

## **REPORT OF THE ECONOMIC DEVELOPMENT SUBCOMMITTEE**

(Ballentine, Clyburn, Hosey, Whitmire, & Lowe - Staff Contact: Teesha Trapp)

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### **HOUSE BILL 5075**

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H. 5075 -- Rep. G.M. Smith: A BILL TO AMEND SECTION 12-6-3795, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA HOUSING TAX CREDIT, SO AS TO DEFINE TERMS AND LIMIT THE CREDIT; TO AMEND ARTICLE 3 OF CHAPTER 11, TITLE 1, RELATING TO THE ALLOCATION OF STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS, SO AS TO REQUIRE THE STATE FISCAL ACCOUNTABILITY AUTHORITY TO DEVELOP A STATE CEILING ALLOCATION PLAN ANNUALLY, TO SPECIFY REQUIREMENTS OF THE PLAN, AND TO PROVIDE A PROCESS FOR PERIODIC ALLOCATIONS OF THE STATE CEILING; AND TO REPEAL SECTION 1-11-370 RELATING TO INDEBTEDNESS INCLUDED WITHIN ANY LIMITS ON PRIVATE ACTIVITY BONDS.

***Received by Ways and Means:***

**March 3, 2022**

***Summary of Bill:***

This bill caps the amount of the state Low Income Housing Tax Credit at \$15 million. It also requires the creation of a scoring process for the 4% credit, and JBRC review and oversight of both the 4% and 9% scoring criteria. Section 2 of the bill requires SFAA to adopt an annual allocation plan for ceiling allocation for private activity bonds.

***Estimated Revenue Impact:***

*Lowers* the General Fund revenue impact under the current law by \$3.3 billion.

***Other Notes/Comments:***

Senate Bill 1120 is identical to this House Bill.

***Subcommittee Recommendation:***

Economic Development Subcommittee passed the bill with an amendment. The amendment clarifies that of the \$15 million cap, 40% of that amount may be used for projects utilizing the 9% program and of that 40%, 50% must be utilized in rural areas. The amendment also requires a public comment period in the creation of the scoring criteria for the 4% program.

HOUSE  
AMENDMENT

THIS AMENDMENT  
ADOPTED

GOOD/DOWNEY  
MARCH 29, 2022

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CLERK OF THE HOUSE

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THE ECONOMIC DEVELOPMENT SUBCOMMITTEE PROPOSES  
THE FOLLOWING AMENDMENT No. TO H. 5075  
(COUNCIL\DG\5075C001.NBD.DG22):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY  
STRIKING SECTION 1 AND INSERTING:**

**/ SECTION 1. A. SECTION 12-6-3795 OF THE  
1976 CODE, AS ADDED BY ACT 137 OF 2020, IS  
AMENDED TO READ:**

**“SECTION 12-6-3795. (A) AS USED IN THIS  
SECTION:**

**(1)‘ELIGIBILITY STATEMENT’ MEANS A  
STATEMENT AUTHORIZED AND ISSUED BY THE**

**SOUTH CAROLINA STATE HOUSING AND FINANCE DEVELOPMENT AUTHORITY CERTIFYING THAT A GIVEN PROJECT QUALIFIES FOR THE SOUTH CAROLINA HOUSING TAX CREDIT, INCLUDING ANY PRELIMINARY DETERMINATION THEREOF.**

**(2)‘FEDERAL HOUSING TAX CREDIT’ MEANS THE FEDERAL TAX CREDIT AS PROVIDED IN SECTION 42 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.**

**(3)‘MEDIAN INCOME’ MEANS THOSE INCOMES THAT ARE DETERMINED BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT GUIDELINES AND ADJUSTED FOR FAMILY SIZE.**

**(4)‘PROJECT’ MEANS A HOUSING PROJECT THAT HAS RESTRICTED RENTS THAT DO NOT EXCEED THIRTY PERCENT OF INCOME FOR AT LEAST FORTY PERCENT OF ITS UNITS OCCUPIED BY PERSONS OR FAMILIES HAVING INCOMES OF SIXTY PERCENT OR LESS OF THE MEDIAN INCOME, OR AT LEAST TWENTY PERCENT OF THE UNITS OCCUPIED**

**BY PERSONS OR FAMILIES HAVING INCOMES OF FIFTY PERCENT OR LESS OF THE MEDIAN INCOME.**

**(5)‘QUALIFIED PROJECT’ MEANS A QUALIFIED LOW-INCOME BUILDING AS THAT TERM IS DEFINED IN SECTION 42 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THAT IS LOCATED IN SOUTH CAROLINA AND RECEIVES APPROVAL FOR TAX CREDITS FROM THE SOUTH CAROLINA HOUSING AND FINANCE DEVELOPMENT AUTHORITY PROVIDED PURSUANT TO THIS SECTION.**

**(6)‘TAXPAYER’ MEANS A SOLE PROPRIETOR, PARTNERSHIP, CORPORATION OF ANY CLASSIFICATION, LIMITED LIABILITY COMPANY, OR ASSOCIATION TAXABLE AS A BUSINESS ENTITY THAT IS SUBJECT TO SOUTH CAROLINA TAXES PURSUANT TO SECTION 12-6-510, SECTION 12-6-530, CHAPTER 11, TITLE 12, OR CHAPTER 7, TITLE 38.**

**(7) ‘FEDERAL 9 PERCENT TAX CREDIT’ MEANS THE FEDERAL HOUSING TAX CREDIT DESCRIBED IN SECTION 42(B)(1)(B)(I) OF THE INTERNAL REVENUE CODE.**

**(8) 'FEDERAL 4 PERCENT TAX CREDIT' MEANS THE FEDERAL HOUSING TAX CREDIT DESCRIBED IN SECTION 42(B)(1)(B)(II) OF THE INTERNAL REVENUE CODE.**

**(9) 'CREDIT PERIOD' HAS THE MEANING DEFINED IN SECTION 42(F)(1) OF THE INTERNAL REVENUE CODE.**

**(10) 'STATE HOUSING AUTHORITY' MEANS THE SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY.**

**(11) 'DEPARTMENT OF REVENUE' MEANS THE SOUTH CAROLINA DEPARTMENT OF REVENUE.**

**(B)(1) A STATE TAX CREDIT PURSUANT TO THIS SECTION MAY BE CLAIMED AGAINST INCOME TAXES IMPOSED BY SECTION 12-6-510 OR 12-6-530, BANK TAXES IMPOSED PURSUANT TO CHAPTER 11, TITLE 12, CORPORATE LICENSE FEES IMPOSED PURSUANT TO CHAPTER 20, TITLE 12, AND INSURANCE PREMIUM AND RETALIATORY TAXES IMPOSED PURSUANT TO CHAPTER 7, TITLE 38, TO BE TERMED THE SOUTH CAROLINA HOUSING TAX CREDIT, AND IS ALLOWED WITH RESPECT TO EACH QUALIFIED PROJECT PLACED IN SERVICE AFTER JANUARY 1, 2020, AND BEFORE DECEMBER 31, 2030, IN AN AMOUNT EQUAL NOT TO EXCEED THE FEDERAL HOUSING TAX CREDIT ALLOWED WITH RESPECT TO SUCH QUALIFIED PROJECT, SUBJECT TO THE LIMITATIONS OF ITEM (5). IN COMPUTING A TAX PAYABLE BY A TAXPAYER PURSUANT TO SECTION 38-7-90, THE CREDIT ALLOWED PURSUANT TO THIS SECTION MUST BE TREATED AS A PREMIUM TAX PAID PURSUANT TO SECTION 38-7-20.**

**(2)(A) IF UNDER SECTION 42 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, A PORTION OF ANY FEDERAL HOUSING TAX CREDIT TAKEN ON A PROJECT IS REQUIRED TO BE RECAPTURED, THE TAXPAYER CLAIMING ANY STATE SOUTH CAROLINA HOUSING TAX CREDIT WITH RESPECT TO SUCH PROJECT ALSO IS REQUIRED TO RECAPTURE A PORTION OF ANY STATE SOUTH CAROLINA HOUSING TAX CREDIT AUTHORIZED BY THIS SECTION. THE STATE RECAPTURE AMOUNT IS EQUAL TO THE PROPORTION OF THE STATE SOUTH CAROLINA**

**HOUSING TAX CREDIT CLAIMED BY THE TAXPAYER THAT EQUALS THE PROPORTION THE FEDERAL RECAPTURE AMOUNT BEARS TO THE ORIGINAL FEDERAL HOUSING TAX CREDIT AMOUNT SUBJECT TO RECAPTURE.**

**(B) IN THE EVENT THAT RECAPTURE OF ANY SOUTH CAROLINA HOUSING TAX CREDIT IS REQUIRED, ANY ~~AMENDED~~ RETURN SUBMITTED TO THE DEPARTMENT OF REVENUE, AS PROVIDED IN THIS SECTION, SHALL INCLUDE THE PROPORTION OF THE ~~STATE~~ SOUTH CAROLINA HOUSING TAX CREDIT REQUIRED TO BE RECAPTURED, THE IDENTITY OF EACH TAXPAYER SUBJECT TO THE RECAPTURE, AND THE AMOUNT OF SOUTH CAROLINA HOUSING TAX CREDIT PREVIOUSLY ALLOCATED TO SUCH TAXPAYER. ANY RECAPTURE OF THE SOUTH CAROLINA HOUSING TAX CREDIT IS REPORTED IN THE SAME MANNER AS ANY RECAPTURE OF THE FEDERAL HOUSING TAX CREDIT.**

**(3) THE TOTAL AMOUNT OF THE SOUTH CAROLINA HOUSING TAX CREDIT ALLOWED BY THIS SECTION FOR A TAXABLE YEAR MAY NOT EXCEED THE TAXPAYER'S INCOME TAX LIABILITY. ANY UNUSED SOUTH CAROLINA HOUSING TAX CREDIT MAY BE CARRIED FORWARD TO APPLY TO THE TAXPAYER'S NEXT FIVE SUCCEEDING YEARS' TAX LIABILITY. THE TAXPAYER MAY NOT APPLY THE CREDIT AGAINST ANY PRIOR TAX YEARS' TAX LIABILITY.**

**(4) THE SOUTH CAROLINA HOUSING TAX CREDIT ~~ALLOWED BY THIS SECTION~~, AND ANY RECAPTURED TAX CREDIT, MUST BE ALLOCATED AMONG SOME OR ALL OF THE PARTNERS, MEMBERS, OR SHAREHOLDERS OF THE ENTITY OWNING THE PROJECT IN ANY MANNER AGREED TO BY SUCH PERSONS, REGARDLESS OF WHETHER SUCH PERSONS ARE ALLOCATED OR ALLOWED ANY PORTION OF THE FEDERAL HOUSING TAX CREDIT WITH RESPECT TO THE PROJECT.**

**(5)(A) THE SOUTH CAROLINA HOUSING TAX CREDIT ALLOWED FOR ANY PROJECT MUST SUPPLEMENT BUT NOT SUPPLANT THE FEDERAL HOUSING TAX CREDIT AND MUST BE LIMITED TO AN AMOUNT NECESSARY ONLY TO ACHIEVE FINANCIAL FEASIBILITY OF THE PROJECT.**

(B) THE TOTAL AMOUNT OF ALL SOUTH CAROLINA HOUSING TAX CREDITS THAT MAY BE ALLOCATED IN ANY CALENDAR YEAR MUST NOT EXCEED FIFTEEN MILLION DOLLARS, PLUS THE TOTAL OF ALL UNALLOCATED TAX CREDITS, IF ANY, FOR ANY PRECEDING YEARS, AND THE TOTAL AMOUNT OF ANY PREVIOUSLY ALLOCATED TAX CREDITS THAT HAVE BEEN RECAPTURED, REVOKED, CANCELED, OR OTHERWISE RECOVERED BUT NOT OTHERWISE REALLOCATED.

(C) OF THE DOLLAR LIMITATION PRESCRIBED IN SUBITEM (B), THE TOTAL AMOUNT OF SOUTH CAROLINA HOUSING TAX CREDITS ALLOCATED TO QUALIFIED PROJECTS UTILIZING THE FEDERAL 9 PERCENT TAX CREDIT MUST NOT EXCEED FORTY PERCENT OF THE DOLLAR LIMITATION PRESCRIBED IN SUBITEM (B). OF THE SOUTH CAROLINA HOUSING TAX CREDITS ALLOCATED TO QUALIFIED PROJECTS UTILIZING THE FEDERAL 9 PERCENT TAX CREDIT, NOT LESS THAN FIFTY PERCENT OF THE SOUTH CAROLINA HOUSING TAX CREDITS MUST BE ALLOCATED TO QUALIFIED PROJECTS LOCATED IN AN ELIGIBLE RURAL AREA AS DESIGNATED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE, WITH THE REMAINDER ALLOCATED TO (I) QUALIFIED PROJECTS SERVING OLDER PERSONS OR PERSONS WITH SPECIAL NEEDS, IRRESPECTIVE OF RURAL ELIGIBILITY CRITERIA; (II) QUALIFIED PROJECTS SUPPORTING WORKFORCE DEVELOPMENT AS CERTIFIED BY THE SOUTH CAROLINA DEPARTMENT OF COMMERCE, IRRESPECTIVE OF RURAL ELIGIBILITY CRITERIA; AND (III) OTHER QUALIFIED PROJECTS, IRRESPECTIVE OF RURAL ELIGIBILITY CRITERIA.

(D) COMPLIANCE WITH THE DOLLAR LIMITATIONS OF SUBITEMS (B) AND (C) MUST BE DETERMINED BY THE TOTAL AMOUNT OF SOUTH CAROLINA HOUSING TAX CREDITS ALLOCATED FOR ONE FULL-YEAR OF THE CREDIT PERIOD APPLICABLE TO EACH QUALIFIED PROJECT, AND NOT THE TOTAL AMOUNT OF SOUTH CAROLINA HOUSING TAX CREDITS ALLOCATED FOR THE ENTIRE CREDIT PERIOD APPLICABLE TO EACH QUALIFIED PROJECT. COMPLIANCE WITH THE DOLLAR LIMITATIONS OF SUBITEMS (B) AND (C) MUST BE DETERMINED WITHIN

EACH CALENDAR YEAR AT THE TIME THE STATE HOUSING AUTHORITY MAKES A PRELIMINARY DETERMINATION OF ANY QUALIFIED PROJECT'S ELIGIBILITY FOR THE SOUTH CAROLINA HOUSING TAX CREDIT.

(E) IN ADDITION TO THE DOLLAR LIMITATION OF SUBITEM (B), ALLOCATION OF ANY SOUTH CAROLINA HOUSING TAX CREDIT TO ANY QUALIFIED PROJECT UTILIZING THE FEDERAL 4 PERCENT TAX CREDIT IS CONDITIONED ON AMONG OTHER THINGS AVAILABILITY AND ALLOCATION TO THE EXTENT NECESSARY FOR THE QUALIFIED PROJECT OF ANY STATE CEILING MADE PURSUANT TO ARTICLE 3, CHAPTER 11, TITLE 1.

(C)(1) THE STATE HOUSING AUTHORITY SHALL PROMULGATE RULES ESTABLISHING CRITERIA UPON WHICH THE ELIGIBILITY STATEMENTS ARE ISSUED WHICH MUST INCLUDE CONSIDERATION OF EVIDENCE OF LOCAL SUPPORT FOR THE PROJECT. THE ELIGIBILITY STATEMENT MUST SPECIFY THE AMOUNT OF THE SOUTH CAROLINA HOUSING TAX CREDIT ALLOWED, AND MUST INCLUDE: (I) THE ANNUAL AMOUNT OF SOUTH CAROLINA HOUSING TAX CREDIT ALLOCATED TO THE QUALIFIED PROJECT FOR EACH YEAR OF CREDIT PERIOD; AND (II) THE TOTAL AMOUNT OF SOUTH CAROLINA HOUSING TAX CREDIT ALLOCATED TO THE QUALIFIED PROJECT FOR THE ENTIRE CREDIT PERIOD.

(2) THE STATE HOUSING AUTHORITY MAY NOT ISSUE AN ELIGIBILITY STATEMENT UNTIL THE TAXPAYER PROVIDES A REPORT TO THE STATE HOUSING AUTHORITY DETAILING HOW THE STATE SOUTH CAROLINA HOUSING TAX CREDIT AUTHORIZED BY THIS SECTION WILL BENEFIT THE TENANTS OF THE PROJECT, ONCE PLACED IN SERVICE, INCLUDING, BUT NOT LIMITED TO, INCLUDING WITHOUT LIMITATION REDUCED RENT, OR AND WHY THE STATE SOUTH CAROLINA HOUSING TAX CREDIT AUTHORIZED BY THIS SECTION IS NECESSARY TO UNDERTAKE ESSENTIAL TO THE FINANCIAL FEASIBILITY OF THE PROJECT.



**(3) THE STATE HOUSING AUTHORITY MUST ESTABLISH UNIFORM CRITERIA FOR ALLOCATING THE SOUTH CAROLINA HOUSING TAX CREDIT TO ELIGIBLE PROJECTS PURSUANT TO A COMPETITIVE PROCESS THAT PROMOTES HIGHEST VALUE AND GREATEST PUBLIC BENEFIT. THE STATE HOUSING AUTHORITY MUST ESTABLISH THE CRITERIA REQUIRED BY THIS SECTION AS PART OF ANY QUALIFIED ALLOCATION PLAN ADOPTED TO ADMINISTER THE FEDERAL HOUSING TAX CREDIT, WHICH MUST INCLUDE WITHOUT LIMITATION AN OPPORTUNITY FOR PUBLIC COMMENT AT A PUBLIC HEARING CONDUCTED BY THE STATE HOUSING AUTHORITY. THE CRITERIA ESTABLISHED PURSUANT TO THIS SECTION, AND ANY QUALIFIED ALLOCATION PLAN ARE SUBJECT TO THE PRIOR REVIEW AND COMMENT OF THE JOINT BOND REVIEW COMMITTEE.**

**(4) THE STATE HOUSING AUTHORITY MUST FURNISH NO LATER THAN JANUARY THIRTY-FIRST OF EACH YEAR AN ANNUAL REPORT OF SOUTH CAROLINA HOUSING TAX CREDITS ALLOCATED PURSUANT TO THIS SECTION, WHICH MUST INCLUDE FOR THE PRECEDING CALENDAR YEAR THE TOTAL AMOUNT OF SOUTH CAROLINA HOUSING TAX CREDITS ALLOCATED, AND FOR EACH PROJECT, THE PROJECT NAME AND LOCATION, THE AMOUNT OF THE SOUTH CAROLINA HOUSING TAX CREDITS ALLOCATED TO THE PROJECT, PROJECT OWNERSHIP, TOTAL NUMBER OF UNITS ASSISTED, AND THE PUBLIC BENEFIT ACHIEVED BY THE PROJECT. THE ANNUAL REPORT MUST BE FURNISHED TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE, THE CHAIRMAN OF THE HOUSE OF REPRESENTATIVES WAYS AND MEANS COMMITTEE, THE JOINT BOND REVIEW COMMITTEE, AND THE STATE FISCAL ACCOUNTABILITY AUTHORITY.**

**(D) THE DEPARTMENT OF REVENUE, IN CONSULTATION WITH THE SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY STATE HOUSING AUTHORITY, MAY ADOPT RULES AND POLICIES NECESSARY TO IMPLEMENT AND ADMINISTER THE PROVISIONS**

**OF THIS SECTION; PROVIDED, HOWEVER, THAT THE STATE HOUSING AUTHORITY HAS THE RESPONSIBILITY FOR: (I) ALLOCATION AND ADMINISTRATION OF THE SOUTH CAROLINA HOUSING TAX CREDIT; AND (II) ENSURING THAT THE LIMITS PRESCRIBED BY SUBSECTION (B)(5)(B) AND (B)(5)(C) ARE NOT EXCEEDED.**

**(E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROVISIONS OF THIS SECTION AND ADMINISTRATION THEREOF ARE SUBJECT TO THE OVERSIGHT, AND REVIEW AND COMMENT AS APPROPRIATE, OF THE JOINT BOND REVIEW COMMITTEE.”**

**B. 1. NOTWITHSTANDING THE LIMITATIONS PRESCRIBED BY SECTION 12-6-3795(B)(5)(B), (C), AND (D) IN SECTION 1.A., THE GENERAL ASSEMBLY HEREBY PROVIDES A ONE-TIME AUTHORIZATION OF SOUTH CAROLINA HOUSING TAX CREDITS IN AN AMOUNT NECESSARY BUT NOT EXCEEDING ONE HUNDRED MILLION DOLLARS FOR QUALIFIED PROJECTS APPROVED BEFORE DECEMBER 31, 2021, BY THE STATE FISCAL ACCOUNTABILITY AUTHORITY OR THE SOUTH CAROLINA STATE HOUSING AND FINANCE DEVELOPMENT AUTHORITY, AS APPLICABLE. ANY ALLOCATIONS OF SOUTH CAROLINA HOUSING TAX CREDITS MADE PURSUANT TO THIS PROVISION ARE SUBJECT TO THE REVIEW AND COMMENT OF THE JOINT BOND REVIEW COMMITTEE. NOT LATER THAN THIRTY DAYS FOLLOWING ENACTMENT HEREOF, THE SOUTH CAROLINA STATE HOUSING AND FINANCE DEVELOPMENT AUTHORITY MUST IDENTIFY AND REPORT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE, THE CHAIRMAN OF THE HOUSE OF REPRESENTATIVES WAYS AND MEANS COMMITTEE, THE JOINT BOND REVIEW COMMITTEE, AND THE STATE FISCAL ACCOUNTABILITY AUTHORITY ALL QUALIFIED PROJECTS TO WHICH THIS ONE-TIME AUTHORIZATION OF SOUTH CAROLINA HOUSING TAX CREDITS IS PROPOSED TO APPLY. THE REPORT MUST BE MADE IN SUCH FORM AND SUBSTANCE AS MAY BE DIRECTED BY THE JOINT BOND REVIEW**

**COMMITTEE. NOTHING IN THIS PROVISION GRANTS ANY RIGHTS TO, OR IN THE PROCESSES USED IN THE DETERMINATION OF, ALLOCATION OF THIS ONE-TIME AUTHORIZATION OF SOUTH CAROLINA HOUSING TAX CREDITS. DECISIONS MADE PURSUANT TO THIS PROVISION ARE FINAL AND ARE NOT SUBJECT TO JUDICIAL OR ADMINISTRATIVE REVIEW.**

**2. THIS SUBSECTION B TAKES EFFECT UPON APPROVAL BY THE GOVERNOR.**

**C. THIS SECTION TAKES EFFECT UPON APPROVAL BY THE GOVERNOR AND FIRST APPLIES TO TAX YEARS BEGINNING AFTER 2021. /**

**AMEND THE BILL FURTHER, SECTION 2, BY STRIKING SECTIONS 1-11-520 AND 1-11-530 AND INSERTING:**

**/ SECTION 1-11-520. (A) ~~THE PRIVATE ACTIVITY BOND LIMIT FOR ALL STATE GOVERNMENT ISSUING AUTHORITIES NOW OR HEREAFTER AUTHORIZED TO ISSUE PRIVATE ACTIVITY BONDS AS DEFINED IN THE ACT, TO BE KNOWN AS THE "STATE GOVERNMENT POOL", IS FORTY PERCENT OF THE STATE CEILING LESS ANY AMOUNT SHIFTED TO THE LOCAL POOL AS DESCRIBED IN SUBSECTION (B) OF THIS SECTION OR PLUS ANY AMOUNT SHIFTED FROM THAT POOL~~ NO LATER THAN SEPTEMBER THIRTIETH OF THE YEAR PRECEDING THE CALENDAR YEAR TO WHICH THE STATE CEILING APPLIES, AND SUBJECT TO REVIEW AND COMMENT BY THE JOINT BOND REVIEW COMMITTEE, THE STATE AUTHORITY MUST PUBLISH A STATE CEILING ALLOCATION PLAN THAT ASSIGNS PERCENTAGES OF THE STATE CEILING TO CATEGORIES OF ANY OF THE PERMITTED PURPOSES PRESCRIBED BY THE INTERNAL REVENUE CODE. WITHOUT LIMITATION, CATEGORIES OF PERMITTED PURPOSES MAY INCLUDE INDUSTRIAL AND ECONOMIC DEVELOPMENT BONDS; SINGLE FAMILY HOUSING BONDS; MULTIFAMILY HOUSING BONDS; STUDENT LOAN BONDS; AND ANY OTHER BONDS ELIGIBLE FOR TAX EXEMPTION AS**

A PRIVATE ACTIVITY BOND PURSUANT TO THE INTERNAL REVENUE CODE. NO INITIAL ASSIGNMENT TO ANY SINGLE CATEGORY MAY EXCEED FORTY PERCENT OF THE STATE CEILING, AND NO MINIMUM ASSIGNMENT IS REQUIRED FOR ANY CATEGORY.

(B) ~~THE PRIVATE ACTIVITY BOND LIMIT FOR ALL ISSUING AUTHORITIES OTHER THAN STATE GOVERNMENT AGENCIES, TO BE KNOWN AS THE "LOCAL POOL", IS SIXTY PERCENT OF THE STATE CEILING PLUS ANY AMOUNT SHIFTED FROM THE STATE GOVERNMENT POOL OR LESS ANY AMOUNT SHIFTED TO THAT POOL~~ FURTHER, THE ALLOCATION PLAN MUST PROVIDE FOR A PROCESS OF PERIODIC ALLOCATIONS OF THE STATE CEILING WITHIN EACH CATEGORY, WHICH FOR ANY PERIOD GENERALLY MAY NOT EXCEED AN AMOUNT OF THE STATE CEILING ALLOCATED TO THAT CATEGORY EQUALLY DIVIDED AMONG THE NUMBER OF PERIODS IN THE YEAR DURING WHICH ALLOCATIONS ARE TO BE MADE; PROVIDED, HOWEVER, THAT THE STATE AUTHORITY MAY, UPON FINDINGS OF EXCEPTIONAL AND COMPELLING CIRCUMSTANCES, AMEND THE ANNUAL ALLOCATION PLAN FOLLOWING REVIEW AND COMMENT BY THE COMMITTEE.

(C) ~~THE BOARD, WITH REVIEW AND COMMENT BY THE JOINT BOND REVIEW COMMITTEE, MAY SHIFT UNALLOCATED AMOUNTS FROM ONE POOL TO THE OTHER AT ANY TIME~~ NOTWITHSTANDING THE ASSIGNED PERCENTAGES SET FORTH IN THE ALLOCATION PLAN, THE STATE AUTHORITY MAY BUT NEED NOT REASSIGN ANY STATE CEILING UNUSED IN PRIOR PERIODS AS A SUPPLEMENT TO AND MEANS TO ADDRESS DEMAND FOR CEILING ALLOCATION IN A SUBSEQUENT PERIOD. SUCH RE-ASSIGNMENT MAY BE MADE FOR ANY ALLOCATION CATEGORY, NOTWITHSTANDING ITS ORIGINAL ASSIGNMENT.

(D) UNLESS OTHERWISE APPROVED IN WRITING BY THE STATE AUTHORITY FOLLOWING JUSTIFICATION AND SUBSTANTIAL FINDINGS OF SIGNIFICANCE, NO AUTHORIZED REQUEST MAY RECEIVE AN ALLOCATION OF STATE CEILING APPLICABLE TO THAT CALENDAR YEAR EXCEEDING TEN PERCENT OF THE TOTAL STATE CEILING IN THE CASE OF

AN INDUSTRIAL OR ECONOMIC DEVELOPMENT PROJECT, OR FIVE PERCENT OF THE TOTAL STATE CEILING FOR ANY OTHER ALLOCATION CATEGORY.

(E) THE ALLOCATION PLAN MUST ESTABLISH COMPETITIVE CRITERIA FOR ALLOCATION OF STATE CEILING TO AUTHORIZED REQUESTS. COMPETITIVE CRITERIA MAY BE UNIQUE TO EACH CATEGORY BUT MUST BE UNIFORM WITHIN EACH CATEGORY AND ESTABLISHED TO ACHIEVE HIGHEST VALUE AND GREATEST PUBLIC BENEFIT. DISCUSSIONS OF MATTERS RELATED TO THE PERIODIC EVALUATION OF AUTHORIZED REQUESTS MAY BE CONDUCTED IN EXECUTIVE SESSION. THE STATE AUTHORITY MAY UTILIZE THE SERVICES OF THE SOUTH CAROLINA DEPARTMENT OF COMMERCE, THE SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY, ANY OTHER STATE AGENCY, AND ANY OTHER PUBLIC OR PRIVATE RESOURCES TO INFORM AND PROVIDE SERVICES FOR THE DEVELOPMENT OF THE ALLOCATION PLAN, INCLUDING THE EVALUATION AND COMPETITIVE CRITERIA; AND THE PERIODIC EVALUATION OF AUTHORIZED REQUESTS. THE DEPARTMENT OF COMMERCE AND THE STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY ARE DIRECTED TO PROVIDE TO THE STATE AUTHORITY SUCH ASSISTANCE AS MAY BE REQUESTED OR REQUIRED TO ACCOMPLISH THE PURPOSES OF THIS ARTICLE.

(F) ALLOCATIONS OF STATE CEILING TO AUTHORIZED REQUESTS MUST BE MADE IN ACCORDANCE WITH THE PROVISIONS OF THE ALLOCATION PLAN AND POLICIES AND PROCEDURES ADOPTED BY THE STATE AUTHORITY.

(G) THE STATE AUTHORITY MUST DETERMINE THE DISPOSITION OF ANY REMAINING, UNUSED STATE CEILING DURING THE FINAL PERIOD OF THE CALENDAR YEAR PURSUANT TO A PETITION SUBMITTED IN ACCORDANCE WITH SECTION 1-11-530(D).

**SECTION 1-11-530. (A) FOR PRIVATE ACTIVITY BONDS PROPOSED FOR ISSUE BY OTHER THAN STATE GOVERNMENT ISSUING AUTHORITIES, AN AUTHORIZED REQUEST IS A REQUEST INCLUDED IN A PETITION TO THE ~~BOARD~~ STATE AUTHORITY THAT A SPECIFIC AMOUNT OF THE STATE CEILING BE ALLOCATED TO THE BONDS FOR WHICH THE PETITION IS FILED. THE PETITION MUST BE ACCOMPANIED BY: (I) A COPY OF THE INDUCEMENT CONTRACT, INDUCEMENT RESOLUTION, OR OTHER COMPARABLE PRELIMINARY APPROVAL ENTERED INTO OR ADOPTED BY THE ISSUING AUTHORITY, IF ANY, RELATING TO THE BONDS. ~~THE BOARD SHALL FORWARD PROMPTLY TO THE COMMITTEE A COPY OF EACH PETITION RECEIVED,~~ AND (II) SUCH OTHER SUPPORTING DOCUMENTATION AS THE STATE AUTHORITY MAY BY POLICY PRESCRIBE.**

**(B) FOR PRIVATE ACTIVITY BONDS PROPOSED FOR ISSUE BY ANY STATE GOVERNMENT ISSUING AUTHORITY, AN AUTHORIZED REQUEST IS A REQUEST INCLUDED IN A PETITION TO THE ~~BOARD~~ STATE AUTHORITY THAT A SPECIFIC AMOUNT OF THE STATE CEILING BE ALLOCATED TO THE BONDS FOR WHICH THE PETITION IS FILED. THE PETITION MUST BE ACCOMPANIED BY: (I) A BOND RESOLUTION OR COMPARABLE ACTION BY THE ISSUING AUTHORITY AUTHORIZING THE ISSUANCE OF THE BONDS. ~~THE BOARD SHALL FORWARD PROMPTLY TO THE COMMITTEE A COPY OF EACH PETITION RECEIVED,~~ AND (II) SUCH OTHER SUPPORTING DOCUMENTATION AS THE STATE AUTHORITY MAY BY POLICY PRESCRIBE.**

**(C) EACH AUTHORIZED REQUEST MUST DEMONSTRATE THAT THE ALLOCATION AMOUNT REQUESTED CONSTITUTES ALL OF THE PRIVATE ACTIVITY BOND FINANCING CONTEMPLATED AT THE TIME FOR THE PROJECT AND ANY OTHER FACILITIES LOCATED AT OR USED AS A PART OF AN INTEGRATED OPERATION WITH THE PROJECT.**

**(D) AN ISSUING AUTHORITY SEEKING AN ALLOCATION OF ANY REMAINING UNUSED STATE CEILING FOR CARRY-FORWARD DESIGNATION MUST SUBMIT TO THE STATE AUTHORITY A PETITION**

**IDENTIFYING THE TYPES OF TAX-EXEMPT BONDS TO WHICH THE CARRYFORWARD DESIGNATION WILL APPLY. THE PETITION MUST BE ACCOMPANIED BY SUCH OTHER SUPPORTING DOCUMENTATION AS THE STATE AUTHORITY MAY BY POLICY PRESCRIBE. SUCH ALLOCATIONS ARE NOT SUBJECTED TO THE PROVISIONS OF SECTION 1-11-520(D), (E), AND (F).**

**(E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE STATE AUTHORITY MAY DISAPPROVE, REDUCE, OR DEFER ANY AUTHORIZED REQUEST OR PETITION FOR CARRY-FORWARD.**

**(F) THE STATE AUTHORITY MUST PERIODICALLY FURNISH TO THE JOINT BOND REVIEW COMMITTEE A REPORT OF PETITIONS RECEIVED, ALONG WITH THEIR DISPOSITIONS.** /

**RENUMBER SECTIONS TO CONFORM.**

**AMEND TITLE TO CONFORM.**



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
**(803)734-3780 • RFA.SC.GOV/IMPACTS**

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*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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| <b>Bill Number:</b>    | H.5075               | Introduced on March 3, 2022 |
| <b>Author:</b>         | G.M. Smith           |                             |
| <b>Subject:</b>        | Housing Tax Credit   |                             |
| <b>Requestor:</b>      | House Ways and Means |                             |
| <b>RFA Analyst(s):</b> | Jolliff              |                             |
| <b>Impact Date:</b>    | March 29, 2022       |                             |

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### **Fiscal Impact Summary**

This bill amends the South Carolina housing income tax credit in Section 12-6-3795 to include restrictions on the amount of credits that may be issued and to require the State Housing Finance and Development Authority (SC Housing) to establish uniform criteria for allocating the credits to eligible projects in a competitive process that promotes the highest value and greatest public benefit. The bill also makes changes to Article 2 of Chapter 11 of Title 1 relating to the allocation of state ceiling on issuance of private activity bonds. The Joint Bond Review Committee is to provide oversight, review, and comment on the criteria for allocation of the tax credits and administration of the credits as well as the State Ceiling Allocation plan for private activity bond allocations.

SC Housing anticipates a need for an additional staff person at an expenditure of \$70,000. The agency indicates additional underwriting will need to be performed to meet the proposed requirement that the "South Carolina Housing tax credit allowed for any project must supplement but not supplant the federal housing tax credit and must be limited to an amount necessary only to achieve financial feasibility of the project." This position will be funded from fees generated by the federal and state tax credit programs.

The State Fiscal Accountability Authority (SFAA) and the Joint Bond Review Committee report that the bill will not impact expenditures for either agency. They will be able to accomplish the new responsibilities with existing appropriations.

The bill is expected to reduce the estimated General Fund revenue impact of the tax credit developed in October 2021, and included in the FY 2021-22 and FY 2022-23 forecasts, by capping the allocation of credits at \$15,000,000 per fiscal year and disallowing any state credit for 9 percent projects beginning in 2022. The estimated revenue impact was revised in 2021 as participation in the development of affordable housing has significantly exceeded expectations during 2019 and 2020 when the General Assembly considered H. 3998. The table below summarizes the current and new impact and net change based on the details provided in the State Revenue section:



**Total and Net General Fund Impact from Proposed Changes to State Housing Tax Credit**

| <b>Fiscal Year</b> | <b>Total General Fund Impact – CURRENT LAW AS OF 10/2021</b> | <b>Total General Fund Impact – PROPOSED ALLOCATION</b> | <b>Net General Fund Impact</b> |
|--------------------|--|--|--------------------------------|
| FY 2021-22         | (\$25,035,041)   | (\$24,288,000)   | \$747,000                      |
| FY 2022-23         | (\$84,308,895)   | (\$68,761,000)   | \$15,548,000                   |
| FY 2023-24         | (\$144,908,895)  | (\$83,761,000)   | \$61,148,000                   |
| FY 2024-25         | (\$205,508,895)  | (\$98,761,000)   | \$106,748,000                  |
| FY 2025-26         | (\$266,108,895)  | (\$113,761,000)  | \$152,348,000                  |
| FY 2026-27         | (\$326,708,895)  | (\$128,761,000)  | \$197,948,000                  |
| FY 2027-28         | (\$387,308,895)  | (\$143,761,000)  | \$243,548,000                  |
| FY 2028-29         | (\$447,908,895)  | (\$158,761,000)  | \$289,148,000                  |
| FY 2029-30         | (\$508,508,895)  | (\$173,761,000)  | \$334,748,000                  |
| FY 2030-31         | (\$516,068,895)  | (\$178,321,000)  | \$337,748,000                  |
| FY 2031-32         | (\$491,033,854)  | (\$154,033,000)  | \$337,001,000                  |
| FY 2032-33         | (\$431,760,000)  | (\$109,560,000)  | \$322,200,000                  |
| FY 2033-34         | (\$371,160,000)  | (\$94,560,000)   | \$276,600,000                  |
| FY 2034-35         | (\$310,560,000)  | (\$79,560,000)   | \$231,000,000                  |
| FY 2035-36         | (\$249,960,000)  | (\$64,560,000)   | \$185,400,000                  |
| FY 2036-37         | (\$189,360,000)  | (\$49,560,000)   | \$139,800,000                  |
| FY 2037-38         | (\$128,760,000)  | (\$34,560,000)   | \$94,200,000                   |
| FY 2038-39         | (\$68,160,000)   | (\$19,560,000)   | \$48,600,000                   |
| FY 2039-40         | (\$7,560,000)  | (\$4,560,000)  | \$3,000,000                    |
| <b>Total</b>       | <b>(\$5,160,688,952)</b>                                     | <b>(\$1,783,210,000)</b>                               | <b>\$3,377,479,000</b>         |

Over the full period of the tax credits through FY 2039-40, the changes in the bill will lower the General Fund revenue impact from \$5,160,688,952 to \$1,783,210,000.

### Explanation of Fiscal Impact

**Introduced on March 3, 2022**

**State Expenditure**

This bill amends the state housing tax credit in Section 12-6-3795 to include restrictions on the amount of credits that may be issued and to require SC Housing to establish uniform criteria for allocating the credits to eligible projects in a competitive process that promotes the highest value and greatest public benefit. Further, SC Housing must provide a report annually by July 31 of the tax credits allocated pursuant to this section including the amount, project name and location, project ownership, number of units, and public benefit achieved by the project. The bill also

specifies that the provisions of the tax credit section and administration are subject to the oversight and review of the Joint Bond Review Committee.

The bill also makes changes to Article 2 of Chapter 11 of Title 1 relating to the allocation of state ceiling on issuance of private activity bonds. In the bill, SFAA is required to publish a State Ceiling Allocation Plan that assigns percentages of the state ceiling to categories of any of the permitted purposes prescribed by the Internal Revenue Code. Categories of permitted purposes may include industrial and economic development bonds, single family housing bonds, multifamily housing bonds, student loan bonds, and any other bonds eligible for tax exemption as a private activity bond pursuant to the Internal Revenue Code. No assignment to any single category may exceed 40 percent of the state ceiling, and no minimum assignment is required for any category.

**South Carolina Housing and Finance Development Authority.** SC Housing anticipates a need for an additional staff person at an expenditure of \$70,000. The agency indicates additional underwriting will need to be performed to meet the proposed requirement that the "South Carolina Housing tax credit allowed for any project must supplement but not supplant the federal housing tax credit and must be limited to an amount necessary only to achieve financial feasibility of the project. This position will be funded from fees generated by the federal and state tax credit programs.

**State Fiscal Accountability Authority.** SFAA indicates that the agency can accomplish the new responsibilities relating to the allocation of the state ceiling for private activity bonds with existing staff and resources. Therefore, there is no expenditure impact for the agency.

**Joint Bond Review Committee.** The Senate responded that the bill will not impact expenditures for the Joint Bond Review Committee to provide oversight of the tax credits and bond allocation.

### **State Revenue**

This bill amends Section 12-6-3795 relating to the South Carolina housing tax credit enacted in 2020. The current credit is based on the federal low-income housing tax credit in Section 42 of the Internal Revenue Code (IRC). The tax credit is available for any qualified project placed in service in South Carolina after January 1, 2020, and before December 31, 2030. Qualified projects may involve SC Housing or a local housing authority. All credits for these projects will be subject to the limitations in the bill. The credit may be taken against individual income tax, corporate income tax, bank tax, or insurance premium tax. The total amount of the credit may not exceed the taxpayer's income tax liability. Any unused credits may be carried forward for five tax years. Further, if any portion of a federal housing tax credit is required to be recaptured, the corresponding portion of the state credit related to the project is also subject to recapture.

Two types of federal credits are available under IRC Section 42 depending on the nature of the construction project and financing structure. The bill provides new definitions to define these credits as:

- New construction tax credit- the federal housing tax credit applicable to new construction and intended to deliver up to a seventy percent federal subsidy, sometimes referred to as the nine percent low-income housing tax credit.
- Rehabilitation tax credit- the federal housing tax credit applicable to rehabilitation projects utilizing federally tax-exempt bond financing and intended to deliver up to a thirty percent subsidy, sometimes referred to as the four percent low-income housing tax credit.

Each state receives a federal allocation for 'new constructions tax credits,' referred to as 9 percent tax credits, on an annual basis, and SC Housing has allocated the federal maximum of these tax credits annually. The federal allocation limits do not apply to the 'rehabilitation tax credit,' referred to as 4 percent credits, but these credits must include tax-exempt financing, approved either through SFAA or through carryforward allocation from the SC Housing Authority.

Currently, taxpayers may be allocated credits by SC Housing for qualified projects that are eligible for either of the federal credits, 9 percent or 4 percent. The bill amends this to only allow state tax credits for projects eligible for the rehabilitation tax credit, or 4 percent credits. The bill also caps the amount of the credits that may be allocated in a fiscal year to \$15,000,000 beginning in 2022.

During a SFAA meeting on October 12, 2021, it was noted that the potential impact of the state housing tax credit is likely to greatly exceed the original impact expected by SC Housing and included in the fiscal impact statement for H. 3998 of 2020, the enacting legislation. Our original fiscal impact estimated an annual impact of \$2,057,000 based upon historical tax credit allocations and discussions with SC Housing, which was expected to increase annually to \$15,969,000 by FY 2029-30. Based on the information available, the impact assumed no increase in use of the 4 percent credits.

Following the October SFAA meeting, SC Housing noted that participation in the development of affordable housing has exceeded expectations during 2019 and 2020 when the General Assembly considered H. 3998. The availability of the state tax credit coupled with a change to the 4 percent federal low-income housing tax credit financing enacted by Congress later in 2020 significantly increased participation in qualifying housing developments beyond original expectations.

As such, at the request of SFAA and Revenue and Fiscal Affairs, SC Housing re-evaluated the expectations for tax credit utilization and provided an update of the maximum potential credits. SC Housing provided an analysis based upon their expectations for when projects will be placed in service and start claiming tax credits. In order to provide the analysis, they made the following assumptions:

- The state tax exempt bond volume cap is held at the current level of approximately \$570 million.

- All future cap is assumed allocated to 4 percent multifamily tax-exempt bond developments.
- All future projects are assumed to be utilizing a straight 50 percent tax exempt bond allocation, and it is further assumed that 100 percent of total development costs are included in aggregate basis.

The October estimates for 2020 and 2021 allocation figures are based on actual projects, and include 9 percent low income housing tax credit deals for 2018, 2019, 2020, and 2021 placed in service after January 1, 2020. In addition, SC Housing also assumed a reduced allocation for 2029 since the tax credit is currently set to expire on December 31, 2030. Their analysis reflects only rehabilitation deals in 2029, which are the only deals realistically expected to be able to qualify for the state tax credit by the sunset date. Based upon these assumptions, the table below outlines the maximum potential credit allocations per year.

*Please note: SC housing has provided corrections to the October 2021 figures for 9 percent credits in 2020 and 2021. Figures are shown as originally reported in October 2021 as these figures were used to adjust revenue forecasts.*

**CURRENT LAW – Figures as of October 2021**  
**Table 1. Projected Potential Credit Allocation by Year**

**(Annual Allocations for Projects before Adjustments for Placed in Service Timing)**

| <b>Allocation Year</b> | <b>4 Percent Credits</b> | <b>9 Percent Credits</b> | <b>All Projects</b> |
|------------------------|--------------------------|--------------------------|---------------------|
| *2020                  | \$10,720,650             | \$14,314,391 ***         | \$25,035,041        |
| *2021                  | \$23,788,234             | \$35,485,620 ***         | \$59,273,854        |
| 2022                   | \$45,600,000             | \$15,000,000             | \$60,600,000        |
| 2023                   | \$45,600,000             | \$15,000,000             | \$60,600,000        |
| 2024                   | \$45,600,000             | \$15,000,000             | \$60,600,000        |
| 2025                   | \$45,600,000             | \$15,000,000             | \$60,600,000        |
| 2026                   | \$45,600,000             | \$15,000,000             | \$60,600,000        |
| 2027                   | \$45,600,000             | \$15,000,000             | \$60,600,000        |
| 2028                   | \$45,600,000             | \$15,000,000             | \$60,600,000        |
| **2029                 | \$4,560,000              | \$3,000,000              | \$7,560,000         |

\*Includes 2018, 2019, 2020, and 2021 9 percent deals that will be placed in service after January 1, 2020

\*\*Estimate limited due to sunset date

Source: SC Housing Authority

\*\*\*PLEASE NOTE: Figures as of October 2021; SC housing has provided corrections to these figures for 9 percent credits in 2020 and 2021 that are used in the Proposed Allocations

The annual credit allocations are taken each year for ten years starting when the project is placed in service. Based upon these maximum allocations, SC Housing provided an analysis of the expected placed in-service dates for the projects and the corresponding timing of the state tax credits. These estimates and the resulting potential impact on the General Fund under current law are outlined below:

**CURRENT LAW - as of October 2021****Table 2. Estimated General Fund Impact for Maximum Tax Credit Allocation**

| <b>Tax Year</b> | <b>Fiscal Year</b> | <b>4 Percent Credits</b> | <b>9 Percent Credits</b> | <b>Total General Fund Impact</b> |
|-----------------|--------------------|--------------------------|--------------------------|----------------------------------|
| 2021            | FY 2021-22         | \$10,720,650             | \$14,314,391             | (\$25,035,041)                   |
| 2022            | FY 2022-23         | \$34,508,884             | \$49,800,011             | (\$84,308,895)                   |
| 2023            | FY 2023-24         | \$80,108,884             | \$64,800,011             | (\$144,908,895)                  |
| 2024            | FY 2024-25         | \$125,708,884            | \$79,800,011             | (\$205,508,895)                  |
| 2025            | FY 2025-26         | \$171,308,884            | \$94,800,011             | (\$266,108,895)                  |
| 2026            | FY 2026-27         | \$216,908,884            | \$109,800,011            | (\$326,708,895)                  |
| 2027            | FY 2027-28         | \$262,508,884            | \$124,800,011            | (\$387,308,895)                  |
| 2028            | FY 2028-29         | \$308,108,884            | \$139,800,011            | (\$447,908,895)                  |
| 2029            | FY 2029-30         | \$353,708,884            | \$154,800,011            | (\$508,508,895)                  |
| 2030            | FY 2030-31         | \$358,268,884            | \$157,800,011            | (\$516,068,895)                  |
| 2031            | FY 2031-32         | \$347,548,234            | \$143,485,620            | (\$491,033,854)                  |
| 2032            | FY 2032-33         | \$323,760,000            | \$108,000,000            | (\$431,760,000)                  |
| 2033            | FY 2033-34         | \$278,160,000            | \$93,000,000             | (\$371,160,000)                  |
| 2034            | FY 2034-35         | \$232,560,000            | \$78,000,000             | (\$310,560,000)                  |
| 2035            | FY 2035-36         | \$186,960,000            | \$63,000,000             | (\$249,960,000)                  |
| 2036            | FY 2036-37         | \$141,360,000            | \$48,000,000             | (\$189,360,000)                  |
| 2037            | FY 2037-38         | \$95,760,000             | \$33,000,000             | (\$128,760,000)                  |
| 2038            | FY 2038-39         | \$50,160,000             | \$18,000,000             | (\$68,160,000)                   |
| 2039            | FY 2039-40         | \$4,560,000              | \$3,000,000              | (\$7,560,000)                    |
| Total           |                    | \$3,582,688,845          | \$1,578,000,107          | (\$5,160,688,952)                |

Because these estimates assume that the maximum current allocation of bond volume cap is utilized for housing bonds and the highest tax credits levels allowable, these figures present the upper bound of present expectations. If the bond volume cap is increased, the amount of potential credits would increase as well. Based upon discussions with professionals in the housing development industry, developments are likely to reach these levels at least for the upcoming five years without any actions to reduce the allocations. These revised estimates were incorporated into the revenue forecast by the BEA beginning on November 10, 2021, and are currently included in the General Fund forecast for FY 2021-22 and FY 2022-23.

Capping the allocation of credits at \$15,000,000 per fiscal year and disallowing any state credit for 9 percent projects will limit the impact in future years. Based on the changes in the bill, the following table provides updated projections of the potential credit allocations:

**PROPOSED ALLOCATION IN THE BILL - as of March 29, 2022**

**Table 3. Projected Potential Credit Allocation by Year  
(Annual Allocations for Projects before Adjustments for Placed in Service Timing)**

| <b>Allocation Year</b>              | <b>4%</b>    | <b>9%</b>    | <b>All Projects</b> |
|-------------------------------------|--------------|--------------|---------------------|
| *2020                               | \$10,720,650 | \$13,566,600 | \$24,287,250        |
| *2021                               | \$23,788,234 | \$20,685,294 | \$44,473,528        |
| Estimated Total Prior to Law Change | \$34,508,884 | \$34,251,894 | \$68,760,779        |
|                                     |              |              |                     |
| 2022                                | \$15,000,000 | \$0          | \$15,000,000        |
| 2023                                | \$15,000,000 | \$0          | \$15,000,000        |
| 2024                                | \$15,000,000 | \$0          | \$15,000,000        |
| 2025                                | \$15,000,000 | \$0          | \$15,000,000        |
| 2026                                | \$15,000,000 | \$0          | \$15,000,000        |
| 2027                                | \$15,000,000 | \$0          | \$15,000,000        |
| 2028                                | \$15,000,000 | \$0          | \$15,000,000        |
| **2029                              | \$4,560,000  | \$0          | \$4,560,000         |

Source: S.C. Housing (Preliminary)

\*Based on estimates by SC Housing; includes 2018, 2019, 2020, and 2021 9 percent deals that will be placed in service after January 1, 2020

\*\*Estimate limited due to sunset date

(Please note: figures include updates to October 2021 data.)

Based on the expected timing for when projects will be placed in service, the table below provides the estimated annual impact on a fiscal year basis:

**PROPOSED ALLOCATION IN THE BILL - as of March 29, 2022****Table 4. Estimated General Fund Impact for Tax Credit Allocation**

| <b>Tax Year</b> | <b>Fiscal Year</b> | <b>4 Percent Credits</b> | <b>9 Percent Credits</b> | <b>Total General Fund Impact</b> |
|-----------------|--------------------|--------------------------|--------------------------|----------------------------------|
| 2021            | FY 2021-22         | \$10,721,000             | \$13,567,000             | (\$24,288,000)                   |
| 2022            | FY 2022-23         | \$34,509,000             | \$34,252,000             | (\$68,761,000)                   |
| 2023            | FY 2023-24         | \$49,509,000             | \$34,252,000             | (\$83,761,000)                   |
| 2024            | FY 2024-25         | \$64,509,000             | \$34,252,000             | (\$98,761,000)                   |
| 2025            | FY 2025-26         | \$79,509,000             | \$34,252,000             | (\$113,761,000)                  |
| 2026            | FY 2026-27         | \$94,509,000             | \$34,252,000             | (\$128,761,000)                  |
| 2027            | FY 2027-28         | \$109,509,000            | \$34,252,000             | (\$143,761,000)                  |
| 2028            | FY 2028-29         | \$124,509,000            | \$34,252,000             | (\$158,761,000)                  |
| 2029            | FY 2029-30         | \$139,509,000            | \$34,252,000             | (\$173,761,000)                  |
| 2030            | FY 2030-31         | \$144,069,000            | \$34,252,000             | (\$178,321,000)                  |
| 2031            | FY 2031-32         | \$133,348,000            | \$20,685,000             | (\$154,033,000)                  |
| 2032            | FY 2032-33         | \$109,560,000            | \$0                      | (\$109,560,000)                  |
| 2033            | FY 2033-34         | \$94,560,000             | \$0                      | (\$94,560,000)                   |
| 2034            | FY 2034-35         | \$79,560,000             | \$0                      | (\$79,560,000)                   |
| 2035            | FY 2035-36         | \$64,560,000             | \$0                      | (\$64,560,000)                   |
| 2036            | FY 2036-37         | \$49,560,000             | \$0                      | (\$49,560,000)                   |
| 2037            | FY 2037-38         | \$34,560,000             | \$0                      | (\$34,560,000)                   |
| 2038            | FY 2038-39         | \$19,560,000             | \$0                      | (\$19,560,000)                   |
| 2039            | FY 2039-40         | \$4,560,000              | \$0                      | (\$4,560,000)                    |
| <b>Total</b>    |                    | <b>\$1,440,690,000</b>   | <b>\$342,520,000</b>     | <b>(\$1,783,210,000)</b>         |

Source: S.C. Revenue and Fiscal Affairs

Limiting the credits will begin to reduce the estimated impact in FY 2023-24 when projects that are allocated credits under the new limits for 2022 begin to claim those credits. The table below shows the change in the impact as currently estimated compared to the impact under this bill:

**Table 5. Net General Fund Impact from Proposed Changes to State Housing Tax Credit**

| <b>Fiscal Year</b> | <b>Total General Fund Impact – CURRENT LAW AS OF 10/2021</b> | <b>Total General Fund Impact – PROPOSED ALLOCATION</b> | <b>Net General Fund Impact</b> |
|--------------------|--|--|--------------------------------|
| FY 2021-22         | (\$25,035,041)   | (\$24,288,000)   | \$747,000                      |
| FY 2022-23         | (\$84,308,895)   | (\$68,761,000)   | \$15,548,000                   |
| FY 2023-24         | (\$144,908,895)  | (\$83,761,000)   | \$61,148,000                   |
| FY 2024-25         | (\$205,508,895)  | (\$98,761,000)   | \$106,748,000                  |
| FY 2025-26         | (\$266,108,895)  | (\$113,761,000)  | \$152,348,000                  |
| FY 2026-27         | (\$326,708,895)  | (\$128,761,000)  | \$197,948,000                  |
| FY 2027-28         | (\$387,308,895)  | (\$143,761,000)  | \$243,548,000                  |
| FY 2028-29         | (\$447,908,895)  | (\$158,761,000)  | \$289,148,000                  |
| FY 2029-30         | (\$508,508,895)  | (\$173,761,000)  | \$334,748,000                  |
| FY 2030-31         | (\$516,068,895)  | (\$178,321,000)  | \$337,748,000                  |
| FY 2031-32         | (\$491,033,854)  | (\$154,033,000)  | \$337,001,000                  |
| FY 2032-33         | (\$431,760,000)  | (\$109,560,000)  | \$322,200,000                  |
| FY 2033-34         | (\$371,160,000)  | (\$94,560,000)   | \$276,600,000                  |
| FY 2034-35         | (\$310,560,000)  | (\$79,560,000)   | \$231,000,000                  |
| FY 2035-36         | (\$249,960,000)  | (\$64,560,000)   | \$185,400,000                  |
| FY 2036-37         | (\$189,360,000)  | (\$49,560,000)   | \$139,800,000                  |
| FY 2037-38         | (\$128,760,000)  | (\$34,560,000)   | \$94,200,000                   |
| FY 2038-39         | (\$68,160,000)   | (\$19,560,000)   | \$48,600,000                   |
| FY 2039-40         | (\$7,560,000)  | (\$4,560,000)  | \$3,000,000                    |
| <b>Total</b>       | <b>(\$5,160,688,952)</b>                                     | <b>(\$1,783,210,000)</b>                               | <b>\$3,377,479,000</b>         |

Source: S.C. Revenue and Fiscal Affairs; figures may not add to totals due to rounding

Using the revised figures for FY 2021-22 and FY 2022-23, the General Fund revenue impact for these years will be \$747,000 and \$15,548,000 less than previously estimated in October 2021, respectively. Based on the timing of when projects are expected to be placed in service, the changes in the bill to limit the impact will reduce the General Fund revenue impact beginning in FY 2023-24 from \$144,908,985 to \$83,761,000, for a net increase in General Fund revenue of \$61,148,000. Over the full period of the tax credits through FY 2039-40, the changes in the bill will lower the General Fund revenue impact from \$5,160,688,952 to \$1,783,210,000.

#### **Local Expenditure**

N/A

#### **Local Revenue**

N/A



Frank A. Rainwater, Executive Director



**South Carolina General Assembly**  
124th Session, 2021-2022

**H. 5075**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. G.M. Smith

Document Path: I:\council\bills\nbd\11339dg22.docx

Companion/Similar bill(s): 1120

Introduced in the House on March 3, 2022

Currently residing in the House Committee on **Ways and Means**

Summary: Housing tax credit

**HISTORY OF LEGISLATIVE ACTIONS**

| Date     | Body  | Action Description with journal page number  |
|----------|-------|--|
| 3/3/2022 | House | Introduced and read first time ( <a href="#">House Journal-page 23</a> )                 |
| 3/3/2022 | House | Referred to Committee on <b>Ways and Means</b> ( <a href="#">House Journal-page 23</a> ) |

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**VERSIONS OF THIS BILL**

[3/3/2022](#)

1  
2  
3  
4  
5  
6  
7  
8  
9 **A BILL**

10  
11 TO AMEND SECTION 12-6-3795, CODE OF LAWS OF SOUTH  
12 CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA  
13 HOUSING TAX CREDIT, SO AS TO DEFINE TERMS AND  
14 LIMIT THE CREDIT; TO AMEND ARTICLE 3 OF CHAPTER  
15 11, TITLE 1, RELATING TO THE ALLOCATION OF STATE  
16 CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS, SO  
17 AS TO REQUIRE THE STATE FISCAL ACCOUNTABILITY  
18 AUTHORITY TO DEVELOP A STATE CEILING  
19 ALLOCATION PLAN ANNUALLY, TO SPECIFY  
20 REQUIREMENTS OF THE PLAN, AND TO PROVIDE A  
21 PROCESS FOR PERIODIC ALLOCATIONS OF THE STATE  
22 CEILING; AND TO REPEAL SECTION 1-11-370 RELATING  
23 TO INDEBTEDNESS INCLUDED WITHIN ANY LIMITS ON  
24 PRIVATE ACTIVITY BONDS.

25  
26 Be it enacted by the General Assembly of the State of South  
27 Carolina:

28  
29 SECTION 1. A. Section 12-6-3795 of the 1976 Code, as added  
30 by Act 137 of 2020, is amended to read:

31  
32 “Section 12-6-3795. (A) As used in this section:

33 (1) ‘Eligibility statement’ means a statement authorized and  
34 issued by the South Carolina Housing and Finance Development  
35 Authority certifying that a given project qualifies for the South  
36 Carolina housing tax credit.

37 (2) ‘Federal housing tax credit’ means the federal tax credit  
38 as provided in Section 42 of the Internal Revenue Code of 1986, as  
39 amended.

40 (3) ‘Median income’ means those incomes that are  
41 determined by the federal Department of Housing and Urban  
42 Development guidelines and adjusted for family size.

1 (4) 'Project' means a housing project that has restricted rents  
2 that do not exceed thirty percent of income for at least forty percent  
3 of its units occupied by persons or families having incomes of sixty  
4 percent or less of the median income, or at least twenty percent of  
5 the units occupied by persons or families having incomes of fifty  
6 percent or less of the median income.

7 (5) 'Qualified project' means a qualified low-income building  
8 as that term is defined in Section 42 of the Internal Revenue Code  
9 of 1986, as amended, that is located in South Carolina and receives  
10 approval for tax credits from the South Carolina Housing and  
11 Finance Development Authority provided pursuant to this section.

12 (6) 'Taxpayer' means a sole proprietor, partnership,  
13 corporation of any classification, limited liability company, or  
14 association taxable as a business entity that is subject to South  
15 Carolina taxes pursuant to Section 12-6-510, Section 12-6-530,  
16 Chapter 11, Title 12, or Chapter 7, Title 38.

17 (7) 'New construction tax credit' means the federal housing  
18 tax credit applicable to new construction and intended to deliver up  
19 to a seventy percent federal subsidy, sometimes referred to as the  
20 nine percent low-income housing tax credit.

21 (8) 'Rehabilitation tax credit' means the federal housing tax  
22 credit applicable to rehabilitation projects utilizing federally  
23 tax-exempt bond financing and intended to deliver up to a thirty  
24 percent subsidy, sometimes referred to as the four percent  
25 low-income housing tax credit.

26 (B)(1) A state tax credit pursuant to this section may be claimed  
27 against income taxes imposed by Section 12-6-510 or 12-6-530,  
28 bank taxes imposed pursuant to Chapter 11, Title 12, corporate  
29 license fees imposed pursuant to Chapter 20, Title 12, and insurance  
30 premium and retaliatory taxes imposed pursuant to Chapter 7, Title  
31 38, to be termed the South Carolina housing tax credit, and is  
32 allowed with respect to each qualified project placed in service after  
33 January 1, 2020, and before December 31, 2030, in an amount equal  
34 not to exceed the federal housing tax credit allowed with respect to  
35 such qualified project, subject to the limitations of item (5). In  
36 computing a tax payable by a taxpayer pursuant to Section 38-7-90,  
37 the credit allowed pursuant to this section must be treated as a  
38 premium tax paid pursuant to Section 38-7-20.

39 (2)(a) If under Section 42 of the Internal Revenue Code of  
40 1986, as amended, a portion of any federal housing tax credit taken  
41 on a project is required to be recaptured, the taxpayer claiming any  
42 state South Carolina housing tax credit with respect to such project  
43 also is required to recapture a portion of any state South Carolina

1 housing tax credit authorized by this section. The state recapture  
2 amount is equal to the proportion of the state South Carolina housing  
3 tax credit claimed by the taxpayer that equals the proportion the  
4 federal recapture amount bears to the original federal housing tax  
5 credit amount subject to recapture.

6 (b) In the event that recapture of any South Carolina  
7 housing tax credit is required, any amended return submitted to the  
8 department, as provided in this section, shall include the proportion  
9 of the state South Carolina housing tax credit required to be  
10 recaptured, the identity of each taxpayer subject to the recapture,  
11 and the amount of South Carolina housing tax credit previously  
12 allocated to such taxpayer.

13 (3) The total amount of the South Carolina housing tax credit  
14 allowed by this section for a taxable year may not exceed the  
15 taxpayer's income tax liability. Any unused South Carolina housing  
16 tax credit may be carried forward to apply to the taxpayer's next five  
17 succeeding years' tax liability. The taxpayer may not apply the  
18 credit against any prior tax years' tax liability.

19 (4) ~~The South Carolina housing tax credit allowed by this~~  
20 ~~section, and any recaptured tax credit, must be allocated among~~  
21 ~~some or all of the partners, members, or shareholders of the entity~~  
22 ~~owning the project in any manner agreed to by such persons,~~  
23 ~~regardless of whether such persons are allocated or allowed any~~  
24 ~~portion of the federal housing tax credit with respect to the project.~~

25 (5)(a) The South Carolina housing tax credit allowed for any  
26 project must supplement but not supplant the federal housing tax  
27 credit and must be limited to an amount necessary only to achieve  
28 financial feasibility of the project.

29 (b) The South Carolina housing tax credit is only allowed  
30 for a project utilizing the rehabilitation tax credit, and is conditioned  
31 among other things on availability and allocation to the extent  
32 necessary for the project of any state ceiling made pursuant to  
33 Article 3, Chapter 11, Title 1.

34 (c) No South Carolina housing tax credit is allowed for any  
35 housing project utilizing the new construction tax credit.

36 (d) The total amount of all South Carolina housing tax  
37 credits that may be allocated in any fiscal year must not exceed  
38 fifteen million dollars.

39 (C)(1) The authority shall promulgate rules establishing criteria  
40 upon which the eligibility statements are issued which must include  
41 consideration of evidence of local support for the project. The  
42 eligibility statement must specify the amount of the South Carolina  
43 housing tax credit allowed.

1 (2) The authority may not issue an eligibility statement until  
2 the taxpayer provides a report to the authority detailing how the state  
3 South Carolina housing tax credit authorized by this section will  
4 benefit the tenants of the project, once placed in service, including,  
5 but not limited to, without limitation reduced rent, or and why the  
6 state South Carolina housing tax credit authorized by this section is  
7 necessary to undertake essential to the financial feasibility of the  
8 project.

9 (3) The authority must establish uniform criteria for  
10 allocating the South Carolina housing tax credit to eligible projects  
11 pursuant to a competitive process that promotes highest value and  
12 greatest public benefit. The authority may, but need not, establish  
13 the criteria required by this section as part of any qualified allocation  
14 plan adopted to administer the federal low-income housing tax  
15 credit. The criteria established pursuant to this section, and any  
16 qualified allocation plan whether or not applicable to administration  
17 of the South Carolina housing tax credit, are subject to the prior  
18 review and comment of the Joint Bond Review Committee.

19 (4) The authority must furnish no later than July thirty-first of  
20 each year an annual report of South Carolina housing tax credits  
21 allocated pursuant to this section, which must include the total  
22 amount of tax credits allocated, and for each project, the project  
23 name and location, the amount of the South Carolina housing tax  
24 credits allocated to the project, project ownership, total number of  
25 units assisted, and the public benefit achieved by the project. The  
26 annual report must be furnished to the President of the Senate, the  
27 Speaker of the House of Representatives, the Chairman of the  
28 Senate Finance Committee, the Chairman of the House of  
29 Representatives Ways and Means Committee, the Joint Bond  
30 Review Committee, and the State Fiscal Accountability Authority.

31 (D) The department, in consultation with the South Carolina  
32 State Housing Finance and Development Authority, may adopt rules  
33 and policies necessary to implement and administer the provisions  
34 of this section.

35 (E) Notwithstanding any other provision of law, the provisions  
36 of this section and administration thereof are subject to the  
37 oversight, and review and comment as appropriate, of the Joint  
38 Bond Review Committee.”

39  
40 B. This SECTION takes effect upon approval by the Governor and  
41 first applies to tax years beginning after 2021.  
42

1 SECTION 2. Article 3, Chapter 11, Title 1, of the 1976 Code is  
2 amended to read:

3  
4 "Article 3  
5

6 Allocation of State Ceiling on Issuance of Private Activity Bonds  
7

8 Section 1-11-500. The state ceiling on the issuance of private  
9 activity bonds as defined in Section 146 of the Internal Revenue  
10 Code of 1986 (~~the Code~~) established in the act must be certified  
11 annually by the Secretary of the State Fiscal Accountability  
12 Authority ~~secretary (the state authority)~~ based upon the provisions  
13 of the act. The ~~board secretary of the state authority~~ shall make this  
14 certification as soon as practicable after the estimates of the  
15 population of the State of South Carolina to be used in the  
16 calculation are published by the United States Bureau of the Census  
17 but in no event later than February first of each calendar year.  
18

19 Section 1-11-510. (A) The private activity bond limit for all  
20 issuing authorities must be allocated by the ~~board~~ state authority in  
21 response to authorized requests as described in Section 1-11-530 by  
22 the issuing authorities, or as otherwise provided in Section  
23 1-11-520(G).

24 (B) The aggregate private activity bond limit amount for all  
25 South Carolina issuing authorities is allocated initially to the State  
26 for further allocation within the limits prescribed herein.

27 (C) ~~Except as is provided in Section 1-11-540, all allocations~~  
28 ~~must be made by the board on a first-come, first-served basis, to be~~  
29 ~~determined by the date and time sequence in which complete~~  
30 ~~authorized requests are received by the board secretary~~ Nothing in  
31 this article or the State Ceiling Allocation Plan adopted pursuant to  
32 this article grants any rights to, or in the processes used in the  
33 allocation or disposition of, state ceiling. Decisions made pursuant  
34 to this article are final and are not subject to judicial or  
35 administrative review.  
36

37 Section 1-11-520. (A) ~~The private activity bond limit for all~~  
38 ~~state government issuing authorities now or hereafter authorized to~~  
39 ~~issue private activity bonds as defined in the act, to be known as the~~  
40 ~~"state government pool", is forty percent of the state ceiling less any~~  
41 ~~amount shifted to the local pool as described in subsection (B) of~~  
42 ~~this section or plus any amount shifted from that pool~~ No later than  
43 September thirtieth of the year preceding the calendar year to which

1 the state ceiling applies, and subject to review and comment by the  
2 Joint Bond Review Committee, the state authority must publish a  
3 State Ceiling Allocation Plan that assigns percentages of the state  
4 ceiling to categories of any of the permitted purposes prescribed by  
5 the Internal Revenue Code. Without limitation, categories of  
6 permitted purposes may include industrial and economic  
7 development bonds; single family housing bonds; multifamily  
8 housing bonds; student loan bonds; and any other bonds eligible for  
9 tax exemption as a private activity bond pursuant to the Internal  
10 Revenue Code. No assignment to any single category may exceed  
11 forty percent of the state ceiling, and no minimum assignment is  
12 required for any category.

13 (B) The private activity bond limit for all issuing authorities  
14 other than state government agencies, to be known as the "local  
15 pool", is sixty percent of the state ceiling plus any amount shifted  
16 from the state government pool or less any amount shifted to that  
17 pool. Further, the allocation plan must provide for a process of  
18 periodic allocations of the state ceiling, which for any period  
19 generally may not exceed an amount of the state ceiling equally  
20 divided among the number of periods in the year during which  
21 allocations are to be made; provided, however, that the state  
22 authority may, upon findings of exceptional and compelling  
23 circumstances, amend the annual allocation plan following review  
24 and comment by the committee.

25 (C) The board, with review and comment by the Joint Bond  
26 Review Committee, may shift unallocated amounts from one pool  
27 to the other at any time. Notwithstanding the assigned percentages  
28 set forth in the allocation plan, the state authority may but need not  
29 reassign any state ceiling unused in prior periods as a supplement to  
30 and means to address demand for ceiling allocation in a subsequent  
31 period. Such re-assignment may be made for any allocation  
32 category, notwithstanding its original assignment.

33 (D) Unless otherwise approved in writing by the state authority  
34 following justification and substantial findings of significance, no  
35 authorized request may receive an allocation of state ceiling  
36 applicable to that calendar year exceeding ten percent in the case of  
37 an industrial or economic development project, or five percent for  
38 any other allocation category.

39 (E) The allocation plan must establish competitive criteria for  
40 allocation of state ceiling to authorized requests. Competitive  
41 criteria may be unique to each category but must be uniform and  
42 established to achieve highest value and greatest public benefit. The  
43 state authority may utilize the services of the South Carolina

1 Department of Commerce for industrial or economic development  
2 projects; the South Carolina State Housing Finance and  
3 Development Authority for single family and multifamily housing  
4 projects; and any other state agencies and public and private  
5 resources to inform and provide services for the development of the  
6 allocation plan, including the evaluation and competitive criteria;  
7 and the periodic evaluation of authorized requests. The Department  
8 of Commerce and the State Housing Finance and Development  
9 Authority are directed to provide to the state authority such  
10 assistance as may be requested or required to accomplish the  
11 purposes of the article.

12 (F) Allocations of state ceiling to authorized requests must be  
13 made in accordance with the provisions of the allocation plan and  
14 policies and procedures adopted by the state authority.

15 (G) The state authority must determine the disposition of any  
16 remaining, unused state ceiling during the final period of the  
17 calendar year to which the state ceiling applies. Such disposition is  
18 not subject to the requirements of subsections (D), (E), and (F).  
19

20 Section 1-11-530. (A) For private activity bonds proposed for  
21 issue by other than state government issuing authorities, an  
22 authorized request is a request included in a petition to the ~~board~~  
23 state authority that a specific amount of the state ceiling be allocated  
24 to the bonds for which the petition is filed. The petition must be  
25 accompanied by: (i) a copy of the Inducement Contract, Inducement  
26 Resolution, or other comparable preliminary approval entered into  
27 or adopted by the issuing authority, if any, relating to the bonds. ~~The~~  
28 ~~board shall forward promptly to the committee a copy of each~~  
29 ~~petition received, and (ii) such other supporting documentation as~~  
30 the state authority may by policy prescribe.

31 (B) For private activity bonds proposed for issue by any state  
32 government issuing authority, an authorized request is a request  
33 included in a petition to the ~~board~~ state authority that a specific  
34 amount of the state ceiling be allocated to the bonds for which the  
35 petition is filed. The petition must be accompanied by: (i) a bond  
36 resolution or comparable action by the issuing authority authorizing  
37 the issuance of the bonds. ~~The board shall forward promptly to the~~  
38 ~~committee a copy of each petition received, and (ii) such other~~  
39 supporting documentation as the state authority may by policy  
40 prescribe.

41 (C) Each authorized request must demonstrate that the allocation  
42 amount requested constitutes all of the private activity bond  
43 financing contemplated at the time for the project and any other



1 facilities located at or used as a part of an integrated operation with  
2 the project.

3 (D) An issuing authority seeking an allocation of unused state  
4 ceiling for carry-forward designation must submit to the state  
5 authority a petition identifying the types of tax-exempt bonds to  
6 which the carryforward designation will apply. The petition must be  
7 accompanied by such other supporting documentation as the state  
8 authority may by policy prescribe.

9 (E) Notwithstanding any other provision of this article, the state  
10 authority may disapprove, reduce, or defer any authorized request.

11 (F) The state authority must periodically furnish to the Joint  
12 Bond Review Committee a report of petitions received, along with  
13 their dispositions.

14  
15 ~~Section 1-11-540. (A) The board, with review and comment by~~  
16 ~~the committee, may disapprove, reduce, or defer any authorized~~  
17 ~~request. If it becomes necessary to exercise this authority, the board~~  
18 ~~and the committee shall take into account the public interest in~~  
19 ~~promoting economic growth and job creation.~~

20 ~~(B) Authorized requests for state ceiling allocations of more than~~  
21 ~~ten million dollars for a single project are deferred until after July~~  
22 ~~first unless the board, after review and comment by the committee,~~  
23 ~~determines in any particular instance that the positive impact upon~~  
24 ~~the State of approving an allocation of an amount greater than ten~~  
25 ~~million dollars is of such significance that approval of the allocation~~  
26 ~~is warranted~~ Reserved.

27  
28 Section 1-11-550. (A) An allocation of the state ceiling  
29 approved by the ~~board~~ state authority is made formal initially by a  
30 certificate which allocates tentatively a specific amount of the state  
31 ceiling to the bonds for which the allocation is requested. This  
32 tentative allocation certificate must specify the state ceiling amount  
33 allocated, the issuing authority and the project involved, and the  
34 time period during which the tentative allocation is valid. This  
35 certificate must remind the issuing authority that the tentative  
36 allocation is made final after the issuing authority chairman or other  
37 duly authorized official or agent of the issuing authority, before the  
38 issue is made, certifies the issue amount and the projected date of  
39 issue, as is required by subsection (B) of this section. It also may  
40 include other information considered relevant by the ~~board~~ secretary  
41 of the state authority.

42 (B) The chairman or other authorized official or agent of an  
43 issuing authority issuing any private activity bond for which a

1 portion of the state ceiling has been allocated tentatively shall  
2 execute and deliver to the ~~board~~ secretary of the state authority an  
3 issue amount certificate setting forth the exact amount of bonds to  
4 be issued and the projected bond issue date which date must not be  
5 more than ten business days after the date of the issue amount  
6 certificate and it must be before the state ceiling allocation involved  
7 expires. The issue amount certificate may be an executed copy of  
8 the appropriate completed ~~Internal Revenue Service~~ form to be  
9 submitted to the Internal Revenue Service on the issue or it may be  
10 in the form of a letter which certifies the exact amount of bonds to  
11 be issued and the projected date of the issue.

12 (C) In response to the issuing authority's issue amount certificate  
13 required by subsection (B) of this section, the ~~board~~ secretary of the  
14 state authority is authorized to issue and, as may be necessary, to  
15 revise a certificate making final the ceiling allocation ~~approved~~  
16 ~~previously approved~~ by the ~~board~~ state authority on a tentative basis,  
17 if the secretary of the state authority determines that:

18 (1) the issuing authority's issue amount certificate specifies  
19 an amount not in excess of the approved tentative ceiling allocation  
20 amount;

21 (2) the issue amount certificate was received prior to the issue  
22 date projected and that the certificate is dated not more than ten days  
23 prior to the issue date projected; provided, however, that if an issue  
24 amount certificate is dated more than ten days prior to the date of  
25 issue of the bonds, such certificate shall be void, and a new request  
26 must be provided to the secretary of the state authority prior to  
27 issuance of the bonds;

28 (3) the issue date projected is within the time period approved  
29 previously for the tentative ceiling allocation; and

30 (4) the bonds when issued and combined with the total  
31 amount of bonds requiring a ceiling allocation included in issue  
32 amount certificates ~~submitted~~ previously submitted to the ~~board~~  
33 state authority by issuing authorities do not exceed the state ceiling  
34 for the calendar year. Except under extraordinary circumstances, the  
35 ~~board~~ secretary of the state authority shall issue this certificate  
36 within two business days following the date the issue amount  
37 certificate is received.

38 (D) In accordance with Section 149(e)(2)(F) of the Internal  
39 Revenue Code, the secretary of the ~~State Fiscal Accountability~~  
40 ~~Authority~~ state authority is designated as the state official  
41 responsible for certifying, if applicable, that certain bonds meet the  
42 requirements of Section 146 of the Internal Revenue Code relating  
43 to the volume cap on private activity bonds.

1 (E) Any tentative or final state ceiling allocation granted by the  
2 ~~board~~ state authority before the effective date of this act remains  
3 valid as an allocation of a portion of the volume cap for South  
4 Carolina provided under Section 146 of the Internal Revenue Code.  
5 The allocations expire in accordance with the ~~regulations~~ law under  
6 which they were granted or extended and their validity may be  
7 extended or reinstated in accordance with the provisions of Sections  
8 1-11-500 through 1-11-570.

9

10 Section 1-11-560. (A) Any state ceiling allocation approved by  
11 the ~~board~~ state authority is valid only for the calendar year in which  
12 it is approved, unless eligible and approved for carry-forward  
13 election or unless specified differently in the ~~board~~ certificates  
14 required by Section 1-11-550.

15 (B) Unless eligible and approved for carry-forward election or  
16 unless specified differently in ~~board~~ certificates required by Section  
17 1-11-550, each state ceiling allocation expires automatically if the  
18 bonds for which the allocation is made are not issued within ninety  
19 consecutive calendar days from the date the allocation is approved  
20 by the ~~board~~ state authority.

21 (C) In response to a written request by the chairman or other duly  
22 authorized official or agent of an issuing authority, the ~~board~~ state  
23 authority, acting during the period an approved allocation is valid,  
24 may but need not extend the period in which an allocation is valid  
25 in a single calendar year by thirty-one consecutive calendar days to  
26 a total of not more than one hundred twenty-one consecutive  
27 calendar days.

28 (D) In response to a written request by the chairman or other  
29 authorized official or agent of an issuing authority, the ~~board~~ state  
30 authority may but need not reinstate for a period of not more than  
31 thirty-one consecutive calendar days in any one calendar year part  
32 or all of an allocation approved but not extended previously in  
33 accordance with subsection (C) of this section in that same calendar  
34 year which has expired. The reinstatement request must certify that  
35 the authorized request ~~submitted~~ previously submitted is still true  
36 and correct or a new authorized request must be submitted.

37 (E) A tentative ceiling allocation is canceled automatically if the  
38 chairman or other authorized official or agent of the issuing  
39 authority ~~involved~~ fails to deliver the issue amount certificate  
40 required by Section 1-11-550 to the ~~board~~ secretary of the state  
41 authority before the bonds for which the allocation is made are  
42 issued.

1 (F) The chairman or other authorized official or agent of an  
2 issuing authority shall advise the ~~board~~ secretary of the state  
3 authority in writing as soon as is practicable after a decision is made  
4 not to issue bonds for which a portion of the state ceiling has been  
5 allocated. All notices of relinquishment of ceiling allocations must  
6 be entered promptly in the ~~board's~~ state authority's records by the  
7 ~~board~~ secretary of the state authority.

8 (G) Ceiling allocations which are eligible and approved for  
9 carry-forward election are not subject to the validity limits of this  
10 section. The ~~board~~ state authority shall join with the issuing  
11 authorities involved in carry-forward election statements to meet the  
12 requirements of the Internal Revenue Service.

13  
14 ~~Section 1-11-570. The State Fiscal Accountability Authority,~~  
15 ~~after review and comment by the committee,~~ state authority may  
16 adopt the policies and procedures ~~it considers necessary for the~~  
17 equitable to implement and administer the provisions of this article.  
18 All such policies and effective administration of Sections 1-11-500  
19 through 1-11-570 procedures, and any changes thereto, are subject  
20 to review and comment by the Joint Bond Review Committee.

21  
22 Section 1-11-580. The State Fiscal Accountability Authority  
23 shall make quarterly payments on insurance contracts where the  
24 annual premium exceeds fifty thousand dollars. The board shall  
25 undertake necessary negotiations to implement this requirement.  
26 Where fees may be incurred for quarterly rather than annual  
27 payments, the State Fiscal Accountability Authority shall determine  
28 whether the investment income opportunity is greater or less than  
29 proposed fees and shall make the decision which best benefits South  
30 Carolina.”

31  
32 SECTION 3. Section 1-11-370 of the 1976 Code is repealed.

33  
34 SECTION 4. The provisions of Article 3, Chapter 11, Title 1 of the  
35 1976 Code relating to the allocation of state ceiling on issuance of  
36 private activity bonds, as amended in this act, shall control if there  
37 is any conflict with any other provision of law or regulation,  
38 specifically including Regulation 19-103.

39  
40 SECTION 5. If any section, subsection, paragraph, subparagraph,  
41 sentence, clause, phrase, or word of this act is for any reason held to  
42 be unconstitutional or invalid, such holding shall not affect the  
43 constitutionality or validity of the remaining portions of this act, the

1 General Assembly hereby declaring that it would have passed this  
2 act, and each and every section, subsection, paragraph,  
3 subparagraph, sentence, clause, phrase, and word thereof,  
4 irrespective of the fact that any one or more other sections,  
5 subsections, paragraphs, subparagraphs, sentences, clauses, phrases,  
6 or words hereof may be declared to be unconstitutional, invalid, or  
7 otherwise ineffective.

8

9 SECTION 6. The provisions of this act are effective for allocations  
10 of state ceiling beginning January 1, 2022, and thereafter. For the  
11 first year of implementation, the state authority may adopt such  
12 special procedures as may be necessary to effect the requirements  
13 of this act.

14

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15