AS PASSED BY THE SENATE

April 28, 2016

**H. 4717**

Introduced by Reps. White, Lucas, Hiott, Simrill, G.M. Smith, Lowe, Whitmire, Taylor, George, V.S. Moss, J.E. Smith, M.S. McLeod, Bowers, Corley, Parks, McKnight, Douglas, Knight, Erickson, Sandifer, Willis, Kirby, Clary, Cobb‑Hunter, Hardee, Duckworth, Johnson, Limehouse, Clyburn, Bales, Horne, Stavrinakis, Hayes, Yow, Neal, Kennedy, Newton, Tinkler, Riley, Howard, King, Henegan, Williams, Anthony, Clemmons, Crosby, Cole, Daning, Dillard, Forrester, Funderburk, Gambrell, Herbkersman, Hixon, Hosey, Loftis, Long, Pitts, Rivers, Rutherford, Ryhal, G.R. Smith, Wells, W.J. McLeod, Ridgeway, G.A. Brown, Bamberg, Hodges, Alexander, Thayer, McEachern, Gagnon, Whipper, R.L. Brown, Jefferson, Anderson, Spires and Hicks

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Read the first time March 3, 2016.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 46‑1‑160 SO AS TO CREATE THE “SOUTH CAROLINA FARM AID FUND” TO ASSIST FARMERS WHO HAVE SUFFERED AT LEAST A FORTY PERCENT LOSS OF AGRICULTURAL COMMODITIES AS A RESULT OF A NATURAL DISASTER, TO CREATE THE FARM AID BOARD TO ADMINISTER THE FUND, AND TO SPECIFY ELIGIBILITY AND GRANT AMOUNTS.

Amend Title To Conform

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

SECTION 1. The General Assembly finds that:

(1) The historic flood of October 2015 caused unprecedented damage to the State and its people, with particular devastating statewide impacts on South Carolina farmers and the state’s agriculture industry.

(2) The State has over twenty‑five thousand farms across nearly five million acres, which generate billions of dollars annually and represents a vital component to a healthy state economy.

(3) The total loss of crops as a result of the flooding is estimated at nearly four hundred million dollars and the estimated federal crop insurance payments will only cover about one‑third of the total crop loss.

(4) The federal crop insurance program established in 2014 is an inadequate method of indemnification as compared to traditional forms of insurance and is not sufficient to aid farmers with substantial losses due to catastrophic events of nature.

(5) The State of South Carolina has a significant public interest to prevent the economic collapse of many of the state’s farms which could cause a severe disruption in the state’s economy and food supply chain.

SECTION 2. Chapter 1, Title 46 of the 1976 Code is amended by adding:

“Section 46‑1‑160. (A)(1) There is created the ‘South Carolina Farm Aid Fund’. This fund is separate and distinct from the general fund of the State and all other funds. Earnings on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. Revenues credited to this fund in a fiscal year must be used to operate a grant program that provides financial assistance to farmers.

(2) To be eligible for a grant, the person must have:

(a) experienced a verifiable loss of agricultural commodities of at least forty percent as a result of the catastrophic flooding of October 2015, for which:

(i) the Governor declared a state of emergency in the State; and

(ii) the United States Secretary of Agriculture issued a Secretarial Disaster Declaration for the county in which the farm is located;

(b) a farm number issued by the Farm Service Agency; and

(c) signed an affidavit, under penalty of perjury, certifying that each fact of the loss presented by the person is accurate.

(B)(1) The Department of Agriculture shall administer the grant program authorized by this section. The Department of Revenue shall assist the Department of Agriculture in the administration of the grant program by providing auditing services, accounting services, and review and oversight of all financial aspects of the grant program. There is created the Farm Aid Advisory Board to make recommendations to the department regarding the duties of the department in administering the grant program. The Commissioner of Agriculture, or his designee, shall serve ex officio, as chairman of the board. Also, the Director of the Department of Revenue, or his designee, the Vice President for Public Service and Agriculture of Clemson Public Service Activities, or his designee, and the Vice President for Land Grant Services of South Carolina State Public Service Activities, or his designee, shall serve on the board. Finally, the following additional members shall be appointed to the board:

(a) the Commissioner of Agriculture shall appoint one member representing South Carolina Farm Bureau;

(b) the Commissioner of Agriculture shall appoint one member representing a farm credit association;

(c) the Director of the Department of Revenue shall appoint one member representing the crop insurance industry; and

(d) the Director of the Department of Revenue shall appoint one member who is an agricultural commodities producer.

(2) Within twenty days of the effective date of this section, the board shall hold its initial meeting to recommend an application process by which a person with a loss resulting from the flooding in October 2015, may apply for a grant. Upon adoption of an application process, the Department of Agriculture shall provide the Chairmen of the House Ways and Means Committee and the Senate Finance Committee with a written copy of its application process within ten days after its adoption. A person shall apply not later than forty‑five days after the adoption of the application process. The department must ensure every person interested in applying for a grant has access to adequate resources to submit his application in a timely manner, and upon request, the department must assist a person with the preparation of his application.

(3)(a) Each grant awarded by the department may not exceed twenty percent of the person’s verifiable loss of agricultural commodities. However, a person, including any grant made to a related person, may not receive grants aggregating more than one hundred thousand. Also, a person, including any grant made to a related person, may not receive grants that when combined with losses covered by insurance, exceed one hundred percent of the actual loss. If a grant is made to a related person, the amount to be included in the limits set by this section must be the amount of the grant multiplied by the person’s ownership interest in the related person. However, a person who shares an ownership interest with another person or entity may not be refused a grant solely because the other person or related person has otherwise received the maximum grant amount, but in this case, the person’s grant amount is limited by the person’s ownership interest.

(b) If the total amount of grants allowed pursuant to subitem (a) exceeds the monies in the fund, then each person’s grant must be reduced proportionately.

(4) To determine loss, the department:

(a) must measure the person’s cumulative total loss of all affected agricultural commodities for 2015 against the person’s expected production of all agricultural commodities affected by the flood in 2015;

(b) shall use the person’s applicable actual production history yield, as determined by the Federal Crop Insurance Corporation, to determine loss for insured agricultural commodities. In determining loss for uninsured agricultural commodities, the department shall use the most recent year’s county price and county yield, as applicable, as determined by the National Agriculture Statistics Service, United States Department of Agriculture; and

(c) may require any documentation or proof it considers necessary to efficiently administer the grant program, including the ownership structure of each entity and the social security numbers of each owner. Minimally, in order to verify loss, the department shall require the submission of dated, signed, and continuous records. These records may include, but are not limited to, commercial receipts, settlement sheets, warehouse ledger sheets, pick records, load summaries, contemporaneous measurements, truck scale tickets, contemporaneous diaries, appraisals, ledgers of income, income statements of deposit slips, cash register tape, invoices for custom harvesting, u‑pick records, and insurance documents.

(C) Grant awards must be used for agricultural production expenses and losses due to the flood which demonstrate an intent to continue the agricultural operation; however, awards may not be used to purchase new equipment. The department shall develop guidelines and procedures to ensure that funds are expended in the manner outlined in grant applications, and may require any documentation it determines necessary to verify the appropriate use of grant awards including receipts.

(D)(1) If the department determines that a person who received a grant provided inaccurate information, then the person shall refund the entire amount of the grant. If the department determines that a person who received a grant used the funds for ineligible expenses, then the person must refund the amount of the ineligible expenses. If the person does not refund the appropriate amount, the Department of Revenue shall utilize the provisions of the Setoff Debt Collection Act to collect the money from the person.

(2) If the department determines that a person knowingly provided false information to obtain a grant pursuant to this section or knowingly used funds for ineligible expenses, the person shall be subject to prosecution pursuant to Section 16‑13‑240.

(E)(1) From the 2014‑2015 Contingency Reserve Fund, there is appropriated $40,000,000 to the South Carolina Farm Aid Fund.

(2) Within forty-five days of the completion of the awarding of grants, but no later than June 30, 2017, the Farm Aid Advisory Board is dissolved. Any funds remaining in the fund upon dissolution shall lapse to the general fund.

(F) The department may accept private funds, grants, and property to be used to make financial awards from the grant program.

(G) The Department of Agriculture must administer the grant program authorized by this section using existing resources and funds.

(H) For purposes of this section:

(1) ‘Agricultural commodities’ means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment, excluding stored grain.

(2) ‘Person’ means any individual, trust, estate, partnership, receiver, association, company, limited liability company, corporation, or other entity or group.

(3) ‘Related person’ means any person, joint venture, or entity that has a direct or indirect ownership interest of a person or legal entity.”

SECTION 3. This act takes effect upon approval by the Governor and applies to any loss created by a disaster after September 2015.

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