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CHAPTER 43

SOUTH CAROLINA COMMUNITY ECONOMIC DEVELOPMENT ACT

**SECTION 34–43–10.** Citation of Act.

 This chapter may be cited as the South Carolina Community Economic Development Act.

**SECTION 34–43–20.** Definitions.

 As used in this chapter:

 (1) "Department" means the South Carolina Department of Commerce.

 (2) "Community development corporation" means a nonprofit corporation which:

(a) is chartered pursuant to Chapter 31, Title 33;

(b) is tax exempt pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

(c) has a primary mission of developing and improving low‑income communities and neighborhoods through economic and related development;

(d) has activities and decisions initiated, managed, and controlled by the constituents of those local communities;

(e) has a primary function of developing projects and activities designed to enhance the economic opportunities of the people in the community served, including efforts to enable them to become owners and managers of small businesses and producers of affordable housing and jobs in the community served;

(f) does not provide credit, capital, or other assistance from public funds in an amount greater than twenty‑five thousand dollars at one time or in one transaction. The department may adjust that dollar amount in the manner provided in Section 37–1–109; and

(g) is not a nonprofit organization with the sole purpose of providing housing to neighborhoods or technical assistance to other nonprofit organizations.

 (3) "Community development financial institution" means an organization that:

(a) has a primary mission of promoting community development by providing credit, capital, or development services to small businesses or home mortgage assistance to individuals including, but not limited to, capital access programs, microlending, franchise financing, and guaranty performance bonds;

(b) maintains, through representation on its governing board, accountability to persons in need of the institution's services;

(c) is not an agent or instrumentality of the United States, or of a state or political subdivision of a state nor maintains an affiliate relationship with any of them;

(d) maintains a goal of providing a majority of its services to low‑income individuals, minorities, females, or rural areas;

(e) provides capital and technical assistance to small and micro businesses or mortgage assistance to individuals;

(f) does not provide credit, capital, or other assistance in an amount greater than two hundred fifty thousand dollars at one time or in one transaction. That dollar amount may be adjusted in the manner provided in Section 37–1–109;

(g) has been certified or recertified as a community development financial institution as provided in this chapter; and

(h) may be a federally‑chartered or state‑chartered financial institution holding company which qualifies as a community development financial institution only if the holding company and the subsidiaries and affiliates of the holding company collectively satisfy the requirements of this section.

 (4) "Low income" means an income level that falls within the eightieth percentile of the mean income for a family of similar size within this State.

 (5) The term "invest" includes an advance of funds to a community development corporation or a community development financial institution.

**SECTION 34–43–30.** Duties and responsibilities of department; authority to contract with entity to carry out; annual report.

 (A) The department may use a portion of funds appropriated for carrying out the provisions of this chapter to contract with an appropriate entity or entities to assist in carrying out its duties and responsibilities pursuant to this chapter. These duties and responsibilities include, but are not limited to:

(1) certifying entities as community development corporations and community development financial institutions;

(2) administering grants and loans to community development corporations and community development financial institutions from grant funds made available to it by the General Assembly for that purpose; and

(3) providing technical support to assist community development corporations served pursuant to this section in developing their organizational capacity and implementing their projects successfully.

 (B) The department shall make an annual report to the General Assembly regarding the grants and loans administered and tax credits given pursuant to this chapter.

**SECTION 34–43–40.** Certification as community development corporation and community development financial institution; application for and term, renewal and revocation of certification; reports; notice and hearing; tax credit.

 (A) The department shall establish criteria for the certification of an entity as a community development corporation and as a community development financial institution consistent with the requirements of this chapter.

 (B) Application for certification must be in writing under oath and in the form prescribed by the department. It must contain the information the department requires, including names and addresses of the partners, officers, directors or trustees, and those principal owners or members who provide the basis for investigations and findings contemplated by subsection (C). At the time of making the application, the applicant must pay to the department a fee for investigating the application, as prescribed by the department, in an amount sufficient to defray the department's costs of investigating the applicant.

 (C) Upon the filing of the application and payment of the fees, the department shall investigate the facts concerning the application and the requirements of either Section 34–43–20(2) or (3).

 (D) Certification of a community development corporation or a community development financial institution expires two years from the date of certification. This certification may be renewed for additional two‑year periods upon application by the corporation or institution and approval by the department.

 (E) A community development corporation and a community development financial institution shall file with the department, on or before the anniversary date of its certification, an annual report for the preceding calendar year. The report must give information about its financial condition, and must include balance sheets for the beginning and end of the accounting period, a statement of income and expenses for the period, a reconciliation of surplus with the balance sheets, a schedule of assets used by and useful for the corporation or the institution to conduct its business, an analysis of charges, size and type of loans, and other relevant information in form and detail as the department prescribes. The report must be made under oath and in the form prescribed by the department, which shall make and publish annually an analysis and recapitulation of the reports for inclusion in its annual report to the Governor and General Assembly as provided in Section 34–43–30(B).

 (F) The department may not renew certification of a corporation or an institution unless it continues to comply with the regulations of the department and provisions of Section 34–43–20(2) or (3).

 (G) The department may revoke the certification of a corporation or an institution upon a finding that the corporation or institution does not comply with the provisions of Section 34–43–20(2) or (3).

 (H) The department shall serve a notice of intent not to grant certification, intent not to renew certification, or intent to revoke certification upon the corporation or institution with a brief statement of the reasons alleged. The corporation or institution may request a hearing within thirty days of receiving notice by filing a request for a hearing with the department. The hearing must be held in accordance with Article 3, Chapter 23, Title 1, the Administrative Procedures Act.

 (I) A taxpayer may not claim the tax credit provided for in Section 12–6–3530 unless the corporation or institution in which the investment is made is certified by the department at the time the investment is made. A taxpayer who invested in good faith in a certified corporation or institution may claim the credit provided in Section 12–6–3530 notwithstanding the fact that the certification is later revoked or not renewed by the department.

**SECTION 34–43–50.** Grants and loans.

 (A) The department shall establish and implement criteria for grants and loans to community development corporations and community development financial institutions. The criteria must require that the applicant demonstrate a capacity to engage in community development projects and sufficient organizational structure to ensure proper management . However, if the applicant is created after the effective date of this section, the applicant must present a strategic plan for community development projects and show evidence of developing an organizational structure which ensures proper management.

 (B) The total amount of grants and loans administered pursuant to this chapter may not exceed in the aggregate five million dollars for all recipients and all tax years and one million dollars for all recipients in one tax year.

 (C) A single community development corporation or community development financial institution may not receive more than ten percent of the total amount of grants and loans funds administered pursuant to this chapter in any one tax year.

 (D) The department may receive funds from, among other sources, state appropriations and private contributions.