintain employment, assists this state’s children to succeed in school, and helps this state’s economic growth and prosperity.

(B) The purpose of this chapter is to authorize a local government to individually or jointly create and operate a local housing trust fund or regional housing trust fund to promote the development of affordable housing, as defined in this chapter.

HISTORY: 2007 Act No. 19, Section 2, eff May 15, 2007.

**SECTION 31‑22‑20.** Definitions.

For purposes of this chapter:

(1) “Affordable housing” means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income does not exceed eighty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).

(2) “Homeless housing” means emergency, transitional, or permanent residential housing shelter for a person needing special assistance and shelter because he is homeless as defined by HUD or consistent with another definition of homelessness under which a person may receive federal financial assistance, state financial assistance, or another supportive service.

(3) “Local housing trust fund” (LHTF) means a local government fund separate from the general fund established by the governing authority of a local municipality or county government with one or more dedicated sources of public revenue and authorized expenditures as provided in this chapter.

(4) “Regional housing trust fund” (RHTF) means a multi‑jurisdictional government fund separate from the general fund and established jointly by the governing authorities of one or more municipalities or county governments with one or more dedicated sources of public revenue and authorized expenditures as provided in this chapter.

(5) “Special needs housing” means housing or shelter provided by private or public entities including privately operated elderly housing, nursing homes, community residential care facilities, and other special needs population housing facilities regardless of purpose or type of facility.

HISTORY: 2007 Act No. 19, Section 2, eff May 15, 2007.

**SECTION 31‑22‑30.** Authority to create Local Housing Trust Fund or Regional Housing Trust Fund.

(A) A local government, including a municipality or county, may create and operate an LHTF or RHTF by ordinance, or join an existing trust fund to implement either a local or regional program for affordable housing as defined in this chapter. A local government may jointly form a regional housing trust fund by ordinance. A regional housing trust fund created under this chapter is subject to the same requirement and has the same power as a local housing trust fund created by an individual local government.

(B) A local government that creates an LHTF or RHTF may finance the LHTF or RHTF with money available to the local government through its budgeting authority unless expressly prohibited by the law of this State. Sources of these funds include, but are not limited to, one or more of the following:

(1) donations;

(2) bond proceeds; and

(3) grants and loans from a state, federal, or private source.

The local government may alter a source of funding for the LHTF or RHTF by amending the ordinance that establishes financing for the LHTF or RHTF, but only if sufficient funds exist to cover the projected debts or expenditures authorized by the LHTF or RHTF in its budget. This chapter does not create, grant, or confer a new or additional tax or revenue authority to a local government or political subdivision of the State unless otherwise provided by the law of this State.

(C) A local government operating an LHTF or RHTF shall safeguard the fund in the same manner as the general fund or a separate utility fund established for specific purposes. The LHTF or RHTF may be included in the required financial expense reports or annual audit for each local government.

(D) A local government operating an LHTF or RHTF may allocate funds to a program that promotes the development or rehabilitation of affordable housing as defined in this chapter. Regarding the distribution of funds from an LHTF or RHTF, preference must be given to a program or project that promotes the development or rehabilitation of affordable housing for an individual or family with an annual income at or below fifty percent of the median income for the local area, adjusted for family size according to current data from HUD, the development or rehabilitation of special needs housing, or the development or rehabilitation of homeless housing.

(E) LHTF or RHTF funds may be used to match other funds from federal, state, or private resources, including the State Housing Trust Fund. A local government shall seek additional resources for housing programs and projects to the maximum extent practicable. A local government shall administer its housing trust fund through new or existing nonprofit organizations to encourage private charitable donation to the funds. Where an LHTF or RHTF receives such a donation, the donation must be used and accounted for in accordance with the provisions of this chapter.

(F) An LHTF or RHTF established, utilized, or funded under this chapter must provide an annual report to the local government that created the fund. The local government shall require the LHTF or RHTF to provide an accounting of its funds each year. This report must be made available to the public by posting on the appropriate website of the local government.

HISTORY: 2007 Act No. 19, Section 2, eff May 15, 2007.

**SECTION 31‑22‑35.** Effect of legislation on existing local or regional housing trust funds.

An LHTF or RHTF existing on the effective date of this act shall not be required to alter the existing terms of its governing documents; provided, however, that any alteration or amendment to such governing documents must conform to the provisions of this act.

HISTORY: 2007 Act No. 19, Section 2, eff May 15, 2007.

**SECTION 31‑22‑40.** Conflicting laws.

The provisions of this chapter must control where inconsistent with the provisions of another law.

HISTORY: 2007 Act No. 19, Section 2, eff May 15, 2007.