

REPORT OF THE LEGISLATIVE SUBCOMMITTEE

(Lowe, Pitts, GM Smith, Hosey & Finlay – Staff contact: Katie Turner)

HOUSE BILL 4727

H. 4727 -- Reps. White, Hardee, Yow, Huggins, Jefferson, Hosey, Anderson, West, Hewitt, Finlay, Ott, Duckworth and Sandifer: A BILL TO AMEND SECTION 48-59-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF THE SOUTH CAROLINA CONSERVATION BANK, SO AS TO EXTEND VOTING PRIVILEGES TO CERTAIN MEMBERS AND TO PROHIBIT CERTAIN MEMBERS FROM SERVING AS CHAIRMAN; TO AMEND SECTION 48-59-50, RELATING TO THE POWERS AND DUTIES OF THE SOUTH CAROLINA CONSERVATION BANK, SO AS TO REQUIRE THE BANK TO DEVELOP CRITERIA AND A CONSERVATION PRIORITIZATION MAP, AND TO PROHIBIT THE AWARD OF A GRANT OR LOAN UNLESS THE FUNDS ARE PRESENTLY AVAILABLE IN THE TRUST FUND; TO AMEND SECTION 48-59-70, RELATING TO GRANTS OR LOANS FOR LAND INTERESTS, SO AS TO EXPAND THE CONSERVATION CRITERIA TO INCLUDE THE VALUE OF THE PROPOSAL FOR ACCESS TO THE PUBLIC, TO REQUIRE CERTAIN ACCESS DISCLOSURES ON A GRANT OR LOAN APPLICATION, AND TO PROHIBIT THE PURCHASE OF A CONSERVATION EASEMENT FOR MORE THAN FIVE HUNDRED THOUSAND DOLLARS; TO REPEAL SECTION 12-24-95 RELATING TO THE PORTION OF THE DEED RECORDING FEE CREDITED TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND; AND TO REPEAL SECTION 7 OF ACT 200 OF 2002 RELATING TO THE REQUIREMENT TO PERIODICALLY REAUTHORIZE THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND.

Summary of Bill:

This bill reauthorizes the SC Conservation Bank. The bill provides for Board makeup and removes the dedicated funding source from the State Deed Recording Fee. The bill stipulates that the Bank Board must develop and approve a statewide map showing state conservation prioritization and provide the map and grant criteria each year to the General Assembly. It also requires that the map be comprehensively reviewed and approved by the Board every ten years. The bill limits easements to a maximum of \$500,000.

The bill was amended in subcommittee to index the \$500K easement limit to CPI every five years.

Estimated Revenue Impact:

The bill will have no expenditure impact on the General Fund, Other Funds or Federal Funds since the bill requires the Bank to perform within the normal course of agency business. The current General Fund estimate includes the revenue from suspension of 12-24-95 which was scheduled to sunset July 1, 2018.

Subcommittee Recommendation:

Favorable as amended

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

ZIEGLER/DOWNEY
JANUARY 31, 2018

CLERK OF THE HOUSE

THE LEGISLATIVE SUBCOMMITTEE PROPOSES THE
FOLLOWING AMENDMENT TO H. 4727

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, SECTION
3, BY STRIKING SECTION 48-59-70(L), AND
INSERTING:**

**~~/ (L)(1) THE BOARD MAY AUTHORIZE UP TO
TEN PERCENT OF THE MONIES CREDITED TO THE
TRUST FUND DURING THE PRECEDING FISCAL
YEAR TO ACQUIRE INTERESTS IN LAND THAT
SOLELY OR PRIMARILY MEET THE CRITERIA OF
SUBSECTION (D)(6) OF THIS SECTION. NO OTHER
MONIES IN THE TRUST FUND MAY BE AWARDED TO
APPLICANTS FOR THE ACQUISITION OF INTERESTS~~**

~~IN LAND THAT MEET THE CRITERIA OF
SUBSECTION (D)(6) UNLESS THE APPLICATION
ALSO SATISFIES OTHER CRITERIA CONTAINED IN
SUBSECTION (D) IN A SUBSTANTIAL WAY.~~

~~(2) THE BOARD SHALL AUTHORIZE AT LEAST
TEN PERCENT OF THE MONIES CREDITED TO THE
TRUST FUND DURING THE PRECEDING FISCAL
YEAR FOR THE ACQUISITION OF INTERESTS IN
LAND THAT PROVIDES PUBLIC ACCESS. TO THE
EXTENT THE TEN PERCENT AUTHORIZATION
REQUIRED BY THIS ITEM IS NOT MET IN ANY
PARTICULAR YEAR, THE BALANCE MUST BE
CARRIED OVER AND USED FOR ACQUISITION OF
INTERESTS IN LAND THAT PROVIDE PUBLIC
ACCESS IN ENSUING YEARS.~~

THE BOARD MAY NOT AUTHORIZE THE
PURCHASE OF A CONSERVATION EASEMENT FOR
MORE THAN FIVE HUNDRED THOUSAND DOLLARS.
ON JULY 1, 2023, AND EVERY FIFTH JULY FIRST
THEREAFTER, THE BOARD MUST INCREASE THE
LIMITATION ON EASEMENTS BY A PERCENTAGE
EQUAL TO THE AVERAGE OF THE TWELVE MONTH

**CONSUMER PRICE INDICES, AS PROVIDED BY THE
REVENUE AND FISCAL AFFAIRS OFFICE, FOR THE
PERIOD CONSISTING OF JANUARY THROUGH
DECEMBER OF THE FIVE PRECEDING CALENDAR
YEARS. /**

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO CONFORM.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 4727 Introduced on January 25, 2018
Author: White
Subject: Act No. 200, Conservation Bank Trust Fund
Requestor: House Ways and Means
RFA Analyst(s): Wren
Impact Date: February 2, 2018

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	See Below	\$0
Other and Federal	See Below	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

This bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds since the bill requires the South Carolina Conservation Bank (Conservation Bank) to perform activities within the normal course of agency business. Proviso 53.1 of FY 2017-18 suspended the provisions of Section 12-24-95, which directs \$0.25 of the \$1.30 state deed recording fee to the Conservation Bank Trust Fund. Additionally, Section 12-24-95 was scheduled to be repealed July 1, 2018. The current General Fund forecast includes this revenue.

Explanation of Fiscal Impact

Introduced on January 25, 2018

State Expenditure

This bill restructures the fourteen-member board of the Conservation Bank by including the Secretary of Commerce as a board member and provides that the Governor appoint two, instead of three members, from the state at large. The bill also extends voting privileges to certain members and prohibits certain members from serving as chairman. The bill requires the Conservation Bank to develop a conservation prioritization map by July 1, 2018. Additionally, the bill prohibits the Conservation Bank from awarding a grant or loan unless the funds for the grant or loan are in the trust fund at the time of the award. Also, the conservation criteria must include the value of the proposal for access to the public and require certain access disclosures on a grant or loan application. The bill also prohibits the purchase of a conservation easement for more than \$500,000.

The South Carolina Conservation Bank indicates that this bill requires the department to perform activities within the normal course of agency business. Therefore, the bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds.

State Revenue

This bill restructures the fourteen-member board of the Conservation Bank by including the Secretary of Commerce as a board member and provides that the Governor appoint two, instead of three members from the state at large. The bill also extends voting privileges to certain members and prohibits certain members from serving as chairman. The bill requires the Conservation Bank to develop a conservation prioritization map by July 1, 2018. Additionally, the bill prohibits the Conservation Bank from awarding a grant or loan unless the funds for the grant or loan are in the trust fund at the time of the award. Also, the conservation criteria must include the value of the proposal for access to the public and to require certain access disclosures on a grant or loan application. The bill also prohibits the purchase of a conservation easement for more than \$500,000.

Additionally, the bill repeals Section 12-24-95, which directs \$0.25 of the \$1.30 state deed recording fee to the South Carolina Conservation Bank Trust Fund. Also, this bill repeals Section 7 of Act 200 of 2002, which relates to the requirement to periodically reauthorize the Conservation Bank Trust Fund.

Proviso 53.1 of FY 2017-18 suspended the provisions of Section 12-24-95, which directs \$0.25 of the \$1.30 state deed recording fee to the Conservation Bank Trust Fund. Additionally, Section 12-24-95 was scheduled to be repealed July 1, 2018. Based upon the November 2017 General Fund forecast by the Board of Economic Advisors, \$0.25 of the \$1.30 of the state deed recording fee will total approximately \$20,632,000 in FY 2018-19. The current General Fund forecast includes this revenue.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director

South Carolina General Assembly
122nd Session, 2017-2018

H. 4727

STATUS INFORMATION

General Bill

Sponsors: Reps. White, Hardee, Yow, Huggins, Jefferson, Hosey, Anderson, West, Hewitt, Finlay, Ott, Duckworth, Sandifer, Davis and Clary

Document Path: l:\council\bill\ncd\11195cz18.docx

Introduced in the House on January 25, 2018

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

Summary: Act. No. 200, Conservation Bank Trust Fund

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/25/2018	House	Introduced and read first time (House Journal-page 65)
1/25/2018	House	Referred to Committee on Ways and Means (House Journal-page 65)
1/30/2018	House	Member(s) request name added as sponsor: Davis, Clary

View the latest [legislative information](#) at the website

VERSIONS OF THIS BILL

1/25/2018

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A BILL

TO AMEND SECTION 48-59-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF THE SOUTH CAROLINA CONSERVATION BANK, SO AS TO EXTEND VOTING PRIVILEGES TO CERTAIN MEMBERS AND TO PROHIBIT CERTAIN MEMBERS FROM SERVING AS CHAIRMAN; TO AMEND SECTION 48-59-50, RELATING TO THE POWERS AND DUTIES OF THE SOUTH CAROLINA CONSERVATION BANK, SO AS TO REQUIRE THE BANK TO DEVELOP CRITERIA AND A CONSERVATION PRIORITIZATION MAP, AND TO PROHIBIT THE AWARD OF A GRANT OR LOAN UNLESS THE FUNDS ARE PRESENTLY AVAILABLE IN THE TRUST FUND; TO AMEND SECTION 48-59-70, RELATING TO GRANTS OR LOANS FOR LAND INTERESTS, SO AS TO EXPAND THE CONSERVATION CRITERIA TO INCLUDE THE VALUE OF THE PROPOSAL FOR ACCESS TO THE PUBLIC, TO REQUIRE CERTAIN ACCESS DISCLOSURES ON A GRANT OR LOAN APPLICATION, AND TO PROHIBIT THE PURCHASE OF A CONSERVATION EASEMENT FOR MORE THAN FIVE HUNDRED THOUSAND DOLLARS; TO REPEAL SECTION 12-24-95 RELATING TO THE PORTION OF THE DEED RECORDING FEE CREDITED TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND; AND TO REPEAL SECTION 7 OF ACT 200 OF 2002 RELATING TO THE REQUIREMENT TO PERIODICALLY REAUTHORIZE THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND.

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

SECTION 1. Section 48-59-40 of the 1976 Code, as last amended by Act 279 of 2012, is further amended to read:

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“Section 48-59-40. (A) There is established the South Carolina Conservation Bank. The bank is governed by a fourteen-member board selected as follows:

(1) the ~~Chairman of the Board for~~ Director of the Department of Natural Resources, the ~~Chairman~~ Director of the South Carolina Forestry Commission, ~~and~~ the Director of the South Carolina Department of Parks, Recreation and Tourism, ~~all of whom shall serve ex officio and without voting privileges and the Secretary of Commerce, or their designee;~~

(2) ~~three~~ two members appointed by the Governor from the State at large;

(3) four members appointed by the Speaker of the House of Representatives, one each from the Third, Fourth, and Sixth Congressional Districts and one member from the State at large; and

(4) four members appointed by the President Pro Tempore of the Senate, one each from the First, Second, Fifth, and Seventh Congressional Districts.

(B) Terms of board members are for four years and until their successors are appointed and qualify, except that the initial terms of each appointing official’s appointees must be staggered with the initial term noted on the appointment. Regardless of the date of appointment, all terms expire on July first of the applicable year. Vacancies must be filled in the manner of original appointments for the unexpired portion of the term. Members shall serve without compensation, but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions. The board shall elect a chairman and other officers as necessary from its membership. The members from the Department of Natural Resources, the Forestry Commission, the Department of Parks, Recreation and Tourism, and the Department of Commerce may not serve as chairman.

(C) Board members must recuse themselves from any vote in which they have a conflict of interest including, but not limited to, any vote affecting or providing funding for the acquisition of interests in land:

(1) on land owned or controlled by the board member, the board member’s immediate family, or an entity the board member represents, works for, or in which the member has a voting or ownership interest;

(2) on land contiguous to land described in item (1) of this subsection; and

1 (3) by an eligible trust fund recipient that the board member
2 represents, works for, or in which the member has a voting or
3 ownership interest.

4 The provisions of this subsection are cumulative to and not in lieu
5 of provisions of law or applicable rule relating to the ethics of public
6 officers.

7 (D) The board shall meet at least twice annually in regularly
8 scheduled meetings and in special meetings as the chairman may
9 call. The bank is a public body and its records and meetings are
10 public records and public meetings for purposes of Chapter 4 of
11 Title 30, the Freedom of Information Act. All meetings shall be open
12 to the public and allow for public input.

13 (E) Board members shall have no personal liability for any
14 actions or refusals to act in their official capacity as long as such
15 actions or refusals to act do not involve wilful or intentional
16 malfeasance or recklessness.”

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18 SECTION 2. Section 48-59-50 of the 1976 Code is amended to
19 read:

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21 “Section 48-59-50. (A) The bank is established and authorized
22 to:

23 (1) award grants to eligible trust fund recipients for the
24 purchase of interests in land, so long as the grants advance the
25 purposes of this chapter and meet criteria contained in Section
26 ~~48-59-60~~ 48-59-70;

27 (2) make loans to eligible trust fund recipients for the
28 purchase of interests in land, at no interest or at an interest rate
29 determined by the board, and under terms determined by the board,
30 so long as the loans advance the purposes of this chapter and meet
31 criteria contained in Section ~~48-59-60~~ 48-59-70;

32 (3) apply for and receive additional funding for the trust fund
33 from federal, private, and other sources, to be used as provided in
34 this chapter;

35 (4) receive charitable contributions and donations to the trust
36 fund, to be used as provided in this chapter; and

37 (5) receive contributions to the trust fund in satisfaction of
38 any public or private obligation for environmental mitigation or
39 habitat conservation, whether such obligation arises out of law,
40 equity, contract, regulation, administrative proceeding, or judicial
41 proceeding. Such contributions must be used as provided for in this
42 chapter.

1 (6) exercise its discretion in determining what portion of trust
2 funds shall be expended, awarded, or loaned in any particular year,
3 and what portion of trust funds shall remain in the trust fund from
4 one fiscal year to the next. Funds within the trust fund shall be
5 invested or deposited into interest-bearing instruments or accounts,
6 with the interest accruing and credited to the fund;

7 (7) coordinate all State required mitigation.

8 (B) To carry out its functions, the bank shall:

9 (1) operate a program in order to implement the purposes of
10 this chapter;

11 (2) develop additional guidelines and prescribe procedures,
12 consistent with the criteria and purposes of this chapter, as necessary
13 to implement this chapter;

14 (3) submit an annual report to the Governor, Lieutenant
15 Governor, and General Assembly that:

16 (a) accounts for trust fund receipts and dispersals;

17 (b) briefly describes applications submitted to the bank,
18 and in greater detail describes grants and loans that were approved
19 or funded during the current year, and the public benefits, including
20 public access, resulting from such grants and loans;

21 (c) describes recipients of trust fund grants and loans; and

22 (d) sets forth a list and description of all grants and loans
23 approved, and all acquisitions of land or interests in land obtained
24 with trust funds since the bank's inception. The report shall include
25 a map setting forth the location and size of all such protected lands;

26 (4) have an annual audit of the Conservation Bank and
27 Conservation Bank Trust Fund conducted by outside independent
28 certified public accountants and submitted to the Governor,
29 Lieutenant Governor, and General Assembly. The accounting of
30 trust fund receipts and expenditures required above shall be part of
31 this annual audit; and

32 (5) develop conservation criteria to be used in addition to the
33 criteria set forth in Section 48-59-70(D) and a conservation
34 prioritization map. The map must be created by July 1, 2018, and
35 the criteria and map must be reviewed no less than every ten years
36 thereafter. The criteria list and map must be submitted to the General
37 Assembly annually.

38 (C) To operate the bank and carry out the purposes of this
39 chapter the board shall hire an executive director, and may hire staff,
40 contract for services, and enter into cooperative agreements with
41 other state agencies. However, the bank may not contract for
42 services that include land management or the enforcement of
43 conservation easements, nor may the bank contract for services with

1 an eligible trust fund recipient or nonprofit organization.
2 Enforcement of conservation easements and management of interest
3 in land acquired with trust funds are the sole responsibility of the
4 owner or eligible trust fund recipient.

5 (D) Operating expenses of the bank must be paid out of the trust
6 fund.

7 (E) The bank may not award a grant or make a loan unless the
8 funds for the grant or loan are in the trust fund at the time of the
9 award.”

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11 SECTION 3. Section 48-59-70 of the 1976 Code is amended to read:

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13 “Section 48-59-70. (A) An eligible trust fund recipient may apply
14 for a grant or loan from the trust fund to acquire a specific interest
15 in land identified in its application. An application must not be
16 submitted to the board without the written consent of the owner of
17 the interest in land identified in the application. Contiguous
18 landowners and other interested parties may submit in writing to the
19 board their views in support of or in opposition to the application.
20 The board must hold a public hearing on the application at which
21 the eligible trust fund recipient, contiguous landowners, and other
22 interested parties shall be heard. Interested parties include
23 representatives of the municipality, county, and public or private
24 utilities in the area wherein the property is located. The board shall
25 conduct a public hearing on an application before awarding a grant
26 or loan pursuant to the application.

27 (B) Before applying for trust funds for the purchase of an interest
28 in land, the eligible trust fund recipient receiving the funds must
29 notify the owner of the land that is the subject of the trust fund grant
30 or loan of the following in writing:

31 (1) that interests in land purchased with trust funds result in a
32 permanent conveyance of such interests in land from the landowner
33 to the eligible trust fund recipient or its assigns; and

34 (2) that it may be in the landowner’s interest to retain
35 independent legal counsel, appraisals, and other professional advice.
36 The application must contain an affirmation that the notice
37 requirement of this subsection has been met.

38 (C) Grants and loans from the trust fund must be awarded based
39 upon the conservation criteria contained in subsection (D) and the
40 financial criteria contained in subsection (E). In each application the
41 qualifying entity must provide information regarding how the
42 proposal meets one or more of the following criteria and advances
43 the purposes of the bank.

- 1 (D) For purposes of this chapter, conservation criteria include:
2 (1) the value of the proposal for the conservation of unique or
3 important wildlife habitat;
4 (2) the value of the proposal for the conservation of any rare
5 or endangered species;
6 (3) the value of the proposal for the conservation of a
7 relatively undisturbed or outstanding example of an ecosystem
8 indigenous to South Carolina;
9 (4) the value of the proposal for the conservation of riparian
10 habitats, wetlands, water quality, watersheds of significant
11 ecological value, critical aquifer recharge areas, estuaries, bays or
12 beaches;
13 (5) the value of the proposal for the conservation of
14 outstanding geologic features;
15 (6) the value of the proposal for the conservation of a site of
16 unique historical or archaeological significance;
17 (7) the value of the proposal for the conservation of an area of
18 critical, forestlands, farmlands, or wetlands;
19 (8) the value of the proposal for the conservation of an area of
20 forestlands or farmlands which are located on prime soils, in
21 microclimates or have strategic geographical significances;
22 (9) the value of the proposal for the conservation of an area
23 for public outdoor recreation, greenways, or parkland;
24 (10) the value of the proposal for the conservation of a larger
25 area or ecosystem already containing protected lands, or as a
26 connection between natural habitats or open space that are already
27 protected;
28 (11) the value of the proposal for the amount of land protected;
29 (12) the value of the proposal for the unique opportunity it
30 presents to accomplish one or more of the criteria contained in this
31 subsection, where the same or a similar opportunity is unlikely to
32 present itself in the future; and
33 (13) the value of the proposal for access to the public.
34 (E) For purposes of this chapter, financial criteria include:
35 (1) the degree to which the proposal presents a unique value
36 opportunity in that it protects land at a reasonable cost;
37 (2) the degree to which the proposal leverages trust funds by
38 including funding or in-kind assets or services from other
39 governmental sources;
40 (3) the degree to which the proposal leverages trust funds by
41 including funding or in-kind assets or services from private or
42 nonprofit sources, or charitable donations of land or conservation
43 easements;

1 (4) the degree to which the proposal leverages trust funds by
2 purchasing conservation easements that preserve land at a cost that
3 is low relative to the fair market value of the fee simple title of the
4 land preserved; and

5 (5) the degree to which other conservation incentives and
6 means of conservation, such as donated conservation easements or
7 participation in other governmental programs, have been explored,
8 applied for, secured, or exhausted.

9 (F) The board shall evaluate each proposal according to the
10 conservation criteria listed in subsection (D), the financial criteria
11 listed in subsection (E), and the extent to which the proposal
12 provides public access for hunting, fishing, outdoor recreational
13 activities, and other forms of public access. The board shall award
14 grants or loans on the basis of how well proposals meet these three
15 criteria.

16 (G) For each grant or loan application the applicant shall specify:

17 (1) the purpose of the application;

18 (2) how the application satisfies criteria listed in subsections
19 (D), (E), and (F);

20 (3) the uses to which the land will be put;

21 (4) the extent to which hunting, fishing, or other forms of
22 outdoor recreation will be conducted upon the land;

23 (5) the extent to which farming, forestry, timber management,
24 or wildlife habitat management will be conducted upon the land;

25 (6) the party responsible for managing and maintaining the
26 land;

27 (7) the parties responsible for enforcing any conservation
28 easements or other restrictions upon the land;

29 (8) the extent to which the public is afforded access on the
30 land, including documentation that clearly specifies:

31 (i) the level of public access on the land;

32 (ii) limitations on public access to the land and the reason
33 for the limit; and

34 (iii) the manner in which the public access will be
35 maintained and monitored.

36 (H) Where an eligible trust fund recipient seeks a trust fund grant
37 or loan to acquire fee simple title to land, it must demonstrate both
38 the expertise and financial resources to manage the land for the
39 purposes set forth in its application. Where an eligible trust fund
40 recipient seeks a trust fund grant or loan to acquire a conservation
41 easement, it must demonstrate both the expertise and financial
42 resources to manage and enforce the restrictions placed upon the
43 land for the purposes set forth in its application. The board shall

1 evaluate each proposal to determine the qualifications of the
2 proposed managing party and to determine whether the proposed
3 management is consistent with the purposes of the bank and the
4 purposes set forth in the application.

5 (I) An eligible trust fund recipient seeking a grant or loan from
6 the trust fund must:

7 (1) demonstrate that it is able to complete the project and
8 acquire the interests in land proposed;

9 (2) indicate the total number of acres of land it has preserved
10 in the State; and

11 (3) briefly describe the lands it has preserved in the State,
12 including their size, location, and method of preservation. The
13 reporting requirement of this subsection need not be complied with
14 for specific preserved lands when in the grant or loan applicant's
15 discretion, or in the discretion of the owners of such preserved lands,
16 the privacy or proprietary interests of the owners of such preserved
17 lands would be violated.

18 (J) Partnerships, matching contributions, management
19 agreements, management leases, and similar collaborations among
20 state agencies, the federal government, eligible trust fund recipients,
21 and local governments, boards, and commissions may be
22 encouraged to fulfill the requirements of this section and promote
23 the objectives of this chapter.

24 (K) No matching funds or other contributions are required to
25 receive grants or loans from the trust fund. However, the board shall
26 encourage matching funds and other contributions by weighing the
27 degree to which applications meet the criteria of subsection (E)(2)
28 and (3) when determining which proposals to fund.

29 ~~(L)(1) The board may authorize up to ten percent of the monies
30 credited to the trust fund during the preceding fiscal year to acquire
31 interests in land that solely or primarily meet the criteria of
32 subsection (D)(6) of this section. No other monies in the trust fund
33 may be awarded to applicants for the acquisition of interests in land
34 that meet the criteria of subsection (D)(6) unless the application also
35 satisfies other criteria contained in subsection (D) in a substantial
36 way.~~

37 ~~(2) The board shall authorize at least ten percent of the monies
38 credited to the trust fund during the preceding fiscal year for the
39 acquisition of interests in land that provides public access. To the
40 extent the ten percent authorization required by this item is not met
41 in any particular year, the balance must be carried over and used for
42 acquisition of interests in land that provide public access in ensuing
43 years.~~

1 The board may not authorize the purchase of a conservation
2 easement for more than five hundred thousand dollars.

3 (M) The board only may authorize grants or loans to purchase
4 interests in lands at fair market value. In no cases may funds from
5 the trust fund be used to acquire interests in lands at a price that
6 exceeds the fair market value of the interest being acquired.
7 However, trust funds may be used to acquire interests in land at
8 below fair market value, but only if the owner of the interest
9 consents and in writing to sell at below fair market value. The board
10 must establish reasonable procedures to document the fair market
11 value of interests in lands and to ensure that the purchase price does
12 not exceed the fair market value. The board shall promulgate
13 regulations pursuant to Chapter 23 of Title 1, the Administrative
14 Procedures Act, that provide for the procurement of appraisal
15 services and for the procedure and process in those cases where a
16 discrepancy of ten percent or more arises between the determination
17 of fair market value obtained by the board and that provided by the
18 owner or others interested in the subject land or interest in land. The
19 board must also establish reasonable procedures to ensure the
20 confidentiality of appraisals before the award of a grant or loan, and
21 the subsequent acquisition of interests in lands obtained with such
22 grant or loan.

23 (N) In awarding a grant or loan from the trust fund the board shall
24 set forth findings that indicate:

25 (1) how the application satisfies the purposes of this chapter,
26 and the criteria and other considerations set forth in this section;

27 (2) the purpose of the award and the use to which the land will
28 be put;

29 (3) the extent to which public access, hunting, fishing, or
30 other forms of outdoor recreation will be conducted upon the land;

31 (4) the extent to which farming, forestry, timber management,
32 or wildlife habitat management will be conducted upon the land;

33 (5) the party responsible for managing and maintaining the
34 land;

35 (6) the party responsible for enforcing any easements or other
36 restrictions upon the land;

37 (7) the parties designated in items (5) and (6) possess the
38 expertise and financial resources to fulfill their obligations; and

39 (8) any other findings or information relevant to the award.

40 (O)(1) Trust funds may not be used to acquire interest in land
41 downzoned within three years of the application unless the interest
42 is sold for the predownzoning value or current value, whichever is

1 greater. However, this requirement is waived if the owner of the
2 downzoned property agrees to accept a lesser amount.

3 (2) If the owner of an interest in land which is the subject of
4 an application for acquisition with trust funds proves to the
5 satisfaction of the board that intentional and improper acts of
6 planning, zoning, or other regulatory officials resulted in substantial
7 delay or denial of a lawful permit or permission to develop the
8 interest in land and the permit or permission was requested by the
9 owner before the application, then the value of the interest in land is
10 deemed to be its value as if those permits or permissions were
11 granted unless the owner of the interest agrees to a lesser value in
12 writing. An owner aggrieved by the decision of the board with
13 respect to this item may appeal to the Administrative Law Court
14 where the matter must be heard as a contested case.”

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16 SECTION 4. Section 12-24-95 of the 1976 Code is repealed.

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18 SECTION 5. SECTION 7 of Act 200 of 2002 is repealed.

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20 SECTION 6. (A) Effective July 1, 2018, the South Carolina
21 Conservation Bank board must be made up of members elected
22 pursuant to the provisions of Section 48-59-40, as amended by this
23 act. The members serving on the board immediately prior to July 1,
24 2018, must no longer serve on the commission unless the member
25 is reappointed pursuant to Section 48-59-40, as amended by this act.
26 The initial appointments to the board must be staggered so that one
27 of the members appointed by the Governor, the members from the
28 Third and Sixth Congressional Districts appointed by the Speaker of
29 the House of Representatives, and the members from the First and
30 Seventh Congressional Districts must be appointed to an initial term
31 of two years. The Governor must clearly specify which of his
32 appointments are for two years terms. The remaining initial
33 appointments and all subsequent appointments must be for four-year
34 terms pursuant to Section 48-59-40.

35 (B) To ensure an efficient transition, upon approval by the
36 Governor, the appointing officials may begin appointing members
37 whose term will take effect on July 1, 2018.

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39 SECTION 7. This act takes effect July 1, 2018.

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