CHAPTER 13

Moderate to Low Income Housing

ARTICLE 1

State Housing Finance and Development Authority

**SECTION 31‑13‑10.** Short title.

 This chapter shall be known and may be cited as the “South Carolina State Housing Finance and Development Authority Act of 1977”.

HISTORY: 1977 Act No. 76 Section 16; redesignated from Section 31‑13‑160 by 1992 Act No. 410, Section 3.

Federal Aspects

National affordable housing act, P. L. 101‑625., 42 U.S.C.A. Section 12701 et seq.

Library References

States 84, 123.

United States 53(9), 82(3.3).

Westlaw Topic Nos. 360, 393.

C.J.S. States Sections 254 to 257, 377 to 380.

C.J.S. United States Sections 83 to 95, 155, 158.

NOTES OF DECISIONS

In general 1

1. In general

Non‑delegation doctrine was not violated by Housing Authority Act where it did not vest uncontrolled, unbridled, or absolute discretion in the Authority or Budget and Control Board. Bauer v. South Carolina State Housing Authority (S.C. 1978) 271 S.C. 219, 246 S.E.2d 869.

By providing safe and sanitary housing for persons who could not otherwise obtain such housing, even though private ownership is promoted by legislation; the fact that the legislation is not a panacea for the complete elimination of housing problems does not offend the public purpose doctrine. Bauer v. South Carolina State Housing Authority (S.C. 1978) 271 S.C. 219, 246 S.E.2d 869.

**SECTION 31‑13‑20.** South Carolina State Housing Finance and Development Authority created.

 There is hereby created a public body corporate and politic to be known as the South Carolina State Housing Finance and Development Authority.

HISTORY: 1962 Code Section 36‑291; 1971 (57) 927; redesignated from Section 31‑3‑110 by 1992 Act No. 410, Section 3.

Library References

States 84, 123.

United States 53(9), 82(3.3).

Westlaw Topic Nos. 360, 393.

C.J.S. States Sections 254 to 257, 377 to 380.

C.J.S. United States Sections 83 to 95, 155, 158.

**SECTION 31‑13‑30.** Appointment, qualifications, and terms of commissioners; appointment certificates; ex officio commissioners.

 The Governor shall appoint, with the advice and consent of the Senate, seven persons to be commissioners of the South Carolina State Housing Finance and Development Authority. The seven persons so appointed shall have experience in the fields of mortgage finance, banking, real estate, and home building. The Governor shall appoint a chairman from among the seven commissioners.

 The commissioners must be appointed for terms of four years, except that all vacancies must be filled for the unexpired term. A commissioner shall hold office until his successor has been appointed and qualifies. A certificate of the appointment or reappointment of any commissioner must be filed in the office of the Secretary of State and in the office of the Authority, and the certificate is conclusive evidence of the due and proper appointment of the commissioner. The Governor or his designee and the State Commissioner of Health and Environmental Control or his designee from his administrative staff shall serve ex officio as commissioners of the Authority with the same powers as the other commissioners.

HISTORY: 1962 Code Section 36‑292; 1971 (57) 927; 1974 (58) 2089, 2758; 1978 Act No. 644, Part II, Section 43; 1987 Act No. 5, Section 1; 1988 Act No. 538, Section 2; 1991 Act No. 248, Section 6; redesignated from Section 31‑3‑120 by 1992 Act No. 410, Section 3.

Code Commissioner’s Note

Section 2‑13‑65 directed the Code Commissioner to delete all references to legislative members serving in any capacity as a member of a state board or commission, except as allowed by Section 8‑13‑770 of the 1976 Code.

Library References

States 84, 123.

United States 53(9), 82(3.3).

Westlaw Topic Nos. 360, 393.

C.J.S. States Sections 254 to 257, 377 to 380.

C.J.S. United States Sections 83 to 95, 155, 158.

**SECTION 31‑13‑40.** Organization; executive director.

 As soon as possible after their appointment, the commissioners shall organize for the transaction of business by choosing a vice‑chairman and by adopting bylaws and rules and regulations suitable to the purpose of organizing the Authority and conducting the business thereof. The commissioners shall appoint an executive director, who shall serve at the pleasure of the Authority, and such other officers and employees as they may require for the performance of their duties and shall prescribe the duties and compensation of each officer and employee.

HISTORY: 1962 Code Section 36‑293; 1971 (57) 927; redesignated from Section 31‑3‑130 by 1992 Act No. 410, Section 3.

Library References

States 84, 123.

United States 53(9), 82(3.3).

Westlaw Topic Nos. 360, 393.

C.J.S. States Sections 254 to 257, 377 to 380.

C.J.S. United States Sections 83 to 95, 155, 158.

Attorney General’s Opinions

Housing Authority maintains authority to appoint and prescribe duties of its employees, subject to any applicable regulations governing classification which are promulgated by Budget and Control Board pursuant to State Personnel Act; while Housing Authority commissioners may make recommendations regarding compensation, Budget and Control Board regulations clearly would be controlling subject only to appropriations by General Assembly. 1985 Op. Atty Gen, No. 85‑80, p 215.

**SECTION 31‑13‑50.** Powers and duties; application of other provisions.

 Except as otherwise provided in this article, the Authority and its commissioners have the same functions, rights, powers, duties, privileges, immunities, and limitations as those provided for housing authorities created for cities, counties or groups of counties, and the commissioners of the housing authorities. The Authority also may make home equity conversion mortgages to any person who is a member of a beneficiary class of the Authority as provided in Section 31‑13‑170(b), (o), and (p) and who is over sixty‑five years of age. The Authority may prepare and administer a program for the home equity conversion mortgages and may coordinate any available funding for the program with the federal government and the private sector. Money received as a result of obtaining a home equity conversion mortgage must not be counted as income in a determination of entitlement to any public assistance. The term “home conversion mortgage” means a first mortgage which provides for future payments to the homeowner based on accumulated equity.

 The provisions of this chapter and Chapter 11 apply to the Authority in the same manner and to the same extent as the provisions are applicable to a housing authority created for a city or a county, and the term “Authority” or “Housing Authority” as used in the provisions includes the South Carolina State Housing Finance and Development Authority unless a different meaning clearly appears from the context.

HISTORY: 1962 Code Section 36‑294; 1971 (57) 927; 1988 Act No. 538, Section 2; 1988 Act No. 575, Section 1; redesignated from Section 31‑3‑140 by 1992 Act No. 410, Section 3.

Library References

States 84, 123.

United States 53(9), 82(3.3).

Westlaw Topic Nos. 360, 393.

C.J.S. States Sections 254 to 257, 377 to 380.

C.J.S. United States Sections 83 to 95, 155, 158.

Attorney General’s Opinions

The State Housing Authority may establish a non‑profit organization to issue bonds; commissioners of the Authority may serve as directors of the non‑profit corporation. 1976‑77 Op. Atty Gen, No. 77‑64, p 62.

**SECTION 31‑13‑60.** Authority authorized to operate in any and all counties; operation where there is county housing authority; approval of local governing bodies.

 The Authority may conduct its operations in any or all of the counties of the State. If an existing housing authority is operating in a county where the South Carolina State Housing Finance and Development Authority determines that a need exists for additional housing for low‑income families, the South Carolina State Housing Finance and Development Authority shall advise that housing authority of its findings of need for that county and shall urge that housing authority to make appropriate plans to meet that need. If, within sixty days after a housing authority has received such notification of need, that housing authority has not submitted an acceptable plan of action for meeting that need, the South Carolina State Housing Finance and Development Authority may construct and operate housing for low‑income families in such county; provided, however, that before any such operation by the South Carolina Housing Finance and Development Authority occurs, the South Carolina State Housing Finance and Development Authority shall first obtain the written approval of the governing body of the county, if such proposed operation is intended for an unincorporated area of the county or, if the proposed operation is intended to take place within the jurisdiction of an incorporated municipality, then in such instance the South Carolina State Housing Finance and Development Authority shall obtain the written approval of the governing body of such municipality and shall then have authority over the same jurisdiction as that municipality had.

HISTORY: 1962 Code Section 36‑295; 1971 (57) 927; redesignated from Section 31‑3‑150 by 1992 Act No. 410, Section 3.

Library References

States 84, 123.

United States 53(9), 82(3.3).

Westlaw Topic Nos. 360, 393.

C.J.S. States Sections 254 to 257, 377 to 380.

C.J.S. United States Sections 83 to 95, 155, 158.

Attorney General’s Opinions

The Section 8 Federal Existing Housing Program, 42 USC 1437f, is not restricted by the provisions of Section 36‑295, [1976 Code Section 31‑3‑60] where no locally administered Existing Housing Program exists. 1976‑77 Op. Atty Gen, No. 77‑165, p 134.

**SECTION 31‑13‑70.** Housing Finance and Development Authority allocated state ceiling to issue bonds.

 Pursuant to 26 U.S.C. Section 103A (g) (6) (A), the South Carolina State Housing Finance and Development Authority is allocated all of the state ceiling to issue qualified mortgage bonds.

HISTORY: 1982 Act No. 283, Section 1; 1988 Act No. 538, Section 2; redesignated from Section 31‑3‑70 by 1992 Act No. 410, Section 3.

Library References

States 84, 123.

United States 53(9), 82(3.3).

Westlaw Topic Nos. 360, 393.

C.J.S. States Sections 254 to 257, 377 to 380.

C.J.S. United States Sections 83 to 95, 155, 158.

**SECTION 31‑13‑80.** Authority may provide advice or technical assistance.

 The State Housing Finance and Development Authority may provide advice or technical assistance to public and nonprofit entities and to federal agencies so as to stimulate the housing industry and to relieve unemployment. The ability to enter into contracts for the provision of advice or technical assistance as provided by this section is not limited by the economic class of any individual who may benefit from such contract.

 Contracts may be made and executed with political subdivisions of the State, nonprofit entities, and federal agencies engaged in providing or promoting the development of housing resources within the State so that the State Housing Finance and Development Authority may provide advice or technical assistance. All such advice or technical assistance, when offered to non‑governmental entities, must be in participation with private enterprise.

HISTORY: 1983 Act No. 29, Section 1; 1988 Act No. 538, Section 2; redesignated from Section 31‑3‑170 by 1992 Act No. 410, Section 3.

Library References

States 84, 123.

United States 53(9), 82(3.3).

Westlaw Topic Nos. 360, 393.

C.J.S. States Sections 254 to 257, 377 to 380.

C.J.S. United States Sections 83 to 95, 155, 158.

**SECTION 31‑13‑90.** Issuance of notes or bonds for multi‑family housing; approval by State Fiscal Accountability Authority.

 It is intended by the provisions of this section and Sections 31‑3‑20(15) and (17) and 31‑3‑540 that the city, county, and regional housing authorities have the same powers presently granted to the State Housing Finance and Development Authority by the provisions of Sections 31‑13‑160 through 31‑13‑330 with respect to multi‑family housing only. The provisions of this section and Sections 31‑3‑20(15) and (17) and 31‑3‑540 do not apply to the financing, acquisition, or construction of single family dwellings by the State Housing Finance and Development Authority.

 Following a determination made by an Authority that a series of notes or bonds must be sold and a finding that the revenues or other moneys estimated to thereafter be available for the repayment thereof will provide moneys required for the payment of the principal and interest on the notes and bonds outstanding and the notes or bonds then proposed to be issued, the Authority shall submit the following information to the State Fiscal Accountability Authority:

 (1) the principal amount of the notes or bonds proposed to be issued.

 (2) the purpose or purposes for which the proceeds of such notes or bonds are to be expended.

 (3) the maturity schedule of the notes or bonds proposed to be issued.

 (4) a schedule showing the annual debt service requirements on all outstanding notes or bonds of the Authority.

 (5) a schedule showing the amount and source of revenues available for the payment of the debt service requirements established by the schedule required in item (4).

 (6) the method to be employed in selling the proposed notes or bonds.

 (7) any other information which the State Fiscal Accountability Authority shall require.

 If the State Fiscal Accountability Authority shall determine that the funds estimated to thereafter be available for the repayment of the Authority’s notes and bonds, including the proposed notes or bonds, will be sufficient to provide for the payment of the principal and interest on the Authority’s notes and bonds thereafter to be outstanding as they become due, the State Fiscal Accountability Authority is authorized to give its approval to the issuance, in whole or in part, of the proposed notes or bonds, subject to such conditions, if any, as it may impose.

HISTORY: 1986 Act No. 369, Section 1; 1988 Act No. 538, Section 2; redesignated from Section 31‑3‑180 by 1992 Act No. 410, Section 3.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

States 84, 123.

United States 53(9), 82(3.3).

Westlaw Topic Nos. 360, 393.

C.J.S. States Sections 254 to 257, 377 to 380.

C.J.S. United States Sections 83 to 95, 155, 158.

ARTICLE 3

Issuance of Bonds and Other Obligations

**SECTION 31‑13‑170.** Definitions.

 Unless a different meaning clearly appears from the context, as used in this chapter:

 (a) “Authority” means the South Carolina State Housing, Finance, and Development Authority created by Act 500 of 1971.

 (b) “Beneficiary class” or “beneficiary classes” means the class consisting of persons and families of low income and the class consisting of persons and families of moderate to low income.

 (c) “Bonds” and “notes” mean any bonds, notes, debentures, interim certificates, bond anticipation notes or other evidences of indebtedness issued by the Authority pursuant to this chapter.

 (d) “State Fiscal Accountability Authority” means the State Fiscal Accountability Authority.

 (e) “County” means any county in the State.

 (f) “Federally insured mortgage” means a mortgage loan insured or guaranteed by the federal government or for which there is a commitment by the federal government to insure or guarantee such a mortgage.

 (g) “Federal mortgage” means a mortgage loan made by the federal government or for which there is a commitment by the federal government to make such a mortgage loan.

 (h) “Housing development costs” means the sum total of all costs incurred in the development of a residential land or housing development or project which are approved by the Authority as reasonable and necessary.

 (i) “Housing development” or “housing project” means any work or undertaking which is designed and financed pursuant to the provisions of this chapter for the primary purpose of providing sanitary, decent and safe dwelling accommodations for persons and families of low income and persons and families of moderate to low income in need of housing. Such work or undertaking may include any land, buildings, improvements and equipment for such recreational, community, educational and commercial facilities incidental or appurtenant thereto as the Authority determines to be necessary, convenient or desirable to improve the quality thereof and which are compatible with the income capabilities of such persons and families.

 (j) “Housing sponsor” means individuals, corporations, public housing authorities or other legal entities or any combination thereof appointed by the Authority to act and who shall have agreed either to own, construct, acquire, rehabilitate, operate, manage or maintain a housing development upon terms and conditions that insure the occupancy of such housing development by persons and families of low income and persons and families of moderate to low income upon terms compatible with the income capabilities of such persons and families.

 (k) “Mortgage” means a mortgage or other instrument which constitutes a lien on improvements and real property or on a leasehold estate of duration satisfactory to the Authority or which can be insured to the satisfaction of the Authority.

 (l) “Mortgage lender” means any bank or trust company, savings bank, national banking association, savings and loan association or building and loan association, life insurance company, mortgage banker or other financial institutions authorized to transact business in the State.

 (m) “Mortgage loan” means an interest bearing obligation incurred for the construction, rehabilitation or financing of residential housing or for land development and secured by a mortgage, except that such definition shall not preclude a mortgage loan made for the sole purpose of refinancing an existing mortgage loan.

 (n) “Municipality” means any incorporated municipality or other political subdivision of the State.

 (o) “Persons and families of low income” means those individuals who are members of households whose gross income is less than the income of those within the definition of the class “Persons and families of moderate to low income”.

 (p) “Persons and families of moderate to low income” means those individuals who are members of households whose gross income falls between seventy‑five percent and one hundred fifty percent of the “median gross income” of all households in South Carolina as determined on the basis of the latest available statistics furnished to the Authority by the Office of Research and Statistics of the Revenue and Fiscal Affairs Office. Gross income means income derived from any source whatsoever. An allowance for each member of the family equal to an amount for personal exemptions as defined by Internal Revenue Code Section 151, as defined in item (11) of Section 12‑7‑20, must be deducted from gross income in order to qualify a person or family as a member of the “beneficiary class”.

 (q) “Real property” means all lands within the State, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith and every estate, interest and right, legal or equitable, thereon, including leasehold estates.

 (r) “Residential housing” means a specific work or improvement within the State which provides dwelling accommodations for persons and families of low income and persons and families of moderate to low income and such other recreational, community, educational and commercial facilities as may be incidental or appurtenant thereto as shall be approved by the Authority as necessary or desirable for the particular undertaking.

 (s) “State” means the State of South Carolina.

HISTORY: 1977 Act No. 76, Section 3; 1982 Act No. 283, Section 2; 1985 Act No. 101, Section 19; 1988 Act No. 538, Section 2.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Application of this section to the granting of special property tax assessments to low and moderate income rental properties, see Section 4‑9‑195.

Federal Aspects

Personal exemptions, see 26 U.S.C.A. Section 151.

**SECTION 31‑13‑180.** Declaration of legislative findings and purpose.

 The General Assembly further finds:

 (a) That there exists within the State a serious shortage of sanitary and safe residential housing at prices or rentals which persons and families of low income and persons and families of moderate to low income can afford; that this shortage has contributed to and will contribute to the creation and persistence of substandard living conditions and is inimical to the health, welfare and prosperity of all residents of the State.

 (b) That private enterprise and investment have not been able to produce, without governmental assistance, the needed construction of sanitary, decent and safe residential housing at prices or rentals which persons and families of low income and persons and families of moderate to low income can afford and to thus achieve the urgently needed rehabilitation of much of the present low and moderate income housing supply.

 (c) That the supply of residential housing for persons and families displaced by public actions or natural disaster should be increased.

 (d) That private enterprise and investment should be encouraged to sponsor, build and rehabilitate residential housing for such persons and families.

 (e) That private financing be supplemented by financing as provided for in this chapter to help prevent the recurrence of slum conditions and blight and assist in their permanent elimination throughout South Carolina.

 The General Assembly further notes that private enterprise and investment have been able to produce or provide mortgage financing for sufficient new residential housing essential to retain and attract qualified manpower resources in many areas of the State where such resources are, or shortly will be, critically needed for existing, expanding and new industrial and commercial operations and development.

 It is hereby further declared to be necessary and in the public interest that the Authority be authorized to perform the following activities related to residential housing, housing development or housing project for the benefit of the beneficiary classes only:

 (1) Provide construction and mortgage loans.

 (2) Purchase mortgage loans.

 (3) Provide for predevelopment costs, temporary financing and land development expenses.

 (4) Provide residential housing construction and rehabilitation by private enterprise and housing sponsors for sale or rental to persons and families of low income and persons and families of moderate to low income.

 (5) Provide mortgage financing.

 (6) Make loans to mortgage lenders under terms and conditions requiring that the proceeds thereof be used by the mortgage lenders for new residential mortgage loans.

 (7) Provide technical, consultative and project assistance services to housing sponsors.

 (8) Assist in coordinating federal, state, regional and local public and private efforts and resources.

 (9) Promote wise usage of land and other resources.

 (10) Make direct loans to qualified individuals through mortgage lenders.

 (11) Under the conditions enumerated in Section 31‑13‑190 acquire title to real property and cause to be constructed thereon.

 (12) Sell and dispose of real property and residential housing on such terms and conditions as the Authority shall determine.

 (13) Acquire title to and sell real property where necessary to accomplish the purposes and intent of this chapter or where necessary to enforce a lien on any property, security or collateral pledged to the Authority.

 The General Assembly further finds that all of the foregoing are public purposes and uses for which moneys may be borrowed, expended, advanced, loaned or granted and that such activities serve a public purpose in improving or otherwise benefiting the people of the State, that the enactment of this chapter is in the public interest and is hereby so declared as a matter of express legislative determination.

HISTORY: 1977 Act No. 76, Section 2.

Library References

States 84, 123.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380.

**SECTION 31‑13‑190.** Powers conferred upon South Carolina State Housing, Finance, and Development Authority.

 In addition to all other powers, functions, rights, duties and privileges vested in the Authority, including without limitation those set forth in chapters 3, 5, 10 and 11 of this title as now constituted and vested in the Authority by reference in Act 500 of 1971 which are hereby expressly confirmed and made applicable to all undertakings of the Authority authorized by this chapter except as limited by the provisions of Section 31‑13‑250, the Authority may exercise all powers necessary to carry out its functions in any county or municipality and, without limitation, may exercise any of the following powers:

 (1) Make and execute contracts and any other instruments and agreements necessary or desirable for the performance of its functions.

 (2) Borrow money through the issuance of notes and bonds under the conditions set forth in Section 31‑13‑200.

 (3) Make mortgage loans in such amounts and on such terms and conditions as the Authority shall approve to housing sponsors and to persons and families of the beneficiary classes for residential housing and housing development. The terms and conditions of such loans shall prescribe that the undertakings for which such mortgage loans are made shall be available to persons of the beneficiary classes on the best available terms.

 (4) Invest in, purchase or make commitments to purchase mortgages, federally insured mortgages and federal mortgages or participations in such mortgages from any housing sponsor or mortgage lender in such amounts and on such terms and conditions as the Authority shall approve for the purpose of providing residential housing, upon the condition that the proceeds of such purchase shall be used by the seller for the purpose of making mortgage loans for residential housing to persons and families of the beneficiary classes on the best available terms.

 (5) Make loans to or purchase securities from mortgage lenders under such terms and conditions as the Authority shall approve including a requirement that the proceeds thereof be used by the mortgage lenders for the making of mortgage loans for residential housing.

 (6) Require that loans made to mortgage lenders pursuant to Section 31‑13‑200(1)(a) shall be additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security in such amounts and consisting of obligations and securities of the class enumerated in Section 31‑13‑200(1)(a) and, in the event of a default under any such arrangement with a mortgage lender, to take possession of or otherwise acquire, hold or sell on such terms and conditions as the Authority shall approve such collateral security without regard to whether the Authority would under any other provisions of this chapter otherwise have the authority to act.

 (7) Make and execute contracts with mortgage lenders or other financial institutions in the State for the servicing of mortgage loans made or acquired by the Authority pursuant to this chapter and to pay the reasonable value of services rendered to the Authority pursuant to these contracts.

 (8) Make and undertake commitments to make in such amounts and upon such terms and conditions as the Authority shall approve, temporary loans, preconstruction loans, construction loans, interim financing loans and development loans to any housing sponsor and to persons and families of the beneficiary classes in order to provide funds to be used for any housing development costs.

 (9) Sell upon such terms and conditions as the Authority shall approve any mortgages, federally insured mortgages, federal mortgages and loans.

 (10) Procure insurance against any loss in connection with its property and other assets and those of any housing sponsor or persons and families occupying residential housing insured or partially or wholly financed by the Authority.

 (11) Require reasonable fees and charges for the rendering of its services which, unless required for purposes of the proceedings, may be used by the Authority for any of its corporate purposes.

 (12) Institute any action or proceeding necessary to require the performance of any agreement relating to any housing development partially or wholly financed by the Authority and the use of the proceeds of loans made by the Authority for such purpose.

 (13) Institute any action necessary to require housing sponsors or any member of either beneficiary class to abide by the terms of any agreement pursuant to which such housing sponsor or such member obtained a loan or other financial assistance from the Authority.

 (14) Acquire title to and sell real property where necessary to accomplish the purposes and intent of this chapter or where necessary to enforce a lien on any property, security or collateral pledged to the Authority.

 (15) Sell and dispose of any real property and any residential housing thereon on such terms and conditions as the Authority shall approve.

 (16) Avail itself of all legal and equitable remedies to protect properties or other securities in which it has any interest.

 (17) Institute any action or proceeding necessary to insure against any loss in connection with its property and other assets and those of housing sponsors or persons or families of the beneficiary classes whose projects were partially or wholly financed by the Authority.

 (18) Administer, coordinate, establish priorities and make commitments for any funds or programs over which the Authority has jurisdiction, including any funds or programs committed to the Authority by the federal government, and loan, commit or grant any funds or subsidies committed to the Authority’s jurisdiction in any manner not inconsistent with any existing obligation of the Authority.

 (19) Utilize all income earned on investments, including income earned by the Authority and any income earned from the sale of any such mortgages or loans, in accordance with the proceedings of the Authority providing for the issuance of any notes or bonds and to use any income not required for the purposes of the proceedings for any of its corporate purposes.

 (20) Create and establish such funds as may be necessary or desirable for its corporate purposes.

 (21) Initiate counselling and management programs for all persons or families of the beneficiary classes occupying housing developments in which the Authority has an interest.

 (22) Provide advice, technical assistance and other services to public and corporate bodies, appropriate and prospective housing sponsors or persons and families of the beneficiary classes.

 (23) Acquire, own and operate rental projects under the terms and conditions set forth in Section 31‑13‑250.

 In exercising its powers the Authority shall operate in a sound, economical and prudent manner and any powers granted by this chapter may be exercised by the adoption of a resolution at any regular or special meeting of the Authority. A copy of any such resolution certified by the chairman and the executive director of the Authority shall be conclusive evidence of the exercise of such powers in accordance with this chapter.

HISTORY: 1977 Act No. 76, Section 4.

Library References

States 84, 123.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380.

**SECTION 31‑13‑200.** Notes and bonds.

 Whenever the Authority shall have determined by resolution that sufficient persons or families of either beneficiary class are unable to pay the amounts at which private enterprise is providing decent, safe and sanitary housing and that through the exercise of one or more of the programs authorized by this chapter, decent, safe and sanitary housing will become available to members of the class in need therefor:

 (1) The Authority is authorized to issue notes and bonds within the limitations and under the conditions hereinafter set forth in this section provided the proceeds of any notes or bonds issued under any of the programs authorized by paragraphs (a), (b), (c), (d) and (e) shall be utilized for such programs only.

 (a) Upon obtaining the approval of the State Fiscal Accountability Authority pursuant to Section 31‑13‑220 and in order to provide funds for any of its corporate purposes, the Authority is authorized to issue from time to time its notes and bonds, the proceeds of which must be used by the Authority to make loans to mortgage lenders upon the agreement of such mortgage lenders to make mortgage loans to persons and families of the intended beneficiary classes or to housing sponsors. Such notes and bonds must be issued in such principal amount without limitation as the Authority determines to be necessary to provide sufficient funds for achieving its corporate purposes as hereinafter prescribed, including notes in anticipation of the issuance of such bonds and including refunding notes and bonds as more fully set forth in Sections 31‑13‑260 and 33‑13‑270. The Authority must require that loans to lenders made pursuant to Section 31‑13‑200(1)(a) must be additionally secured as to payment of both principal and interest by a pledge of collateral security, or secured by securities, certificates of deposit, or other obligations issued by mortgage lenders which have been insured or guaranteed by the federal government, in such amounts as the Authority determines. Such collateral security is subject to the approval of the Authority and may consist of: (1) direct obligations or obligations guaranteed by the United States of America; (2) bond debentures, notes, or other evidences of indebtedness issued by any of the following: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan Bank System, Federal Home Loan Mortgage Corporation, Export‑Import Bank, Federal Land Banks, Federal National Mortgage Association, Government National Mortgage Association, or Farmers Home Administration; (3) general obligations to the State of South Carolina; (4) federally insured or federally guaranteed mortgages; (5) other mortgages on housing within the State without regard as to whether such housing is for persons or families of either beneficiary class; (6) securities, certificates of deposit, or other obligations issued by mortgage lenders which have been insured or guaranteed by the federal government; and (7) such other security as the Authority determines to be sufficient to insure protection of the bonds. The program authorized by this subitem is known as the “Loan to Lender Program”.

 (b) Upon obtaining the approval of the State Fiscal Accountability Authority pursuant to Section 31‑13‑220 and in order to provide funds for its corporate purposes, the Authority is authorized to issue from time to time its notes and bonds for the purpose of obtaining funds with which to make:

 (i) construction loans secured by mortgages of housing sponsors or of persons or families of either beneficiary class;

 (ii) permanent mortgage loans to housing sponsors or to persons or families of either beneficiary class who agree to and must be required to provide for construction or rehabilitation of residential housing for rental or purchase by persons or families of either beneficiary class. However, with respect to any particular issue of notes or bonds, one of the following conditions must be met:

 a. If there is a public distribution of the notes or bonds, the issue must be rated by one or more of the national rating agencies, and one or more of the following conditions must be met:

 i. There must be in effect a federal program providing assistance in the repayment of the loans.

 ii. The proceeds must be used to acquire either federally insured mortgages or mortgages insured by a private mortgage insurer authorized to do business in this State.

 iii. The payment of the notes or bonds to the purchasers and holders of them must be assured by the maintenance of adequate reserves or insurance or a guaranty from a responsible entity which has been determined to be sufficient by the Authority and by the State Fiscal Accountability Authority.

 b. If the notes or bonds are sold or placed either as “mortgage bonds sold as a unit”, in “transactions with banks, institutional buyers, or other nonregistered persons” as provided in Section 35‑1‑202(11)(A), the documents pursuant to which the notes or bonds are issued must permit the authority to avoid a default by it by completing an assignment of, or foregoing its rights with respect to, any collateral or security pledged to secure the notes or bonds.

 (c) Upon obtaining the approval of the State Fiscal Accountability Authority pursuant to Section 31‑13‑220, the authority may issue its notes and bonds, the proceeds of which must be used to purchase federally insured or guaranteed mortgages or mortgages insured by a private mortgage company authorized to do business in this State from mortgage lenders upon the agreement of the mortgage lenders to use the proceeds of the sale of the mortgages to the authority to originate new mortgage loans to housing sponsors or to such persons or families of either beneficiary class as the authority determines. The notes and bonds must be secured both as to principal and interest by a pledge of the proceeds of the mortgages so purchased. The program authorized by this subitem is known as the “Mortgage Purchase Program”.

 (d) Upon obtaining the approval of the State Fiscal Accountability Authority pursuant to Section 31‑13‑220 and in order to provide funds for its corporate purposes, the Authority is authorized to issue from time to time its notes and bonds, the proceeds of which must be used to make construction loans secured by mortgages of housing sponsors or persons or families of either beneficiary class where there is in effect a commitment for permanent financing through the means of a federal mortgage, a federally insured or guaranteed mortgage, or a mortgage insured by a private mortgage insurance company authorized to do business in this State. The program authorized by this subitem is known as the “Construction Loan Program”.

 (e) Upon obtaining the approval of the State Fiscal Accountability Authority pursuant to Section 31‑13‑220 and in order to provide funds for its corporate purposes, the Authority is hereby authorized to issue from time to time its notes and bonds for the purpose of obtaining funds with which to acquire, cause to be constructed and thereafter operate public rental projects in order to provide decent, safe and sanitary housing accommodations to the members of either beneficiary class. The program authorized by this item shall be known as the “Public Rental Project Program”.

 (2) Notes and bonds shall be authorized by resolutions of the Authority, shall bear such dates and shall mature at such times as the resolutions provide, except that no notes or bonds shall mature more than forty‑five years from the date of their issue. Notes or bonds may be issued in such principal amount, without limitation, as the Authority shall determine and the proceeds thereof shall be used for the program for which issued but the proceeds may also be used for the establishment of such reserves as may be deemed necessary to properly secure the payment of the principal and interest of the notes or bonds and for the payment of any expenses in connection with the issuance thereof. Notes of the Authority shall mature on such occasion as may be fixed by the Authority. Bonds of the Authority may be issued as serial bonds payable in annual installments or as term bonds or a combination thereof. Notes and bonds shall bear interest at such rates, subject to the limitations of Section 11‑9‑360, shall be in such denominations, shall be executed in such manner, shall be payable in such medium of payment, at such places, and shall be subject to such terms of prepayment or redemption as the resolutions may provide. The bonds shall be in such form, either coupon or registered, and shall carry such registration or conversion privileges and the notes shall be in such form, either fully registered, payable to the order of a named payee or payable to bearer and carry such registration and conversion privileges as the resolutions may provide. The notes and bonds of the Authority may be sold by the Authority, at public or private sale, at such prices as the Authority shall determine.

 (3) Any resolutions authorizing any notes or bonds or any issue thereof may contain provisions which shall be a part of the contracts with the holders thereof as to:

 (a) pledging revenues of the Authority to secure the payment of the notes or bonds of any issue thereof subject to the provisions of this chapter and to such agreements with noteholders or bondholders as may then exist;

 (b) pledging assets of the Authority, including mortgages and obligations secured by the same, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to such agreements with noteholders or bondholders as may then exist;

 (c) mortgaging real or personal property of the Authority then owned or thereafter acquired;

 (d) prescribing the use and disposition of payments of principal and income derived from mortgages owned by the Authority;

 (e) providing for the creation of reserves or sinking funds and the regulation and disposition thereof;

 (f) imposing limitations on the purpose to which the proceeds of sale of notes or bonds may be applied;

 (g) imposing limitations on the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding or other notes or bonds;

 (h) prescribing the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given;

 (i) imposing limitations on the amount of moneys to be expended by the Authority for operating expenses of the Authority;

 (j) vesting in trustees such property, rights, powers and duties in trust as the Authority may determine, which may include any or all of the rights, powers and duties of the trustees appointed by the bondholders pursuant to this chapter and limiting or abrogating the right of the bondholders to appoint a trustee under this chapter or limiting the rights, powers and duties of such trustee;

 (k) defining the acts and omissions to act which shall constitute a default in the obligations and duties of the Authority to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the State;

 (l) providing for other matters of like or different character which in any way affect the security or protection of the holders of the notes or bonds.

 (4) Any pledge made by the Authority shall be valid and binding from the time when the pledge is made; the revenues, moneys or property so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof.

 Neither the resolution nor any other instrument by which a pledge is created need be recorded but a transcript of proceedings shall be filed in compliance with Section 11‑15‑20 of the 1976 Code.

 (5) Neither the commissioners of the Authority nor any other person executing such notes or bonds shall be subject to any personal liability or accountability by reason of the issuance thereof.

 (6) The Authority, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the Authority, which shall thereupon be cancelled, at a price not exceeding:

 (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest, or

 (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest.

 (7) In the discretion of the Authority, the bonds may be secured by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without the State. The trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including convenants setting forth the duties of the Authority in relation to the exercise of its corporate powers and functions and the custody, safeguarding and application of all moneys. The Authority may provide by the trust indenture for the payment of the proceeds of the bonds and the revenues to the trustee under the trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the trust indenture may be treated as a part of the operating expenses of the Authority.

 (8) Whether or not the notes and bonds are of such form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the notes and bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the notes and bonds for registration.

 (9) In case any of the commissioners or officers of the Authority whose signatures appear on any notes or bonds or coupons shall cease to be commissioners or officers before the delivery of the notes or bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery.

 (10) The Authority may exercise in connection with the issuance of any of its obligations, including notes, bonds, bond anticipation notes and refunding notes or bonds, all or any part or combination of the powers granted herein or in Section 31‑3‑1580, and may make convenants other than and in addition to the covenants herein and therein expressly authorized, of like or different character and make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its notes or bonds or, in the absolute discretion of the Authority, as will tend to make the notes or bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein or in Section 31‑3‑1580.

 (11) Notwithstanding the limitations set forth in the first sentence of subsection (1) of this section, any earnings, fees or charges derived by the Authority from any of the programs authorized by items (a), (b), (c), (d) and (e) not required by the proceedings pursuant to which notes or bonds were issued to be used for the payment of such notes or bonds or for any reserves required therefor are to be used by the Authority for any of its corporate purposes including the promotion of any program which the Authority is authorized to undertake.

HISTORY: 1977 Act No. 76, Section 5; 1983 Act No. 31, Sections 1‑4; 1988 Act No. 538, Section 1; 1990 Act No. 370, Section 1; 2005 Act No. 110, Section 2.

Code Commissioners Note

The Code Commissioner changed the reference in item (2) from Section 11‑9‑350 to Section 11‑9‑360.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

States 84, 123.

United States 82(3.3).

Westlaw Topic Nos. 360, 393.

C.J.S. States Sections 254 to 257, 377 to 380.

C.J.S. United States Sections 155, 158.

**SECTION 31‑13‑210.** Maximum interest rate.

 Notwithstanding any limitation or restriction now existing by statute heretofore enacted or other provisions of this chapter, the maximum rate of interest that may be paid by persons or families of the beneficiary class served by Sections 31‑13‑200(1)(a) and 31‑13‑200(1)(c) for a home loan with funds obtained under this legislation shall not exceed a rate equal to one percent less than the prevailing state real estate usury laws; except that any loan may have a greater rate of interest when such rate is approved by the State Fiscal Accountability Authority after such investigation and hearing as the board may deem necessary.

HISTORY: 1977 Act No. 76, Section 5A.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

**SECTION 31‑13‑220.** Information required by State Fiscal Accountability Authority.

 Following a determination made by the Authority that a series of notes or bonds must be sold and a finding that the revenues or other moneys estimated to thereafter be available for the repayment thereof will provide moneys required for the payment of the principal and interest on the notes and bonds outstanding and the notes or bonds then proposed to be issued, the Authority shall submit the following information to the State Fiscal Accountability Authority:

 (1) The principal amount of the notes or bonds proposed to be issued.

 (2) The purpose or purposes for which the proceeds of such notes or bonds are to be expended.

 (3) The maturity schedule of the notes or bonds proposed to be issued.

 (4) A schedule showing the annual debt service requirements on all outstanding notes or bonds of the Authority.

 (5) A schedule showing the amount and source of revenues available for the payment of the debt service requirements established by the schedule required in item (4).

 (6) The method to be employed in selling the proposed notes or bonds.

 (7) Any other information which the State Fiscal Accountability Authority shall require.

 If the State Fiscal Accountability Authority shall determine that the funds estimated to thereafter be available for the repayment of the Authority’s notes and bonds, including the proposed notes or bonds, will be sufficient to provide for the payment of the principal and interest on the Authority’s notes and bonds thereafter to be outstanding as they become due, the State Fiscal Accountability Authority is authorized to give its approval to the issuance, in whole or in part, of the proposed notes or bonds, subject to such conditions, if any, as it may impose.

HISTORY: 1977 Act No. 76, Section 6.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Issuance of notes and bonds for various housing programs by Authority, see Section 31‑13‑200.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

**SECTION 31‑13‑230.** Maximum amount of bonds and notes.

 Notwithstanding any other provision of this chapter, the total amount of bonds and notes authorized to be issued herein shall not exceed a total amount of twenty‑five million dollars during the first twelve months following May 10, 1977.

HISTORY: 1977 Act No. 76, Section 6A.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

**SECTION 31‑13‑240.** Information required by Bond Committee.

 Information furnished to the State Fiscal Accountability Authority under the provisions of Section 31‑13‑220 shall also be furnished to the Bond Committee created by Chapter 47 of Title 2.

HISTORY: 1977 Act No. 76, Section 6B.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

**SECTION 31‑13‑250.** Rental projects authorized.

 If the Authority, by resolution, shall determine that a rental project is required for any area of the State and there is no housing sponsor capable of undertaking the acquisition, construction and operation of such rental project over its predetermined useful life under conditions assuring that it will provide decent, safe and sanitary housing accommodations for members of the beneficiary class intended to be assisted by the program undertaken pursuant to the authorizations of this chapter and at rentals commensurate with the financial capabilities of those within the beneficiary class, and that as a result of such circumstances the need in the particular area for decent, safe and sanitary rental housing accommodations at appropriate rentals cannot be met, then in such instances, the Authority may, upon the approval of the State Fiscal Accountability Authority, borrow the required money from any source, to acquire and cause to be constructed the required rental project, and thereafter to operate such project throughout its useful life. If the approval of the State Fiscal Accountability Authority is obtained, the provisions of Act 500 of 1971 relating to certain approvals, as specified in Section 31‑3‑150 which was added pursuant to that act, by local housing authorities of certain activities of the Authority shall be inapplicable. But, at any time during the operation of the project, the Authority may sell and convey it to a housing sponsor under conditions that will insure the continued operation of the project for the benefit of the intended beneficiary class.

 To that end, the Authority may impose conditions upon any grantee requiring the continued operation of the project under appropriate conditions, including reversion of provisions in any deed of conveyance, to insure the intended result.

HISTORY: 1977 Act No. 76, Section 7.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

**SECTION 31‑13‑260.** Refunding notes and bonds.

 The Authority may provide for the issuance of refunding notes and bonds for the purpose of refunding any notes and bonds then outstanding which have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the notes and bonds. The issuance of such refunding notes and bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the Authority in respect of the same shall be governed by the provisions of this chapter which relate to the issuance of notes and bonds.

HISTORY: 1977 Act No. 76, Section 8.

CROSS REFERENCES

Issuance of notes and bonds for various housing programs by Authority, see Section 31‑13‑200.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

**SECTION 31‑13‑270.** Selling or exchanging refunding notes and bonds.

 Refunding notes and bonds issued pursuant to this chapter may be sold or exchanged for outstanding notes or bonds issued under this chapter and, if sold, the proceeds may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding notes or bonds. Pending the application of the proceeds of any such refunding notes or bonds, together with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the notes and bonds being refunded, such proceeds, together with any other available funds, shall be invested by the State Treasurer and the income and interest earned from such investments applied, if so provided or permitted in the resolution authorizing the issuance of such refunding notes or bonds or in the trust agreement securing the same (i) to the payment of any interest on such refunding notes or bonds and any expenses in connection with such refunding, (ii) to the payment of interest on the notes or bonds to be refunded, or (iii) partly in accordance with (i) and partly in accordance with (ii). Such proceeds and other available funds may be invested by the State Treasurer in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

HISTORY: 1977 Act No. 76, Section 9.

CROSS REFERENCES

Issuance of notes and bonds for various housing programs by Authority, see Section 31‑13‑200.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

**SECTION 31‑13‑280.** Liability of state and political subdivisions.

 The notes, bonds or other obligations of the Authority shall not be a debt or grant or loan of credit of the State or any political subdivision thereof and neither the State nor any political subdivision thereof shall be liable thereon, nor shall they be payable out of any funds other than those of the Authority and all notes, bonds and other obligations issued pursuant to this chapter shall contain on the face thereof a statement to such effect.

HISTORY: 1977 Act No. 76, Section 10.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

NOTES OF DECISIONS

In general 1

1. In general

Legislation authorizing the Housing Authority to issue notes and bonds, with the proceeds to be used in a variety of programs to alleviate the shortage of sanitary, safe, and affordable living quarters, did not violate the constitutional provision that prohibits a pledge of state credit for the benefit of any private individual or entity where the unambiguous language of the act made it clear that the state was not, and could not in the future, be subjected to any pecuniary liability. Bauer v. South Carolina State Housing Authority (S.C. 1978) 271 S.C. 219, 246 S.E.2d 869.

**SECTION 31‑13‑290.** Applicability of Section 31‑3‑1630.

 The provisions of Section 31‑3‑1630 of the 1976 Code shall be applicable with respect to notes, bonds or other obligations issued pursuant to this chapter.

HISTORY: 1977 Act No. 76, Section 11.

**SECTION 31‑13‑300.** Agreements with holders of notes or bonds not subject to future alteration.

 The State pledges and agrees with the holders of any notes or bonds issued under this chapter that the State will not limit or alter the rights vested in the Authority to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights and remedies of the holders until the notes or bonds, together with any action or proceedings by or on behalf of the holders, are fully met and discharged. The Authority is authorized to include this pledge and agreement of the State in any agreement with the holders of the notes or bonds.

HISTORY: 1977 Act No. 76, Section 12.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

**SECTION 31‑13‑310.** Chapter cumulative to any other powers conferred upon Authority.

 Except with respect to the provisions of Section 31‑13‑250, the provisions of this chapter shall not be construed as a restriction or limitation upon any powers which the Authority might otherwise have under any laws of the State and this chapter is cumulative to any such powers. This chapter shall be construed to provide a complete, additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. However, the issuance of bonds, notes and other obligations and refunding notes and bonds under the provisions of this chapter need not comply with the requirements of any other state law applicable to the issuance of bonds, notes and other obligations and contracts or the construction and acquisition of any housing developments undertaken pursuant to this chapter need not comply with the provisions of any other state law applicable to contracts for the construction and acquisition of state‑owned property. No proceedings, notice or approval shall be required for the issuance of any bonds, notes and other obligations or any instrument as security thereof, except as is provided in this chapter.

HISTORY: 1977 Act No. 76, Section 13.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

**SECTION 31‑13‑320.** Provisions of this chapter controlling over other provisions.

 If the provisions of this chapter are inconsistent with the provisions of any other law, including any of the provisions of Act 500 of 1971, the provisions of this chapter shall control.

HISTORY: 1977 Act No. 76, Section 14.

**SECTION 31‑13‑330.** Savings clause.

 If any provision of this chapter is held invalid or unconstitutional such holding shall not affect the remaining provisions of this chapter and it is specifically declared that each financing program authorized by subsection (1) of Section 31‑13‑200 is independent of the others and that the authorization of each of these programs was not an inducement to the authorizations of the other programs.

HISTORY: 1977 Act No. 76, Section 15.

**SECTION 31‑13‑340.** State Housing, Finance, and Development Authority Program Fund.

 Whenever the South Carolina State Housing, Finance, and Development Authority (Authority) collects or receives (1) income from fees collected, (2) other earned income, or (3) any investment income derived from fund assets, the Authority shall pay these monies to the State Treasurer who shall deposit them in a separate account to be known as the “State Housing, Finance, and Development Authority Program Fund”. The monies in the State Housing, Finance, and Development Authority Program Fund must be administered by the Authority and be paid out only upon the signature of the chairman of the board of directors of the Authority, or a designee of the board, and the signature of the executive director, upon the written warrants of the Comptroller General drawn on the State Treasurer to the payee designated in the requisition. The Authority shall maintain separate records and books of account for these monies. The monies in the State Housing, Finance, and Development Authority Program Fund may be used only in accordance with the guidelines established in regulations promulgated by the Authority. Any interest or other increment resulting from investment must be deposited in the fund.

 The authority is authorized to establish and fund through the State Housing, Finance, and Development Authority Program Fund a program to provide credit enhancements for designated economic development projects selected by the Department of Commerce.

HISTORY: 1986 Act No. 446, Section 1; 1988 Act No. 538, Section 2; 1997 Act No. 151, Section 11.

Library References

States 84, 123, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 377 to 380, 386 to 387.

ARTICLE 4

Housing Trust Fund

**SECTION 31‑13‑400.** Short title.

 This article may be cited as the South Carolina Housing Trust Fund Act.

HISTORY: 1992 Act No. 410, Section 1.

Library References

States 84, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 386 to 387.

**SECTION 31‑13‑410.** Definitions.

 As used in this article:

 (1) “Affordable housing” means residential housing that, so long as the same is occupied by lower or very low income households, requires payment of monthly housing costs of no more than thirty percent of one‑twelfth adjusted annual income.

 (2) “Annual income” means the anticipated total income from all sources received by the family head and spouse and by each additional member of the household, including all net income derived from assets.

 (3) “Authority” means the South Carolina State Housing Finance and Development Authority.

 (4) “Board” means the Board of Commissioners of the South Carolina State Housing Finance and Development Authority.

 (5) “Executive director” means the executive director of the authority.

 (6) “Lower income household” means a single person, family, or unrelated persons living together whose annual income adjusted for household size is more than fifty percent, but less than eighty percent, of the median income of the area of residence as determined by the United States Department of Housing and Urban Development.

 (7) “Substandard unit” means a housing unit which, by reason of dilapidation, deterioration, age, or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, unsanitary or unsafe conditions, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors, is conducive to ill health, transmission of disease, or has an adverse effect upon the public health, safety, morals, or welfare of its inhabitants.

 (8) “Trust fund” or “fund” means the South Carolina Housing Trust Fund.

 (9) “Very low income household” means a household that has an annual income adjusted for household size of less than fifty percent of the median income of the area of residence as determined by the United States Department of Housing and Urban Development.

HISTORY: 1992 Act No. 410, Section 1.

Library References

States 84, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 386 to 387.

**SECTION 31‑13‑420.** Establishment of fund; trustee; records; payments from fund; annual report.

 (A) There is established the South Carolina Housing Trust Fund. The State Treasurer shall serve as trustee for the fund and shall hold the monies deposited in the fund separate and distinct from the general funds of the State. The trust fund consists of monies received under this article and any other sources of revenue, public or private, including donations dedicated for inclusion in the trust fund. The State Treasurer shall deposit the funds in a separate account to be administered by the authority in accordance with the guidelines and purposes established by this article. Interest, repayment, or other increment resulting from investment must be deposited in the fund.

 (B) The monies in the trust fund must be paid out only upon the signature of the chairman of the board or a designee of the board and the signature of the executive director, upon the written warrants of the Comptroller General drawn on the State Treasurer to the payee designated in the requisition. The authority shall maintain separate records and books of accounts for all monies deposited into the fund. The authority is entitled to reimbursement for the costs or expenses incurred in the administration and operation of the fund from monies deposited into the fund.

 (C) The board shall make a separate annual report to the Governor and the General Assembly with respect to the fund pursuant to Article 13, Chapter 1 of Title 1.

HISTORY: 1992 Act No. 410, Section 1.

Library References

States 84, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 386 to 387.

**SECTION 31‑13‑430.** Advisory committee; composition; meetings; expenses.

 (A) An advisory committee is established consisting of nine members, three of whom must be selected by the board and must include one member of a very low income household, one member of a lower income household, a representative of a nonprofit organization which pursues housing programs, and one representative of each of the following:

 (1) South Carolina Low Income Housing Coalition;

 (2) South Carolina Citizens for Housing;

 (3) South Carolina Association of Housing Authority Executive Directors;

 (4) South Carolina Community Development Association;

 (5) South Carolina Housing Partnership; and

 (6) South Carolina Association of Regional Councils.

 (B) On or before the first day of January of each year the presiding officer of each organization represented on the advisory committee shall notify the chairman of the authority of the name, mailing address, and telephone number of its representative on the advisory committee. It is the duty of the chairman to ensure that timely notification of each meeting of the advisory committee is provided to each of its members.

 (C) The advisory committee shall meet at least four times a year to advise the board of particularly critical housing needs, to recommend to the board those areas of the State in which requests for proposals for developments should be published, the type of development for which proposals should be solicited, and to provide other pertinent information to the board as the members of the advisory committee consider appropriate. The committee shall adopt rules concerning meeting attendance by its members.

 (D) Members of the advisory committee are not eligible for reimbursement for travel, lodging, meals, or per diem. Membership on the committee must include representation from rural communities.

HISTORY: 1992 Act No. 410, Section 1.

Library References

States 84, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 386 to 387.

Attorney General’s Opinions

The role of the advisory committee to be established by Section 31‑13‑430 is to make recommendations to the Board of Commissioners of the SC State Housing Finance and Development Authority as to areas of the state from which proposals should be sought, the types of developments for which proposals should be solicited, and to provide other pertinent information to the Board. Such duties are advisory, informational, or recommendatory. The Board would actually exercise the discretion to solicit, evaluate, and fund proposals, executive director would exercise the functions listed in Section 31‑13‑440, in accordance with procedures adopted by the Board. 1992 Op. Atty Gen No 92‑58.

**SECTION 31‑13‑440.** Duties of executive director.

 (A) Pursuant to this article and in accordance with the procedures adopted by the board, the executive director is responsible for the day‑to‑day operations of the fund.

 (B) The executive director shall:

 (1) develop and implement a comprehensive program for the use of the fund which ensures the equitable distribution of monies in the fund between urban and rural areas of South Carolina;

 (2) develop and implement an application and selection system to identify housing sponsors and affordable housing developments which qualify to receive assistance from the fund;

 (3) provide technical assistance to prospective applicants;

 (4) monitor developments receiving assistance from the fund to ensure that the developments are operated in a manner consistent with this article and in accordance with the representations made by the sponsors of these developments to the fund; and

 (5) ensure that all developments receiving assistance from the fund are operated in a manner consistent with the South Carolina Fair Housing Law.

 (C) The executive director may utilize members of the authority staff as considered necessary to discharge the executive director’s responsibilities under this section.

HISTORY: 1992 Act No. 410, Section 1.

CROSS REFERENCES

Maximum amount available in a county during a fiscal year, South Carolina State Housing Finance and Development Authority regulations, see S.C. Code of Regulations R. 64‑2.1.

South Carolina Fair Housing Law, see Sections 31‑21‑10 et seq.

Library References

States 84, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 386 to 387.

**SECTION 31‑13‑445.** No more than 20 percent of fund monies allocable to any one county in fiscal year.

 No more than twenty percent of trust fund monies expended in a fiscal year may be for projects in any one county.

HISTORY: 1992 Act No. 410, Section 1.

CROSS REFERENCES

Maximum amount available in a county during a fiscal year, see S.C. Code of Regulations R. 64‑2.1.

Library References

States 84, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 386 to 387.

**SECTION 31‑13‑450.** Use of monies in fund; eligible projects.

 (A) Except as otherwise provided in this section, all monies deposited in the fund must be used to increase the supply of safe, decent, and affordable housing for members of the very low or lower income households within this State. These monies must be used to:

 (1) encourage affordable home ownership and rental housing opportunities for the very low and lower income individuals and households;

 (2) assist in the creation and preservation of safe, decent, affordable, and sanitary housing for the very low and lower income persons through the provision of loans and grants;

 (3) increase the availability of affordable rental and owner‑occupied housing for special needs populations, including housing for the elderly, the handicapped, and the homeless;

 (4) promote creativity and flexibility in the design of programs at the local level to bring about the creation of safe, decent, affordable, and sanitary home ownership and rental housing in quality living environments;

 (5) maximize the utilization of federal housing assistance programs and leverage all other public and private resources; and

 (6) establish a spirit of partnership between government, nonprofit, and for‑profit concerns and those in need of affordable housing.

 (B) Monies deposited in the fund must be used to finance, in whole or in part, affordable housing projects and developments eligible under this section. Monies deposited in the fund may be used to make loans, grants, or provide for matching funds to secure financial assistance made available through federal funding and other programs to eligible applicants for the provision of affordable housing. Only nonprofit sponsors are eligible to receive grants for the implementation of an affordable housing proposal. Funds for resident services programs which further independence and responsibility may be included in a proposal submitted to the fund but may not exceed two percent of the total funds requested in the proposal.

 (C) In evaluating proposals for the use of monies deposited in the fund, the board shall ensure, to the extent feasible, that monies are allocated to affordable housing for home ownership or rental housing developments which provide housing to members of very low income households. The fund may provide for appropriate penalties or fees for removal of the lien in its loan documents or contractual documents if monies are not used to provide housing for members of very low or lower income households for a period of at least twenty years. All prepayments must be returned to the fund.

 (D) The board shall ensure that monies deposited in the fund are allocated only to projects which are eligible projects. An eligible project consists of one or more residential buildings containing similarly constructed units, the site on which the building is located, and any functionally related facilities. Multiple buildings may constitute a project only if bounded together as a result of proximate location or common ownership and financing.

 (E) The board may approve the withdrawal of monies deposited in the fund for the acquisition and rehabilitation of substandard housing units, new construction of housing units, to provide assistance for the construction or rehabilitation of shelters for the homeless, or for such other programs which increase the supply of safe, decent, and affordable housing for members of very low or lower income households which the board considers appropriate to meet the purposes stated in this section.

HISTORY: 1992 Act No. 410, Section 1; 1994 Act No. 360, Section 4.

Library References

States 84, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 386 to 387.

**SECTION 31‑13‑460.** Units of state, regional, and local governments eligible to receive monies from fund.

 Units of state, regional, and local governments, including municipal corporations and nonprofit and for‑profit housing sponsors, are eligible to apply to receive monies from the fund for the development of affordable housing.

HISTORY: 1992 Act No. 410, Section 1.

Library References

States 84, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 254 to 257, 386 to 387.

**SECTION 31‑13‑470.** Funding cycles; applications eligible for priority.

 (A) Monies within the fund must be allocated to eligible applicants, who have submitted proposals for eligible projects, in accordance with funding cycles established at least annually by the board.

 (B) In allocating monies within the fund, priority must be given to applications which provide for one or more of the following:

 (1) affordable housing proposals which serve very low income households;

 (2) local government contributions to project costs, including infrastructure improvements, contributions of publicly‑owned land for housing development, and the provision of funds for resident services;

 (3) proposals which utilize financial assistance available through federal funding or other programs to leverage monies available from the fund;

 (4) applicant contributions to project costs;

 (5) proposals submitted by nonprofit sponsors for the provision of affordable housing;

 (6) coordination with other housing and infrastructure investments in the community;

 (7) provision of housing to persons whose current housing fails to meet basic standards of health and safety and who have little prospect of improving the condition of their housing.

HISTORY: 1992 Act No. 410, Section 1.