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**H. 4014**

**STATUS INFORMATION**

General Bill

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Summary: State Housing Finance and Development Authority

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/23/2023 House Introduced and read first time (House Journal‑page 11)

 2/23/2023 House Referred to Committee on **Ways and Means** (House Journal‑page 11)

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**VERSIONS OF THIS BILL**

[02/23/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4014_20230223.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 31‑13‑20, RELATING TO the SOUTH CAROLINA STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY, SO AS TO PROVIDE THAT THE AUTHORITY IS A STATE AGENCY; BY AMENDING SECTIONs 31‑13‑30, RELATING TO COMMISSIONERS; 31‑13‑40, RELATING TO THE EXECUTIVE DIRECTOR; 31‑13‑50, RELATING TO POWERS AND DUTIES; 31‑13‑200, RELATING TO NOTES AND BONDS; 31‑13‑210, RELATING TO MAXIMUM INTEREST RATE; 31‑13‑340, RELATING TO STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY PROGRAM FUND; 31‑13‑410, RELATING TO DEFINITIONS; 31‑13‑420, RELATING TO ESTABLISHMENT OF FUND; 31‑13‑430, RELATING TO ADVISORY COMMITTEE; 31‑13‑440, RELATING TO DUTIES OF EXECUTIVE DIRECTOR; 31‑13‑445, RELATING TO FUND MONEY; AND 31‑13‑450, RELATING TO USE OF MONIES IN FUND, all SO AS TO MAKE CONFORMING CHANGES.

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

SECTION 1. Sections 31‑13‑20 through 31‑13‑50 of the S.C. Code are amended to read:

 Section 31‑13‑20. There is hereby created a public body corporate and politic state agency to be known as the South Carolina State Housing Finance and Development Authority.

 Section 31‑13‑30. The Governor shall appoint, with the advice and consent of the Senate, seven persons to be commissioners an executive director of the South Carolina State Housing Finance and Development Authority. The seven persons executive director so appointed shall have experience in the fields of mortgage finance, banking, real estate, and home building. The Governor shall appoint a chairman from among the seven commissioners.

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

 Section 31‑13‑40. As soon as possible after their appointment, the commissioners shall organize for the transaction of business by choosing a vice‑chairman and by adopting bylaws and rules and regulations suitable to the purpose of organizing the Authority and conducting the business thereof. The commissioners shall appoint an executive director, who shall serve at the pleasure of the Authority, and shall hire such other officers and employees as they he may require for the performance of their his duties and shall prescribe the duties and compensation of each officer and employee.

 Section 31‑13‑50. Except as otherwise provided in this article, the Authority and its commissioners have has the same functions, rights, powers, duties, privileges, immunities, and limitations as those provided for housing authorities created for cities, counties or groups of counties, and the commissioners of the housing authorities. The Authority also may make home equity conversion mortgages to any person who is a member of a beneficiary class of the Authority as provided in Section 31‑13‑170(b), (o), and (p) and who is over sixty‑five years of age. The Authority may prepare and administer a program for the home equity conversion mortgages and may coordinate any available funding for the program with the federal government and the private sector. Money received as a result of obtaining a home equity conversion mortgage must not be counted as income in a determination of entitlement to any public assistance. The term “home conversion mortgage” means a first mortgage which provides for future payments to the homeowner based on accumulated equity.

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

SECTION 2. Section 31‑13‑200(5) and (9) of the S.C. Code is amended to read:

 Section 31‑13‑200. (5) Neither the commissioners executive director of the Authority nor any other person executing such notes or bonds shall be subject to any personal liability or accountability by reason of the issuance thereof.

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

SECTION 3. Section 31‑13‑210 of the S.C. Code is amended to read:

 Section 31‑13‑210. Notwithstanding any limitation or restriction now existing by statute heretofore enacted or other provisions of this chapter, the maximum rate of interest that may be paid by persons or families of the beneficiary class served by Sections 31‑13‑200(1)(a) and 31‑13‑200(1)(c) for a home loan with funds obtained under this legislation shall not exceed a rate equal to one percent less than the prevailing state real estate usury laws; except that any loan may have a greater rate of interest when such rate is approved by the State Fiscal Accountability Authority after such investigation and hearing as the board executive director may deem necessary.

SECTION 4. Section 31‑13‑340 of the S.C. Code is amended to read:

 Section 31‑13‑340. Whenever the South Carolina State Housing, Finance, and Development Authority (Authority) collects or receives (1) income from fees collected, (2) other earned income, or (3) any investment income derived from fund assets, the Authority shall pay these monies to the State Treasurer who shall deposit them in a separate account to be known as the “State Housing, Finance, and Development Authority Program Fund”. The monies in the State Housing, Finance, and Development Authority Program Fund must be administered by the Authority and be paid out only upon the signature of the chairman of the board of directors of the Authority, or a designee of the board, and the signature of the executive director, upon the written warrants of the Comptroller General drawn on the State Treasurer to the payee designated in the requisition. The Authority shall maintain separate records and books of account for these monies. The monies in the State Housing, Finance, and Development Authority Program Fund may be used only in accordance with the guidelines established in regulations promulgated by the Authority. Any interest or other increment resulting from investment must be deposited in the fund.

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

SECTION 5. Sections 31‑13‑410 through 31‑13‑450 of the S.C. Code are amended to read:

 Section 31‑13‑410. As used in this article:

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

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

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

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

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

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

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

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

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

 Section 31‑13‑420. (A) There is established the South Carolina Housing Trust Fund. The State Treasurer shall serve as trustee for the fund and shall hold the monies deposited in the fund separate and distinct from the general funds of the State. The trust fund consists of monies received under this article and any other sources of revenue, public or private, including donations dedicated for inclusion in the trust fund. The State Treasurer shall deposit the funds in a separate account to be administered by the authority in accordance with the guidelines and purposes established by this article. Interest, repayment, or other increment resulting from investment must be deposited in the fund.

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

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

 Section 31‑13‑430. (A) An advisory committee is established consisting of nine members, three of whom must be selected by the board executive director and must include one member of a very low income household, one member of a lower income household, a representative of a nonprofit organization which pursues housing programs, and one representative of each of the following:

 (1) South Carolina Low Income Housing Coalition;

 (2) South Carolina Citizens for Housing;

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

 (4) South Carolina Community Development Association;

 (5) South Carolina Housing Partnership; and

 (6) South Carolina Association of Regional Councils.

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

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

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

 Section 31‑13‑440. (A) Pursuant to this article and in accordance with the procedures adopted by the board, the executive director is responsible for the day‑to‑day operations of the fund.

 (B) The executive director shall:

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

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

 (3) provide technical assistance to prospective applicants;

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

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

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

 Section 31‑13‑445. No more than twenty percent of trust fund monies expended in a fiscal year may be for projects in any one county.

 Section 31‑13‑450. (A) Except as otherwise provided in this section, all monies deposited in the fund must be used to increase the supply of safe, decent, and affordable housing for members of the very low or lower income households within this State. These monies must be used to:

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

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

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

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

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

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

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

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

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

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

SECTION 6. This act takes effect upon approval by the Governor and first applies to years after 2024.

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