**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3083**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Crawford and Cogswell

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Companion/Similar bill(s): 259

Introduced in the House on January 8, 2019

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

Summary: SC Resilience Revolving Fund Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/18/2018 Prefiled

12/18/2018 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs**

1/8/2019 House Introduced and read first time ([House Journal‑page 79](file:///h:\hj\20190108.docx))

1/8/2019 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 79](file:///h:\hj\20190108.docx))

1/16/2019 House Recalled from Committee on **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 44](file:///h:\hj\20190116.docx))

1/16/2019 House Committed to Committee on **Ways and Means** ([House Journal‑page 44](file:///h:\hj\20190116.docx))

1/24/2019 House Member(s) request name added as sponsor: Cogswell

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**VERSIONS OF THIS BILL**

[12/18/2018](file:///p:\pprever\2019-20\3083_20181218.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 61 TO TITLE 48 SO AS TO ENACT THE “SOUTH CAROLINA RESILIENCE REVOLVING FUND ACT”; TO ESTABLISH THE “SOUTH CAROLINA RESILIENCE REVOLVING FUND” TO PROVIDE LOW INTEREST LOANS TO PERFORM FLOODED‑HOME BUYOUTS AND FLOODPLAIN RESTORATION, TO AUTHORIZE THE BANK TO UNDERTAKE CERTAIN ACTIONS IN ORDER TO PROPERLY FUNCTION, TO ESTABLISH CERTAIN CRITERIA FOR LOANS AND ELIGIBLE FUND RECIPIENTS, TO PROVIDE CERTAIN REQUIREMENTS FOR THE MONIES WITHIN THE FUND, AND TO AUTHORIZE THE DEPARTMENT OF NATURAL RESOURCES TO UNDERTAKE CERTAIN ACTIONS TO EFFECTIVELY OPERATE THE FUND.

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

SECTION 1. Title 48 of the 1976 Code is amended by adding:

“CHAPTER 61

South Carolina Resilience Revolving Fund Act

Section 48‑61‑10. This chapter may be cited as the ‘South Carolina Resilience Revolving Fund Act’.

Section 48‑61‑20. As used in this chapter:

(1) ‘Authority’ means the Department of Natural Resources Flood Mitigation Office.

(2) ‘Conservation easement’ means an interest in real property as defined in Chapter 8, Title 27, the South Carolina Conservation Easement Act of 1991.

(3) ‘Department’ means the Department of Natural Resources.

(4) ‘Eligible fund recipient’ means:

(a) the State of South Carolina and any agency, commission, or instrumentality of the State;

(b) local governments of the State and any agency, commission, or instrumentality of the local government; and

(c) land trusts operating within the State accredited by the Land Trust Accreditation Commission, an independent program of the Land Trust Alliance that provides independent verification that land trusts meet the high standards of land conservation, stewardship and nonprofit management in the nationally recognized Land Trust Standards and Practices.

(5) ‘Floodplain restoration’ means any activity undertaken to reestablish the hydrology and ecology of the floodplain to its natural state.

(6) ‘Fund’ means the South Carolina Resilience Revolving Fund.

(7) ‘Loan’ means a loan from the authority to an eligible fund recipient for the purpose of financing all or a portion of the cost of a project.

(8) ‘Loan agreement’ means a written agreement between the authority and a project sponsor with respect to a loan.

(9) ‘Loan obligation’ means a bond, note, or other evidence of obligation issued by a project sponsor to evidence its indebtedness under a loan agreement with respect to a loan.

(10) ‘Local government’ means any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or established pursuant to the laws of this State.

(11) ‘Multifamily residence’ means a building with multiple separate residential housing units.

(12) ‘Primary single family residence’ means a single detached dwelling that is occupied as the main home by the owners for the majority of the year.

(13) ‘Proposed project’ means a plan submitted to the authority by an eligible fund recipient for the use of loan funds.

(14) ‘Repetitive loss’ means a residence which sustained two or more incidents of weather‑related flooding causing damages over one thousand dollars each within a period of ten consecutive years.

Section 48‑61‑30. There is created the South Carolina Resilience Revolving Fund. The fund is governed by the authority. The authority is a public instrumentality of this State and the exercise by it of a power conferred in this chapter is the performance of an essential public function. The Director and staff of the Department of Natural Resources Flood Mitigation office comprise the authority, under the supervision and review of the Director of the Department of National Resources and the Department of Natural Resources Board.

Section 48‑61‑40. (A) The fund is established and the authority is authorized to:

(1) make and service below‑market interest rate loans and grants as financial incentives to eligible fund recipients meeting the criteria of Section 48‑61‑50 for the purchase of flooded properties and land to complete floodplain restorations, so long as the loans advance the purposes of this chapter and meet applicable criteria;

(2) enter into loan agreements and accept and enforce loan obligations, so long as the loans advance the purposes of this chapter and meet applicable criteria;

(3) receive and collect the inflow of payments on loan amounts;

(4) apply for and receive additional funding for the fund from federal, state, private, and other sources;

(5) receive charitable contributions and donations to the fund;

(6) receive contributions to the fund in satisfaction of any public or private obligation for flooding mitigation, whether such obligation arises out of law, equity, contract, regulation, administrative proceeding, or judicial proceeding. Such contributions must be used as provided for in this chapter;

(7) make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(8) establish policies and procedures for the making and administration of loans, fiscal controls, and accounting procedures to ensure proper accounting and reporting; and

(9) exercise its discretion in determining what portion of funds must be disbursed and awarded in any particular year and what portion of funds shall remain in the fund from one fiscal year to the next. Sums within the fund must be invested or deposited into interest bearing instruments or accounts and the accrued interest must be credited to the fund.

(B) To carry out these functions, the authority shall:

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

(2) develop additional guidelines and prescribe procedures, consistent with the criteria and purposes of this chapter;

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

(a) accounts for fund receipts and dispersals;

(b) briefly describes applications submitted to the fund, and in greater detail describes grants and loans that were approved or funded during the current year, and the public benefits, including increased flood retention resulting from such grants and loans;

(c) describes recipients of fund loans and grant monies; and

(d) sets forth a list and description of all loans and grants approved and all acquisitions of homes and lands obtained since the fund’s inception;

(4) have an annual audit of the fund conducted by outside independent certified public accountants and submitted to the Governor, Lieutenant Governor, State Treasurer, and General Assembly. The accounting of fund receipts and expenditures required above must be part of this annual audit.

Section 48‑61‑50. (A) The authority must operate in the following manner in the issuing of loans:

(1) prioritize the buyout of blocks or groups of homes rather than single homes so that no more than fifteen percent of funds disbursed in a fiscal year go toward single home buyouts;

(2) prioritize buyouts of single‑family primary residences and multi‑family residences;

(3) consider availability of additional funding sources leveraged by a project; and

(4) prevent the use of the fund for homes built after July 1, 2020.

(B) The authority must issue loans using the following criteria and conditions:

(1) offer a funding package of grants and loans for a particular project that carries an overall effective interest rate equivalent to no higher than forty percent of the market interest rate as defined by the ten year United States Treasury Yield Curve;

(2) provide for an incremental reduction in the loan amount for relocated residents that remain in an area designated by the eligible fund recipient for a period of five continuous years; and

(3) provide supplemental funding incentives to reward eligible fund recipients for executing beneficial flood mitigation practices including:

(a) ensuring residents relocate outside of the floodplain;

(b) aiding residents in relocating outside of the floodplain and within the taxbase;

(c) conducting floodplain restoration after the property is converted to open space to reestablish the full water storing benefits of the floodplain;

(d) completing a buyout of an area larger than ten acres;

(e) and other activities as deemed appropriate by the authority so long as they contribute to flood resilience in the community of the buyout;

(4) require that acquired properties are returned to open space and all future development on the parcel is prohibited in perpetuity through easement;

(5) prohibit the use of more than five hundred thousand dollars for each housing unit receiving loan funds.

(C) Eligible fund recipients may apply for loans from the fund to complete:

(1) buyouts of repetitive loss properties;

(2) buyouts of repetitive loss properties with land intended for floodplain restoration; and

(3) floodplain restoration in connection with buyouts funded through other mechanisms.

(D) In order to qualify for a loan, eligible fund recipients must apply to the authority and at minimum meet the following criteria:

(1) For buyouts of repetitive loss properties:

(a) identify specific properties included in the proposed project;

(b) demonstrate how the properties qualify as repetitive loss properties;

(c) identify a plan and timeline for returning the property to open space within six months following the completion of the buyout and holding an easement on the land in perpetuity;

(d) complete an economic assessment to show the costs and benefits of the project;

(e) identify any beneficial flood mitigation practices planned for the project.

(2) For buyouts of repetitive loss properties with land intended for floodplain restoration:

(a) identify specific properties included in the proposed project;

(b) demonstrate how the properties qualify as repetitive loss properties;

(c) identify a plan and timeline for returning the property to open space within six months following the completion of the buyout and holding an easement on the land in perpetuity;

(d) complete an economic assessment to show the costs and benefits of the project;

(e) submit a plan for conducting floodplain restoration;

(f) identify any additional beneficial flood mitigation practices planned for the project.

(3) For other floodplain restoration:

(a) submit a plan and timeline for conducting floodplain restoration;

(b) identify a plan and timeline for holding an easement on the land in perpetuity;

(c) complete an economic assessment to show the costs and benefits of the project;

(d) identify any additional beneficial flood mitigation practices planned for the project.

(4) any additional criteria required by external grants contributing to the fund.

(E) Financial criteria also must be met pursuant to the standards set by the authority. The authority may require additional criteria and exercise discretion in issuing loans.

Section 48‑61‑60. (A) The fund must be held and administered by the authority in accordance with the provisions of this chapter and policies, rules, regulations, directives, and agreements as may be promulgated or entered into by the authority pursuant to this chapter. Earnings on balances in the fund must be credited to the fund. Amounts remaining in the fund at the end of a fiscal year accrue only to the credit of the fund. Amounts in the fund must be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this chapter.

(B) The authority is authorized to deposit the following into the fund:

(1) federal capitalization grants, awards, or other federal assistance received by the department for the purposes of the fund;

(2) funds appropriated by the General Assembly for deposit to the fund;

(3) payments received from a recipient in repayment of a loan;

(4) interest or other income earned on the investment of monies in the fund; and

(5) additional monies made available from public or private sources for the purposes for which the fund has been established.

(C) Monies in the fund may be used only:

(1) to make loans to eligible fund recipients in accordance with provisions of this chapter;

(2) to guarantee, or purchase insurance for, bonds, notes, or other evidences of obligation issued by a fund recipient for the purpose of financing all or a portion of the cost of a project, if the action improves credit market access or reduces interest rates;

(3) as a source of revenue or security for the payment of principal and interest on bonds issued by the authority if the proceeds of the sale of the bonds are deposited in the fund; and

(4) to earn interest on fund accounts.

(D) The authority may establish accounts and subaccounts within the fund as considered desirable to effectuate the purposes of this chapter, or to comply with the provisions of a bond resolution.

Section 48‑61‑70. In the annual general appropriations act for Fiscal Year 2019‑2020, the General Assembly shall appropriate two million dollars to establish the fund. The department will seek out additional sources of funding to sustain the fund including federal dollars from the Department of Housing and Urban Development Community Development Block Grant Disaster Recovery appropriations. Additional appropriations to the fund may be requested from the General Assembly so as to expand the capabilities of the fund.

Section 48‑61‑80. The Department of Natural Resources may:

(1) promulgate regulations to effectuate the provisions of this chapter;

(2) establish operational structure within the authority to administer this fund;

(3) develop priority systems which ensure consistency with the provisions of this chapter;

(4) prepare annual plans in accordance with this chapter;

(5) receive monies from the fund for program administration and project management activities of the fund; and

(6) hire staff and employ agents, advisers, consultants, and other employees, including attorneys, financial advisers, engineers, and other technical advisers and public accountants and determine their duties and compensation.

Section 48‑61‑90. The provisions of this chapter must be liberally construed to the end that its beneficial purposes may be effectuated. No proceeding, notice, or approval is required for the issuance of bonds of the authority or loan obligations by a project sponsor or instruments or the security for the bonds or loan obligation, except as provided in this chapter. If the provisions of this chapter are inconsistent with the provisions of any other law, general, special, or local, the provisions of this chapter are controlling.”

SECTION 2. This act takes effect upon approval by the Governor.

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