

South Carolina General Assembly
124th Session, 2021-2022

S. 1120

STATUS INFORMATION

General Bill

Sponsors: Senators Peeler and Alexander

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Companion/Similar bill(s): 5075

Introduced in the Senate on March 3, 2022

Currently residing in the Senate

Summary: Housing tax credit

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/3/2022	Senate	Introduced and read first time (Senate Journal-page 3)
3/3/2022	Senate	Referred to Committee on Finance (Senate Journal-page 3)
3/29/2022	Senate	Committee report: Favorable with amendment Finance (Senate Journal-page 16)

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VERSIONS OF THIS BILL

[3/3/2022](#)

[3/29/2022](#)

1 ~~Indicates Matter Stricken~~
2 Indicates New Matter
3
4 COMMITTEE REPORT
5 March 29, 2022
6

7 **S. 1120**

8
9 Introduced by Senators Peeler and Alexander

10
11 S. Printed 3/29/22--S.
12 Read the first time March 3, 2022.

13 _____
14
15 **THE COMMITTEE ON FINANCE**

16 To whom was referred a Bill (S. 1120) to amend Section
17 12-6-3795, Code of Laws of South Carolina, 1976, relating to the
18 South Carolina housing tax credit, so as to define terms and, etc.,
19 respectfully

20 **REPORT:**

21 That they have duly and carefully considered the same and
22 recommend that the same do pass with amendment:

23
24 Amend the bill, as and if amended, by striking SECTION 1 and
25 inserting:

26 / SECTION 1. A. Section 12-6-3795 of the 1976 Code, as
27 added by Act 137 of 2020, is amended to read:

28 "Section 12-6-3795. (A) As used in this section:

29 (1) 'Eligibility statement' means a statement authorized and
30 issued by the South Carolina State Housing and Finance
31 Development Authority certifying that a given project qualifies for
32 the South Carolina housing tax credit, including any preliminary
33 determination thereof.

34 (2) 'Federal housing tax credit' means the federal tax credit
35 as provided in Section 42 of the Internal Revenue Code of 1986, as
36 amended.

37 (3) 'Median income' means those incomes that are
38 determined by the federal Department of Housing and Urban
39 Development guidelines and adjusted for family size.

40 (4) 'Project' means a housing project that has restricted rents
41 that do not exceed thirty percent of income for at least forty percent
42 of its units occupied by persons or families having incomes of sixty

1 percent or less of the median income, or at least twenty percent of
2 the units occupied by persons or families having incomes of fifty
3 percent or less of the median income.

4 (5) 'Qualified project' means a qualified low-income building
5 as that term is defined in Section 42 of the Internal Revenue Code
6 of 1986, as amended, that is located in South Carolina and receives
7 approval for tax credits from the South Carolina Housing and
8 Finance Development Authority provided pursuant to this section.

9 (6) 'Taxpayer' means a sole proprietor, partnership,
10 corporation of any classification, limited liability company, or
11 association taxable as a business entity that is subject to South
12 Carolina taxes pursuant to Section 12-6-510, Section 12-6-530,
13 Chapter 11, Title 12, or Chapter 7, Title 38.

14 (7) 'Federal 9 percent tax credit' means the federal housing
15 tax credit described in Section 42(b)(1)(B)(i) of the Internal
16 Revenue Code.

17 (8) 'Federal 4 percent tax credit' means the federal housing
18 tax credit described in Section 42(b)(1)(B)(ii) of the Internal
19 Revenue Code.

20 (9) 'Credit period' has the meaning defined in Section
21 42(f)(1) of the Internal Revenue Code.

22 (10) 'State housing authority' means the South Carolina State
23 Housing Finance and Development Authority.

24 (11) 'Department of Revenue' means the South Carolina
25 Department of Revenue.

26 (B)(1) A state tax credit pursuant to this section may be claimed
27 against income taxes imposed by Section 12-6-510 or 12-6-530,
28 bank taxes imposed pursuant to Chapter 11, Title 12, corporate
29 license fees imposed pursuant to Chapter 20, Title 12, and insurance
30 premium and retaliatory taxes imposed pursuant to Chapter 7, Title
31 38, to be termed the South Carolina housing tax credit, and is
32 allowed with respect to each qualified project placed in service after
33 January 1, 2020, and before December 31, 2030, in an amount ~~equal~~
34 not to exceed the federal housing tax credit allowed with respect to
35 such qualified project, subject to the limitations of item (5). In
36 computing a tax payable by a taxpayer pursuant to Section 38-7-90,
37 the credit allowed pursuant to this section must be treated as a
38 premium tax paid pursuant to Section 38-7-20.

39 (2)(a) If under Section 42 of the Internal Revenue Code of
40 1986, as amended, a portion of any federal housing tax credit taken
41 on a project is required to be recaptured, the taxpayer claiming any
42 ~~state~~ South Carolina housing tax credit with respect to such project
43 also is required to recapture a portion of any ~~state~~ South Carolina

1 housing tax credit authorized by this section. The state recapture
2 amount is equal to the proportion of the state South Carolina housing
3 tax credit claimed by the taxpayer that equals the proportion the
4 federal recapture amount bears to the original federal housing tax
5 credit amount subject to recapture.

6 (b) In the event that recapture of any South Carolina
7 housing tax credit is required, any ~~amended~~ return submitted to the
8 Department of Revenue, as provided in this section, shall include
9 the proportion of the state South Carolina housing tax credit
10 required to be recaptured, the identity of each taxpayer subject to the
11 recapture, and the amount of South Carolina housing tax credit
12 previously allocated to such taxpayer. Any recapture of the South
13 Carolina housing tax credit is reported in the same manner as any
14 recapture of the federal housing tax credit.

15 (3) The total amount of the South Carolina housing tax credit
16 allowed by this section for a taxable year may not exceed the
17 taxpayer's income tax liability. Any unused South Carolina housing
18 tax credit may be carried forward to apply to the taxpayer's next five
19 succeeding years' tax liability. The taxpayer may not apply the
20 credit against any prior tax years' tax liability.

21 (4) The South Carolina housing tax credit allowed by this
22 section, and any recaptured tax credit, must be allocated among
23 some or all of the partners, members, or shareholders of the entity
24 owning the project in any manner agreed to by such persons,
25 regardless of whether such persons are allocated or allowed any
26 portion of the federal housing tax credit with respect to the project.

27 (5)(a) The South Carolina housing tax credit allowed for any
28 project must supplement but not supplant the federal housing tax
29 credit and must be limited to an amount necessary only to achieve
30 financial feasibility of the project.

31 (b) The total amount of all South Carolina housing tax
32 credits that may be allocated in any calendar year must not exceed
33 fifteen million dollars, plus the total of all unallocated tax credits, if
34 any, for any preceding years, and the total amount of any previously
35 allocated tax credits that have been recaptured, revoked, canceled,
36 or otherwise recovered but not otherwise reallocated.

37 (c) Of the dollar limitation prescribed in subitem (b), the
38 total amount of South Carolina housing tax credits allocated to
39 qualified projects utilizing the federal 9 percent tax credit must not
40 exceed forty percent of the dollar limitation prescribed in subitem
41 (b). Of the South Carolina housing tax credits allocated to qualified
42 projects utilizing the federal 9 percent tax credit, not less than fifty
43 percent of the South Carolina housing tax credits must be allocated

1 to qualified projects located in an eligible rural area as designated
2 by the United States Department of Agriculture, with the remainder
3 allocated to (i) qualified projects serving older persons or persons
4 with special needs, irrespective of rural eligibility criteria; (ii)
5 qualified projects supporting workforce development as certified by
6 the South Carolina Department of Commerce, irrespective of rural
7 eligibility criteria; and (iii) other qualified projects, irrespective of
8 rural eligibility criteria.

9 (d) Compliance with the dollar limitations of subitems (b)
10 and (c) must be determined by the total amount of South Carolina
11 housing tax credits allocated for one full-year of the credit period
12 applicable to each qualified project, and not the total amount of
13 South Carolina housing tax credits allocated for the entire credit
14 period applicable to each qualified project. Compliance with the
15 dollar limitations of subitems (b) and (c) must be determined within
16 each calendar year at the time the state housing authority makes a
17 preliminary determination of any qualified project's eligibility for
18 the South Carolina housing tax credit.

19 (e) In addition to the dollar limitation of subitem (b),
20 allocation of any South Carolina housing tax credit to any qualified
21 project utilizing the federal 4 percent tax credit is conditioned on
22 among other things availability and allocation to the extent
23 necessary for the qualified project of any state ceiling made pursuant
24 to Article 3, Chapter 11, Title 1.

25 (C)(1) The state housing authority shall promulgate rules
26 establishing criteria upon which the eligibility statements are issued
27 which must include consideration of evidence of local support for
28 the project. The eligibility statement must specify the amount of the
29 South Carolina housing tax credit allowed, and must include: (i) the
30 annual amount of South Carolina housing tax credit allocated to the
31 qualified project for each year of credit period; and (ii) the total
32 amount of South Carolina housing tax credit allocated to the
33 qualified project for the entire credit period.

34 (2) The state housing authority may not issue an eligibility
35 statement until the taxpayer provides a report to the state housing
36 authority detailing how the state South Carolina housing tax credit
37 authorized by this section will benefit the tenants of the project, once
38 placed in service, including, but not limited to, including without
39 limitation reduced rent, or and why the state South Carolina housing
40 tax credit authorized by this section is necessary to undertake
41 essential to the financial feasibility of the project.

42 (3) The state housing authority must establish uniform criteria
43 for allocating the South Carolina housing tax credit to eligible

1 projects pursuant to a competitive process that promotes highest
2 value and greatest public benefit. The state housing authority must
3 establish the criteria required by this section as part of any qualified
4 allocation plan adopted to administer the federal housing tax credit,
5 which must include without limitation an opportunity for public
6 comment at a public hearing conducted by the state housing
7 authority. The criteria established pursuant to this section, and any
8 qualified allocation plan are subject to the prior review and
9 comment of the Joint Bond Review Committee.

10 (4) The state housing authority must furnish no later than
11 January thirty-first of each year an annual report of South Carolina
12 housing tax credits allocated pursuant to this section, which must
13 include for the preceding calendar year the total amount of South
14 Carolina housing tax credits allocated, and for each project, the
15 project name and location, the amount of the South Carolina housing
16 tax credits allocated to the project, project ownership, total number
17 of units assisted, and the public benefit achieved by the project. The
18 annual report must be furnished to the President of the Senate, the
19 Speaker of the House of Representatives, the Chairman of the
20 Senate Finance Committee, the Chairman of the House of
21 Representatives Ways and Means Committee, the Joint Bond
22 Review Committee, and the State Fiscal Accountability Authority.

23 (D) The Department of Revenue, in consultation with the South
24 Carolina State Housing Finance and Development Authority state
25 housing authority, may adopt rules and policies necessary to
26 implement and administer the provisions of this section; provided,
27 however, that the state housing authority has the responsibility for:
28 (i) allocation and administration of the South Carolina housing tax
29 credit; and (ii) ensuring that the limits prescribed by subsection
30 (B)(5)(b) and (B)(5)(c) are not exceeded.

31 (E) Notwithstanding any other provision of law, the provisions
32 of this section and administration thereof are subject to the
33 oversight, and review and comment as appropriate, of the Joint
34 Bond Review Committee.”

35 B.1. Notwithstanding the limitations prescribed by Section
36 12-6-3795(B)(5)(b), (c), and (d) in SECTION 1.A., the General
37 Assembly hereby provides a one-time authorization of South
38 Carolina housing tax credits in an amount necessary but not
39 exceeding one hundred million dollars for qualified projects
40 approved before December 31, 2021, by the State Fiscal
41 Accountability Authority or the South Carolina State Housing and
42 Finance Development Authority, as applicable. Any allocations of
43 South Carolina housing tax credits made pursuant to this provision

1 are subject to the review and comment of the Joint Bond Review
2 Committee. Not later than thirty days following enactment hereof,
3 the South Carolina State Housing and Finance Development
4 Authority must identify and report to the President of the Senate, the
5 Speaker of the House of Representatives, the Chairman of the
6 Senate Finance Committee, the Chairman of the House of
7 Representatives Ways and Means Committee, the Joint Bond
8 Review Committee, and the State Fiscal Accountability Authority
9 all qualified projects to which this one-time authorization of South
10 Carolina housing tax credits is proposed to apply. The report must
11 be made in such form and substance as may be directed by the Joint
12 Bond Review Committee. Nothing in this provision grants any
13 rights to, or in the processes used in the determination of, allocation
14 of this one-time authorization of South Carolina housing tax credits.
15 Decisions made pursuant to this provision are final and are not
16 subject to judicial or administrative review.

17 2. This subSECTION B takes effect upon approval by the
18 Governor.

19 C. This SECTION takes effect upon approval by the Governor
20 and first applies to tax years beginning after 2021. /

21 Amend the bill further, SECTION 2, by striking Sections 1-11-
22 520 and 1-11-530 and inserting:

23 / Section 1-11-520. (A) ~~The private activity bond limit for all~~
24 ~~state government issuing authorities now or hereafter authorized to~~
25 ~~issue private activity bonds as defined in the act, to be known as the~~
26 ~~"state government pool", is forty percent of the state ceiling less any~~
27 ~~amount shifted to the local pool as described in subsection (B) of~~
28 ~~this section or plus any amount shifted from that pool~~ No later than
29 September thirtieth of the year preceding the calendar year to which
30 the state ceiling applies, and subject to review and comment by the
31 Joint Bond Review Committee, the state authority must publish a
32 State Ceiling Allocation Plan that assigns percentages of the state
33 ceiling to categories of any of the permitted purposes prescribed by
34 the Internal Revenue Code. Without limitation, categories of
35 permitted purposes may include industrial and economic
36 development bonds; single family housing bonds; multifamily
37 housing bonds; student loan bonds; and any other bonds eligible for
38 tax exemption as a private activity bond pursuant to the Internal
39 Revenue Code. No initial assignment to any single category may
40 exceed forty percent of the state ceiling, and no minimum
41 assignment is required for any category.

42 (B) ~~The private activity bond limit for all issuing authorities~~
43 ~~other than state government agencies, to be known as the "local~~

1 pool", is sixty percent of the state ceiling plus any amount shifted
2 from the state government pool or less any amount shifted to that
3 pool. Further, the allocation plan must provide for a process of
4 periodic allocations of the state ceiling within each category, which
5 for any period generally may not exceed an amount of the state
6 ceiling allocated to that category equally divided among the number
7 of periods in the year during which allocations are to be made;
8 provided, however, that the state authority may, upon findings of
9 exceptional and compelling circumstances, amend the annual
10 allocation plan following review and comment by the committee.

11 (C) ~~The board, with review and comment by the Joint Bond~~
12 ~~Review Committee, may shift unallocated amounts from one pool~~
13 ~~to the other at any time~~ Notwithstanding the assigned percentages
14 set forth in the allocation plan, the state authority may but need not
15 reassign any state ceiling unused in prior periods as a supplement to
16 and means to address demand for ceiling allocation in a subsequent
17 period. Such re-assignment may be made for any allocation
18 category, notwithstanding its original assignment.

19 (D) Unless otherwise approved in writing by the state authority
20 following justification and substantial findings of significance, no
21 authorized request may receive an allocation of state ceiling
22 applicable to that calendar year exceeding ten percent of the total
23 state ceiling in the case of an industrial or economic development
24 project, or five percent of the total state ceiling for any other
25 allocation category.

26 (E) The allocation plan must establish competitive criteria for
27 allocation of state ceiling to authorized requests. Competitive
28 criteria may be unique to each category but must be uniform within
29 each category and established to achieve highest value and greatest
30 public benefit. Discussions of matters related to the periodic
31 evaluation of authorized requests may be conducted in executive
32 session. The state authority may utilize the services of the South
33 Carolina Department of Commerce, the South Carolina State
34 Housing Finance and Development Authority, any other state
35 agency, and any other public or private resources to inform and
36 provide services for the development of the allocation plan,
37 including the evaluation and competitive criteria; and the periodic
38 evaluation of authorized requests. The Department of Commerce
39 and the State Housing Finance and Development Authority are
40 directed to provide to the state authority such assistance as may be
41 requested or required to accomplish the purposes of this article.

1 (F) Allocations of state ceiling to authorized requests must be
2 made in accordance with the provisions of the allocation plan and
3 policies and procedures adopted by the state authority.

4 (G) The state authority must determine the disposition of any
5 remaining, unused state ceiling during the final period of the
6 calendar year pursuant to a petition submitted in accordance with
7 Section 1-11-530(D).

8 Section 1-11-530. (A) For private activity bonds proposed for
9 issue by other than state government issuing authorities, an
10 authorized request is a request included in a petition to the ~~board~~
11 state authority that a specific amount of the state ceiling be allocated
12 to the bonds for which the petition is filed. The petition must be
13 accompanied by: (i) a copy of the Inducement Contract, Inducement
14 Resolution, or other comparable preliminary approval entered into
15 or adopted by the issuing authority, if any, relating to the bonds. ~~The~~
16 ~~board shall forward promptly to the committee a copy of each~~
17 ~~petition received, and (ii) such other supporting documentation as~~
18 the state authority may by policy prescribe.

19 (B) For private activity bonds proposed for issue by any state
20 government issuing authority, an authorized request is a request
21 included in a petition to the ~~board~~ state authority that a specific
22 amount of the state ceiling be allocated to the bonds for which the
23 petition is filed. The petition must be accompanied by: (i) a bond
24 resolution or comparable action by the issuing authority authorizing
25 the issuance of the bonds. ~~The board shall forward promptly to the~~
26 ~~committee a copy of each petition received, and (ii) such other~~
27 supporting documentation as the state authority may by policy
28 prescribe.

29 (C) Each authorized request must demonstrate that the allocation
30 amount requested constitutes all of the private activity bond
31 financing contemplated at the time for the project and any other
32 facilities located at or used as a part of an integrated operation with
33 the project.

34 (D) An issuing authority seeking an allocation of any remaining
35 unused state ceiling for carry-forward designation must submit to
36 the state authority a petition identifying the types of tax-exempt
37 bonds to which the carryforward designation will apply. The
38 petition must be accompanied by such other supporting
39 documentation as the state authority may by policy prescribe. Such
40 allocations are not subjected to the provisions of Section 1-11-
41 520(D), (E), and (F).

1 (E) Notwithstanding any other provision of this article, the state
2 authority may disapprove, reduce, or defer any authorized request
3 or petition for carry-forward.

4 (F) The state authority must periodically furnish to the Joint
5 Bond Review Committee a report of petitions received, along with
6 their dispositions. /

7 Renumber sections to conform.

8 Amend title to conform.

9

10 HARVEY S. PEELER, JR. for Committee.

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A BILL

TO AMEND SECTION 12-6-3795, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA HOUSING TAX CREDIT, SO AS TO DEFINE TERMS AND LIMIT THE CREDIT; TO AMEND ARTICLE 3 OF CHAPTER 11, TITLE 1, RELATING TO THE ALLOCATION OF STATE CEILING ON ISSUANCE OF PRIVATE ACTIVITY BONDS, SO AS TO REQUIRE THE STATE FISCAL ACCOUNTABILITY AUTHORITY TO DEVELOP A STATE CEILING ALLOCATION PLAN ANNUALLY, TO SPECIFY REQUIREMENTS OF THE PLAN, AND TO PROVIDE A PROCESS FOR PERIODIC ALLOCATIONS OF THE STATE CEILING; AND TO REPEAL SECTION 1-11-370 RELATING TO INDEBTEDNESS INCLUDED WITHIN ANY LIMITS ON PRIVATE ACTIVITY BONDS.

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

SECTION 1. A. Section 12-6-3795 of the 1976 Code, as added by Act 137 of 2020, is amended to read:

- “Section 12-6-3795. (A) As used in this section:
 - (1) ‘Eligibility statement’ means a statement authorized and issued by the South Carolina Housing and Finance Development Authority certifying that a given project qualifies for the South Carolina housing tax credit.
 - (2) ‘Federal housing tax credit’ means the federal tax credit as provided in Section 42 of the Internal Revenue Code of 1986, as amended.
 - (3) ‘Median income’ means those incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size.

1 (4) 'Project' means a housing project that has restricted rents
2 that do not exceed thirty percent of income for at least forty percent
3 of its units occupied by persons or families having incomes of sixty
4 percent or less of the median income, or at least twenty percent of
5 the units occupied by persons or families having incomes of fifty
6 percent or less of the median income.

7 (5) 'Qualified project' means a qualified low-income building
8 as that term is defined in Section 42 of the Internal Revenue Code
9 of 1986, as amended, that is located in South Carolina and receives
10 approval for tax credits from the South Carolina Housing and
11 Finance Development Authority provided pursuant to this section.

12 (6) 'Taxpayer' means a sole proprietor, partnership,
13 corporation of any classification, limited liability company, or
14 association taxable as a business entity that is subject to South
15 Carolina taxes pursuant to Section 12-6-510, Section 12-6-530,
16 Chapter 11, Title 12, or Chapter 7, Title 38.

17 (7) 'New construction tax credit' means the federal housing
18 tax credit applicable to new construction and intended to deliver up
19 to a seventy percent federal subsidy, sometimes referred to as the
20 nine percent low-income housing tax credit.

21 (8) 'Rehabilitation tax credit' means the federal housing tax
22 credit applicable to rehabilitation projects utilizing federally
23 tax-exempt bond financing and intended to deliver up to a thirty
24 percent subsidy, sometimes referred to as the four percent
25 low-income housing tax credit.

26 (B)(1) A state tax credit pursuant to this section may be claimed
27 against income taxes imposed by Section 12-6-510 or 12-6-530,
28 bank taxes imposed pursuant to Chapter 11, Title 12, corporate
29 license fees imposed pursuant to Chapter 20, Title 12, and insurance
30 premium and retaliatory taxes imposed pursuant to Chapter 7, Title
31 38, to be termed the South Carolina housing tax credit, and is
32 allowed with respect to each qualified project placed in service after
33 January 1, 2020, and before December 31, 2030, in an amount ~~equal~~
34 not to exceed the federal housing tax credit allowed with respect to
35 such qualified project, subject to the limitations of item (5). In
36 computing a tax payable by a taxpayer pursuant to Section 38-7-90,
37 the credit allowed pursuant to this section must be treated as a
38 premium tax paid pursuant to Section 38-7-20.

39 (2)(a) If under Section 42 of the Internal Revenue Code of
40 1986, as amended, a portion of any federal housing tax credit taken
41 on a project is required to be recaptured, the taxpayer claiming any
42 ~~state~~ South Carolina housing tax credit with respect to such project
43 also is required to recapture a portion of any ~~state~~ South Carolina

1 housing tax credit authorized by this section. The state recapture
2 amount is equal to the proportion of the ~~state~~ South Carolina housing
3 tax credit claimed by the taxpayer that equals the proportion the
4 federal recapture amount bears to the original federal housing tax
5 credit amount subject to recapture.

6 (b) In the event that recapture of any South Carolina
7 housing tax credit is required, any amended return submitted to the
8 department, as provided in this section, shall include the proportion
9 of the ~~state~~ South Carolina housing tax credit required to be
10 recaptured, the identity of each taxpayer subject to the recapture,
11 and the amount of South Carolina housing tax credit previously
12 allocated to such taxpayer.

13 (3) The total amount of the South Carolina housing tax credit
14 allowed by this section for a taxable year may not exceed the
15 taxpayer's income tax liability. Any unused South Carolina housing
16 tax credit may be carried forward to apply to the taxpayer's next five
17 succeeding years' tax liability. The taxpayer may not apply the
18 credit against any prior tax years' tax liability.

19 (4) The South Carolina housing tax credit ~~allowed by this~~
20 ~~section~~, and any recaptured tax credit, must be allocated among
21 some or all of the partners, members, or shareholders of the entity
22 owning the project in any manner agreed to by such persons,
23 regardless of whether such persons are allocated or allowed any
24 portion of the federal housing tax credit with respect to the project.

25 (5)(a) The South Carolina housing tax credit allowed for any
26 project must supplement but not supplant the federal housing tax
27 credit and must be limited to an amount necessary only to achieve
28 financial feasibility of the project.

29 (b) The South Carolina housing tax credit is only allowed
30 for a project utilizing the rehabilitation tax credit, and is conditioned
31 among other things on availability and allocation to the extent
32 necessary for the project of any state ceiling made pursuant to
33 Article 3, Chapter 11, Title 1.

34 (c) No South Carolina housing tax credit is allowed for any
35 housing project utilizing the new construction tax credit.

36 (d) The total amount of all South Carolina housing tax
37 credits that may be allocated in any fiscal year must not exceed
38 fifteen million dollars.

39 (C)(1) The authority shall promulgate rules establishing criteria
40 upon which the eligibility statements are issued which must include
41 consideration of evidence of local support for the project. The
42 eligibility statement must specify the amount of the South Carolina
43 housing tax credit allowed.

1 (2) The authority may not issue an eligibility statement until
2 the taxpayer provides a report to the authority detailing how the state
3 South Carolina housing tax credit authorized by this section will
4 benefit the tenants of the project, once placed in service, ~~including,~~
5 ~~but not limited to,~~ without limitation reduced rent, ~~or and~~ why the
6 state South Carolina housing tax credit authorized by this section is
7 necessary to undertake essential to the financial feasibility of the
8 project.

9 (3) The authority must establish uniform criteria for
10 allocating the South Carolina housing tax credit to eligible projects
11 pursuant to a competitive process that promotes highest value and
12 greatest public benefit. The authority may, but need not, establish
13 the criteria required by this section as part of any qualified allocation
14 plan adopted to administer the federal low-income housing tax
15 credit. The criteria established pursuant to this section, and any
16 qualified allocation plan whether or not applicable to administration
17 of the South Carolina housing tax credit, are subject to the prior
18 review and comment of the Joint Bond Review Committee.

19 (4) The authority must furnish no later than July thirty-first of
20 each year an annual report of South Carolina housing tax credits
21 allocated pursuant to this section, which must include the total
22 amount of tax credits allocated, and for each project, the project
23 name and location, the amount of the South Carolina housing tax
24 credits allocated to the project, project ownership, total number of
25 units assisted, and the public benefit achieved by the project. The
26 annual report must be furnished to the President of the Senate, the
27 Speaker of the House of Representatives, the Chairman of the
28 Senate Finance Committee, the Chairman of the House of
29 Representatives Ways and Means Committee, the Joint Bond
30 Review Committee, and the State Fiscal Accountability Authority.

31 (D) The department, in consultation with the South Carolina
32 State Housing Finance and Development Authority, may adopt rules
33 and policies necessary to implement and administer the provisions
34 of this section.

35 (E) Notwithstanding any other provision of law, the provisions
36 of this section and administration thereof are subject to the
37 oversight, and review and comment as appropriate, of the Joint
38 Bond Review Committee.”

39
40 B. This SECTION takes effect upon approval by the Governor and
41 first applies to tax years beginning after 2021.

1 SECTION 2. Article 3, Chapter 11, Title 1, of the 1976 Code is
2 amended to read:

3

4

“Article 3

5

6 Allocation of State Ceiling on Issuance of Private Activity Bonds

7

8 Section 1-11-500. The state ceiling on the issuance of private
9 activity bonds as defined in Section 146 of the Internal Revenue
10 Code of 1986 (~~the Code~~) established in the act must be certified
11 annually by the Secretary of the State Fiscal Accountability
12 ~~secretary (the state authority)~~ based upon the provisions
13 of the act. The ~~board~~ secretary of the state authority shall make this
14 certification as soon as practicable after the estimates of the
15 population of the State of South Carolina to be used in the
16 calculation are published by the United States Bureau of the Census
17 but in no event later than February first of each calendar year.

18

19 Section 1-11-510. (A) The private activity bond limit for all
20 issuing authorities must be allocated by the ~~board~~ state authority in
21 response to authorized requests as described in Section 1-11-530 by
22 the issuing authorities, or as otherwise provided in Section
23 1-11-520(G).

24 (B) The aggregate private activity bond limit amount for all
25 South Carolina issuing authorities is allocated initially to the State
26 for further allocation within the limits prescribed herein.

27 (C) ~~Except as is provided in Section 1-11-540, all allocations~~
28 ~~must be made by the board on a first come, first served basis, to be~~
29 ~~determined by the date and time sequence in which complete~~
30 ~~authorized requests are received by the board secretary~~ Nothing in
31 this article or the State Ceiling Allocation Plan adopted pursuant to
32 this article grants any rights to, or in the processes used in the
33 allocation or disposition of, state ceiling. Decisions made pursuant
34 to this article are final and are not subject to judicial or
35 administrative review.

36

37 Section 1-11-520. (A) ~~The private activity bond limit for all~~
38 ~~state government issuing authorities now or hereafter authorized to~~
39 ~~issue private activity bonds as defined in the act, to be known as the~~
40 ~~"state government pool", is forty percent of the state ceiling less any~~
41 ~~amount shifted to the local pool as described in subsection (B) of~~
42 ~~this section or plus any amount shifted from that pool~~ No later than
43 September thirtieth of the year preceding the calendar year to which

1 the state ceiling applies, and subject to review and comment by the
2 Joint Bond Review Committee, the state authority must publish a
3 State Ceiling Allocation Plan that assigns percentages of the state
4 ceiling to categories of any of the permitted purposes prescribed by
5 the Internal Revenue Code. Without limitation, categories of
6 permitted purposes may include industrial and economic
7 development bonds; single family housing bonds; multifamily
8 housing bonds; student loan bonds; and any other bonds eligible for
9 tax exemption as a private activity bond pursuant to the Internal
10 Revenue Code. No assignment to any single category may exceed
11 forty percent of the state ceiling, and no minimum assignment is
12 required for any category.

13 (B) The private activity bond limit for all issuing authorities
14 other than state government agencies, to be known as the "local
15 pool", is sixty percent of the state ceiling plus any amount shifted
16 from the state government pool or less any amount shifted to that
17 pool. Further, the allocation plan must provide for a process of
18 periodic allocations of the state ceiling, which for any period
19 generally may not exceed an amount of the state ceiling equally
20 divided among the number of periods in the year during which
21 allocations are to be made; provided, however, that the state
22 authority may, upon findings of exceptional and compelling
23 circumstances, amend the annual allocation plan following review
24 and comment by the committee.

25 (C) The board, with review and comment by the Joint Bond
26 Review Committee, may shift unallocated amounts from one pool
27 to the other at any time. Notwithstanding the assigned percentages
28 set forth in the allocation plan, the state authority may but need not
29 reassign any state ceiling unused in prior periods as a supplement to
30 and means to address demand for ceiling allocation in a subsequent
31 period. Such re-assignment may be made for any allocation
32 category, notwithstanding its original assignment.

33 (D) Unless otherwise approved in writing by the state authority
34 following justification and substantial findings of significance, no
35 authorized request may receive an allocation of state ceiling
36 applicable to that calendar year exceeding ten percent in the case of
37 an industrial or economic development project, or five percent for
38 any other allocation category.

39 (E) The allocation plan must establish competitive criteria for
40 allocation of state ceiling to authorized requests. Competitive
41 criteria may be unique to each category but must be uniform and
42 established to achieve highest value and greatest public benefit. The
43 state authority may utilize the services of the South Carolina

1 Department of Commerce for industrial or economic development
2 projects; the South Carolina State Housing Finance and
3 Development Authority for single family and multifamily housing
4 projects; and any other state agencies and public and private
5 resources to inform and provide services for the development of the
6 allocation plan, including the evaluation and competitive criteria;
7 and the periodic evaluation of authorized requests. The Department
8 of Commerce and the State Housing Finance and Development
9 Authority are directed to provide to the state authority such
10 assistance as may be requested or required to accomplish the
11 purposes of the article.

12 (F) Allocations of state ceiling to authorized requests must be
13 made in accordance with the provisions of the allocation plan and
14 policies and procedures adopted by the state authority.

15 (G) The state authority must determine the disposition of any
16 remaining, unused state ceiling during the final period of the
17 calendar year to which the state ceiling applies. Such disposition is
18 not subject to the requirements of subsections (D), (E), and (F).
19

20 Section 1-11-530. (A) For private activity bonds proposed for
21 issue by other than state government issuing authorities, an
22 authorized request is a request included in a petition to the ~~board~~
23 state authority that a specific amount of the state ceiling be allocated
24 to the bonds for which the petition is filed. The petition must be
25 accompanied by: (i) a copy of the Inducement Contract, Inducement
26 Resolution, or other comparable preliminary approval entered into
27 or adopted by the issuing authority, if any, relating to the bonds. ~~The~~
28 ~~board shall forward promptly to the committee a copy of each~~
29 ~~petition received, and (ii) such other supporting documentation as~~
30 the state authority may by policy prescribe.

31 (B) For private activity bonds proposed for issue by any state
32 government issuing authority, an authorized request is a request
33 included in a petition to the ~~board~~ state authority that a specific
34 amount of the state ceiling be allocated to the bonds for which the
35 petition is filed. The petition must be accompanied by: (i) a bond
36 resolution or comparable action by the issuing authority authorizing
37 the issuance of the bonds. ~~The board shall forward promptly to the~~
38 ~~committee a copy of each petition received, and (ii) such other~~
39 supporting documentation as the state authority may by policy
40 prescribe.

41 (C) Each authorized request must demonstrate that the allocation
42 amount requested constitutes all of the private activity bond
43 financing contemplated at the time for the project and any other

1 facilities located at or used as a part of an integrated operation with
2 the project.

3 (D) An issuing authority seeking an allocation of unused state
4 ceiling for carry-forward designation must submit to the state
5 authority a petition identifying the types of tax-exempt bonds to
6 which the carryforward designation will apply. The petition must be
7 accompanied by such other supporting documentation as the state
8 authority may by policy prescribe.

9 (E) Notwithstanding any other provision of this article, the state
10 authority may disapprove, reduce, or defer any authorized request.

11 (F) The state authority must periodically furnish to the Joint
12 Bond Review Committee a report of petitions received, along with
13 their dispositions.

14
15 Section 1-11-540. ~~(A) The board, with review and comment by~~
16 ~~the committee, may disapprove, reduce, or defer any authorized~~
17 ~~request. If it becomes necessary to exercise this authority, the board~~
18 ~~and the committee shall take into account the public interest in~~
19 ~~promoting economic growth and job creation.~~

20 ~~(B) Authorized requests for state ceiling allocations of more than~~
21 ~~ten million dollars for a single project are deferred until after July~~
22 ~~first unless the board, after review and comment by the committee,~~
23 ~~determines in any particular instance that the positive impact upon~~
24 ~~the State of approving an allocation of an amount greater than ten~~
25 ~~million dollars is of such significance that approval of the allocation~~
26 ~~is warranted~~ Reserved.

27
28 Section 1-11-550. (A) An allocation of the state ceiling
29 approved by the ~~board~~ state authority is made formal initially by a
30 certificate which allocates tentatively a specific amount of the state
31 ceiling to the bonds for which the allocation is requested. This
32 tentative allocation certificate must specify the state ceiling amount
33 allocated, the issuing authority and the project involved, and the
34 time period during which the tentative allocation is valid. This
35 certificate must remind the issuing authority that the tentative
36 allocation is made final after the issuing authority chairman or other
37 duly authorized official or agent of the issuing authority, before the
38 issue is made, certifies the issue amount and the projected date of
39 issue, as is required by subsection (B) of this section. It also may
40 include other information considered relevant by the ~~board~~
41 of the state authority.

42 (B) The chairman or other authorized official or agent of an
43 issuing authority issuing any private activity bond for which a

1 portion of the state ceiling has been allocated tentatively shall
2 execute and deliver to the ~~board~~ secretary of the state authority an
3 issue amount certificate setting forth the exact amount of bonds to
4 be issued and the projected bond issue date which date must not be
5 more than ten business days after the date of the issue amount
6 certificate and it must be before the state ceiling allocation involved
7 expires. The issue amount certificate may be an executed copy of
8 the appropriate completed ~~Internal Revenue Service~~ form to be
9 submitted to the Internal Revenue Service on the issue or it may be
10 in the form of a letter which certifies the exact amount of bonds to
11 be issued and the projected date of the issue.

12 (C) In response to the issuing authority's issue amount certificate
13 required by subsection (B) of this section, the ~~board~~ secretary of the
14 state authority is authorized to issue and, as may be necessary, to
15 revise a certificate making final the ceiling allocation ~~approved~~
16 previously approved by the ~~board~~ state authority on a tentative basis,
17 if the secretary of the state authority determines that:

18 (1) the issuing authority's issue amount certificate specifies
19 an amount not in excess of the approved tentative ceiling allocation
20 amount;

21 (2) the issue amount certificate was received prior to the issue
22 date projected and that the certificate is dated not more than ten days
23 prior to the issue date projected; provided, however, that if an issue
24 amount certificate is dated more than ten days prior to the date of
25 issue of the bonds, such certificate shall be void, and a new request
26 must be provided to the secretary of the state authority prior to
27 issuance of the bonds;

28 (3) the issue date projected is within the time period approved
29 previously for the tentative ceiling allocation; and

30 (4) the bonds when issued and combined with the total
31 amount of bonds requiring a ceiling allocation included in issue
32 amount certificates ~~submitted~~ previously submitted to the ~~board~~
33 state authority by issuing authorities do not exceed the state ceiling
34 for the calendar year. Except under extraordinary circumstances, the
35 ~~board~~ secretary of the state authority shall issue this certificate
36 within two business days following the date the issue amount
37 certificate is received.

38 (D) In accordance with Section 149(e)(2)(F) of the Internal
39 Revenue Code, the secretary of the ~~State Fiscal Accountability~~
40 ~~Authority~~ state authority is designated as the state official
41 responsible for certifying, if applicable, that certain bonds meet the
42 requirements of Section 146 of the Internal Revenue Code relating
43 to the volume cap on private activity bonds.

1 (E) Any tentative or final state ceiling allocation granted by the
2 ~~board~~ state authority before the effective date of this act remains
3 valid as an allocation of a portion of the volume cap for South
4 Carolina provided under Section 146 of the Internal Revenue Code.
5 The allocations expire in accordance with the ~~regulations law~~
6 which they were granted or extended and their validity may be
7 extended or reinstated in accordance with the provisions of Sections
8 1-11-500 through 1-11-570.

9

10 Section 1-11-560. (A) Any state ceiling allocation approved by
11 the ~~board~~ state authority is valid only for the calendar year in which
12 it is approved, unless eligible and approved for carry-forward
13 election or unless specified differently in the ~~board~~ certificates
14 required by Section 1-11-550.

15 (B) Unless eligible and approved for carry-forward election or
16 unless specified differently in ~~board~~ certificates required by Section
17 1-11-550, each state ceiling allocation expires automatically if the
18 bonds for which the allocation is made are not issued within ninety
19 consecutive calendar days from the date the allocation is approved
20 by the ~~board~~ state authority.

21 (C) In response to a written request by the chairman or other duly
22 authorized official or agent of an issuing authority, the ~~board~~ state
23 authority, acting during the period an approved allocation is valid,
24 may but need not extend the period in which an allocation is valid
25 in a single calendar year by thirty-one consecutive calendar days to
26 a total of not more than one hundred twenty-one consecutive
27 calendar days.

28 (D) In response to a written request by the chairman or other
29 authorized official or agent of an issuing authority, the ~~board~~ state
30 authority may but need not reinstate for a period of not more than
31 thirty-one consecutive calendar days in any one calendar year part
32 or all of an allocation approved but not extended previously in
33 accordance with subsection (C) of this section in that same calendar
34 year which has expired. The reinstatement request must certify that
35 the authorized request ~~submitted~~ previously submitted is still true
36 and correct or a new authorized request must be submitted.

37 (E) A tentative ceiling allocation is canceled automatically if the
38 chairman or other authorized official or agent of the issuing
39 authority ~~involved~~ fails to deliver the issue amount certificate
40 required by Section 1-11-550 to the ~~board~~ secretary of the state
41 authority before the bonds for which the allocation is made are
42 issued.

1 (F) The chairman or other authorized official or agent of an
2 issuing authority shall advise the ~~board~~ secretary of the state
3 authority in writing as soon as is practicable after a decision is made
4 not to issue bonds for which a portion of the state ceiling has been
5 allocated. All notices of relinquishment of ceiling allocations must
6 be entered promptly in the ~~board's~~ state authority's records by the
7 ~~board~~ secretary of the state authority.

8 (G) Ceiling allocations which are eligible and approved for
9 carry-forward election are not subject to the validity limits of this
10 section. The ~~board~~ state authority shall join with the issuing
11 authorities involved in carry-forward election statements to meet the
12 requirements of the Internal Revenue Service.

13
14 Section 1-11-570. The ~~State Fiscal Accountability Authority,~~
15 ~~after review and comment by the committee,~~ state authority may
16 adopt ~~the~~ policies and procedures ~~it considers~~ necessary ~~for the~~
17 ~~equitable to implement and administer the provisions of this article.~~
18 All such policies and effective administration of Sections 1-11-500
19 through 1-11-570 procedures, and any changes thereto, are subject
20 to review and comment by the Joint Bond Review Committee.

21
22 Section 1-11-580. The State Fiscal Accountability Authority
23 shall make quarterly payments on insurance contracts where the
24 annual premium exceeds fifty thousand dollars. The board shall
25 undertake necessary negotiations to implement this requirement.
26 Where fees may be incurred for quarterly rather than annual
27 payments, the State Fiscal Accountability Authority shall determine
28 whether the investment income opportunity is greater or less than
29 proposed fees and shall make the decision which best benefits South
30 Carolina.”

31
32 SECTION 3. Section 1-11-370 of the 1976 Code is repealed.

33
34 SECTION 4. The provisions of Article 3, Chapter 11, Title 1 of the
35 1976 Code relating to the allocation of state ceiling on issuance of
36 private activity bonds, as amended in this act, shall control if there
37 is any conflict with any other provision of law or regulation,
38 specifically including Regulation 19-103.

39
40 SECTION 5. If any section, subsection, paragraph, subparagraph,
41 sentence, clause, phrase, or word of this act is for any reason held to
42 be unconstitutional or invalid, such holding shall not affect the
43 constitutionality or validity of the remaining portions of this act, the

1 General Assembly hereby declaring that it would have passed this
2 act, and each and every section, subsection, paragraph,
3 subparagraph, sentence, clause, phrase, and word thereof,
4 irrespective of the fact that any one or more other sections,
5 subsections, paragraphs, subparagraphs, sentences, clauses, phrases,
6 or words hereof may be declared to be unconstitutional, invalid, or
7 otherwise ineffective.

8

9 SECTION 6. The provisions of this act are effective for allocations
10 of state ceiling beginning January 1, 2022, and thereafter. For the
11 first year of implementation, the state authority may adopt such
12 special procedures as may be necessary to effect the requirements
13 of this act.

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