**A** **BILL**

TO ENACT THE “CONSERVATION BANK REAUTHORIZATION AND WETLANDS CONSERVATION ACT”BY AMENDING SECTION 12‑24‑95 OF THE 1976 CODE, RELATING TO THE STATE DEED RECORDING FEE CREDITED TO SOUTH CAROLINA CONSERVATION BANK TRUST FUND, TO PROVIDE THAT THIRTY CENTS OF THE RECORDING FEE IS CREDITED TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND; TO AMEND SECTION 48‑59‑70(D)(4) TO INCLUDE ISOLATED WETLANDS AND CAROLINA BAYS AMONG THE CONSERVATION CRITERIA THAT MUST BE CONSIDERED BY THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND WHEN AWARDING GRANTS AND LOANS; TO AMEND SECTION 48‑59‑70 TO ADD ACQUISITION, RECLAMATION, OR IMPROVEMENTS OF WETLANDS OWNED OR OPERATED BY THE DEPARTMENT OF NATURAL RESOURCES AS WILDLIFE MANAGEMENT AREAS TO THE CONSERVATION CRITERIA OF THE CONSERVATION BANK; TO AMEND SECTION 48‑59‑75, TO PROVIDE THAT A PROPORTIONAL REDUCTION IN THE TRANSFER OF RECORDING FEES AND OTHER APPROPRIATED FUNDS IN THE ANNUAL APPROPRIATIONS ACT UNDER CERTAIN CIRCUMSTANCES; TO REPEAL SECTION 3 OF ACT 200 OF 2002, RELATED TO THE PORTION OF THE DEED RECORDING FEE CREDITED TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND; TO REPEAL SECTION 5 OF ACT 200 OF 2002, RELATED TO FREEZING THE TRANSFER OF DEED RECORDING FEES TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND WHEN THE STATE IS UNDER CERTAIN FISCAL CONSTRAINTS; AND TO REPEAL SECTION 7 OF ACT 200 OF 2002, RELATED 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:

Whereas, the Isolated Wetlands and Carolina Bays Task Force (the Task Force) was established pursuant to Act 198 of 2012. The goals of the Task Force were to review, study, and make recommendations concerning issues related to isolated wetlands and Carolina Bays in South Carolina. The thirteen member task force issued its report and recommendation on August 27, 2013; and

Whereas, according to the Task Force, South Carolina has lost an estimated twenty‑eight percent of its original isolated wetlands, yet still has approximately four hundred thousand acres of existing isolated wetlands, a quarter of which are located outside of coastal counties; and

Whereas, in *Rapanos v. United States*, 547 U.S. 715 (2006), the Supreme Court of the United States held that a Clean Water Act (CWA) permit was required to make discharges into wetlands only

if such wetlands have a relatively permanent surface water connection or other “significant nexus” to “navigable waters” under the CWA; and

Whereas, the Task Force reported that, for federal regulatory purposes, “isolated wetlands” are a subset of wetlands that have no chemical, physical, or biological connection to waters of the United States or interstate or foreign commerce. Thus, they are without a “significant nexus” by definition; and

Whereas, in light of *Rapanos*, it is important that South Carolina take measures to conserve isolated wetlands, including Carolina Bays, in a prudent and cost efficient manner that is respectful of property rights; and

Whereas, the Task Force did not recommend that the State add a new permitting program for isolated wetlands and Carolina Bays but instead recommended a voluntary, incentive‑based approach using the South Carolina Conservation Bank as the best way to preserve those bodies of water; and

Whereas, the provisions in this act reflect the Task Force’s recommendations: (1) to increase the amount of the existing deed recording fee designated for the Conservation Bank by five cents; (2) to include the presence of isolated wetlands and Carolina Bays in the conservation criteria used to award Conservation Bank grants or loans; and (3) to remove the sunset provision included in the Conservation Bank’s enacting legislation; and

Whereas, wetlands on Wildlife Management Areas accessible to the public for hunting and other outdoor activities, including isolated wetlands and Carolina Bays, are an important component of wetlands conservation.

Now, therefore, this act reauthorizes the Conservation Bank, stabilizes and increases the amount of existing deed recording fees designated for the Conservation Bank, and adds isolated wetlands, Carolina Bays and the acquisition, reclamation or improvement of Wildlife Management Area wetlands to its conservation criteria.

SECTION 1. This act shall be called the “Conservation Bank Reauthorization and Wetlands Conservation Act.”

SECTION 2. Section 12‑24‑95 of the 1976 Code is amended to read:

“Section 12‑24‑95. Notwithstanding the provisions of Section 12‑24‑90(B)(3) of the 1976 Code, effective July 1, ~~2003~~ 2015, ~~twenty‑five~~ thirty cents of the one dollar thirty‑cent state deed recording fee must be credited to the South Carolina Conservation Bank Trust Fund.”

SECTION 3. Section 48‑59‑70(D)(4) of the 1976 Code is amended to read:

“(4) the value of the proposal for the conservation of riparian habitats, wetlands, isolated wetlands, Carolina Bays, water quality, watersheds of significant ecological value, critical aquifer recharge areas, estuaries, bays or beaches;”

SECTION 4. Section 48‑59‑70(D) of the 1976 Code is amended by adding:

“(13) the value of the proposal for the acquisition, reclamation, or improvement of wetlands and their associated dikes, canals, water control structures, and water control devices on Wildlife Management Areas owned and managed by the Department of Natural Resources.”

SECTION 5. Section 48‑59‑70(L) of the 1976 Code is amended by adding a new item:

“(3) The board may authorize up to eight and thirty‑three one hundredths percent of the monies credited to the trust fund after June 30, 2015 to applications that solely or primarily meet the criteria of subsection (D)(13). No additional monies in the trust fund may be awarded to applications for acquisition of interests in land that the criteria of subsection (D)(6) unless the application also satisfies other criteria contained in subsection (D) in a substantial way. To implement this item, grants or loans may be awarded to the Department of Natural Resources and to other eligible trust fund recipients with the concurrence of the Department of Natural Resources.”

SECTION 6. Section 48‑59‑75 of the 1976 Code is amended to read:

“Section 48‑59‑75. In a fiscal year when the General Assembly in the annual general appropriations act provides less appropriations than what was provided for the previous year to at least one‑half of the state agencies or departments contained therein ~~the act or in any year when the Budget and Control Board orders across the board cuts to state agencies and departments in the manner provided by law, no further transfer of deed recording fees or other appropriated funds, state or local, may be credited to the trust fund for the fiscal year or balance of the fiscal year~~, the transfer of deed recording fees to the South Carolina Conservation Bank Trust Fund shall be decreased by twice the average percentage reduction of appropriations to each agency or department, but existing balances in the trust fund may be used as provided by Chapter 59 of Title 48 of the 1976 Code.”

SECTION 7. Sections 3, 5, and 7 of Act 200 of 2002 are repealed.

SECTION 8. This act takes effect upon approval of the Governor, except that SECTION 5 takes effect July 1, 2015.

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