

§ 143-214.12. Division of Mitigation Services: Ecosystem Restoration Fund.

(a) Ecosystem Restoration Fund. – The Ecosystem Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Ecosystem Restoration Fund shall provide a repository (i) for monetary contributions and donations or dedications of interests in real property to promote projects for the restoration, enhancement, preservation, or creation of wetlands and riparian areas or the enhancement or restoration of flood storage capacity, (ii) for payments made in lieu of compensatory mitigation as described in subsection (b) of this section, and (iii) for appropriations and grants supporting projects that enhance flood storage capacity and mitigate flood risk under G.S. 143-214.11A. No funds shall be expended from this Fund for any purpose other than those directly contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands, streams, riparian areas, and the enhancement and restoration of flood storage capacity in accordance with the basinwide plan as described in G.S. 143-214.10. The cost of acquisition includes a payment in lieu of ad valorem taxes required under G.S. 146-22.3 when the Department is the State agency making the acquisition. The Department shall separately account for funds provided to the Ecosystem Restoration Fund in support of projects for enhancement or restoration of flood storage capacity under G.S. 143-214.11A.

(a1) The Department may distribute funds from the Ecosystem Restoration Fund directly to a federal or State agency, a local government, or a private, nonprofit conservation organization to acquire, manage, and maintain real property or an interest in real property for the purposes set out in subsection (a) of this section. A recipient of funds under this subsection that acquires a conservation easement or interest in real property appurtenant to a restoration project delivered to the Division of Mitigation Services may transfer the conservation easement or interest in real property to a federal or State agency, a local government, or a private, nonprofit conservation organization approved by the Division of Mitigation Services. The Department may convey real property or an interest in real property that has been acquired under the Division of Mitigation Services to a federal or State agency, a local government, or a private, nonprofit conservation organization approved by the Division of Mitigation Services to acquire, manage, and maintain real property or an interest in real property for the purposes set out in subsection (a) of this section. When a grantee of real property or an interest in real property under this subsection grants a conservation easement in the real property or interest in real property to a federal or State agency, a local government, or a private, nonprofit conservation organization approved by the Division of Mitigation Services, the grant shall be made in a form that is acceptable to the Department.

(b) Authorized Methods of Payment. – A person subject to a permit or authorization issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 may contribute to the Division of Mitigation Services in order to comply with conditions to, or terms of, the permit or authorization if participation in the Division of Mitigation Services will meet the mitigation requirements of the United States Army Corps of Engineers. The Department shall, at the discretion of the applicant, accept payment into the Ecosystem Restoration Fund in lieu of other compensatory mitigation requirements of any authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 if the contributions will meet the mitigation requirements of the United States Army Corps of Engineers. Payment may be made in the form of monetary contributions according to a fee schedule established by the Environmental Management Commission or in the form of donations of real property provided that the property is approved by the Department as a suitable site consistent with the basinwide wetlands restoration plan.

(c) Accounting of Payments. – The Department shall provide an itemized statement that accounts for each payment into the Fund. The statement shall include the expenses and activities

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financed by the payment. (1996, 2nd Ex. Sess., c. 18, s. 27.4(a); 1997-496, s. 13; 1999-329, s. 6.1; 2004-188, s. 3; 2005-386, s. 3.5; 2015-1, s. 4.5; 2017-209, s. 14; 2020-79, s. 11A(c).)