ACTS
AND
JOINT RESOLUTIONS
SOUTH CAROLINA
2014

Volume I

REGULAR
SESSION

Pages 1739-2634
Acts 121-285

ACTS and JOINT RESOLUTIONS

OF THE

GENERAL ASSEMBLY

OF THE

STATE of SOUTH CAROLINA

_____

2014 REGULAR SESSION

VOLUME I

_____

Second Part
of Seventy-Ninth Volume of Statutes at Large

(The Acts and Joint Resolutions of 2013
Constitute the First Part)

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Passed at the regular session which was begun and held at the City of Columbia on the 14th day of January, A.D., 2014, and was adjourned on the 27th day of August, A.D., 2014

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JAMES H. HARRISON
CODE COMMISSIONER

Notice

The second regular session of the 120th South Carolina General Assembly has adjourned under the provisions of H. 5282, the Sine Die Resolution.

In the parenthesis to the left of the permanent numbers are two numbers of which this is an example: (R276, S424). The first number is preceded by R in every instance, and the second number is either H or S. The R indicates the ratification number of the act or joint resolution; the H is the House number as a bill or joint resolution; and the S is the Senate number as a bill or joint resolution.

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ACTS

AND

JOINT RESOLUTIONS

OF THE

General Assembly

OF THE

State of South Carolina

NIKKI R. HALEY, Governor; JOHN YANCEY MCGILL, Lieutenant Governor and ex officio President of the Senate; HUGH K. LEATHERMAN SR., President Pro Tempore of the Senate; ROBERT W. HARRELL JR., Speaker of the House of Representatives; JAMES H. LUCAS, Speaker Pro Tempore of the House of Representatives; JEFFREY S. GOSSETT, Clerk of the Senate; CHARLES F. REID, Clerk of the House of Representatives.

PART I

GENERAL AND PERMANENT LAWS

No. 121

(R124, S22)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE "SOUTH CAROLINA RESTRUCTURING ACT OF 2014" SO AS TO TRANSFER, REALIGN, OR RESTRUCTURE VARIOUS AGENCIES, PROGRAMS, REQUIREMENTS, AND PROCEDURES IN THE EXECUTIVE AND LEGISLATIVE BRANCHES OF STATE GOVERNMENT, INCLUDING PROVISIONS TO ABOLISH THE STATE BUDGET AND CONTROL BOARD ON JULY 1, 2015; TO AMEND SECTION 1-30-10, AS AMENDED, RELATING TO THE AGENCIES OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO ESTABLISH THE DEPARTMENT OF ADMINISTRATION; TO AMEND SECTION 1-11-10, RELATING TO THE COMPOSITION OF THE STATE BUDGET AND CONTROL BOARD, SO AS TO ABOLISH THE STATE BUDGET AND CONTROL BOARD AND TRANSFER CERTAIN PROGRAMS, POWERS, DUTIES, AND RESPONSIBILITIES TO THE DEPARTMENT OF ADMINISTRATION; TO AMEND SECTION 1-11-20, AS AMENDED, RELATING TO THE DIVISIONS AND STAFF OF THE STATE BUDGET AND CONTROL BOARD, SO AS TO TRANSFER CERTAIN DIVISIONS AND STAFF TO THE DEPARTMENT OF ADMINISTRATION; TO AMEND SECTION 1-30-10, AS AMENDED, RELATING TO THE GOVERNING AUTHORITY OF CERTAIN DEPARTMENTS AND AGENCIES, SO AS TO REQUIRE REPORTS TO THE GOVERNOR AND THE GENERAL ASSEMBLY EACH YEAR REGARDING RESTRUCTURING OF DIVISIONS, PROGRAMS, OR PERSONNEL BY THOSE DEPARTMENTS AND AGENCIES AND MAKE CONFORMING CHANGES REGARDING THE SEVEN-YEAR OVERSIGHT STUDY AND INVESTIGATION; TO AMEND SECTION 8-27-10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF EMPLOYMENT PROTECTION FOR REPORTS OF VIOLATIONS OF STATE OR FEDERAL LAW, SO AS TO REVISE THE DEFINITION OF "REPORT"; BY ADDING SECTION 8-27-60 SO AS TO REQUIRE PUBLIC BODIES TO MAKE A SUMMARY OF THE CHAPTER ON EMPLOYMENT PROTECTION FOR REPORTS OF VIOLATIONS OF STATE

OR FEDERAL LAW AVAILABLE ON ITS INTERNET WEBSITE; BY ADDING CHAPTER 2 TO TITLE 2 SO AS TO DEFINE NECESSARY TERMS AND PROVIDE FOR LEGISLATIVE OVERSIGHT OF EXECUTIVE DEPARTMENTS AND THE PROCESSES AND PROCEDURES TO BE FOLLOWED IN CONNECTION WITH THIS OVERSIGHT; TO AMEND SECTIONS 1-11-55, AS AMENDED, 1-11-56, 1-11-58, 1-11-65, 1-11-67, 1-11-70, 1-11-80, 1-11-90, 1-11-100, 1-11-110, 1-11-180, BY ADDING SECTION 1-11-185, TO AMEND SECTIONS 1-11-220, AS AMENDED, 1-11-225, 1-11-250, 1-11-260, 1-11-270, 1-11-280, 1-11-290, 1-11-300, 1-11-310, AS AMENDED, 1-11-315, 1-11-320, 1-11-335, 1-11-340, 1-15-10, AS AMENDED, 2-59-10, CHAPTER 9 OF TITLE 3, SECTIONS 10-1-10, 10-1-30, 10-1-130, 10-1-190, CHAPTER 9 OF TITLE 10, SECTIONS 10-11-50, 10-11-90, 10-11-110, 10-11-140, 10-11-330, 11-7-10, 11-7-30, 11-9-610, 11-9-620, 11-9-630, 11-9-665, 11-9-670, 11-9-680, 11-35-3820, 11-35-3840, 11-35-5270, 11-42-30, 11-42-40, 11-42-60, 11-53-20, AS AMENDED, 13-7-10, 13-7-30, 13-7-810, 13-7-830, 13-7-860, 16-3-1620, ALL AS AMENDED, 16-3-1680, 25-11-10, 25-11-80, AS AMENDED, 25-11-90, 25-11-310, 44-53-530, AS AMENDED, 44-96-140, 48-46-30, 48-46-40, 48-46-50, 48-46-60, 48-46-90, 63-11-500, AS AMENDED, 63-11-700, AS AMENDED, 63-11-730, 63-11-1110, 63-11-1140, 44-38-380, 63-11-1310, 63-11-1340, 63-11-1360, AND 63-11-1510, ALL RELATING TO VARIOUS AGENCY OR DEPARTMENT PROVISIONS, ALL SO AS TO CONFORM THEM TO THE ABOVE PROVISIONS PERTAINING TO THE NEW DEPARTMENT OF ADMINISTRATION, THE STATE FISCAL ACCOUNTABILITY AUTHORITY, OTHER APPROPRIATE STATE AGENCIES, OR TO SUPPLEMENT SUCH PROVISIONS; TO REPEAL SECTION 1-30-110 RELATING TO SPECIFIC AGENCIES, BOARDS, AND COMMISSIONS AND THEIR RELATED ENTITIES ADMINISTERED UNDER THE OFFICE OF THE GOVERNOR; BY ADDING ARTICLE 11 TO CHAPTER 9, TITLE 11 SO AS TO PROVIDE FOR THE REVENUE AND FISCAL AFFAIRS OFFICE AND PROVIDE FOR ITS ORGANIZATION, DUTIES, POWERS, AND PROCEDURES; TO AMEND SECTIONS 11-9-820, 11-9-825, 11-9-830, AND 11-9-880, ALL RELATING TO THE BOARD OF ECONOMIC ADVISORS, SO AS TO MAKE THE BOARD A DIVISION OF THE REVENUE AND FISCAL AFFAIRS OFFICE, AND TO FURTHER PROVIDE FOR ITS

PROCEDURES, DUTIES, AND FUNCTIONS; TO AMEND SECTIONS 2-7-72, 2-7-73, 2-7-74, AND 2-7-76, ALL RELATING TO THE FISCAL IMPACT OF BILLS OR RESOLUTIONS, SO AS TO FURTHER PROVIDE FOR HOW THESE FISCAL IMPACTS ARE DETERMINED AND REPORTED; BY ADDING SECTION 1-30-125 SO AS TO ESTABLISH THE EXECUTIVE BUDGET OFFICE WITHIN THE DEPARTMENT OF ADMINISTRATION AND TRANSFER CERTAIN PORTIONS OF THE OFFICE OF STATE BUDGET OF THE STATE BUDGET AND CONTROL BOARD TO THE REVENUE AND FISCAL AFFAIRS OFFICE EXCEPT FOR EMPLOYEES REQUIRED TO SUPPORT THE EXECUTIVE BUDGET OFFICE; TO AMEND SECTION 11-9-890, AS AMENDED, RELATING TO THE DELINEATION OF FISCAL YEAR REVENUE ESTIMATES BY QUARTERS AND ACTION TO AVOID YEAR-END DEFICITS, SO AS TO REQUIRE THE BOARD OF ECONOMIC ADVISORS TO REDUCE REVENUE FORECASTS UNDER CERTAIN CIRCUMSTANCES AND ALLOW THE SENATE AND HOUSE OF REPRESENTATIVES TO COME INTO SESSION TO AVOID A YEAR-END DEFICIT AMONG OTHER THINGS; BY ADDING CHAPTER 79 TO TITLE 2 SO AS TO PROVIDE PROCEDURES AND REQUIREMENTS PERTAINING TO STATE AGENCY DEFICIT PREVENTION AND RECOGNITION; TO REPEAL SECTION 1-11-495 RELATING TO YEAR-END DEFICITS, AND SECTIONS 11-9-230 THROUGH 11-9-270 ALL RELATING TO BORROWING MONEY BY THE STATE BUDGET AND CONTROL BOARD; TO AMEND SECTIONS 48-52-410, 48-52-440, 48-52-460, 48-52-635, AND 48-52-680, RELATING TO THE STATE ENERGY OFFICE, SO AS TO PROVIDE THAT THE STATE ENERGY OFFICE SHALL BE A PART OF THE OFFICE OF REGULATORY STAFF AND TO FURTHER PROVIDE FOR THE PROGRAMS AND OPERATIONS OF THE STATE ENERGY OFFICE; TO AMEND SECTIONS 1-11-25 AND 1-11-26, BOTH RELATING TO THE LOCAL GOVERNMENT DIVISION OF THE STATE BUDGET AND CONTROL BOARD, AND BY ADDING SECTION 11-50-65, ALL SO AS TO PROVIDE THAT THE LOCAL GOVERNMENT DIVISION SHALL BECOME A PART OF THE RURAL INFRASTRUCTURE AUTHORITY, FOR THE OPERATIONS OF THE DIVISION OF LOCAL GOVERNMENT, FOR THE OPERATIONS AND EMPLOYEES OF THE RURAL

INFRASTRUCTURE AUTHORITY, AND FOR THE USE AND TRANSFER OF CERTAIN FUNDING TO THE AUTHORITY; TO AMEND SECTION 11-37-200, RELATING TO THE WATER RESOURCES COORDINATING COUNCIL, SO AS TO CORRECT REFERENCES FROM THE STATE BUDGET AND CONTROL BOARD TO THE RURAL INFRASTRUCTURE AUTHORITY; BY ADDING CHAPTER 17 TO TITLE 60 SO AS TO ESTABLISH THE SOUTH CAROLINA CONFEDERATE RELIC ROOM AND MILITARY COMMISSION AND PROVIDE FOR ITS MEMBERSHIP AND DUTIES; TO REPEAL ARTICLE 7, CHAPTER 11, TITLE 1 RELATING TO THE SOUTH CAROLINA CONFEDERATE RELIC ROOM AND MILITARY MUSEUM; BY ADDING CHAPTER 55 TO TITLE 11 SO AS TO ESTABLISH THE STATE FISCAL ACCOUNTABILITY AUTHORITY AND PROVIDE FOR ITS MEMBERSHIP, DUTIES, AND FUNCTIONS; TO AMEND CHAPTER 47, TITLE 2, RELATING TO THE JOINT BOND REVIEW COMMITTEE, SO AS TO MAKE CONFORMING CHANGES TO REFERENCE THE STATE FISCAL ACCOUNTABILITY AUTHORITY AND REVISE THE MANNER IN WHICH THE COMMITTEE REVIEWS PERMANENT IMPROVEMENT PROJECTS AND THEIR FUNDING, THE PROCESS BY WHICH THESE PROJECTS AND THEIR FUNDING ARE APPROVED, AND FOR THE REPORTING OF CERTAIN NEW PROJECTS; TO PROVIDE THAT THE INSURANCE RESERVE FUND IS TRANSFERRED TO THE STATE FISCAL ACCOUNTABILITY AUTHORITY AS ONE OF ITS DIVISIONS; TO AMEND SECTIONS 1-11-140 AND 15-78-140, RELATING TO THE PROVISIONS OF TORT LIABILITY COVERAGE BY THE STATE, SO AS TO CONFORM THESE SECTIONS TO THE ABOVE PROVISIONS; TO AMEND SECTION 1-11-440, RELATING TO THE DUTY OF THE STATE TO DEFEND MEMBERS OF THE STATE BUDGET AND CONTROL BOARD AGAINST CLAIM OR SUIT ARISING OUT OF THEIR OFFICIAL ACTIONS, SO AS TO DELETE REFERENCES TO THE BOARD AND INCLUDE REFERENCES TO THE STATE FISCAL ACCOUNTABILITY AUTHORITY AND DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION; TO AMEND SECTIONS 11-18-20, 11-27-10, BY ADDING SECTION 11-31-5, TO AMEND SECTIONS 11-35-310, AS AMENDED, 11-38-20, 11-41-70, AS AMENDED, 11-41-80, 11-41-90, 11-41-100,

11-41-180, 11-43-510, 11-45-30, 11-45-55, 11-45-105, 11-51-30, 11-51-125, AND 11-51-190, ALL RELATING TO VARIOUS BOND OR OTHER FINANCIAL PROVISIONS, SECTION 11-37-30, RELATING TO THE SOUTH CAROLINA RESOURCES AUTHORITY, SECTION 11-40-20, RELATING TO THE INFRASTRUCTURE FACILITIES AUTHORITY, SECTION 11-40-250, RELATING TO THE DIVISION OF LOCAL GOVERNMENT, AND SECTION 11-49-40, RELATING TO THE TOBACCO SETTLEMENT AUTHORITY, ALL SO AS TO CORRECT REFERENCES FROM THE STATE BUDGET AND CONTROL BOARD TO THE APPROPRIATE ENTITY AND MAKE CONFORMING CHANGES; TO AMEND SECTIONS 59-109-30 AND 59-109-40, RELATING TO THE EDUCATIONAL FACILITIES AUTHORITY FOR PRIVATE NONPROFIT INSTITUTIONS OF HIGHER LEARNING, SECTIONS 59-115-20 AND 59-115-40, RELATING TO THE STATE EDUCATION ASSISTANCE AUTHORITY, AND SECTION 48-5-30, RELATING TO THE WATER QUALITY REVOLVING FUND AUTHORITY, ALL SO AS TO PROVIDE THAT THEIR RESPECTIVE GOVERNING BODY SHALL BE THE STATE FISCAL ACCOUNTABILITY AUTHORITY, AND TO MAKE CONFORMING REFERENCES; TO CREATE THE CHARLESTON NAVAL BASE MUSEUM AUTHORITY AS A DIVISION OF THE CHARLESTON NAVAL REDEVELOPMENT AUTHORITY AND RESTRUCTURE THE MEMBERSHIP OF THE LATTER; TO AMEND SECTION 2-65-15, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE SOUTH CAROLINA FEDERAL AND OTHER FUNDS OVERSIGHT ACT, SO AS TO REVISE THE DEFINITION OF THE TERM "BOARD"; BY ADDING SECTION 2-65-130 SO AS TO PROVIDE FOR THE FORWARDING OF AN EXPENDITURE PROPOSAL FROM THE EXECUTIVE BUDGET OFFICE TO THE STATE FISCAL ACCOUNTABILITY AUTHORITY; TO AMEND SECTIONS 41-43-100 AND 41-43-110, BOTH AS AMENDED, RELATING TO THE JOBS-ECONOMIC DEVELOPMENT AUTHORITY, SO AS TO CHANGE REFERENCES FROM THE STATE BUDGET AND CONTROL BOARD TO THE STATE FISCAL ACCOUNTABILITY AUTHORITY; TO AMEND SECTION 2-15-50, RELATING TO THE LEGISLATIVE AUDIT COUNCIL, SO AS TO REVISE THE MISSION TO INCLUDE RECOMMENDATIONS ON WHETHER ORGANIZATIONS,

PROGRAMS, OR FUNCTIONS SHOULD BE CONTINUED, REVISED, OR ELIMINATED; AND TO REQUIRE THE LEGISLATIVE AUDIT COUNCIL TO CONDUCT A PERFORMANCE REVIEW OF THE ACT DURING THE YEAR 2020 TO DETERMINE ITS EFFECTIVENESS AND ACHIEVEMENTS, AND TO PROVIDE FOR OTHER TRANSITIONAL PROVISIONS, FOR THE EFFECTIVE DATE OF THE ACT, AND FOR THE MANNER IN WHICH IT SHALL BE IMPLEMENTED.

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

Part I

Citation

Citation of the act

SECTION 1. This act may be cited as the "South Carolina Restructuring Act of 2014".

Part II

State Budget and Control Board Abolished

State Budget and Control Board abolished

SECTION 2. A. Effective July 1, 2015, the State Budget and Control Board, and its related divisions and offices, is abolished and its functions, powers, duties, responsibilities, and authority, except as otherwise provided by law:

(1) related to the issuance of bonds and bonding authority, generally found in Title 11 of the 1976 Code but also contained in certain other provisions of South Carolina law are devolved upon the State Fiscal Accountability Authority;

(2) related to grants, loans, and other forms of financial assistance to other entities, generally found in Title 11 of the 1976 Code but also contained in certain other provisions of South Carolina law, exercised by the former State Budget and Control Board are devolved upon the State Fiscal Accountability Authority; and

(3) related to executive functions within the former State Budget and Control Board not identified in items (1) or (2) are devolved upon the Department of Administration.

B. After determining how many vacant FTEs at the State Budget and Control Board shall be used to fill needed positions in the Executive Budget Office as provided in Section 1-30-125, to be done in consultation with the Office of the Governor, the Executive Director of the State Budget and Control Board, upon approval of the board, prior to July 1, 2014, shall eliminate at least sixty vacant FTEs within the board or its divisions, components, or offices prior to the devolvement of specified duties and functions of the board upon the Department of Administration as provided in this act.

Part III

Establishing the Department of Administration

Department of Administration established

SECTION 3. Section 1-30-10(A) of the 1976 Code, as last amended by Act 146 of 2010, is further amended to read:

"(A) There are hereby created, within the executive branch of the state government, the following departments:

1. Department of Administration
2. Department of Agriculture
3. Department of Alcohol and Other Drug Abuse Services
4. Department of Commerce
5. Department of Corrections
6. Department of Disabilities and Special Needs
7. Department of Education
8. Department of Health and Environmental Control
9. Department of Health and Human Services
10. Department of Insurance
11. Department of Juvenile Justice
12. Department of Labor, Licensing and Regulation
13. Department of Mental Health
14. Department of Motor Vehicles
15. Department of Natural Resources
16. Department of Parks, Recreation and Tourism
17. Department of Probation, Parole and Pardon Services

18. Department of Public Safety
19. Department of Revenue
20. Department of Social Services
21. Department of Transportation
22. Department of Employment and Workforce."

Department of Administration established, offices, divisions, other agencies transferred to appropriate entities

SECTION 4. A. Section 1-11-10 of the 1976 Code is amended to read:

"Section 1-11-10. (A) There is hereby created, within the executive branch of the state government, the Department of Administration, headed by a director appointed by the Governor upon the advice and consent of the Senate who only may be removed pursuant to Section 1-3-240(B). Effective July 1, 2015, the following offices, divisions, or components of the former State Budget and Control Board, Office of the Governor, or other agencies are transferred to, and incorporated into, the Department of Administration:

(1) the Division of General Services, including Business Operations, Facilities Management, State Building and Property Services, and Agency Services, including surplus property, intrastate mail, parking, state fleet management, except that the Division of General Services shall not be transferred to the Department of Administration until the Director of the Department of Administration enters into a memorandum of understanding with appropriate officials of applicable legislative and judicial agencies or departments meeting the requirements of this subsection. There shall be a single memorandum of understanding involving the Department of Administration and the legislative and judicial branches with appropriate officials of each to be signatories to the memorandum of understanding.

(a) The memorandum of understanding shall provide for:

(i) continued use of existing office space;

(ii) a method for the allocation of new, additional, or different office space;

(iii) adequate parking;

(iv) a method for the allocation of new, additional, or different parking;

(v) the provision of appropriate levels of electrical, mechanical, maintenance, energy management, fire protection, custodial, project management, safety and building renovation, and other services currently provided by the General Services Division of the State Budget and Control Board;

(vi) the provision of water, electricity, steam, and chilled water to the offices, areas, and facilities occupied by the applicable agencies;

(vii) the ability for each agency or department to maintain building access control for its allocated office space; and

(viii) access control for the Senate and House chambers and courtrooms as appropriate.

(b) The parties may modify the memorandum of understanding by mutual consent at any time.

(c) The General Services Division must provide the services described in subsection (a) and any other maintenance and support, at a level that is greater than or equal to what is provided prior to the effective date of this act, to each building on the Capitol Complex, including the Supreme Court, without charge. The General Services Division must coordinate with the appropriate officials of applicable legislative and judicial agencies or departments when providing these services to the buildings and areas controlled by those agencies;

(2) the State Office of Human Resources;

(3) the Guardian Ad Litem Program as established in Article 5, Chapter 11, Title 63;

(4) the Office of Economic Opportunity, the office designated by the Governor to be the state administering agency that is responsible for the receipt and distribution of the federal funds as allocated to South Carolina for the implementation of Title VI, Public Law 97-35;

(5) the Developmental Disabilities Council as established by Executive Order in 1971 and reauthorized in 2010;

(6) the Continuum of Care for Emotionally Disturbed Children as established in Article 13, Chapter 11, Title 63;

(7) the Division for Review of the Foster Care of Children as established by Article 7, Chapter 11, Title 63;

(8) the Children's Case Resolution System as established by Article 11, Chapter 11, Title 63;

(9) the Client Assistance Program;

(10) the Division of Veterans' Affairs as established by Chapter 11, Title 25;

(11) the Commission on Women as established by Chapter 15, Title 1;

(12) the Office of Victims Assistance, including the South Carolina Victims Advisory Board and the Victims Compensation Fund, both as established by Article 13, Chapter 3, Title 16;

(13) the Crime Victims' Ombudsman as established by Article 16, Chapter 3, Title 16;

(14) the Governor's Office of Ombudsman;

(15) the Division of Small and Minority Business Contracting and Certification, as established pursuant to Article 21, Chapter 35, Title 11, formerly known as the Small and Minority Business Assistance Office;

(16) the Division of State Information Technology, including the Data Center, Telecommunications and Information Technology Services, the South Carolina Enterprise Information System, and the Division of Information Security; and

(17) the Nuclear Advisory Council as established in Article 9, Chapter 7, Title 13.

(B)(1) The Division of State Information Technology must submit the Statewide Strategic Information Technology Plan to the Director of the Department of Administration by September 1, 2015, and biennially thereafter. The director shall review the Statewide Strategic Information Technology Plan and recommend to the Governor priorities for state government enterprise information technology projects and resource requirements. The director also shall review information technology spending by state agencies and evaluate whether greater efficiencies, more effective services, and cost savings can be achieved through streamlining, standardizing, and consolidating agency information technology.

(2) All oversight concerning the South Carolina Enterprise Information System must remain as provided in Chapter 53, Title 11.

(C) The Department of Administration shall use the existing resources of each division, insofar as it promotes efficiency and effectiveness, transferred to the department including, but not limited to, funding, personnel, equipment, and supplies from the board's administrative support units, including, but not limited to, the Office of the Executive Director, Office of General Counsel, and the Office of Internal Operations. 'Funding' means state, federal, and other funds. Vacant FTEs at the State Budget and Control Board also may be used to fill needed positions at the department. No new FTEs may be assigned to the department without authorization from the General Assembly.

(D) No later than December 31, 2015, the department's director shall submit a report to the President Pro Tempore of the Senate and

the Speaker of the House of Representatives that contains an analysis of and recommendations regarding the most appropriate organizational placement for each component of the Office of Executive Policy and Programs as of the effective date of this act. The department shall solicit input from and consider the recommendation of affected constituencies while developing its report.

(E) The Department of Administration shall, during the absence of the Governor from Columbia, be placed in charge of the records and papers in the executive chamber kept pursuant to Section 1-3-30."

B. Section 1-11-20 of the 1976 Code, as last amended by Act 164 of 2005, is further amended to read:

"Section 1-11-20. Effective July 1, 2015:

(A) The South Carolina Confederate Relic Room and Military Museum is transferred from the State Budget and Control Board and is governed by the South Carolina Confederate Relic Room and Military Museum Commission, as established in Section 60-17-10.

(B) The State Energy Office is transferred from the State Budget and Control Board to the Office of Regulatory Staff.

(C) The offices, divisions, or components of the State Budget and Control Board named in this subsection are transferred to, and incorporated into, the Rural Infrastructure Authority as established in Section 11-50-30. All functions, powers, duties, responsibilities, and authority vested in the agencies and authorities, including their governing boards, if any, named in this subsection are devolved upon the Rural Infrastructure Authority and the authority shall constitute the agencies and authorities, including their governing boards, if any, named in this subsection:

(1) Local Government Division in support of the local government loan program as established in Section 1-11-25;

(2) Water Resources Coordinating Council as established in Section 11-37-200(A); and

(3) Division of Regional Development as established in Section 11-42-40.

(D) The regulation of minerals and mineral interests on public land, and the regulation of Geothermal Resources as provided in Chapter 9, Title 10 is transferred to, and incorporated into, the Department of Health and Environmental Control.

(E) The Procurement Services Division of the State Budget and Control Board is transferred to, and incorporated into, the State Fiscal Accountability Authority.

(F) The State Auditor is transferred to, and incorporated into, the State Fiscal Accountability Authority.

(G) South Carolina Infrastructure Facilities Authority as established in Chapter 40, Title 11 and the South Carolina Water Quality Revolving Fund Authority in support of water quality projects and federal loan programs as established in Chapter 5, Title 48 are transferred to, and incorporated into, the State Fiscal Accountability Authority."

Department of Administration, transitional provisions regarding transfer of offices or other agencies and certain employees to appropriate entities, Code Commissioner directives and report

SECTION 5. (A) Where the provisions of this act transfer offices, or portions of offices, of the State Budget and Control Board, Office of the Governor, or other agencies to the Department of Administration or other entities, including those newly created by the provisions of this act, the employees, authorized appropriations, and assets and liabilities of the transferred offices are also transferred to and become part of the Department of Administration or other entities, including those newly created by the provisions of this act. All classified or unclassified personnel employed by these offices on the effective date of this act, either by contract or by employment at will, shall become employees of the Department of Administration or other entities, including those newly created by the provisions of this act, with the same employment status, compensation, classification, and grade level, as applicable.

(B) The Code Commissioner is directed to change all references in Chapter 35, Title 11 of the 1976 Code, the South Carolina Consolidated Procurement Code, from the "Budget and Control Board", the "State Budget and Control Board" or the "board" to the "State Fiscal Accountability Authority", the "authority", or the "Division of Procurement Services" of the "State Fiscal Accountability Authority", as appropriate.

(C) Regulations promulgated by these transferred offices as they existed under the former State Budget and Control Board, Office of the Governor, or other agencies are continued and are considered to be promulgated by these offices under the Department of Administration or other entities, including those newly created by the provisions of this act.

(D)(1) The Code Commissioner is directed to change or correct all references to these offices of the former State Budget and Control Board in the 1976 Code, Office of the Governor, or other agencies to

reflect the transfer of them to the Department of Administration or other entities, including those newly created by the provisions of this act. References to the names of these offices in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

(2) On or before July 1, 2014, the Code Commissioner also shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning appropriate and conforming changes to the 1976 Code of Laws reflecting the provisions of this act.

Part IV

Legislative Oversight of Executive Departments

Legislative Oversight of Executive Departments, oversight procedures, conforming changes

SECTION 6. A. Subsections (B) through (H) of Section 1-30-10 of the 1976 Code, as last amended by Act 222 of 2012, are amended to read:

"(B)(1) The governing authority of each department shall be:

(i) a director or a secretary, who must be appointed by the Governor with the advice and consent of the Senate, subject to removal from office by the Governor pursuant to provisions of Section 1-3-240(B); or

(ii) a board to be appointed and constituted in a manner provided for by law; or

(iii) in the case of the Department of Agriculture and the Department of Education, the State Commissioner of Agriculture and the State Superintendent of Education, respectively, elected to office under the Constitution of this State; or

(iv) in the case of the Department of Transportation, a seven member commission constituted in a manner provided by law, and a Secretary of Transportation appointed by and serving at the pleasure of the Governor.

(2) In making an appointment for a governing authority of a department, race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State; however, consideration of these factors in no way creates a cause

of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. The Governor in making the appointments provided for by this section shall endeavor to appoint individuals who have demonstrated exemplary managerial skills in either the public or private sector.

(C) Each department shall be organized into appropriate subdivisions by the governing authority of the department through further consolidation or further subdivision. The power to organize and reorganize the department into divisions lies with the General Assembly in furtherance of its mandate pursuant to Article XII of the South Carolina Constitution, 1895. The dissolution of any division must likewise be statutorily approved by the General Assembly.

(D) The governing authority of a department is vested with the duty of overseeing, managing, and controlling the operation, administration, and organization of the department. The governing authority has the power to create and appoint standing or ad hoc advisory committees in its discretion or at the direction of the Governor to assist the department in particular areas of public concern or professional expertise as is deemed appropriate. Such committees shall serve at the pleasure of the governing authority and committee members shall not receive salary or per diem, but shall be entitled to reimbursement for actual and necessary expenses incurred pursuant to the discharge of official duties not to exceed the per diem, mileage, and subsistence amounts allowed by law for members of boards, commissions, and committees.

(E) The governing authority of a department may appoint deputies to head the divisions of their department, with each deputy managing one or more of the divisions; in the case of the Department of Commerce, the Secretary of Commerce may appoint a departmental executive director and also may appoint directors to manage the various divisions of the Department of Commerce. In making appointments race, gender, and other demographic factors should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. Deputies serve at the will and pleasure of the governing authority. The deputy of a division is vested with the duty of overseeing, managing, and controlling the operation and administration of the division under the direction and control of the department's

governing authority and performing such other duties as delegated by the department's governing authority.

(F) In the event a vacancy occurs in the office of the department's governing authority at a time when the General Assembly is not in session, the Governor temporarily may fill the vacancy pursuant to Section 1-3-210.

(G)(1) Department and agency governing authorities must, no later than the first day of the 2015 Legislative Session and every twelve months thereafter, submit to the Governor and General Assembly reports giving detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services. If an agency or department has no recommendations for restructuring of divisions, programs, or personnel, its report must contain a statement to that effect. Upon their receipt by the President of the Senate and the Speaker of the House of Representatives, these reports must be referred as information to the standing committees of the respective bodies most jurisdictionally related in subject matter to each agency. Alternatively, the House and Senate provide may by rule for the referral of these reports. The Governor periodically must consult with the governing authorities of the various departments and upon such consultation, the Governor must submit a report of any restructuring recommendations to the General Assembly for its review and consideration.

(2) Department and agency governing authorities must, no later than the first day of the 2015 Legislative Session, and, as a part of the agency's seven-year oversight study and investigation conducted pursuant to Chapter 2, Title 2, submit to the Governor and the General Assembly a seven-year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected seven-year period."

B. Section 8-27-10(4) of the 1976 Code, as added by Act 164 of 1993, is amended to read:

"(4) 'Report' means:

(a) a written or oral allegation of waste or wrongdoing that contains the following information:

(i) the date of disclosure;

(ii) the name of the employee making the report; and

(iii) the nature of the wrongdoing and the date or range of dates on which the wrongdoing allegedly occurred. A report must be made

within one hundred eighty days of the date the reporting employee first learns of the alleged wrongdoing; or

(b) sworn testimony regarding wrongdoing, regardless of when the wrongdoing allegedly occurred, given to any standing committee, subcommittee of a standing committee, oversight committee, oversight subcommittee, or study committee of the Senate or the House of Representatives."

C. Chapter 27, Title 8 of the 1976 Code is amended by adding:

"Section 8-27-60. Each public body must make a summary of this chapter available on the public body's Internet website. The summary must include an explanation of the process required to report wrongdoing, an explanation of what constitutes wrongdoing, and a description of the protections available to an employee who reports wrongdoing. If the public body does not maintain an Internet website, the public body must annually provide a written summary of this chapter to its employees and maintain copies of the summary at all times."

D. Title 2 of the 1976 Code is amended by adding:

"CHAPTER 2

Legislative Oversight of Executive Departments

Section 2-2-5. The General Assembly finds and declares the following to be the public policy of the State of South Carolina:

(1) Section 1, Article XII of the State Constitution requires the General Assembly to provide for appropriate agencies to function in the areas of health, welfare, and safety and to determine the activities, powers, and duties of these agencies and departments.

(2) This constitutional duty is a continuing and ongoing obligation of the General Assembly that is best addressed by periodic review of the programs of the agencies and departments and their responsiveness to the needs of the state's citizens by the standing committees of the State Senate or House of Representatives.

Section 2-2-10. As used in this chapter:

(1) 'Agency' means an authority, board, branch, commission, committee, department, division, or other instrumentality of the executive or judicial departments of state government, including

administrative bodies. 'Agency' includes a body corporate and politic established as an instrumentality of the State. 'Agency' does not include:

(a) the legislative department of state government; or

(b) a political subdivision.

(2) 'Investigating committee' means any standing committee or subcommittee of a standing committee exercising its authority to conduct an oversight study and investigation of an agency within the standing committee's subject matter jurisdiction.

(3) 'Program evaluation report' means a report compiled by an agency at the request of an investigating committee that may include, but is not limited to, a review of agency management and organization, program delivery, agency goals and objectives, compliance with its statutory mandate, and fiscal accountability.

(4) 'Request for information' means a list of questions that an investigating committee serves on a department or agency under investigation. The questions may relate to any matters concerning the department or agency's actions that are the subject of the investigation.

(5) 'Standing committee' means a permanent committee with a regular meeting schedule and designated subject matter jurisdiction that is authorized by the Rules of the Senate or the Rules of the House of Representatives.

Section 2-2-20. (A) Beginning January 1, 2015, each standing committee shall conduct oversight studies and investigations on all agencies within the standing committee's subject matter jurisdiction at least once every seven years in accordance with a schedule adopted as provided in this chapter.

(B) The purpose of these oversight studies and investigations is to determine if agency laws and programs within the subject matter jurisdiction of a standing committee:

(1) are being implemented and carried out in accordance with the intent of the General Assembly; and

(2) should be continued, curtailed, or eliminated.

(C) The oversight studies and investigations must consider:

(1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within the standing committee's subject matter jurisdiction;

(2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within the standing committee's subject matter jurisdiction; and

(3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within the standing committee's subject matter jurisdiction.

Section 2-2-30. (A) The procedure for conducting the oversight studies and investigations is provided in this section.

(B)(1) The President Pro Tempore of the Senate, upon consulting with the chairmen of the standing committees in the Senate and the Clerk of the Senate, shall determine the agencies for which each standing committee must conduct oversight studies and investigations. A proposed seven-year review schedule must be published in the Senate Journal on the first day of session each year.

(2) In order to accomplish the requirements of this chapter, the chairman of each standing committee must schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:

(a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and

(b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.

(3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request that a joint investigating committee be appointed to conduct the oversight study and investigation for an agency.

(C)(1) The Speaker of the House of Representatives, upon consulting with the chairmen of the standing committees in the House of Representatives and the Clerk of the House of Representatives, shall determine the agencies for which each standing committee must conduct oversight studies and investigations. A proposed seven-year review schedule must be published in the House Journal on the first day of session each year.

(2) In order to accomplish the requirements of this chapter, the chairman of each standing committee must schedule oversight studies and investigations for the agencies for which his standing committee is the investigating committee and may:

(a) coordinate schedules for conducting oversight studies and investigations with the chairmen of other standing committees; and

(b) appoint joint investigating committees to conduct the oversight studies and investigations including, but not limited to, joint committees of the Senate and House of Representatives or joint standing committees of concurrent subject matter jurisdiction within the Senate or within the House of Representatives.

(3) Chairmen of standing committees having concurrent subject matter jurisdiction over an agency or the programs and law governing an agency by virtue of the Rules of the Senate or Rules of the House of Representatives, may request that a joint investigating committee be appointed to conduct the oversight study and investigation for the agency.

(D) The chairman of an investigating committee may vest the standing committee's full investigative power and authority in a subcommittee. A subcommittee conducting an oversight study and investigation of an agency: (1) must make a full report of its findings and recommendations to the standing committee at the conclusion of its oversight study and investigation; and (2) must not consist of fewer than three members.

Section 2-2-40. (A) In addition to the scheduled seven-year oversight studies and investigations, a standing committee of the Senate or House of Representatives may initiate an oversight study and investigation of an agency within its subject matter jurisdiction. The motion calling for the oversight study and investigation must state the subject matter and scope of the oversight study and investigation. The oversight study and investigation must not exceed the scope stated in the motion or the scope of the information uncovered by the investigation.

(B) Nothing in the provisions of this chapter prohibits or restricts the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or chairmen of standing committees from fulfilling their constitutional obligations by authorizing and conducting legislative investigations into agencies' functions, duties, and activities.

Section 2-2-50. When an investigating committee conducts an oversight study and investigation or a legislative investigation is conducted pursuant to Section 2-2-40(B), evidence or information related to the investigation may be acquired by any lawful means, including, but not limited to:

(A) serving a request for information on the agency being studied or investigated. The request for information must be answered separately and fully in writing under oath and returned to the investigating committee within forty-five days after being served upon the department or agency. The time for answering a request for information may be extended for a period to be agreed upon by the investigating committee and the agency for good cause shown. The head of the department or agency must sign the answers verifying them as true and correct. If any question contains a request for records, policies, audio or video recordings, or other documents, the question is not considered to have been answered unless a complete set of records, policies, audio or video recordings, or other documents is included with the answer;

(B) deposing witnesses upon oral examination. A deposition upon oral examination may be taken from any person that the investigating committee has reason to believe has knowledge of the activities under investigation. The investigating committee shall provide the person being deposed and the agency under investigation with no less than ten days notice of the deposition. The notice to the agency shall state the time and place for taking the deposition and name and address of each person to be examined. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena must be attached to or included in the notice. The deposition must be taken under oath administered by the chairman of the investigating committee or his designee. The testimony must be taken stenographically or recorded by some other means and may be videotaped. A person may be compelled to attend a deposition in the county in which he resides or in Richland County;

(C) issuing subpoenas and subpoenas duces tecum pursuant to Chapter 69, Title 2; and

(D) requiring the agency to prepare and submit to the investigating committee a program evaluation report by a date specified by the investigating committee. The investigating committee must specify the agency program or programs or agency operations that it is studying or investigating and the information to be contained in the program evaluation report.

Section 2-2-60. (A) An investigating committee's request for a program evaluation report must contain:

(1) the agency program or operations that it intends to investigate;

(2) the information that must be included in the report; and

(3) the date that the report must be submitted to the committee.

(B) An investigating committee may request that the program evaluation report contain any of the following information:

(1) enabling or authorizing law or other relevant mandate, including any federal mandates;

(2) a description of each program administered by the agency identified by the investigating committee in the request for a program evaluation report, including the following information:

(a) established priorities, including goals and objectives in meeting each priority;

(b) performance criteria, timetables, or other benchmarks used by the agency to measure its progress in achieving its goals and objectives;

(c) an assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet them in the future;

(3) organizational structure, including a position count, job classification, and organization flow chart indicating lines of responsibility;

(4) financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the last ten years;

(5) identification of areas where the agency has coordinated efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements;

(6) identification of the constituencies served by the agency or program, noting any changes or projected changes in the constituencies;

(7) a summary of efforts by the agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;

(8) identification of emerging issues for the agency;

(9) a comparison of any related federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program;

(10) agency policies for collecting, managing, and using personal information over the Internet and nonelectronically, information on the agency's implementation of information technologies;

(11) a list of reports, applications, and other similar paperwork required to be filed with the agency by the public. The list must include:

(a) the statutory authority for each filing requirement;

(b) the date each filing requirement was adopted or last amended by the agency;

(c) the frequency that filing is required;

(d) the number of filings received annually for the last seven years and the number of anticipated filings for the next four years;

(e) a description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication;

(12) any other relevant information specifically requested by the investigating committee.

(C) All information contained in a program evaluation report must be presented in a concise and complete manner.

(D) The chairman of the investigating committee may direct the Legislative Audit Council to perform a study of the program evaluation report and report its findings to the investigating committee. The chairman also may direct the Legislative Audit Council to perform its own audit of the program or operations being studied or investigated by the investigating committee.

(E) A state agency that is vested with revenue bonding authority may submit annual reports and annual external audit reports conducted by a third party in lieu of a program evaluation report.

Section 2-2-70. All testimony given to the investigating committee must be under oath.

Section 2-2-80. Any witness testifying before the investigating committee may have counsel present to advise him. The witness or his counsel may, during the time of testimony, claim any legal privilege recognized by the laws of this State in response to any question and is entitled to have a ruling by the chairman on any objection. In making his ruling, the chairman of the investigating committee shall follow as closely as possible the statutory law and the decisions of the courts of this State regarding legal privileges. The ruling of the chair may not be reviewed by the courts of this State except in a separate proceeding for contempt of the General Assembly.

Section 2-2-90. A witness shall be given the benefit of any privilege at law which he may have in court as a party to a civil action.

Section 2-2-100. Any person who appears before a committee or subcommittee of either house, pursuant to this chapter, and wilfully gives false, materially misleading, or materially incomplete testimony under oath is guilty of contempt of the General Assembly. A person who is convicted of or pleads guilty to contempt of the General Assembly is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

Section 2-2-110. Whenever any person violates Section 2-2-100 it is the duty of the chair of the committee or subcommittee before which the false, misleading, or incomplete testimony was given, to notify the Attorney General of South Carolina who shall cause charges to be filed in the appropriate county.

Section 2-2-120. A person is guilty of criminal contempt when, having been duly subpoenaed to attend as a witness before either house of the legislature or before any committee thereof, he:

(1) fails or refuses to attend without lawful excuse; or

(2) refuses to be sworn; or

(3) refuses to answer any material and proper question; or

(4) refuses, after reasonable notice, to produce books, papers, or documents in his possession or under his control which constitute material and proper evidence.

A person who is convicted of or pleads guilty to criminal contempt is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both."

E. This part takes effect January 1, 2015.

Part V

Conforming and Miscellaneous Amendments to Divisions, Offices, and Other Entities or Programs Transferred to the Department of Administration

Department of Administration, conforming changes

SECTION 7. A. Section 1-11-55 of the 1976 Code, as last amended by Act 31 of 2013, is further amended to read:

"Section 1-11-55. (1) 'Governmental body' means a state government department, commission, council, board, bureau, committee, institution, college, university, technical school, agency, government corporation, or other establishment or official of the executive branch of this State. Governmental body excludes the General Assembly, Legislative Council, the Legislative Services Agency, the judicial department and all local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts.

(2) The Division of General Services of the Department of Administration is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this section.

(3) When any governmental body needs to acquire real property for its operations or any part thereof and state-owned property is not available, it shall notify the Division of General Services of its requirement on rental request forms prepared by the division. Such forms shall indicate the amount and location of space desired, the purpose for which it shall be used, the proposed date of occupancy and such other information as General Services may require. Upon receipt of any such request, General Services shall conduct an investigation of available rental space which would adequately meet the governmental body's requirements, including specific locations which may be suggested and preferred by the governmental body concerned. When suitable space has been located which the governmental body and the division agree meets necessary requirements and standards for state leasing as prescribed in procedures of the department as provided for in subsection (5) of this section, General Services shall give its written approval to the governmental body to enter into a lease agreement. All proposed lease renewals shall be submitted to General Services by the time specified by General Services.

(4) The department shall adopt procedures to be used for governmental bodies to apply for rental space, for acquiring leased space, and for leasing state-owned space to nonstate lessees.

(5) Any participant in a property transaction proposed to be entered who maintains that a procedure provided for in this section has not

been properly followed, may request review of the transaction by the Director of the Division of General Services of the Department of Administration or his designee."

B. Sections 1-11-56 and 1-11-58 of the 1976 Code, as last amended by Act 248 of 2004, are further amended to read:

"Section 1-11-56. (A) The Division of General Services of the Department of Administration, in an effort to ensure that funds authorized and appropriated for rent are used in the most efficient manner, is directed to develop a program to manage the leasing of all public and private space of a governmental body. The department must submit regulations for the implementation of this section to the General Assembly as provided in the Administrative Procedures Act, Chapter 23, Title 1. The department's regulations, upon General Assembly approval, shall include procedures for:

(1) assessing and evaluating agency needs, including the authority to require agency justification for any request to lease public or private space;

(2) establishing standards for the quality and quantity of space to be leased by a requesting agency;

(3) devising and requiring the use of a standard lease form (approved by the Attorney General) with provisions which assert and protect the state's prerogatives including, but not limited to, a right of cancellation in the event of:

(a) a nonappropriation for the renting agency;

(b) a dissolution of the agency; and

(c) the availability of public space in substitution for private space being leased by the agency;

(4) rejecting an agency's request for additional space or space at a specific location, or both;

(5) directing agencies to be located in public space, when available, before private space can be leased;

(6) requiring the agency to submit a multiyear financial plan for review by the department with copies sent to Ways and Means Committee and Senate Finance Committee, before any new lease for space is entered into; and

(7) requiring prior review by the Joint Bond Review Committee and the requirement of State Fiscal Accountability Authority approval before the adoption of any new or renewal lease that commits more than two hundred thousand dollars annually in rental or lease payments

or more than one million dollars in such payments in a five-year period.

(B) Leases or rental agreements involving amounts below the thresholds provided in subsection (A)(7) may be executed by the Department of Administration without this prior review by the Joint Bond Review Committee and approval by the State Fiscal Accountability Authority.

(C) The threshold requirements requiring review by the Joint Bond Review Committee and approval by the State Fiscal Accountability Authority as contained in subsection (A)(7) also apply to leases or rental agreements with nonstate entities whether or not the state or its agencies or departments is the lessee or lessor.

Section 1-11-58. (A)(1) Every state agency, as defined by law, shall annually perform an inventory and prepare a report of all residential and surplus real property owned by it. The report shall be submitted to the Department of Administration, Division of General Services, on or before June thirtieth and shall indicate current use, current value, and projected use of the property. Property not currently being utilized for necessary agency operations shall be made available for sale and funds received from the sale of the property shall revert to the general fund.

(2) The Division of General Services shall review the annual reports addressing real property submitted to it and determine the real property which is surplus to the State. A central listing of such property will be maintained for reference in reviewing subsequent property acquisition needs of agencies.

(3) Upon receipt of a request by an agency to acquire additional property, the Division of General Services shall review the surplus property list to determine if the agency's needs may be met from existing state-owned property. If such property is identified, the division shall act as broker in transferring the property to the requesting agency under terms and conditions that are mutually agreeable to the agencies involved.

(4) The department may authorize the Division of General Services to sell any unassigned surplus real property. The division shall have the discretion to determine the method of disposal to be used, which possible methods include: auction, sealed bids, listing the property with a private broker or any other method determined by the division to be commercially reasonable considering the type and location of property involved.

(B) The procedures involving surplus real property sales under this section also are subject to the approvals required in Section 1-11-65 for surplus real property sales above five hundred thousand dollars."

C. Sections 1-11-65, 1-11-67, 1-11-70, 1-11-80, 1-11-90, 1-11-100, 1-11-110, and 1-11-180 of the 1976 Code are amended to read:

"Section 1-11-65. (A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State, must be approved by and recorded with the Department of Administration for transactions of one million dollars or less. For transactions of more than one million dollars, approval of the State Fiscal Accountability Authority is required in lieu of the department, although the recording will be with the department. Upon approval of the transaction, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the department's and authority's approval of the transaction as required. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The department and authority may exempt a governmental body from the provisions of this subsection.

(B) All state agencies, departments, and institutions authorized by law to accept gifts of tangible personal property shall have executed by its governing body an acknowledgment of acceptance prior to transfer of the tangible personal property to the agency, department, or institution.

Section 1-11-67. The Department of Administration shall assess and collect a rental charge from all state departments and agencies that occupy space in state-controlled office buildings under its jurisdiction. The amount charged each department or agency must be calculated on a square foot, or other equitable basis of measurement, and at rates that will yield sufficient total annual revenue to cover the annual principal and interest due or anticipated on the Capital Improvement Obligations for projects administered or planned by the department, and maintenance and operation costs of department-controlled office buildings. The amount collected must be deposited in a special account and must be expended only for payment on Capital Improvement Obligations and maintenance and operations costs of the buildings under the supervision of the department.

All departments and agencies against which rental charges are assessed and whose operations are financed in whole or in part by

federal or other nonappropriated funds are both directed to apportion the payment of these charges equitably among all funds to ensure that each bears its proportionate share.

Section 1-11-70. All vacant lands and lands purchased by the former land commissioners of the State are subject to the directions of the Department of Administration.

Section 1-11-80. The Department of Administration, upon approval of the State Fiscal Accountability Authority, is authorized to grant easements and rights of way to any person for construction and maintenance of power lines, pipe lines, water and sewer lines and railroad facilities over, on or under such vacant lands or marshland as are owned by the State, upon payment of the reasonable value thereof.

Section 1-11-90. The Department of Administration, upon approval of the State Fiscal Accountability Authority, may grant to agencies or political subdivisions of the State, without compensation, rights of way through and over such marshlands as are owned by the State for the construction and maintenance of roads, streets and highways or power or pipe lines, if, in the judgment of the department, the interests of the State will not be adversely affected thereby.

Section 1-11-100. Deeds or other instruments conveying such rights of way or easements over such marshlands or vacant lands as are owned by the State shall be executed by the Governor in the name of the State, when authorized by the Department of Administration, upon approval of the State Fiscal Accountability Authority, and when duly approved by the office of the Attorney General; deeds or other instruments conveying such easements over property in the name of or under the control of State agencies, institutions, commissions or other bodies shall be executed by the majority of the governing body thereof, shall name both the State of South Carolina and the institution, agency, commission or governing body as grantors, and shall show the written approval of the Director of the Department of Administration and the State Fiscal Accountability Authority.

Section 1-11-110. (1) The Department of Administration, subject to the requirements of Section 1-11-65, is authorized to acquire real property, including any estate or interest therein, for, and in the name of, the State of South Carolina by gift, purchase, condemnation or otherwise.

(2) The Department of Administration shall make use of the provisions of the Eminent Domain Procedure Act (Chapter 2, Title 28) if it is necessary to acquire real property by condemnation. The actions must be maintained by and in the name of the department. The right of condemnation is limited to the right to acquire land necessary for the development of the Capitol Complex grounds in the City of Columbia.

Section 1-11-180. (A) In addition to the powers granted the Department of Administration under this chapter or any other provision of law, the department may:

(1) survey, appraise, examine, and inspect the condition of state property to determine what is necessary to protect state property against fire or deterioration and to conserve the use of the property for state purposes;

(2) approve blanket bonds for a state department, agency, or institution including bonds for state officials or personnel. However, the form and execution of blanket bonds must be approved by the Attorney General; and

(3) contract to develop an energy utilization management system for state facilities under its control and to assist other agencies and departments in establishing similar programs. However, this does not authorize capital expenditures.

(B) The Department of Administration shall promulgate regulations necessary to carry out this section."

D. Chapter 11, Title 1 of the 1976 Code is amended by adding:

"Section 1-11-185. (A) In addition to the powers granted the Department of Administration pursuant to this chapter or another provision of law, the department may require submission and approval of plans and specifications for a permanent improvement project of a cost of one million dollars or less by a state department, agency, or institution of the executive branch before a contract is awarded for the permanent improvement project. If the cost of the permanent improvement project is more than one million dollars, approval of the State Fiscal Accountability Authority is required, in lieu of the department's approval, before the contract may be awarded and the authority may require submission of the plans and specifications for this purpose. The provisions of this subsection are in addition to any other requirements of law relating to permanent improvement projects, including the provisions of Chapter 47, Title 2.

(B) The Department of Administration may promulgate regulations necessary to carry out its duties.

(C) The respective divisions of the Department of Administration are authorized to provide to and receive from other governmental entities, including other divisions and state and local agencies and departments, goods and services as will in its opinion promote efficient and economical operations. The divisions may charge and pay the entities for the goods and services, the revenue from which must be deposited in the state treasury in a special account and expended only for the costs of providing the goods and services, and those funds may be retained and expended for the same purposes."

E. 1. Section 1-11-220 of the 1976 Code, as last amended by Act 203 of 2008, is further amended to read:

"Section 1-11-220. There is hereby established within the Department of Administration, Division of General Services, Program of Fleet Management headed by the 'State Fleet Manager', appointed by and reporting directly to the department. The department shall develop a comprehensive state Fleet Management Program. The program shall address acquisition, assignment, identification, replacement, disposal, maintenance, and operation of motor vehicles.

The department shall, through its policies and regulations, seek to:

(a) achieve maximum cost-effectiveness management of state-owned motor vehicles in support of the established missions and objectives of the agencies, boards, and commissions;

(b) eliminate unofficial and unauthorized use of state vehicles;

(c) minimize individual assignment of state vehicles;

(d) eliminate the reimbursable use of personal vehicles for accomplishment of official travel when this use is more costly than use of state vehicles;

(e) acquire motor vehicles offering optimum energy efficiency for the tasks to be performed;

(f) insure motor vehicles are operated in a safe manner in accordance with a statewide Fleet Safety Program; and

(g) improve environmental quality in this State by decreasing the discharge of pollutants."

2. Section 1-11-225 of the 1976 Code is amended to read:

"Section 1-11-225. The Department of Administration shall establish a cost allocation plan to recover the cost of operating the

comprehensive statewide Fleet Management Program. The division shall collect, retain, and carry forward funds to ensure continuous administration of the program."

3. Sections 1-11-250, 1-11-260, 1-11-270(A), 1-11-280, 1-11-290, 1-11-300, 1-11-310, as last amended by Act 203 of 2008, 1-11-315, 1-11-320, 1-11-335, and 1-11-340 of the 1976 Code are amended to read:

"Section 1-11-250. For purposes of Sections 1-11-220 to 1-11-330:

(a) 'State agency' means all officers, departments, boards, commissions, institutions, universities, colleges, and all persons and administrative units of state government that operate motor vehicles purchased, leased, or otherwise held with the use of state funds, pursuant to an appropriation, grant or encumbrance of state funds, or operated pursuant to authority granted by the State.

(b) 'Department' means the South Carolina Department of Administration.

Section 1-11-260. (A) The Fleet Manager shall report annually to the General Assembly concerning the performance of each state agency in achieving the objectives enumerated in Sections 1-11-220 through 1-11-330 and include in the report a summary of the program's efforts in aiding and assisting the various state agencies in developing and maintaining their management practices in accordance with the comprehensive statewide Fleet Management Program. This report also shall contain recommended changes in the law and regulations necessary to achieve these objectives.

(B) The department, after consultation with state agency heads, shall promulgate and enforce state policies, procedures, and regulations to achieve the goals of Sections 1-11-220 through 1-11-330 and shall recommend administrative penalties to be used by the agencies for violation of prescribed procedures and regulations relating to the Fleet Management Program.

Section 1-11-270. (A) The department shall establish criteria for individual assignment of motor vehicles based on the functional requirements of the job, which shall reduce the assignment to situations clearly beneficial to the State. Only the Governor, statewide elected officials, and agency heads are provided a state-owned vehicle based on their position.

Section 1-11-280. The department shall develop a system of agency-managed and interagency motor pools which are, to the maximum extent possible, cost beneficial to the State. All motor pools shall operate according to regulations promulgated by the department. Vehicles shall be placed in motor pools rather than being individually assigned except as specifically authorized by the department in accordance with criteria established by the department. Agencies utilizing motor pool vehicles shall utilize trip log forms approved by the department for each trip, specifying beginning and ending mileage and the job function performed.

The provisions of this section shall not apply to school buses and service vehicles.

Section 1-11-290. The department in consultation with the agencies operating maintenance facilities shall study the cost-effectiveness of such facilities versus commercial alternatives and shall develop a plan for maximally cost-effective vehicle maintenance. The department shall promulgate rules and regulations governing vehicle maintenance to effectuate the plan.

The State Vehicle Maintenance program shall include:

(a) central purchasing of supplies and parts;

(b) an effective inventory control system;

(c) a uniform work order and record-keeping system assigning actual maintenance cost to each vehicle; and

(d) preventive maintenance programs for all types of vehicles.

All motor fuels shall be purchased from state facilities except in cases where such purchase is impossible or not cost beneficial to the State.

All fuels, lubricants, parts, and maintenance costs including those purchased from commercial vendors shall be charged to a state credit card bearing the license plate number of the vehicle serviced and the bill shall include the mileage on the odometer of the vehicle at the time of service.

Section 1-11-300. In accordance with criteria established by the department, each agency shall develop and implement a uniform cost accounting and reporting system to ascertain the cost per mile of each motor vehicle used by the State under their control. Agencies presently operating under existing systems may continue to do so provided that departmental approval is required and that the existing systems are uniform with the criteria established by the department. All

expenditures on a vehicle for gasoline and oil shall be purchased in one of the following ways:

(1) from state-owned facilities and paid for by the use of Universal State Credit Cards except where agencies purchase these products in bulk;

(2) from any fuel outlet where gasoline and oil are sold regardless of whether the outlet accepts a credit or charge card when the purchase is necessary or in the best interest of the State; and

(3) from a fuel outlet where gasoline and oil are sold when that outlet agrees to accept the Universal State Credit Card.

These provisions regarding purchase of gasoline and oil and usability of the state credit card also apply to alternative transportation fuels where available. The department shall adjust the budgetary appropriation for 'Operating Expenses--Lease Fleet' to reflect the dollar savings realized by these provisions and transfer such amount to other areas of the State Fleet Management Program. The department shall promulgate regulations regarding the purchase of motor vehicle equipment and supplies to ensure that agencies within a reasonable distance are not duplicating maintenance services or purchasing equipment that is not in the best interest of the State. The department shall develop a uniform method to be used by the agencies to determine the cost per mile for each vehicle operated by the State.

Section 1-11-310. (A) The Department of Administration shall purchase, acquire, transfer, replace, and dispose of all motor vehicles on the basis of maximum cost-effectiveness and lowest anticipated total life cycle costs.

(B) The standard state fleet sedan or station wagon must be no larger than a compact model and the special state fleet sedan or station wagon must be no larger than an intermediate model. The State Fleet Manager shall determine the types of vehicles which fit into these classes. Only these classes of sedans and station wagons may be purchased by the State for nonlaw enforcement use.

(C) The State shall purchase police sedans only for the use of law enforcement officers, as defined by the Internal Revenue Code. Purchase of a vehicle under this subsection must be concurred in by the State Fleet Manager and must be in accordance with regulations promulgated or procedures adopted under Sections 1-11-220 through 1-11-340 which must take into consideration the agency's mission, the intended use of the vehicle, and the officer's duties. Law enforcement agency vehicles used by employees whose job functions do not meet

the Internal Revenue Service definition of 'Law Enforcement Officer' must be standard or special state fleet sedans.

(D) All state motor vehicles must be titled to the State and must be received by and remain in the possession of the Program of Fleet Management pending sale or disposal of the vehicle.

(E) Titles to school buses and service vehicles operated by the State Department of Education and vehicles operated by the South Carolina Department of Transportation must be retained by those agencies.

(F) Exceptions to requirements in subsections (B) and (C) must be approved by the State Fleet Manager. Requirements in subsection (B) do not apply to the Department of Commerce.

(G) Preference in purchasing state motor vehicles must be given to vehicles assembled in the United States with at least seventy-five percent domestic content as determined by the appropriate federal agency.

(H) Preference in purchasing state motor vehicles must be given to hybrid, plug-in hybrid, biodiesel, hydrogen, fuel cell, or flex-fuel vehicles when the performance, quality, and anticipated life cycle costs are comparable to other available motor vehicles.

Section 1-11-315. The Department of Administration, Division of General Services, Program of Fleet Management, shall determine the extent to which the state vehicle fleet can be configured to operate on alternative transportation fuels. This determination must be based on a thorough evaluation of each alternative fuel and the feasibility of using such fuels to power state vehicles. The state fleet must be configured in a manner that will serve as a model for other corporate and government fleets in the use of alternative transportation fuel. By March 1, 1993, the Program of Fleet Management must submit a plan to the General Assembly for the use of alternative transportation fuels for the state vehicle fleet that will enable the state vehicle fleet to serve as a model for corporate and other government fleets in the use of alternative transportation fuel. This plan must contain a cost/benefit analysis of the proposed changes.

Section 1-11-320. The department shall ensure that all state-owned motor vehicles are identified as such through the use of permanent state government license plates and either state or agency seal decals. No vehicles shall be exempt from the requirements for identification except those exempted by the department.

This section shall not apply to vehicles supplied to law enforcement officers when, in the opinion of the department after consulting with

the Chief of the State Law Enforcement Division, those officers are actually involved in undercover law enforcement work to the extent that the actual investigation of criminal cases or the investigators' physical well-being would be jeopardized if they were identified. The department is authorized to exempt vehicles carrying human service agency clients in those instances in which the privacy of the client would clearly and necessarily be impaired.

Section 1-11-335. The respective divisions of the Department of Administration are authorized to provide to and receive from other governmental entities, including other divisions and state and local agencies and departments, goods and services, as will in its opinion promote efficient and economical operations. The divisions may charge and pay the entities for the goods and services, the revenue from which shall be deposited in the state treasury in a special account and expended only for the costs of providing the goods and services, and such funds may be retained and expended for the same purposes.

Section 1-11-340. The department shall develop and implement a statewide Fleet Safety Program for operators of state-owned vehicles which shall serve to minimize the amount paid for rising insurance premiums and reduce the number of accidents involving state-owned vehicles. The department shall promulgate regulations requiring the establishment of an accident review board by each agency and mandatory driver training in those instances where remedial training for employees would serve the best interest of the State."

F. Section 1-15-10 of the 1976 Code, as last amended by Act 279 of 2012, is further amended to read:

"Section 1-15-10. There is created a Commission on Women to be composed of sixteen members appointed by the Governor with the advice and consent of the Senate from among persons with a competency in the area of public affairs and women's activities. One member must be appointed from each congressional district and the remaining members from the State at large. The commission must be under and a part of the Department of Administration. Members of the commission shall serve for terms of four years and until their successors are appointed and qualify, except of those members first appointed after the expansion of the commission to fifteen members, two members shall serve a term of one year, two members shall serve a term of two years, two members shall serve a term of three years, and

two members shall serve a term of four years. Members appointed prior to and after the expansion of the commission to fifteen members must be designated by the Governor as being appointed to serve either from a particular congressional district or at large. The member first appointed from the Seventh Congressional District after the expansion of the commission to sixteen members shall serve a four-year term. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. No member must be eligible to serve more than two consecutive terms."

G. 1. Section 1-30-110 of the 1976 Code is repealed.

2. Section 2-59-10 1. of the 1976 Code is amended to read:

"1. management of the L. Marion Gressette Building and the Senate areas of the State House with sole authority to formulate and implement policies and procedures for the effective utilization of personnel, equipment, and space within the L. Marion Gressette Building and the Senate areas of the State House;"

H. Chapter 9, Title 3 of the 1976 Code is amended to read:

"CHAPTER 9

Acquisition and Distribution of Federal Surplus Property

Section 3-9-10. (a) The Division of General Services of the Department of Administration is authorized:

(1) to acquire from the United States of America under and in conformance with the provisions of Section 203 (j) of the Federal Property and Administrative Services Act of 1949, as amended, hereafter referred to as the 'act,' such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for purposes of education, public health or civil defense, including research for any such purpose, and for such other purposes as may now or hereafter be authorized by federal law;

(2) to warehouse such property; and

(3) to distribute such property within the State to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges and universities within the State, to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges

and universities which are exempt from taxation under Section 501 (c)(3) of the United States Internal Revenue Code of 1954, to civil defense organizations of the State, or political subdivisions and instrumentalities thereof, which are established pursuant to State law, and to such other types of institutions or activities as may now be or hereafter become eligible under Federal law to acquire such property.

(b) The Division of General Services of the Department of Administration is authorized to receive applications from eligible health and educational institutions for the acquisition of Federal surplus real property, investigate the applications, obtain expression of views respecting the applications from the appropriate health or educational authorities of the State, make recommendations regarding the need of such applicant for the property, the merits of its proposed program of utilization, the suitability of the property for the purposes, and otherwise assist in the processing of the applications for acquisition of real and related personal property of the United States under Section 203 (k) of the act.

(c) For the purpose of executing its authority under this chapter, the Division of General Services is authorized to adopt, amend or rescind rules and regulations and prescribe such requirements as may be deemed necessary; and take such other action as is deemed necessary and suitable, in the administration of this chapter, to assure maximum utilization by and benefit to health, educational and civil defense institutions and organizations within the State from property distributed under this chapter.

(d) The Department of Administration is authorized to appoint advisory boards or committees, and to employ such personnel and prescribe their duties as are deemed necessary and suitable for the administration of this chapter.

(e) The Director of the Division of General Services is authorized to make such certifications, take such action and enter into such contracts, agreements and undertakings for and in the name of the State (including cooperative agreements with any Federal agencies providing for utilization of property and facilities by and exchange between them of personnel and services without reimbursement), require such reports and make such investigations as may be required by law or regulation of the United States of America in connection with the receipt, warehousing, and distribution of personal property received by him from the United States of America.

(f) The Division of General Services is authorized to act as clearinghouse of information for the public and private nonprofit institutions, organizations and agencies referred to in subparagraph (a)

of this section and other institutions eligible to acquire federal surplus personal property, to locate both real and personal property available for acquisition from the United States of America, to ascertain the terms and conditions under which such property may be obtained, to receive requests from the above-mentioned institutions, organizations, and agencies and to transmit to them all available information in reference to such property, and to aid and assist such institutions, organizations, and agencies in every way possible in the consummation of acquisitions or transactions hereunder.

(g) The Division of General Services, in the administration of this chapter, shall cooperate to the fullest extent consistent with the provisions of the act and with the departments or agencies of the United States of America, file a State plan of operation, and operate in accordance therewith, take such action as may be necessary to meet the minimum standards prescribed in accordance with the act, make such reports in such form and containing such information as the United States of America or any of its departments or agencies may from time to time require, and comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use or accounting for, property donable or donated to the State.

Section 3-9-20. The Director of the Division of General Services may delegate such power and authority as he deems reasonable and proper for the effective administration of this chapter. The Department of Administration may require bond of any person in the employ of the Division of General Services receiving or distributing property from the United States under authority of this chapter.

Section 3-9-30. Any charges made or fees assessed by the Division of General Services for the acquisition, warehousing, distribution, or transfer of any property of the United States of America for educational, public health, or civil defense purposes, including research for any such purpose, or for any purpose which may now be or hereafter become eligible under the act, shall be limited to those reasonably related to the costs of care and handling in respect to its acquisition, receipt, warehousing, distribution, or transfer.

Section 3-9-40. The provisions of this chapter shall not apply to the acquisition of property acquired by agencies of the State under the

priorities established by Section 308 (b), Title 23, United States Code, Annotated."

I. Section 10-1-10 of the 1976 Code is amended to read:

"Section 10-1-10. The Department of Administration shall keep, landscape, cultivate, and beautify the State House and State House grounds with authority to expend such amounts as may be annually appropriated therefor. The department shall employ all help and labor in policing, protecting, and caring for the State House and State House grounds and shall have full authority over them."

J. Section 10-1-30 of the 1976 Code is amended to read:

"Section 10-1-30. (A) The Director of the Division of General Services may authorize the use of areas of the State House except for those provided in subsection (B), the State House steps and grounds, and other public buildings and grounds except for those provided in subsection (B) in accordance with regulations promulgated by the department and the laws of this State.

(B) The Clerk of the Senate and the Clerk of the House of Representatives shall provide joint approval for access to or the use of the second and third floors of the State House; provided, that use of the respective chambers of each house shall be the prerogative of that house. The Clerk of the Senate shall provide prior authorization for any access to or use of the Senate Office Building and the Clerk of the House of Representatives shall provide prior authorization for any access to or use of the House Office Building. Management and supervision of the office buildings of each house of the General Assembly shall be exercised by each house acting through the respective clerks.

(C) The regulations promulgated pursuant to subsection (A) must contain provisions to ensure that the public health, safety, and welfare are protected in the use of the areas including reasonable time, place, and manner restrictions and application periods before use. If sufficient measures are not taken to protect the public health, safety, and welfare, the director shall deny the requested use. Other restrictions may be imposed on the use of the areas as are necessary for the conduct of business in those areas and the maintenance of the dignity, decorum, and aesthetics of the areas."

K. Section 10-1-130 of the 1976 Code is amended to read:

"Section 10-1-130. The trustees or governing bodies of state institutions and agencies may grant easements and rights of way over any property under their control, upon the recommendation of the Department of Administration and approval of the State Fiscal Accountability Authority, whenever it appears that such easements do not materially impair the utility of the property or damage it and, when a consideration is paid therefor, any amounts must be placed in the State Treasury to the credit of the institution or agency having control of the property involved."

L. Section 10-1-190 of the 1976 Code is amended to read:

"Section 10-1-190. As part of the approval process relating to trades of state property for nonstate property, the Department of Administration is authorized to approve the application of any net proceeds resulting from such a transaction to the improvement of the property held by the department."

M. Chapter 9, Title 10 of the 1976 Code is amended to read:

"CHAPTER 9

Minerals and Mineral Interests
in Public Lands

Article 1
General Provisions

Section 10-9-10. The Public Service Authority may, through its board of directors, make and execute leases of gas, oil, and other minerals and mineral rights, excluding phosphate and lime and phosphatic deposits, over and upon the lands and properties owned by said authority; and the Department of Health and Environmental Control and the forfeited land commissions of the counties of this State may, with the approval of the Attorney General, make and execute such leases over and upon the lands and waters of the State and of the counties under the ownership, management, or control of the department and commissions respectively.

Section 10-9-20. No such lease shall provide for a royalty of less than twelve and one-half per cent of production of oil and gas from the lease.

Section 10-9-30. Nothing contained in this article shall estop the State from enacting proper laws for the conservation of the oil, gas and other mineral resources of the State and all leases and contracts made under authority of this article shall be subject to such laws; provided, that the Department of Health and Environmental Control may negotiate for leases of oil, gas, and other mineral rights upon all of the lands and waters of the State, including offshore marginal and submerged lands.

Section 10-9-35. In the event that the State of South Carolina is the recipient of revenues derived from offshore oil leases within the jurisdictional limits of the State such revenues shall be deposited with the State Treasurer in a special fund and shall be expended only by authorization of the General Assembly.

Funds so accumulated shall be expended only for the following purposes:

(1) to retire the bonded indebtedness incurred by South Carolina;

(2) for capital improvement expenditures.

Section 10-9-40. The authority conferred upon the Public Service Authority, the Department of Health and Environmental Control, and the forfeited land commissions by this article shall be cumulative and in addition to the rights and powers heretofore vested by law in such authority, the Department of Health and Environmental Control, and such commissions, respectively.

Article 3

Phosphate

Section 10-9-110. The Department of Health and Environmental Control shall be charged with the exclusive control and protection of the rights and interest of the State in the phosphate rocks and phosphatic deposits in the navigable streams and in the marshes thereof.

Section 10-9-120. The department may inquire into and protect the interests of the State in and to any phosphatic deposits or mines,

whether in the navigable waters of the State or in land marshes or other territory owned or claimed by other parties, and in the proceeds of any such mines and may take such action for, or in behalf of, the State in regard thereto as it may find necessary or deem proper.

Section 10-9-130. The department may issue to any person who applies for a lease or license granting a general right to dig, mine, and remove phosphate rock and phosphatic deposits from all the navigable streams, waters, and marshes belonging to the State and also from such of the creeks, not navigable, lying therein as may contain phosphate rock and deposits belonging to the State and not previously granted. Such leases or licenses may be for such terms as may be determined by the department. The annual report of the department to the General Assembly shall include a list of all effective leases and licenses. The department may make a firm contract for the royalty to be paid the State which shall not be increased during the life of the license. Provided, that prior to the grant or issuance of any lease or license, the department shall cause to be published a notice of such application in a newspaper having general circulation in the county once a week for three successive weeks prior to the grant or issuance. However, the lessee or licensee shall not take possession if there is an adverse claim and the burden of proving ownership in the State shall be placed upon the lessee or licensee.

Section 10-9-140. In every case in which an application is made to the department for a license, the department may grant or refuse the license as it considers best for the interest of the State and the proper management of the interests of the State in those deposits.

Section 10-9-150. As a condition precedent to the right to dig, mine, and remove the rocks and deposits granted by a license, each licensee shall enter into bond, with security, in the penal sum of five thousand dollars, conditioned for the making at the end of every month of true and faithful returns to the Comptroller General of the number of tons of phosphate rock and phosphatic deposits so dug or mined and the punctual payment to the State Treasurer of the royalty provided at the end of every quarter or three months. The bond and sureties are subject to the approval required by law for the bonds of state officers.

Section 10-9-160. Whenever the department shall have reason to doubt the solvency of any surety whose name appears upon any bond executed for the purpose of securing the payment of the phosphate

royalty by any person digging, mining and removing phosphate rock or phosphatic deposits in any of the territory, the property of the State, under any grant or license, the department shall forthwith notify the person giving such bond and the sureties thereon and require that one or more sureties, as the case may be, shall be added to the bond, such surety or sureties to be approved by the department.

Section 10-9-170. The department, upon petition filed by any person who is surety on any such bond as aforesaid and who considers himself in danger of being injured by such suretyship, shall notify the person giving such bond to give a new bond with other sureties and upon failure of such person to do so within thirty days shall cause such person to suspend further operations until a new bond be given. In no case shall the sureties on the old bond be discharged from liability thereon until the new bond has been executed and approved, and such sureties shall not be discharged from any antecedent liability by reason of such suretyship.

Section 10-9-180. The department is hereby vested with full and complete power and control over all mining in the phosphate territory belonging to this State and over all persons digging or mining phosphate rock or phosphatic deposit in the navigable streams and waters or in the marshes thereof, with full power and authority, subject to the provisions of Sections 10-9-130 and 10-9-190 to fix, regulate, raise, or reduce such royalty per ton as shall from time to time be paid to the State by such persons for all or any such phosphate rock dug, mined, removed, and shipped or otherwise sent to the market therefrom. Six months' notice shall be given all persons at such time digging or mining phosphate rock in such navigable streams, waters, or marshes before any increase shall be made in the rate of royalty theretofore existing.

Section 10-9-190. Each person to whom a license shall be issued must, at the end of every month, make to the Comptroller General a true and lawful return of the phosphate rock and phosphatic deposits he may have dug or mined during such month and shall punctually pay to the State Treasurer, at the end of every quarter or three months, a royalty of five cents per ton upon each and every ton of the crude rock (not of the rock after it has been steamed or dried), the first quarter to commence to run on the first day of January in each year.

Section 10-9-200. The Department of Health and Environmental Control, within twenty days after the grant of any license as aforesaid, shall notify the Comptroller General of the issuing of such license, with the name of the person to whom issued, the time of the license, and the location for which it was issued.

Section 10-9-210. Every person who shall dig, mine, or remove any phosphate rock or phosphatic deposit from the beds of the navigable streams, waters, and marshes of the State without license therefor previously granted by the State to such person shall be liable to a penalty of ten dollars for each and every ton of phosphate rock or phosphatic deposits so dug, mined, or removed, to be recovered by action at the suit of the State in any court of competent jurisdiction. One-half of such penalty shall be for the use of the State and the other half for the use of the informer.

Section 10-9-220. It shall be unlawful for any person to purchase or receive any phosphate rock or phosphatic deposit dug, mined, or removed from the navigable streams, waters, or marshes of the State from any person not duly authorized by act of the General Assembly of this State or license of the department to dig, mine, or remove such phosphate rock or phosphatic deposit.

Section 10-9-230. Any person violating Section 10-9-220 shall forfeit to the State the sum of ten dollars for each and every ton of phosphate rock or phosphatic deposit so purchased or received, to be recovered by action in any court of competent jurisdiction. One-half of such forfeiture shall be for the use of the State and the other half for the use of the informer.

Section 10-9-240. Should any person whosoever interfere with, obstruct, or molest or attempt to interfere with, obstruct, or molest the department or anyone by it authorized or licensed hereunder in the peaceable possession and occupation for mining purposes of any of the marshes, navigable streams, or waters of the State, then the department may, in the name and on behalf of the State, take such measures or proceedings as it may be advised are proper to enjoin and terminate any such molestation, interference, or obstruction and place the State, through its agents, the department or anyone under it authorized, in absolute and practical possession and occupation of such marshes, navigable streams, or waters.

Section 10-9-250. Should any person attempt to mine or remove phosphate rock and phosphatic deposits from any of the marshes, navigable waters, or streams, including the Coosaw River phosphate territory, by and with any boat, vessel, marine dredge, or other appliances for such mining or removal, without the leave or license of the department thereto first had and obtained, all such boats, vessels, marine dredges, and other appliances are hereby declared forfeited to and property of the State, and the Attorney General, for and in behalf of the State, shall institute proceedings in any court of competent jurisdiction for the claim and delivery thereof, in the ordinary form of action for claim and delivery, in which action the title of the State shall be established by the proof of the commission of any such act of forfeiture by the person owning them, or his agents, in possession of such boats, vessels, marine dredges, or other appliances. In any such action the State shall not be called upon or required to give any bond or obligation such as is required by parties plaintiff in action for claim and delivery.

Section 10-9-260. Any person wilfully interfering with, molesting, or obstructing or attempting to interfere with, molest, or obstruct the State or the Department of Health and Environmental Control or anyone by it authorized or licensed in the peaceable possession and occupation of any of the marshes, navigable streams, or waters of the State, including the Coosaw River phosphate territory, or who shall dig or mine or attempt to dig or mine any of the phosphate rock or phosphatic deposits of this State without a license so to do issued by the department shall be punished for each offense by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment for not less than one nor more than twelve months, or both, at the discretion of the court.

Section 10-9-270. The department shall report annually to the General Assembly its actions and doings under this article during the year to the time of the meeting of the assembly, with an itemized account of its expenses for the year incurred in connection with its duties and powers under this article.

Article 5

Geothermal Resources

Section 10-9-310. For purposes of this article 'geothermal resources' means the natural heat of the earth at temperatures greater than forty degrees Celsius and includes:

(1) the energy, including pressure, in whatever form present in, resulting from, created by, or that may be extracted from that natural heat;

(2) the material medium, including the brines, water, and steam naturally present, as well as any substance artificially introduced to serve as a heat transfer medium;

(3) all dissolved or entrained minerals and gases that may be obtained from the material medium but excluding hydrocarbon substances and helium.

Section 10-9-320. The Department of Health and Environmental Control may lease development rights to geothermal resources underlying surface lands owned by the State. The department must promulgate regulations regarding the method of lease acquisition, lease terms, and conditions due the State under lease operations. The South Carolina Department of Natural Resources is designated as the exclusive agent for the department in selecting lands to be leased, administering the competitive bidding for leases, administering the leases, receiving and compiling comments from other state agencies concerning the desirability of leasing the state lands proposed for leasing and such other activities that pertain to geothermal resource leases as may be included herein as responsibilities of the department.

Section 10-9-330. Any lease of rights to drill for and use oil, natural gas, or minerals on public or private lands must not allow drilling for or use of geothermal energy by the lessee unless the instrument creating the lease specifically provides for such use."

N. Section 10-11-50 of the 1976 Code is further amended to read:

"Section 10-11-50. It shall be unlawful for anyone to park any vehicle on any of the property described in Section 10-11-40 and subsection (2) of Section 10-11-80 except in the spaces and manner now marked and designated or that may hereafter be marked and designated by the Department of Administration, in cooperation with

the Department of Transportation, or to block or impede traffic through the alleys and driveways."

O. Section 10-11-90 of the 1976 Code is amended to read:

"Section 10-11-90. The watchmen and policemen employed for the protection of the property described in Sections 10-11-30 and 10-11-40 and subsection (2) of Section 10-11-80 are hereby vested with all of the powers, privileges, and immunities of constables while on this area or in fresh pursuit of those violating the law in this area, provided that such watchmen and policemen take and file the oath required of peace officers, execute and file bond in the form required of state constables, and be duly commissioned by the Governor."

P. Section 10-11-110 of the 1976 Code is amended to read:

"Section 10-11-110. In connection with traffic and parking violations only, the watchmen and policemen referred to in Section 10-11-90, state highway patrolmen and policemen of the City of Columbia shall have the right to issue and use parking tickets of the type used by the City of Columbia, with such changes as are necessitated hereby, to be prepared and furnished by the Department of Administration, upon the issuance of which the procedures shall be followed as prevail in connection with the use of parking tickets by the City of Columbia. Nothing herein shall restrict the application and use of regular arrest warrants."

Q. Section 10-11-140 of the 1976 Code is amended to read:

"Section 10-11-140. Nothing contained in this article shall be construed to abridge the authority of the Department of Administration to grant permission to use the State House grounds for educational, electrical decorations, and similar purposes."

R. Section 10-11-330 of the 1976 Code is amended to read:

"Section 10-11-330. It shall be unlawful for any person or group of persons wilfully and knowingly: (a) to enter or to remain within the capitol building unless such person is authorized by law or by rules of the House or Senate, or the Department of Administration regulations, respectively, when such entry is done for the purpose of uttering loud, threatening, and abusive language or to engage in any disorderly or

disruptive conduct with the intent to impede, disrupt, or disturb the orderly conduct of any session of the legislature or the orderly conduct within the building or of any hearing before or any deliberation of any committee or subcommittee of the legislature; (b) to obstruct or to impede passage within the capitol grounds or building; (c) to engage in any act of physical violence upon the capitol grounds or within the capitol building; or (d) to parade, demonstrate, or picket within the capitol building."

S. 1. Section 11-7-10 of the 1976 Code is amended to read:

"Section 11-7-10. The State Fiscal Accountability Authority shall select the State Auditor, who shall select necessary assistants in conformity with the appropriations for the office."

2. Section 11-7-30 of the 1976 Code is amended to read:

"Section 11-7-30. Reports of audit findings must be available to the Governor, State Fiscal Accountability Authority, General Assembly, and the general public. The State Auditor shall notify the Governor, the General Assembly, and the State Fiscal Accountability Authority immediately upon the issuance of an audit report."

T. 1. Sections 11-9-610, 11-9-620, and 11-9-630 of the 1976 Code are amended to read:

"Section 11-9-610. The State Fiscal Accountability Authority shall receive and manage the incomes and revenues set apart and applied to the Sinking Fund of the State. The authority shall report annually on the financial status of the Sinking Fund to the General Assembly.

Section 11-9-620. All monies arising from the redemption of lands, leases, and sales of property or otherwise coming to the authority for the Sinking Fund, must be paid into the State Treasury and kept on a separate account by the Treasurer as a fund to be drawn upon the warrants of the department for the exclusive uses and purposes which have been or shall be declared in relation to the Sinking Fund.

Section 11-9-630. The authority shall sell and convey, for and on behalf of the State, all such real property, assets, and effects belonging to the State as are not in actual public use, such sales to be made from time to time in such manner and upon such terms as it may deem most

advantageous to the State. This shall not be construed to authorize the sale of any property held in trust for a specific purpose by the State or the property of the State in the phosphate rocks or phosphatic deposits in the beds of the navigable streams and waters and marshes of the State."

2. Sections 11-9-665, 11-9-670, and 11-9-680 of the 1976 Code are amended to read:

"Section 11-9-665. (A) The authority on behalf of the State may acquire for use by the State real property as investments of any reserve or sinking fund of the State which is not pledged for payment of bonded indebtedness. Provided, however, such expenditures from the reserve or sinking fund shall not exceed two million dollars. Upon any such acquisition the authority shall execute a note evidencing such investment upon such terms and conditions as may be appropriate in each instance. The note shall include a pledge of the board to apply on its payment all net income derived from the property so acquired; provided, that funding for any permanent project on the property shall provide for repayment of any outstanding balance to the appropriate reserve or sinking fund. Provided, further, that the purchase price of any property so acquired, including improvements existing or proposed, shall not be in excess of the actual value thereof as established by at least two appraisals satisfactory to the said board. Any property not put to permanent use by the State or one of its agencies or departments within six years shall be sold at public auction and the proceeds repaid to the appropriate reserve or sinking fund. Provided, further, that no property shall be acquired pursuant to the provisions of this section when the grantor has entered into a contract with any county, city or other political subdivision which created a tax obligation with respect to the property and such obligation has not been resolved to the satisfaction of the county, city or other political subdivision involved.

(B) Provided, that prior to purchasing, or contracting to purchase any real property the authority shall engage an independent engineer to make borings so as to insure that the property is adaptable to the contemplated use.

Section 11-9-670. Subject to the limitations set forth in Section 11-9-660, the authority shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments in which the Sinking Fund shall have been invested.

Section 11-9-680. The authority shall annually report to the General Assembly the condition of the Sinking Fund and all sales or other transactions connected therewith."

U. Sections 11-35-3820 and 11-35-3840 of the 1976 Code are amended to read:

"Section 11-35-3820. Except as provided in Section 11-35-1580 and Section 11-35-3830 and the regulations pursuant to them, the sale of all state-owned supplies, or personal property not in actual public use must be conducted and directed by the Division of General Services of the Department of Administration. The sales must be held at such places and in a manner as in the judgment of the Division of General Services is most advantageous to the State. Unless otherwise determined, sales must be by either public auction or competitive sealed bid to the highest bidder. Each governmental body shall inventory and report to the division all surplus personal property not in actual public use held by that governmental body for sale. The division shall deposit the proceeds from the sales, less expense of the sales, in the state general fund or as otherwise directed by regulation. This policy and procedure applies to all governmental bodies unless exempt by law.

Section 11-35-3840. The division may license for public sale publications, including South Carolina Business Opportunities, materials pertaining to training programs, and information technology products that are developed during the normal course of its activities. The items must be licensed at reasonable costs established in accordance with the cost of the items. All proceeds from the sale of the publications and materials must be placed in a revenue account and expended for the cost of providing the services."

V. Section 11-35-5270 of the 1976 Code is amended to read:

"Section 11-35-5270. The Division of Small and Minority Business Contracting and Certification must be established within the Department of Administration to assist the Department of Administration and the Department of Revenue in carrying out the intent of this article. The responsibilities of the division include, but are not limited to, the following:

(1) assisting the chief procurement officers and governmental bodies in developing policies and procedures which will facilitate awarding contracts to small and minority firms;

(2) assisting the chief procurement officers in aiding small and minority-owned firms and community-based business in developing organizations to provide technical assistance to minority firms;

(3) assisting with the procurement and management training for small and minority firm owners;

(4) assisting in the identification of responsive small and minority firms;

(5) receiving and processing applications to be registered as a minority firm in accordance with Section 11-35-5230(B);

(6) revoking the certification of any firm that has been found to have engaged in any of the following:

(a) fraud or deceit in obtaining the certification;

(b) furnishing of substantially inaccurate or incomplete information concerning ownership or financial status;

(c) failure to report changes which affect the requirements for certification;

(d) gross negligence, incompetence, financial irresponsibility, or misconduct in the practice of his business; or

(e) wilful violation of any provision of this article.

(7) After a period of one year, the division may reissue a certificate of eligibility provided acceptable evidence has been presented to the commission that the conditions which caused the revocation have been corrected."

W. 1. Section 11-42-30(1) of the 1976 Code is amended to read:

"Section 11-42-30. As used in this chapter:

(1) 'Board' means the governing board of the Rural Infrastructure Authority."

2. Section 11-42-40(A) of the 1976 Code is amended to read:

"(A) There is created the Division of Regional Development as a division within the Rural Infrastructure Authority. The division shall report to the executive director of the board."

3. Section 11-42-60 of the 1976 Code is amended to read:

"Section 11-42-60. The division shall function as a division of the Rural Infrastructure Authority and has
all administrative and program authority necessary to fulfill its public mandate including, but not limited to, the following powers:

(1) to solicit, receive, and expend public and private funds from any relevant sources and entities in order to carry out the purposes of the division; and

(2) to prescribe and charge fees for its services, which fees must be retained and expended for division purposes."

X. Section 11-53-20 of the 1976 Code, as last amended by Act 31 of 2013, is further amended to read:

"Section 11-53-20. It is mandated by the General Assembly that SCEIS shall be implemented for all agencies, with the exception of lump-sum agencies, the General Assembly or its respective branches or its committees, Legislative Council, and the Legislative Services Agency. The South Carolina Enterprise Information System Oversight Committee, as appointed by the Comptroller General, shall provide oversight for the implementation and continued operations of the system. The Department of Administration is authorized to use any available existing technology resources to assist with funding of the initial implementation of the system. It is further the intent of the General Assembly to fund the central government costs related to the implementation of the system. Agencies are required to implement SCEIS at a cost and in accordance with a schedule developed and approved by the SCEIS Oversight Committee. Full implementation must be completed within five years. The Department of Administration must make an appropriation request for the implementation and operational costs for SCEIS, and the funding for those costs must be set out as a specific line item in the annual general appropriations act. Any issues arising with regard to project scope, implementation schedule, and associated costs shall be directed to the SCEIS Oversight Committee for resolution. In cooperation with the Comptroller General and the Department of Administration, the South Carolina Enterprise Information System Oversight Committee is required to report by January thirty-first of the fiscal year to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee the status of the system's implementation and on-going operations."

Y. 1. Section 13-7-10(10) of the 1976 Code, as added by Act 357 of 2000, is amended to read:

"(10) 'Decommissioning trust fund' means the trust fund established pursuant to a Trust Agreement dated March 4, 1981, among Chem-Nuclear Systems, Inc. (grantor), the State Fiscal Accountability Authority (beneficiary as the successor in interest to the South Carolina Budget and Control Board), and the South Carolina State Treasurer (trustee), whose purpose is to assure adequate funding for decommissioning of the disposal site, or any successor fund with a similar purpose."

2. Section 13-7-30 of the 1976 Code, as last amended by Act 357 of 2000, is further amended to read:

"Section 13-7-30. For purposes of this article, the State Fiscal Accountability Authority, hereinafter in this section referred to as the board, is designated as the agency of the State which shall have the following powers and duties that are in accord with its already established responsibilities for custody of state properties, and for the management of all state sinking funds, insurance, and analogous fiscal matters that are relevant to state properties:

(1) expend state funds in order to acquire, develop, and operate land and facilities. This acquisition may be by lease, dedication, purchase, or other arrangements. However, the state's functions under the authority of this section are limited to the specific purposes of this article;

(2) lease, sublease, or sell real and personal properties to public or private bodies;

(3) assure the maintenance of insurance coverage by state licensees, lessees, or sublessees as will in the opinion of the board protect the citizens of the State against nuclear incident that may occur on state-controlled atomic energy facilities;

(4) assume responsibility for extended custody and maintenance of radioactive materials held for custodial purposes at any publicly or privately operated facility located within the State, in the event the parties operating these facilities abandon their responsibility, or when the license for the facility is ultimately transferred to an agency of the State, and whenever the federal government or any agency of the federal government has not assumed the responsibility.

In order to finance such extended custody and maintenance as the board may undertake, the board may collect fees from private or public

parties holding radioactive materials for custodial purposes. These fees must be sufficient in each individual case to defray the estimated cost of the board's custodial management activities for that individual case. The fees collected for such custodial management activities shall also be sufficient to provide additional funds for the purchase of insurance which shall be purchased for the protection of the State and the general public for the period such radioactive material considering its isotope and curie content together with other factors may present a possible danger to the general public in the event of migration or dispersal of such radioactivity. All such fees, when received by the board, must be transmitted to the State Treasurer. The Treasurer must place the money in a special account, in the nature of a revolving trust fund, which may be designated 'extended care maintenance fund', to be disbursed on authorization of the board. Monies in the extended care maintenance funds must be invested by the board in the manner as other state monies. However, any interest accruing as a result of investment must accrue to this extended care maintenance fund. Except as authorized in Section 48-46-40(B)(7)(b) and (D)(2), the extended care maintenance fund must be used exclusively for custodial, surveillance, and maintenance costs during the period of institutional control and during any post-closure and observation period specified by the Department of Health and Environmental Control, and for activities associated with closure of the site. Funds from the extended care maintenance fund shall not be used for site closure activities or for custodial, surveillance, and maintenance performed during the post-closure observation period until all funds in the decommissioning trust account are exhausted.

(5) Enter into an agreement with the federal government or any of its authorized agencies to assume extended maintenance of lands donated, leased, or purchased from the federal government or any of its authorized agencies and used for development of atomic energy resources or as custodial site for radioactive material."

3. Sections 13-7-810, 13-7-830, and 13-7-860 of the 1976 Code, all as last amended by Act 357 of 2000, are amended to read:

"Section 13-7-810. There is hereby established a Nuclear Advisory Council in the Department of Administration, which shall be responsible to the Director of the Department of Administration and report to the Governor.

Section 13-7-830. The recommendations described in Section 13-7-620 shall be made available to the General Assembly and the Governor.

Section 13-7-860. Staff support for the council shall be provided by the Department of Administration."

Z. Section 16-3-1620(A), (B), and (C) of the 1976 Code, as last amended by Act 271 of 2008, is further amended to read:

"(A) The Crime Victims' Ombudsman Office is created in the Department of Administration. The Crime Victims' Ombudsman is appointed by the Governor with the advice and consent of the Senate and serves at the pleasure of the Governor.

(B) The Crime Victims' Ombudsman of the Department of Administration shall:

(1) refer crime victims to the appropriate element of the criminal and juvenile justice systems or victim assistance programs, or both, when services are requested by crime victims or are necessary as determined by the ombudsman;

(2) act as a liaison between elements of the criminal and juvenile justice systems, victim assistance programs, and victims when the need for liaison services is recognized by the ombudsman; and

(3) review and attempt to resolve complaints against elements of the criminal and juvenile justice systems or victim assistance programs, or both, made to the ombudsman by victims of criminal activity within the state's jurisdiction.

(C) There is created within the Crime Victims' Ombudsman Office of the Department of Administration, the Office of Victim Services Education and Certification which shall:

(1) provide oversight of training, education, and certification of victim assistance programs;

(2) with approval of the Victim Services Coordinating Council, promulgate training standards and requirements;

(3) approve training curricula for credit hours toward certification;

(4) provide victim service provider certification; and

(5) maintain records of certified victim service providers."

AA. Section 16-3-1680 of the 1976 Code, as added by Act 271 of 2008, is amended to read:

"Section 16-3-1680. The Crime Victims' Ombudsman Office through the Department of Administration may promulgate those regulations necessary to assist it in performing its required duties as provided by this chapter."

BB. 1. Section 25-11-10 of the 1976 Code is amended to read:

"Section 25-11-10. A Division of Veterans' Affairs is hereby created in the Department of Administration for the purpose of assisting ex-servicemen in securing the benefits to which they are entitled under the provisions of federal legislation and under the terms of insurance policies issued by the federal government for their benefit. This division shall be under the direct supervision of a panel consisting of the Governor as chairman, the Attorney General for the purpose of giving legal advice, and the Adjutant and Inspector General."

2. Section 25-11-80(C)(3) of the 1976 Code is amended to read:

"(3) the Department of Administration."

3. Section 25-11-90(E) of the 1976 Code is amended to read:

"(E) The preparation and distribution of the roster is subject to the availability of funds as appropriated by the General Assembly to the Department of Administration, Division of Veterans' Affairs for this purpose. These rosters and their distribution must be maintained and updated based on workloads and availability of funds."

4. Section 25-11-310(2) of the 1976 Code is amended to read:

"(2) 'Division' means the Division of Veterans' Affairs in the Department of Administration."

CC. Section 44-53-530(a) and (b) of the 1976 Code, as last amended by Act 345 of 2006, is further amended to read:

"(a) Forfeiture of property defined in Section 44-53-520 must be accomplished by petition of the Attorney General or his designee or the circuit solicitor or his designee to the court of common pleas for the jurisdiction where the items were seized. The petition must be submitted to the court within a reasonable time period following seizure and shall set forth the facts upon which the seizure was made.

The petition shall describe the property and include the names of all owners of record and lienholders of record. The petition shall identify any other persons known to the petitioner to have interests in the property. Petitions for the forfeiture of conveyances shall also include: the make, model, and year of the conveyance, the person in whose name the conveyance is registered, and the person who holds the title to the conveyance. The petition shall set forth the type and quantity of the controlled substance involved. A copy of the petition must be sent to each law enforcement agency which has notified the petitioner of its involvement in effecting the seizure. Notice of hearing or rule to show cause must be directed to all persons with interests in the property listed in the petition, including law enforcement agencies which have notified the petitioner of their involvement in effecting the seizure. Owners of record and lienholders of record may be served by certified mail, to the last known address as appears in the records of the governmental agency which records the title or lien.

The judge shall determine whether the property is subject to forfeiture and order the forfeiture confirmed. If the judge finds a forfeiture, he shall then determine the lienholder's interest as provided in this article. The judge shall determine whether any property must be returned to a law enforcement agency pursuant to Section 44-53-582.

If there is a dispute as to the allocation of the proceeds of forfeited property among participating law enforcement agencies, this issue must be determined by the judge. The proceeds from a sale of property, conveyances, and equipment must be disposed of pursuant to subsection (e) of this section.

All property, conveyances, and equipment not reduced to proceeds may be transferred to the law enforcement agency or agencies or to the prosecution agency. Upon agreement of the law enforcement agency or agencies and the prosecution agency, conveyances and equipment may be transferred to any other appropriate agency. Property transferred must not be used to supplant operating funds within the current or future budgets. If the property seized and forfeited is an aircraft or watercraft and is transferred to a state law enforcement agency or other state agency pursuant to the provisions of this subsection, its use and retainage by that agency shall be at the discretion and approval of the Department of Administration.

If a defendant or his attorney sends written notice to the petitioner or the seizing agency of his interest in the subject property, service may be made by mailing a copy of the petition to the address provided and service may not be made by publication. In addition, service by publication may not be used for a person incarcerated in a South

Carolina Department of Corrections facility, a county detention facility, or other facility where inmates are housed for the county where the seizing agency is located. The seizing agency shall check the appropriate institutions after receiving an affidavit of nonservice before attempting service by publication.

(b) If the property is seized by a state law enforcement agency and is not transferred by the court to the seizing agency, the judge shall order it transferred to the Division of General Services of the Department of Administration for sale. Proceeds may be used by the division for payment of all proper expenses of the proceedings for the forfeiture and sale of the property, including the expenses of seizure, maintenance, and custody, and other costs incurred by the implementation of this section. The net proceeds from any sale must be remitted to the State Treasurer as provided in subsection (g) of this section. The Division of General Services of the Department of Administration may authorize payment of like expenses in cases where monies, negotiable instruments, or securities are seized and forfeited."

DD. Section 44-96-140 of the 1976 Code is amended to read:

"Section 44-96-140. (A) Not later than twelve months after the date on which the department submits the state solid waste management plan to the Governor and to the General Assembly, the General Assembly, the Office of the Governor, the Judiciary, each state agency, and each state-supported institution of higher education shall:

(1) establish a source separation and recycling program in cooperation with the department and the Division of General Services of the Department of Administration for the collection of selected recyclable materials generated in state offices throughout the State including, but not limited to, high-grade office paper, corrugated paper, aluminum, glass, tires, composting materials, plastics, batteries, and used oil;

(2) provide procedures for collecting and storing recyclable materials, containers for storing materials, and contractual or other arrangements with collectors or buyers of the recyclable materials, or both;

(3) evaluate the amount of waste paper material recycled and make all necessary modifications to the recycling program to ensure that all waste paper materials are recycled to the maximum extent feasible; and

(4) establish and implement, in cooperation with the department and the Division of General Services of the Department of

Administration, a solid waste reduction program for materials used in the course of agency operations. The program shall be designed and implemented to achieve the maximum feasible reduction of solid waste generated as a result of agency operations.

(B) Not later than September fifteen of each year, each state agency and each state-supported institution of higher learning shall submit to the department a report detailing its source separation and recycling program and a review of all goods and products purchased during the previous fiscal year by those agencies and institutions containing recycled materials using the content specifications established by the Division of General Services, Department of Administration.

(C) By November first of each year, the department shall submit a report to the Governor and to the General Assembly reviewing all goods and products purchased by the State and determining what percentage of state purchases contain recycled materials using content specifications established by the Division of General Services, Department of Administration. The report also must review existing procurement regulations for the purchase of products and materials and must identify any portions of such regulations that discriminate against products and materials with recycled content and products and materials which are recyclable.

(D) Not later than one year after this chapter is effective, the Division of General Services, Department of Administration shall amend the procurement regulations to eliminate the portions of the regulations identified in its report as discriminating against products and materials with recycled content and products and materials which are recyclable.

(E) Not later than one year after the effective date of the amendments to the procurement regulations, the General Assembly, the Office of the Governor, the Judiciary, all state agencies, all political subdivisions using state funds to procure items, and all persons contracting with such agency or political subdivision where such persons procure items with state funds shall procure products and materials with recycled content and products and materials which are recyclable where practicable, as determined by the Division of General Services, Department of Administration. The list of recycled content specifications must be updated annually. It is the goal of the General Assembly for state and local governmental agencies to reflect a twenty-five percent goal in their procurement policies. The decision not to procure such items shall be based on a determination that such procurement items:

(1) are not available within a reasonable period of time;

(2) fail to meet the performance standards set forth in the applicable specifications; or

(3) are only available at a price that exceeds by more than seven and one-half percent the price of alternative items.

(F) Not later than six months after this chapter is effective, and annually thereafter, the Department of Transportation shall submit a report to the Governor and to the General Assembly on the use of:

(1) compost as a substitute for regular soil amendment products in all highway projects;

(2) solid waste including, but not limited to, ground rubber from tires and fly ash or mixtures of them from coal-fired electrical facilities in road surfacing of subbase materials;

(3) solid waste including, but not limited to, glass aggregate, plastic, and fly ash in asphalt or concrete; and

(4) recycled mixed-plastic materials for guardrail posts, right-of-way fence posts, and sign supports."

EE. Section 48-46-30(4) and (5) of the 1976 Code is amended to read:

"(4) 'Decommissioning trust fund' means the trust fund established pursuant to a Trust Agreement dated March 4, 1981, among Chem-Nuclear Systems, Inc. (grantor), the State Fiscal Accountability Authority (beneficiary as the successor in interest to the South Carolina Budget and Control Board), and the South Carolina State Treasurer (trustee), whose purpose is to assure adequate funding for decommissioning of the disposal site, or any successor fund with a similar purpose.

(5) 'Office' means the Office of Regulatory Staff."

FF. Section 48-46-40 of the 1976 Code is amended to read:

"Section 48-46-40. (A)(1) The office shall approve disposal rates for low-level radioactive waste disposed at any regional disposal facility located within the State. The approval of disposal rates pursuant to this chapter is neither a regulation nor the promulgation of a regulation as those terms are specially used in Title 1, Chapter 23.

(2) The office shall adopt a maximum uniform rate schedule for regional generators containing disposal rates that include the administrative surcharges specified in Section 48-46-60(B) and surcharges for the extended custody and maintenance of the facility pursuant to Section 13-7-30(4) and that do not exceed the approximate disposal rates, excluding any access fees and including a specification

of the methodology for calculating fees for large components, generally applicable to regional generators on September 7, 1999. Any disposal rates contained in a valid written agreement that were applicable to a regional generator on September 7, 1999, that differ from rates in the maximum uniform rate schedule will continue to be honored through the term of such agreement. The maximum uniform rate schedule approved under this section becomes effective immediately upon South Carolina's membership in the Atlantic Compact. The maximum uniform rate schedule shall be the rate schedule applicable to regional waste whenever it is not superseded by an adjusted rate approved by the office pursuant to paragraph (3) of this subsection or by special disposal rates approved pursuant to paragraphs (5) or (6)(e) of this subsection.

(3) The office may at any time of its own initiative, at the request of a site operator, or at the request of the compact commission, adjust the disposal rate or the relative proportions of the individual components that constitute the overall rate schedule. Except as adjusted for inflation in subsection (4), rates adjusted in accordance with this section, that include the administrative surcharges specified in Section 48-46-60(B) and surcharges for the extended custody and maintenance of the facility pursuant to Section 13-7-30(4), may not exceed initial disposal rates set by the office pursuant to subsection (2).

(4) In March of each year the office shall adjust the rate schedule based on the most recent changes in the most nearly applicable Producer Price Index published by the Bureau of Labor Statistics as chosen by the office or a successor index.

(5) In consultation with the site operator, the office or its designee, on a case-by-case basis, may approve special disposal rates for regional waste that differ from the disposal rate schedule for regional generators set by the office pursuant to subsections (2) and (3). Requests by the site operator for such approval shall be in writing to the office. In approving such special rates, the office or its designee, shall consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, or other relevant factors; provided, however, that the office shall not approve any special rate for an entity owned by or affiliated with the site operator. Special disposal rates approved by the office under this subsection shall be in writing and shall be kept confidential as proprietary business information for one year from the date when the bid or the request for proposal containing the special rate is accepted by the regional generator; provided, however, that such special rates when accepted by a regional generator shall be disclosed

to the compact commission and to all other regional generators, which shall, to the extent permitted by applicable law, keep them confidential as proprietary business information for one year from the date when the bid or request for proposal containing this special rate is accepted by the regional generator. Within one business day of a special disposal rate's acceptance, the site operator shall notify the office, the compact commission, and the regional generators of each special rate that has been accepted by a regional generator, and the office, the compact commission, and regional generators may communicate with each other about such special rates. If any special rate approved by the office for a regional generator is lower than a disposal rate approved by the office for regional generators pursuant to subsections (2) and (3) for waste that is generally similar in characteristics and volume, the disposal rate for all regional generators shall be revised to equal the special rate for the regional generator. Regional generators may enter into contracts for waste disposal at such special rates and on comparable terms for a period of not less than six months. An officer of the site operator shall certify in writing to the office and the compact commission each month that no regional generator's disposal rate exceeds any other regional generator's special rate for waste that is generally similar in characteristics and volume, and such certification shall be subject to periodic audit by the office and the compact commission.

(6)(a) To the extent authorized by the compact commission, the office on behalf of the State of South Carolina may enter into agreements with any person in the United States or its territories or any interstate compact, state, U.S. territory, or U.S. Department of Defense military installation abroad for the importation of waste into the region for purposes of disposal at a regional disposal facility within South Carolina. No waste from outside the Atlantic Compact region may be disposed at a regional disposal facility within South Carolina, except to the extent that the office is authorized by the compact commission to enter into agreements for importation of waste.

The office shall authorize the importation of nonregional waste into the region for purposes of disposal at the regional disposal facility in South Carolina so long as nonregional waste would not result in the facility accepting more than the following total volumes of all waste:

(i) 160,000 cubic feet in fiscal year 2001;
(ii) 80,000 cubic feet in fiscal year 2002;
(iii) 70,000 cubic feet in fiscal year 2003;
(iv) 60,000 cubic feet in fiscal year 2004;
(v) 50,000 cubic feet in fiscal year 2005;

(vi) 45,000 cubic feet in fiscal year 2006;
(vii) 40,000 cubic feet in fiscal year 2007;
(viii) 35,000 cubic feet in fiscal year 2008.

After Fiscal Year 2008, the office shall not authorize the importation of nonregional waste for purposes of disposal.

(b) The office may approve disposal rates applicable to nonregional generators. In approving disposal rates applicable to nonregional generators, the office may consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, and other relevant factors.

(c) Absent action by the office under subsection (b) above to establish disposal rates for nonregional generators, rates applicable to these generators must be equal to those contained in the maximum uniform rate schedule approved by the office pursuant to paragraph (2) or (3) of this subsection for regional generators unless these rates are superseded by special disposal rates approved by the office pursuant to paragraph (6)(e) of this subsection.

(d) Regional generators shall not pay disposal rates that are higher than disposal rates for nonregional generators in any fiscal quarter.

(e) In consultation with the site operator, the office or its designee, on a case-by-case basis, may approve special disposal rates for nonregional waste that differ from the disposal rate schedule for nonregional generators set by the office. Requests by the site operator for such approval shall be in writing to the office. In approving such special rates, the office or its designee shall consider available disposal capacity, demand for disposal capacity, the characteristics of the waste, the potential for generating revenue for the State, and other relevant factors; provided, however, that the office shall not approve any special rate for an entity owned by or affiliated with the site operator. Special disposal rates approved by the office under this subsection shall be in writing and shall be kept confidential as proprietary business information for one year from the date when the bid or request for proposal containing the special rate is accepted by the nonregional generator; provided, however, that such special rates when accepted by a nonregional generator shall be disclosed to the compact commission and to all regional generators, which shall, to the extent permitted by applicable law, keep them confidential as proprietary business information for one year from the date when the bid or request for proposal containing the special rate is accepted by the nonregional generator. Within one business day of a special disposal rate's

acceptance, the site operator shall notify the office, the compact commission, and the regional generators in writing of each special rate that has been accepted by a nonregional generator, and the office, the compact commission, and regional generators may communicate with each other about such special rates. If any special rate approved by the office for a nonregional generator is lower than a disposal rate approved by the office for regional generators for waste that is generally similar in characteristics and volume, the disposal rate for all regional generators shall be revised to equal the special rate for the nonregional generator. Regional generators may enter into contracts for waste disposal at such special rate and on comparable terms for a period of not less than six months. An officer of the site operator shall certify in writing to the office and the compact commission each month that no regional generator disposal rate exceeds any nonregional generator's special rate for waste that is generally similar in characteristics and volume, and such certification shall be subject to periodic audit by the office and the compact commission.

(B)(1) Effective upon the implementation of initial disposal rates by the office under Section 48-46-40(A), the PSC is authorized and directed to identify allowable costs for operating a regional low-level radioactive waste disposal facility in South Carolina.

(2) In identifying the allowable costs for operating a regional disposal facility, the PSC shall:

(a) prescribe a system of accounts, using generally accepted accounting principles, for disposal site operators, using as a starting point the existing system used by site operators;

(b) assess penalties against disposal site operators if the PSC determines that they have failed to comply with regulations pursuant to this section; and

(c) require periodic reports from site operators that provide information and data to the PSC and parties to these proceedings. The Office of Regulatory Staff shall obtain and audit the books and records of the site operators associated with disposal operations as determined applicable by the PSC.

(3) Allowable costs include the costs of those activities necessary for:

(a) the receipt of waste;

(b) the construction of disposal trenches, vaults, and overpacks;

(c) construction and maintenance of necessary physical facilities;

(d) the purchase or amortization of necessary equipment;

(e) purchase of supplies that are consumed in support of waste disposal activities;

(f) accounting and billing for waste disposal;

(g) creating and maintaining records related to disposed waste;

(h) the administrative costs directly associated with disposal operations including, but not limited to, salaries, wages, and employee benefits;

(i) site surveillance and maintenance required by the State of South Carolina, other than site surveillance and maintenance costs covered by the balance of funds in the decommissioning trust fund or the extended care maintenance fund;

(j) compliance with the license, lease, and regulatory requirements of all jurisdictional agencies;

(k) administrative costs associated with collecting the surcharges provided for in subsections (B) and (C) of Section 48-46-60;

(l) taxes other than income taxes;

(m) licensing and permitting fees; and

(n) any other costs directly associated with disposal operations determined by the PSC to be allowable.

Allowable costs do not include the costs of activities associated with lobbying and public relations, clean-up and remediation activities caused by errors or accidents in violation of laws, regulations, or violations of the facility operating license or permits, activities of the site operator not directly in support of waste disposal, and other costs determined by the PSC to be unallowable.

(4) Within ninety days following the end of a fiscal year, a site operator may file an application with the PSC to adjust the level of an allowable cost under subsection (3), or to allow a cost not previously designated an allowable cost. A copy of the application must be provided to the Office of Regulatory Staff. The PSC shall process such application in accordance with its procedures. If such application is approved by the PSC, the PSC shall authorize the site operator to adjust allowable costs for the current fiscal year so as to compensate the site operator for revenues lost during the previous fiscal year.

(5) A private operator of a regional disposal facility in South Carolina is authorized to charge an operating margin of twenty-nine percent. The operating margin for a given period must be determined by multiplying twenty-nine percent by the total amount of allowable costs as determined in this subsection, excluding allowable costs for taxes and licensing and permitting fees paid to governmental entities.

(6) The site operator shall prepare and file with the PSC a Least Cost Operating Plan. The plan must be filed within forty-five days of enactment of this chapter and must be revised annually. The plan shall include information concerning anticipated operations over the next ten years and shall evaluate all options for future staffing and operation of the site to ensure least cost operation, including information related to the possible interim suspension of operations in accordance with subsection (B)(7). A copy of the plan must be provided to the Office of Regulatory Staff.

(7)(a) If the office, upon the advice of the compact commission or the site operator, concludes based on information provided to the office, that the volume of waste to be disposed during a forthcoming period of time does not appear sufficient to generate receipts that will be adequate to reimburse the site operator for its costs of operating the facility and its operating margin, then the office shall direct the site operator to propose to the compact commission plans including, but not necessarily limited to, a proposal for discontinuing acceptance of waste until such time as there is sufficient waste to cover the site operator's operating costs and operating margin. Any proposal to suspend operations must detail plans of the site operator to minimize its costs during the suspension of operations. Any such proposal to suspend operations must be approved by the Department of Health and Environmental Control with respect to safety and environmental protection.

(b) Allowable costs applicable to any period of suspended operations must be approved by the PSC according to procedures similar to those provided herein for allowable operating costs. During any such suspension of operations, the site operator must be reimbursed by the office from the extended care maintenance fund for its allowable costs and its operating margin. During the suspension funding to reimburse the office, the PSC, and the State Treasurer under Section 48-46-60(B) and funding of the compact commission under Section 48-46-60(C) must also be allocated from the extended care maintenance fund as approved by the office based on revised budgets submitted by the PSC, State Treasurer, and the compact commission.

(c) Notwithstanding any disbursements from the extended care maintenance fund in accordance with any provision of this act, the office shall continue to ensure, in accordance with Section 13-7-30, that the fund remains adequate to defray the costs for future maintenance costs or custodial and maintenance obligations of the site and other obligations imposed on the fund by this chapter.

(d) The PSC may promulgate regulations and policies necessary to execute the provisions of this section.

(8) The PSC may use any standard, formula, method, or theory of valuation reasonably calculated to arrive at the objective of identifying allowable costs associated with waste disposal. The PSC may consider standards, precedents, findings, and decisions in other jurisdictions that regulate allowable costs for radioactive waste disposal.

(9) In all proceedings held pursuant to this section, the office shall participate as a party representing the interests of the State of South Carolina, and the compact commission may participate as a party representing the interests of the compact states. The Executive Director of the Office of Regulatory Staff and the Attorney General of the State of South Carolina shall be parties to any such proceeding. Representatives from the Department of Health and Environmental Control shall participate in proceedings where necessary to determine or define the activities that a site operator must conduct in order to comply with the regulations and license conditions imposed by the department. Other parties may participate in the PSC's proceedings upon satisfaction of standing requirements and compliance with the PSC's procedures. Any site operator submitting records and information to the PSC may request that the PSC treat such records and information as confidential and not subject to disclosure in accordance with the PSC's procedures.

(10) In all respects in which the PSC has power and authority under this chapter, it shall conduct its proceedings under the South Carolina Administrative Procedures Act and the PSC's rules and regulations. The PSC is authorized to compel attendance and testimony of a site operator's directors, officers, agents, or employees.

(11) At any time the compact commission, the office, or any generator subject to payment of rates set pursuant to this chapter may file a petition against a site operator alleging that allowable costs identified pursuant to this chapter are not in conformity with the directives of this chapter or the directives of the PSC or that the site operator is otherwise not acting in conformity with the requirements of this chapter or directives of the PSC. Upon filing of the petition, the PSC shall cause a copy of the petition to be served upon the site operator. The petitioning party has the burden of proving that allowable costs or the actions of the site operator do not conform. The hearing shall conform to the rules of practice and procedure of the PSC for other cases.

(12) The PSC shall encourage alternate forms of dispute resolution including, but not limited to, mediation or arbitration to resolve disputes between a site operator and any other person regarding matters covered by this chapter.

(C) The operator of a regional disposal facility shall submit to the South Carolina Department of Revenue, the PSC, and the Office of Regulatory Staff, and the office within thirty days following the end of each quarter a report detailing actual revenues received in the previous fiscal quarter and allowable costs incurred for operation of the disposal facility.

(D)(1) Within thirty days following the end of the fiscal year the operator of a regional disposal facility shall submit a payment made payable to the South Carolina Department of Revenue in an amount that is equal to the total revenues received for waste disposed in that fiscal year (with interest accrued on cash flows in accordance with instructions from the State Treasurer) minus allowable costs, operating margin, and any payments already made from such revenues pursuant to Section 48-46-60(B) and (C) for reimbursement of administrative costs to state agencies and the compact commission. The Department of Revenue shall deposit the payment with the State Treasurer.

(2) If in any fiscal year total revenues do not cover allowable costs plus the operating margin, the office must reimburse the site operator its allowable costs and operating margin from the extended care maintenance fund within thirty days after the end of the fiscal year. The office shall as soon as practicable authorize a surcharge on waste disposed in an amount that will fully compensate the fund for the reimbursement to the site operator. In the event that total revenues for a fiscal year do not cover allowable costs plus the operating margin, or quarterly reports submitted pursuant to subsection (C) indicate that such annual revenue may be insufficient, the office shall consult with the compact commission and the site operator as early as practicable on whether the provisions of Section 48-46-40(B)(7) pertaining to suspension of operations during periods of insufficient revenues should be invoked.

(E) Revenues received pursuant to item (1) of subsection (D) must be allocated as follows:

(1) The South Carolina State Treasurer shall distribute the first two million dollars received for waste disposed during a fiscal year to the County Treasurer of Barnwell County for distribution to each of the parties to and beneficiaries of the order of the United States District Court in C.A. No. 1:90-2912-6 on the same schedule of allocation as is

established within that order for the distribution of 'payments in lieu of taxes' paid by the United States Department of Energy.

(2) All revenues in excess of two million dollars received from waste disposed during the previous fiscal year must be deposited in a fund called the 'Nuclear Waste Disposal Receipts Distribution Fund'. Any South Carolina waste generator whose disposal fees contributed to the fund during the previous fiscal year may submit a request for a rebate of 33.33 percent of the funds paid by the generator during the previous fiscal year for disposal of waste at a regional disposal facility. These requests along with invoices or other supporting material must be submitted in writing to the State Treasurer within fifteen days of the end of the fiscal year. For this purpose disposal fees paid by the generator must exclude any fees paid pursuant to Section 48-46-60(C) for compact administration and fees paid pursuant to Section 48-46-60(B) for reimbursement of the PSC, the Office of Regulatory Staff, the State Treasurer, and the office for administrative expenses under this chapter. Upon validation of the request and supporting documentation by the State Treasurer, the State Treasurer shall issue a rebate of the applicable funds to qualified waste generators within sixty days of the receipt of the request. If funds in the Nuclear Waste Disposal Receipts Distribution Fund are insufficient to provide a rebate of 33.33 percent to each generator, then each generator's rebate must be reduced in proportion to the amount of funds in the account for the applicable fiscal year.

(3) All funds deposited in the Nuclear Waste Disposal Receipts Distribution Fund for waste disposed for each fiscal year, less the amount needed to provide generators rebates pursuant to item (2), shall be deposited by the State Treasurer in the 'Children's Education Endowment Fund'. Thirty percent of these monies must be allocated to Higher Education Scholarship Grants and used as provided in Section 59-143-30, and seventy percent of these monies must be allocated to Public School Facility Assistance and used as provided in Chapter 144, Title 59.

(F) Effective beginning fiscal year 2001-2002, there is appropriated annually from the general fund of the State to the Higher Education Scholarship Grants share of the Children's Education Endowment whatever amount is necessary to credit to the Higher Education Scholarship Grants share an amount not less than the amount credited to that portion of the endowment in fiscal year 1999-2000. Revenues credited to the endowment pursuant to this subsection, for purposes of Section 59-143-10, are deemed to be received by the endowment pursuant to the former provisions of Section 48-48-140(C)."

GG. Section 48-46-50 of the 1976 Code is amended to read:

"Section 48-46-50. (A) The Governor shall appoint two commissioners to the Atlantic Compact Commission and may appoint up to two alternate commissioners. These alternate commissioners may participate in meetings of the compact commission in lieu of and upon the request of a South Carolina commissioner. Technical representatives from the Department of Health and Environmental Control, the office, the PSC, and other state agencies may participate in relevant portions of meetings of the compact commission upon the request of a commissioner, alternate commissioner, or staff of the compact commission, or as called for in the compact commission bylaws.

(B) South Carolina commissioners or alternate commissioners to the compact commission may not vote affirmatively on any motion to admit new member states to the compact unless that state volunteers to host a regional disposal facility.

(C) Compact commissioners or alternate commissioners to the Atlantic Compact Commission may not vote to approve a regional management plan or any other plan or policy that allows for acceptance at the Barnwell regional disposal facility of more than a total of 800,000 cubic feet of waste from Connecticut and New Jersey.

(D) South Carolina's commissioners or alternate commissioners to the compact commission shall cast any applicable votes on the compact commission in a manner that authorizes the importation of waste into the region for purposes of disposal at a regional disposal facility in South Carolina so long as importation would not result in the facility accepting more than the following total volumes of all waste:

(1) 160,000 cubic feet in fiscal year 2001;
(2) 80,000 cubic feet in fiscal year 2002;
(3) 70,000 cubic feet in fiscal year 2003;
(4) 60,000 cubic feet in fiscal year 2004;
(5) 50,000 cubic feet in fiscal year 2005;
(6) 45,000 cubic feet in fiscal year 2006;
(7) 40,000 cubic feet in fiscal year 2007;
(8) 35,000 cubic feet in fiscal year 2008.

South Carolina's commissioners or alternate commissioners shall not vote to approve the importation of waste into the region for purposes of disposal in any fiscal year after 2008."

HH. Section 48-46-60 of the 1976 Code is amended to read:

"Section 48-46-60. (A) The Governor and the office are authorized to take such actions as are necessary to join the Atlantic Compact including, but not limited to, petitioning the Compact Commission for membership and participating in any and all rulemaking processes. South Carolina's membership in the Atlantic Compact pursuant to this chapter is effective July 1, 2000, if by that date the Governor certifies to the General Assembly that the Compact Commission has taken each of the actions specified below. If the Compact Commission by July 1, 2000, has not taken each of the actions specified below, then South Carolina's membership shall become effective as soon thereafter as the Governor certifies that the Atlantic Compact Commission has taken these actions:

(1) adopted a binding regulation or policy in accordance with Article VII(e) of the compact establishing conditions for admission of a party state that are consistent with this act and ordered that South Carolina be declared eligible to be a party state consistent with those conditions;

(2) adopted a binding regulation or policy in accordance with Article IV(i)(11) of the Atlantic Compact authorizing a host state to enter into agreements on behalf of the compact and consistent with criteria established by the compact commission and consistent with the provisions of Section 48-46-40(A)(6)(a) and Section 48-46-50(D) with any person for the importation of waste into the region for purposes of disposal, to the extent that these agreements do not preclude the disposal facility from accepting all regional waste that can reasonably be projected to require disposal at the regional disposal facility consistent with subitem (5)(b) of this section;

(3) adopted a binding regulation or policy in accordance with Article IV(i)(12) of the Atlantic Compact authorizing each regional generator, at the generator's discretion, to ship waste to disposal facilities located outside the Atlantic Compact region;

(4) authorized South Carolina to proceed with plans to establish disposal rates for low-level radioactive waste disposal in a manner consistent with the procedures described in this chapter;

(5) adopted a binding regulation, policy, or order officially designating South Carolina as a volunteer host state for the region's disposal facility, contingent upon South Carolina's membership in the compact, in accordance with Article V.b.1. of the Atlantic Compact, thereby authorizing the following compensation and incentives to South Carolina:

(a) agreement, as evidenced in a policy, regulation, or order that the compact commission will issue a payment of twelve million dollars to the State of South Carolina. Before issuing the twelve million-dollar payment, the compact commission will deduct and retain from this amount seventy thousand dollars, which will be credited as full payment of South Carolina's membership dues in the Atlantic Compact. The remainder of the twelve million-dollar payment must be credited to an account in the State Treasurer's office, separate and distinct from the fund, styled 'Barnwell Economic Development Fund'. This fund, and earnings on this fund which must be credited to the fund, may only be expended for purposes of economic development in the Barnwell County area including, but not limited to, projects of the Barnwell County Economic Development Corporation and projects of the Tri-County alliance which includes Barnwell, Bamberg, and Allendale Counties and projects in the Williston area of Aiken County. Economic development includes, but is not limited to, industrial recruitment, infrastructure construction, improvement, and expansion, and public facilities construction, improvement, and expansion. These funds must be spent according to guidelines established by the Barnwell County governing body and upon approval of the office. Expenditures must be authorized by the Barnwell County governing body and with the approval of the office. Upon approval of the Barnwell County governing body and the office, the State Treasurer shall submit the approved funds to the Barnwell County Treasurer for disbursement pursuant to the authorization;

(b) adopted a binding regulation, policy, or order consistent with the regional management plan developed pursuant to Article V(a) of the Atlantic Compact, limiting Connecticut and New Jersey to the use of not more than 800,000 cubic feet of disposal capacity at the regional disposal facility located in Barnwell County, South Carolina, and also ensuring that up to 800,000 cubic feet of disposal capacity remains available for use by Connecticut and New Jersey unless this estimate of need is later revised downward by unanimous consent of the compact commission;

(c) agreement, as evidenced in a policy or regulation, that the compact commission headquarters and office will be relocated to South Carolina within six months of South Carolina's membership; and

(d) agreement, as evidenced in a policy or regulation, that the compact commission will, to the extent practicable, hold a majority of its meetings in the host state for the regional disposal facility.

(B) The office, the State Treasurer, and the PSC shall provide the required staff and may add additional permanent or temporary staff or

contract for services, as well as provide for operating expenses, if necessary, to administer new responsibilities assigned under this chapter. In accordance with Article V.f.2. of the Atlantic Compact the compensation, costs, and expenses incurred incident to administering these responsibilities may be paid through a surcharge on waste disposed at regional disposal facilities within the State. To cover these costs the office shall impose a surcharge per unit of waste received at any regional disposal facility located within the State. A site operator shall collect and remit these fees to the office in accordance with the office's directions. All such surcharges shall be included within the disposal rates set by the office pursuant to Section 48-46-40.

(C) In accordance with Article V.f.3. of the Atlantic Compact, the compact commission shall advise the office at least annually, but more frequently if the compact commission deems appropriate, of the compact commission's costs and expenses. To cover these costs the office shall impose a surcharge per unit of waste received at any regional disposal facility located within the State as determined in Section 48-46-40. A site operator shall collect and remit these fees to the office in accordance with the office's directions, and the department shall remit those fees to the compact commission."

II. Section 48-46-90(A) of the 1976 Code is amended to read:

"(A) In accordance with Section 13-7-30, the office, or its designee, is responsible for extended custody and maintenance of the Barnwell site following closure and license transfer from the facility operator. The Department of Health and Environmental Control is responsible for continued site monitoring."

JJ. Section 63-11-500(A) of the 1976 Code, as last amended by Act 202 of 2010, is further amended to read:

"(A) There is created the Cass Elias McCarter Guardian ad Litem Program in South Carolina. The program shall serve as a statewide system to provide training and supervision to volunteers who serve as court-appointed special advocates for children in abuse and neglect proceedings within the family court, pursuant to Section 63-7-1620. This program must be administered by the Department of Administration."

KK. 1. Section 63-11-700 of the 1976 Code, as last amended by Act 279 of 2012, is further amended to read:

"Section 63-11-700. (A) There is created, within the Department of Administration, the Division for Review of the Foster Care of Children. The division must be supported by a board consisting of eight members, all of whom must be past or present members of local review boards. There must be one member from each congressional district, all appointed by the Governor with the advice and consent of the Senate.

(B) Terms of office for the members of the board are for four years and until their successors are appointed and qualify. Appointments must be made by the Governor for terms of four years to expire on June thirtieth of the appropriate year.

(C) The board shall elect from its members a chairman who shall serve for two years. Five members of the board constitute a quorum for the transaction of business. Members of the board shall receive per diem, mileage, and subsistence as provided by law for members of boards, commissions, and committees while engaged in the work of the board.

(D) The board shall meet at least quarterly and more frequently upon the call of the division director to review and coordinate the activities of the local review boards and make recommendations to the Governor and the General Assembly with regard to foster care policies, procedures, and deficiencies of public and private agencies which arrange for foster care of children as determined by the review of cases provided for in Section 63-11-720(A)(1) and (2). These recommendations must be submitted to the Governor and included in an annual report, filed with the General Assembly, of the activities of the state office and local review boards.

(E) The board, upon recommendation of the division director, shall promulgate regulations to carry out the provisions of this article. These regulations shall provide for and must be limited to procedures for: reviewing reports and other necessary information at state, county, and private agencies and facilities; scheduling of reviews and notification of interested parties; conducting local review board and board of directors' meetings; disseminating local review board recommendations, including reporting to the appropriate family court judges the status of judicially approved treatment plans; participating and intervening in family court proceedings; and developing policies for summary review of children privately placed in privately-owned facilities or group homes.

(F) The Governor may employ a division director to serve at the Governor's pleasure who may be paid an annual salary to be

determined by the Governor. The director may be removed pursuant to Section 1-3-240. The division director shall employ staff as is necessary to carry out this article, and the staff must be compensated in an amount and in a manner as may be determined by the Governor.

(G) This article may not be construed to provide for subpoena authority."

2. Section 63-11-730(A) of the 1976 Code is amended to read:

"(A) No person may be employed by the Division for Review of the Foster Care of Children, within the Department of Administration, or may serve on the state or a local foster care review board if the person:

(1) is the subject of an indicated report or affirmative determination of abuse or neglect as maintained by the Department of Social Services in the Central Registry of Child Abuse and Neglect pursuant to Subarticle 13, Article 3, Chapter 7;

(2) has been convicted of or pled guilty or nolo contendere to:

(a) an 'offense against the person' as provided for in Title 16, Chapter 3;

(b) an 'offense against morality or decency' as provided for in Title 16, Chapter 15; or

(c) contributing to the delinquency of a minor, as provided for in Section 16-17-490."

LL. 1. Section 63-11-1110 of the 1976 Code is amended to read:

"Section 63-11-1110. There is created the Children's Case Resolution System within the Department of Administration and referred to in this article as the system, which is a process of reviewing cases on behalf of children for whom the appropriate public agencies collectively have not provided the necessary services. "

2. Section 63-11-1140(5), (8), and (9) of the 1976 Code is amended to read:

"(5) when unanimous consent is not obtained as required in item (4), a panel must be convened composed of the following persons:

(a) one public agency board member and one agency head appointed by the Governor. Recommendations for appointments may be submitted by the Human Services Coordinating Council. No member may be appointed who represents any agency involved in the resolution of the case;

(b) one legislator appointed by the Governor; and

(c) two members appointed by the Governor, drawn from a list of qualified individuals not employed by a child-serving public agency, established in advance by the system, who have knowledge of public services for children in South Carolina.

The chairman must be appointed by the Governor from members appointed as provided in subitem (c) of this item. A decision is made by a majority of the panel members present and voting, but in no case may a decision be rendered by less than three members. The panel shall review a case at the earliest possible date after sufficient staff review and evaluation pursuant to items (3) and (4) and shall make a decision by the next scheduled panel meeting. When private services are necessary, financial responsibility must be apportioned among the appropriate public agencies based on the reasons for the private services. Agencies designated by the panel shall carry out the decisions of the panel, but the decisions may not substantially affect the funds appropriated for the designated agency to such a degree that the intent of the General Assembly is changed. Substantial impact of the decisions must be defined by regulations promulgated by the Department of Administration. When the panel identifies similar cases that illustrate a break in the delivery of service to children, either because of restrictions by law or substantial lack of funding, the panel shall report the situation to the General Assembly and subsequently may not accept any similar cases for decision until the General Assembly takes appropriate action, however, the system may continue to perform the functions provided in items (3) and (4).

Each member of the panel is entitled to subsistence, per diem, and mileage authorized for members of state boards, committees, and commissions. The respective agency is responsible for the compensation of the members appointed in subitems (a) and (b) of this item, and the system is responsible for the compensation of the members appointed in subitem (c) of this item;

(8) submit an annual report on the activities of the system to the Governor, Director of the Department of Administration, the General Assembly, and agencies designated by the system as relevant to the cases; and

(9) compile and transmit additional reports on the activities of the system and recommendations for service delivery improvements, as necessary, to the Governor and the Joint Citizens and Legislative Committee on Children."

MM. 1. Section 44-38-380(A)(1)(h) of the 1976 Code is amended to read:

"(h) Director of the Continuum of Care for Emotionally Disturbed Children;"

2. Section 63-11-1310 of the 1976 Code is amended to read:

"Section 63-11-1310. It is the purpose of this article to develop and enhance the delivery of services to severely emotionally disturbed children and youth and to ensure that the special needs of this population are met appropriately to the extent possible within this State. To achieve this objective, the Continuum of Care for Emotionally Disturbed Children Division is established as a division of the Department of Administration. This article supplements and does not supplant existing services provided to this population."

3. Section 63-11-1340 of the 1976 Code is amended to read:

"Section 63-11-1340. The Governor may appoint a Director of the Continuum of Care to serve at his pleasure who is subject to removal pursuant to the provisions of Section 1-3-240. The director shall employ staff necessary to carry out the provisions of this article. The funds for the division director, staff, and other purposes of the Continuum of Care Division must be provided in the annual general appropriations act. The department, upon the recommendation of the division director, may promulgate regulations in accordance with this article and the provisions of the Administrative Procedures Act and formulate necessary policies and procedures of administration and operation to carry out effectively the objectives of this article."

4. Section 63-11-1360 of the 1976 Code is amended to read:

"Section 63-11-1360. The Continuum of Care Division shall submit an annual report to the Department of Administration and General Assembly on its activities and recommendations for changes and improvements in the delivery of services by public agencies serving children."

5. Section 63-11-1510 of the 1976 Code is amended to read:

"Section 63-11-1510. There is established the Interagency System for Caring for Emotionally Disturbed Children, an integrated system of care to be developed by the Continuum of Care for Emotionally Disturbed Children in the Department of Administration, the Department of Disabilities and Special Needs, the State Health and Human Services Finance Commission, the Department of Mental Health, and the Department of Social Services to be implemented by November 1, 1994. The goal of the system is to implement South Carolina's Families First Policy and to support children in a manner that enables them to function in a community setting. The system shall provide assessment and evaluation procedures to insure a proper service plan and placement for each child. This system must have as a key component the clear identification of the agency accountable for monitoring on a regular basis each child's care plan and procedures to evaluate and certify the programs offered by providers."

Part VI

Revenue and Fiscal Affairs Office and
Other Transfer Provisions

Revenue and Fiscal Affairs Office established, Board of Economic Advisors, Office of Research and Statistics, Office of State Budget, Executive Budget Office of the Department of Administration established

SECTION 8. A. Chapter 9, Title 11 of the 1976 Code is amended by adding:

"Article 11

Revenue and Fiscal Affairs Office

Section 11-9-1110. (A) There is established the Revenue and Fiscal Affairs Office to be governed by the three appointed members of the Board of Economic Advisors pursuant to Section 11-9-820. The office is comprised of the Board of Economic Advisors, Office of Research and Statistics, and the Office of State Budget. The functions of the office must be performed, exercised, and discharged under the supervision and direction of the board. The board may organize its

staff as it considers appropriate to carry out the various duties, responsibilities, and authorities assigned to it and to its various divisions. The board may delegate to one or more officers, agents, or employees the powers and duties it determines are necessary for the effective and efficient operation of the office.

(B) The Department of Administration shall provide such administrative support to the Revenue and Fiscal Affairs Office or any of its divisions or components as they may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support.

Section 11-9-1120. The Board of Economic Advisors division of the office shall maintain the organizational and procedural framework under which it is operating, and exercise its powers, duties, and responsibilities, as of the effective date of this section.

Section 11-9-1130. (A) The Office of Research and Statistics must be comprised of an Economic Research division and an Office of Precinct Demographics division.

(B) The Economic Research division shall maintain the organizational and procedural framework under which it is operating, and exercise its powers, duties, and responsibilities, as of the effective date of this section.

(C) The Office of Precinct Demographics shall:

(1) review existing precinct boundaries and maps for accuracy and develop and rewrite descriptions of precincts for submission to the legislative process;

(2) consult with members of the General Assembly or their designees on matters related to precinct construction or discrepancies that may exist or occur in precinct boundary development in the counties they represent;

(3) develop a system for originating and maintaining precinct maps and related data for the State;

(4) represent the General Assembly at public meetings, meetings with members of the General Assembly, and meetings with other state, county, or local governmental entities on matters related to precincts;

(5) assist the appropriate county officials in the drawing of maps and writing of descriptions or precincts preliminary to these maps and descriptions being filed in this office for submission to the United States Department of Justice;

(6) coordinate with the Census Bureau in the use of precinct boundaries in constructing census boundaries and the identification of effective uses of precinct and census information for planning purposes; and

(7) serve as a focal point for verifying official precinct information for the counties of South Carolina.

Section 11-9-1140. The Office of State Budget division of the office shall maintain the organizational and procedural framework under which it is operating, and exercise its powers, duties, and responsibilities, as of the effective date of this section."

B. Section 11-9-820(A), (B), and (C) of the 1976 Code is amended to read:

"(A)(1)There is created the Board of Economic Advisors, a division of the Revenue and Fiscal Affairs Office, as follows:

(a) one member, appointed by, and serving at the pleasure of the Governor, who shall serve as chairman and shall receive annual compensation of ten thousand dollars;

(b) one member appointed by, and serving at the pleasure of the Chairman of the Senate Finance Committee, who shall receive annual compensation of eight thousand dollars;

(c) one member appointed by, and serving at the pleasure of the Chairman of the Ways and Means Committee of the House of Representatives, who shall receive annual compensation of eight thousand dollars;

(d) the Director of the Department of Revenue, who shall serve ex officio, with no voting rights.

(2) The board shall unanimously select an Executive Director of the Revenue and Fiscal Affairs Office who shall serve a four-year term. The executive director only may be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity as found by the board. The executive director shall have the authority and perform the duties prescribed by law and as may be directed by the board.

(B) The Chairman of the Board of Economic Advisors shall report directly to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee to establish policy governing economic trend analysis. The Board of Economic Advisors shall provide for its staffing and

administrative support from funds appropriated by the General Assembly.

(C) The Executive Director of the Revenue and Fiscal Affairs Office shall assist the Governor, Chairman of the Board of Economic Advisors, Chairman of the Senate Finance Committee, and Chairman of the Ways and Means Committee of the House of Representatives in providing an effective system for compiling and maintaining current and reliable economic data. The Board of Economic Advisors may establish an advisory board to assist in carrying out its duties and responsibilities. All state agencies, departments, institutions, and divisions shall provide the information and data the advisory board requires. The Board of Economic Advisors is considered a public body for purposes of the Freedom of Information Act, pursuant to Section 30-4-20(a)."

C. Sections 11-9-825 and 11-9-830 of the 1976 Code are amended to read:

"Section 11-9-825. The staff of the Board of Economic Advisors must be supplemented by the following officials who each shall designate one professional from their individual staffs to assist the BEA staff on a regular basis: the Governor, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Finance Committee, and the State Department of Revenue director. The BEA staff shall meet monthly with these designees in order to solicit their input.

Section 11-9-830. In order to provide a more effective system of providing advice to the Governor and the General Assembly on economic trends, the Board of Economic Advisors shall:

(1) compile and maintain in a unified, concise, and orderly form information about total revenues and expenditures which involve the funding of state government operations, revenues received by the State which comprise general revenue sources of all receipts to include amounts borrowed, federal grants, earnings, and the various activities accounted for in other funds;

(2) continuously review and evaluate total revenues and expenditures to determine the extent to which they meet fiscal plan forecasts/projections;

(3) evaluate federal revenues in terms of impact on state programs;

(4) compile economic, social, and demographic data for use in the publishing of economic scenarios for incorporation into the development of the state budget;

(5) bring to the attention of the Governor and the General Assembly the effectiveness, or lack thereof, of the economic trends and the impact on statewide policies and priorities;

(6) establish liaison with the Congressional Budget Office and the Office of Management and Budget at the national level."

D. Section 11-9-880(C) of the 1976 Code is amended to read:

"(C) All forecasts, adjusted forecasts, and reports of the Board of Economic Advisors, including the synopsis of the current year's review as required by subsection (B), must be published and reported to the Governor, the members of the General Assembly, and made available to the news media."

E. Section 2-7-72 of the 1976 Code is amended to read:

"Section 2-7-72. Whenever a bill or resolution is introduced in the General Assembly requiring the expenditure of funds, the principal author shall affix a statement of estimated fiscal impact and cost of the proposed legislation. Before reporting the bill out of committee, if the amount is substantially different from the original estimate, the committee shall attach a statement of estimated fiscal impact to the bill signed by the Executive Director of the Revenue and Fiscal Affairs Office or his designee. As used in this section, 'statement of estimated fiscal impact' means the opinion of the person executing the statement as to the dollar cost to the State for the first year and the annual cost thereafter."

F. Section 2-7-73 of the 1976 Code is amended to read:

"Section 2-7-73. (A) Any bill or resolution which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, must have attached to it a statement of the financial impact of the coverage, according to the guidelines enumerated in subsection (B). This financial impact analysis must be conducted by the Revenue and Fiscal Affairs Office and signed by an authorized agent of the Department of Insurance, or his designee. The statement required by this section must

be delivered to the Senate or House committee to which any bill or resolution is referred, within thirty days of the written request of the chairman of such committee.

(B) Guidelines for assessing the financial impact of proposed mandated or mandatorily offered health coverage to the extent that information is available, must include, but are not limited to, the following:

(1) to what extent does the coverage increase or decrease the cost of treatment or services;

(2) to what extent does the coverage increase or decrease the use of treatment or service;

(3) to what extent does the mandated treatment or service substitute for more expensive treatment or service;

(4) to what extent does the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders; and

(5) what is the impact of this coverage on the total cost of health care."

G. Section 2-7-74 of the 1976 Code, as added by Act 273 of 2010, is amended to read:

"Section 2-7-74. (A) As used in this section, 'statement of estimated fiscal impact' means the opinion of the person executing the statement as to the dollar cost to the State for the first year and the annual cost thereafter.

(B) The principal author of legislation that would establish a new criminal offense or that would amend the sentencing provisions of an existing criminal offense may affix a statement of estimated fiscal impact of the proposed legislation. Upon request from the principal author of the legislation, the Revenue and Fiscal Affairs Office shall assist in preparing the fiscal impact statement.

(C) If a fiscal impact statement is not affixed to legislation at the time of introduction, the committee to which the legislation is referred shall request a fiscal impact statement from the Revenue and Fiscal Affairs Office. The Revenue and Fiscal Affairs Office shall have at least fifteen calendar days from the date of the request to deliver the fiscal impact statement to the Senate or House of Representatives committee to which the legislation is referred, unless the Revenue and Fiscal Affairs Office requests an extension of time. The Revenue and Fiscal Affairs Office shall not unreasonably delay the delivery of a fiscal impact statement.

(D) The committee shall not take action on the legislation until the committee has received the fiscal impact statement.

(E) If the legislation is reported out of the committee, the committee shall attach the fiscal impact statement to the legislation. If the legislation has been amended, the committee shall request a revised fiscal impact statement from the Revenue and Fiscal Affairs Office and shall attach the revised fiscal impact statement to the legislation.

(F) State agencies and political subdivisions shall cooperate with the Revenue and Fiscal Affairs Office in preparing fiscal impact statements. Such agencies and political subdivisions shall submit requested information to the Revenue and Fiscal Affairs Office in a timely fashion.

(G) In preparing fiscal impact statements, the Revenue and Fiscal Affairs Office shall consider and evaluate information as submitted by state agencies and political subdivisions. The Revenue and Fiscal Affairs Office shall provide to the requesting Senate or House of Representatives committee any estimates provided by a state agency or political subdivision, which are substantially different from the fiscal impact as issued by the Revenue and Fiscal Affairs Office.

(H) The Revenue and Fiscal Affairs Office may request information from nongovernmental agencies and organizations to assist in preparing the fiscal impact statement."

H. Section 2-7-76 of the 1976 Code is amended to read:

"Section 2-7-76. (A) The chairman of the legislative committee to which a bill or resolution was referred shall direct the Revenue and Fiscal Affairs Office to prepare and affix to it a statement of the estimated fiscal and revenue impact and cost to the counties and municipalities of the proposed legislation before the legislation is reported out of that committee if a bill or resolution:

(1) requires a county or municipality to expend funds allocated to the county or municipality pursuant to Chapter 27 of Title 6;

(2) is introduced in the General Assembly to require the expenditure of funds by a county or municipality;

(3) requires the use of county or municipal personnel, facilities, or equipment to implement a general law or regulations promulgated pursuant to a general law; or

(4) relates to taxes imposed by political subdivisions.

(B) A revised estimated fiscal and revenue impact and cost statement must be prepared at the direction of the presiding officer of the House of Representatives or the Senate by the Revenue and Fiscal

Affairs Office before third reading of the bill or resolution, if there is a significant amendment to the bill or resolution.

(C) For purposes of this section, 'political subdivision' means a county, municipality, school district, special purpose district, public service district, or consolidated political subdivision."

I. Chapter 30, Title 1 of the 1976 Code is amended by adding:

"Section 1-30-125. (A) There is established, within the Department of Administration, the Executive Budget Office which shall support the Office of the Governor by conducting analysis, implementing and monitoring the annual general appropriations act, and evaluating program performance.

(B) The Executive Budget Office shall use the existing resources of the organizations transferred to the Department of Administration including, but not limited to, funding, personnel, equipment, and supplies. Vacant FTEs at the former State Budget and Control Board also may be used to fill needed positions for the office."

J. Portions of the Office of State Budget of the State Budget and Control Board which are directly related to the development of the annual general appropriations act are transferred to the Revenue and Fiscal Affairs Office except for the employees required to support the Executive Budget Office.

K. The Board of Economic Advisors of the State Budget and Control Board is transferred to and incorporated into the Revenue and Fiscal Affairs Office.

L. The Office of Research and Statistics of the State Budget and Control Board is transferred to and incorporated into the Revenue and Fiscal Affairs Office.

M. The provisions contained in this SECTION take effect July 1, 2014.

Board of Economic Advisors, revenue forecasts, authority of the President Pro Tempore and the Speaker to call Senate and House of Representatives into session under certain circumstances, circumstances under which the Director of the Executive Budget Office must reduce general fund appropriations

SECTION 9. Section 11-9-890B. of the 1976 Code, as last amended by Act 152 of 2010, is further amended to read:

"B. (1) If at the end of the first, second, or third quarter of any fiscal year the Board of Economic Advisors reduces the revenue forecast for the fiscal year by three percent or less below the amount projected for the fiscal year in the forecast in effect at the time the general appropriations bill for the fiscal year is ratified, within three days of that determination, the Director of the Executive Budget Office must reduce general fund appropriations by the requisite amount in the manner prescribed by law. Upon making the reduction, the Director of the Executive Budget Office immediately must notify the State Treasurer and the Comptroller General of the reduction, and upon notification, the appropriations are considered reduced. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the Director of the Executive Budget Office. A reduction of rate of expenditure by the Director of the Executive Budget Office, under authority of this section, must be applied as uniformly as shall be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government.

(2) If at the end of the first, second, or third quarter of any fiscal year the Board of Economic Advisors reduces the revenue forecast for the fiscal year by more than three percent below the amount projected for the fiscal year in the forecast in effect at the time the general appropriations bill for the fiscal year is ratified, the President Pro Tempore of the Senate and the Speaker of the House of Representatives may call each respective house into session to take action to avoid a year-end deficit. If the General Assembly has not taken action within twenty days of the determination of the Board of Economic Advisors, the Director of the Executive Budget Office must reduce general fund appropriations by the requisite amount in the manner prescribed by law and in accordance with item (1)."

State Agency Deficit Prevention and Recognition Act

SECTION 10. A. Title 2 of the 1976 Code is amended by adding:

"CHAPTER 79

State Agency Deficit Prevention and Recognition

Section 2-79-10. This chapter may be cited as the 'State Agency Deficit Prevention and Recognition Act'.

Section 2-79-20. It is the responsibility of each state agency, department, and institution to operate within the limits of appropriations set forth in the annual general appropriations act, appropriation acts, or joint resolution supplemental thereto, and any other approved expenditures of monies. A state agency, department, or institution shall not operate in a manner that results in a year-end deficit except as provided in this chapter.

Section 2-79-30. If at the end of each quarterly deficit monitoring review by the Executive Budget Office, it is determined by either the Executive Budget Office or a state agency, department, or institution that the likelihood of a deficit for the current fiscal year exists, the state agency shall notify the General Assembly within fifteen days of this determination and shall further request the Executive Budget Office to work with it to develop a plan to avoid the deficit. Within fifteen days of the deficit avoidance plan being completed, the Executive Budget Office shall either request the General Assembly to recognize the deficit in the manner provided in this chapter if it determines the deficit avoidance plan will not be sufficient to avoid a deficit or notify the General Assembly of how the deficit will be avoided based on the deficit avoidance plan if the Executive Budget Office determines the plan will be sufficient to avoid a deficit.

Section 2-79-40. (A) Upon notification from the Executive Budget Office as provided in Section 2-79-30 that an agency will run a deficit and requesting that it be recognized, the General Assembly, by joint resolution, may make a finding that the cause of, or likelihood of, a deficit is unavoidable due to factors which are outside the control of the state agency, department, or institution, and recognize the deficit. Any legislation to recognize a deficit must be in a separate joint resolution enacted for the sole purpose of recognizing the deficit of a

particular state agency, department, or institution. A deficit only may be recognized by an affirmative vote of each branch of the General Assembly.

(B) If the General Assembly recognizes the deficit, then the actual deficit at the close of the fiscal year must be reduced as necessary from surplus revenues or surplus funds available at the close of the fiscal year in which the deficit occurs and from funds available in the General Reserve Fund and the Capital Reserve Fund, as required by the Constitution of this State.

Section 2-79-50. Once a deficit has been recognized by the General Assembly, the state agency, department, or institution shall limit travel and conference attendance to that which is deemed essential by the director of the agency, department, or institution. In addition, the General Assembly, when recognizing a deficit may direct that any pay increases and purchases of equipment and vehicles must be approved by the Executive Budget Office."

B. Section 1-11-495 of the 1976 Code is repealed.

C. Sections 11-9-230 through 11-9-270 of the 1976 Code are repealed.

State Energy Office, transfer to the Office of Regulatory Staff

SECTION 11. Section 48-52-410 of the 1976 Code is amended to read:

"Section 48-52-410. There is established the State Energy Office within the Office of Regulatory Staff which shall serve as the principal energy planning entity for the State. Its primary purpose is to develop and implement a well-balanced energy strategy and to increase the efficiency of use of all energy sources throughout South Carolina through the implementation of the Plan for State Energy Policy. The State Energy Office must not function as a regulatory body."

State Energy Office, mission revised

SECTION 12. Section 48-52-440 of the 1976 Code is amended to read:

"Section 48-52-440. (A) All funds allocated or directed to this State by the federal government relating to energy planning, energy conservation, and energy efficiency must be allocated or directed to the State Energy Office in the Office of Regulatory Staff to be distributed in accordance with the provisions of this section; provided, however, that no funding from the following federal programs is subject to the provisions of this section:

(1) the Low Income Home Energy Assistance Program (LIHEAP), created by Title XXVI of the Omnibus Budget Reconciliation Act of 1981 and codified as Chapter 94, Title 42 of the United States Code, as amended by the Human Services Reauthorization Act of 1984, the Human Services Reauthorization Act of 1986, the Augustus F. Hawkins Human Services Reauthorization Act of 1990, the National Institutes of Health Revitalization Act of 1993, the Low-Income Home Energy Amendments of 1994, the Coats Human Services Reauthorization Act of 1998, and the Energy Policy Act of 2005, which is administered and funded by the United States Department of Health and Human Services on the federal level and administered locally by community action agencies; or

(2) the Weatherization Assistance Program, created by Title IV of the Energy Conservation and Production Act of 1976 and codified as Part A, Subchapter III, Chapter 81, Title 42 of the United States Code, amended by the National Energy Conservation Policy Act, the Energy Security Act, the Human Services Reauthorization Act of 1984, and the State Energy Efficiency Programs Improvement Act of 1990 and administered and funded by the United States Department of Energy on the federal level and administered locally by community action agencies.

Nothing in this section changes the exclusive administration of the Low Income Home Energy Assistance Program and Weatherization Assistance Program by local community action agencies through the Department of Administration's Office of Economic Opportunity pursuant to its authority under the provisions of Chapter 45, Title 43, the Community Economic Opportunity Act of 1983.

(B) All funds described in subsection (A) that are not exempted by items (1) and (2) must be distributed by the State Energy Office in the Office of Regulatory Staff in accordance with all requirements of federal law associated with these funds. Persons seeking to obtain funding for energy related programs must submit to the State Energy Office a plan for the use of the funds in a manner consistent with the provisions of this section.

(C) Upon receipt of the plans required by subsection (B), the State Energy Office of the Office of Regulatory Staff must prepare an analysis of the plans and their consistency with the provisions of this section and submit that analysis to the Department Advisory Council for its review and recommendations.

(D) There is hereby created in the Office of Regulatory Staff the Energy Advisory Council, which will advise the State Energy Office on all matters for which the State Energy Office is responsible and specifically with respect to its review of the annual plans required to be submitted pursuant to this section. The Advisory Council shall be composed of nine members as follows:

(1) three appointed by the Governor, one of whom must have a substantial background in environmental or consumer protection matters;

(2) three appointed by the President Pro Tempore of the Senate, one of whom must have a substantial background in environmental or consumer protection matters; and

(3) three appointed by the Speaker of the House of Representatives, one of whom must have a substantial background in environmental or consumer protection matters.

All appointees must have backgrounds in environmental issues; the electricity, transportation, or natural gas industries; or economic development related to these sectors.

(E) In evaluating the plans required by this section, the Advisory Council shall consider the extent to which the plans allocate funds in a cost effective manner and promote the following alternative sources of domestic energy or avoidance of consumption of energy:

(1) the development of energy efficiency and conservation;

(2) renewable sources of energy, including wind power, solar power, energy from biomass sources, and energy storage;

(3) nuclear energy; and

(4) alternative fuels or power sources for the transportation sector.

In considering the cost-effectiveness of the plans the Advisory Council must consider the cost of the proposed measures as to the expected useful life of the measures being proposed and the impact of the proposed measures on consumers. For each proposed plan, the Advisory Council must consider the value of the avoided cost of complying with anticipated state and federal environmental regulations.

(F) Upon completion of its review of plans submitted in compliance with this section, the Advisory Council must prepare a report describing the results of its review and submit copies of that report to

the State Energy Office of the Office of Regulatory Staff and the Public Utility Review Committee of Article 5, Chapter 3, Title 58.

(G) The Executive Director of the Office of Regulatory Staff shall make the final determinations of distributions of funds as required by this section, taking into account the recommendations of the Advisory Council. Grant awards shall be made in a manner consistent with this section."

State Energy Office, conforming changes

SECTION 13. Section 48-52-460 of the 1976 Code is amended to read:

"Section 48-52-460. The establishment of the State Energy Office within the Office of Regulatory Staff, as provided for in this part, must be evaluated if restructuring or reorganizing of state government takes place so as to identify and provide for the proper placement of the office upon restructuring or reorganizing."

State Energy Office, conforming changes

SECTION 14. Section 48-52-635 of the 1976 Code is amended to read:

"Section 48-52-635. Pursuant to Section 48-52-630, an agency's savings realized in the prior fiscal year from implementing an energy conservation measure as compared to a baseline energy use as certified by the State Energy Office, may be retained and carried forward into the current fiscal year. This savings, as certified by the State Energy Office, must first be used for debt retirement of capital expenditures, if any, on the energy conservation measure, after which time savings may be used for agency operational purposes and where practical, reinvested into energy conservation areas. The agency must report all actual savings in the energy portion of its annual report to the Office of Regulatory Staff."

State Energy Office, conforming changes

SECTION 15. Section 48-52-680(C) of the 1976 Code is amended to read:

"(C) The State Energy Office shall provide the Office of Property Management, Division of General Services of the Department of Administration, information to be used in evaluating energy costs for buildings or portions of buildings proposed to be leased by governmental bodies that are defined in and subject to the Consolidated Procurement Code. The information provided must be considered with the other criteria provided by law by a governmental body before entering into a real property lease."

Local Government Division, transfer to Rural Infrastructure Authority, conforming changes

SECTION 16. A. Section 1-11-25 of the 1976 Code is amended to read:

"Section 1-11-25. There is hereby established a Local Government Division within the Rural Infrastructure Authority to act as a liaison for financial grants from the funds available to the authority. The division shall be under the supervision of a director who shall be appointed by and who shall serve at the pleasure of the Director of the Rural Infrastructure Authority. He may employ such staff as may be approved by the Director of the Rural Infrastructure Authority. The division shall be responsible for certifying grants to local governments from both federal and state funds. The term 'local government' shall mean any political entity below the state level. Notwithstanding the fact that the Local Government Division is now a part of the Rural Infrastructure Authority, where certain grants of the division depending upon their funding source require additional approvals other than the division and the authority before they may be made, those additional approvals also must be secured.

The division shall establish guidelines and procedures which public entities shall follow in applying for grants. The director shall make known to these entities the availability of all grants available through the authority and shall make periodic reports to the General Assembly and the Office of the Governor. The reports shall contain information concerning the amount of funds available from both federal and state sources, requests for grants and the status of such requests and such other information as the director may deem appropriate. The director shall maintain such records as may be necessary for the efficient operation of the office."

B. Section 1-11-26 of the 1976 Code is amended to read:

"Section 1-11-26. (A) Grant funds received by a public entity from the Rural Infrastructure Authority must be deposited in a separate fund and may not be commingled with other funds, including other grant funds. Disbursements may be made from this fund only on the written authorization of the individual who signed the grant application filed with the division, or his successor, and only for the purposes specified in the grant application. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined five thousand dollars or imprisoned for six months, or both.

(B) It is not a defense to an indictment alleging a violation of this section that grant funds received were used by a grantee or subgrantee for governmental purposes other than those specified in the grant application or that the purpose for which the grant was made was accomplished by funds other than grant funds.

(C) The Division of Local Government of the Rural Infrastructure Authority shall furnish a copy of this section to a grantee when the grant is awarded."

C. Chapter 50, Title 11 of the 1976 Code is amended by adding:

"Section 11-50-65. The Department of Commerce shall provide such administrative support to the State Rural Infrastructure Authority or any of its divisions or components as they may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support."

D. Section 11-37-200(A) of the 1976 Code is amended to read:

"(A) There is established by this section the Water Resources Coordinating Council which shall establish the priorities for all sewer, wastewater treatment, and water supply facility projects addressed in this chapter, except as otherwise established by Section 48-6-40. The council shall consist of a representative of the Governor, the Director of the Department of Health and Environmental Control, the Director of the South Carolina Department of Natural Resources, the Director of the Rural Infrastructure Authority, the Secretary of Commerce, the Chairman of the Jobs Economic Development Authority, and the Chairman of the Joint Bond Review Committee. These representatives may designate a person to serve in their place on the council, and the

Governor shall appoint the chairman from among the membership of the council for a one-year term. The council shall establish criteria for the review of applications for projects. Not less often than annually, the council shall determine its priorities for projects. The council after evaluating applications shall notify the authority of the priority projects. The South Carolina Jobs Economic Development Authority shall provide the staff to receive, research, investigate, and process applications for projects made to the coordinating council and assist in the formulating of priorities. Upon notification by the council, the authority shall proceed under the provisions of this chapter. The authority may consider applications for projects based upon the existence of a documented emergency consistent with regulations that may be promulgated by the authority. In determining which local governments are to receive grants, the local governments shall provide not less than a fifty percent match for any project. The authority may provide financing for the local matching funds on terms and conditions determined by the authority."

South Carolina Confederate Relic Room and Military Museum Commission established

SECTION 17. A. Title 60 of the 1976 Code is amended by adding:

"CHAPTER 17

South Carolina Confederate Relic Room
and Military Museum Commission

Section 60-17-10. (A) Effective July 1, 2015, the South Carolina Confederate Relic Room and Military Museum Commission is established and must be composed of nine voting members who shall be appointed for terms of four years and until their successors are appointed and qualify, except as specified in subsection (B) for initial terms. The members of the board shall be appointed as follows:

(1) three members appointed by the Governor;

(2) two members appointed by the President Pro Tempore of the Senate;

(3) one member appointed by the President Pro Tempore of the Senate upon the recommendation of the South Carolina Division Commander of the Sons of Confederate Veterans;

(4) two members appointed by the Speaker of the House of Representatives; and

(5) one member appointed by the Speaker of the House of Representatives upon the recommendation of the President of the South Carolina Division of the United Daughters of the Confederacy.

(B) Initially, in order to stagger terms:

(1) one member appointed by the Governor shall serve a term of one year;

(2) one member appointed by the Governor shall serve a term of two years;

(3) one member appointed by the Governor shall serve for three years;

(4) one member appointed by the President Pro Tempore of the Senate shall serve for one year;

(5) one member appointed by the President Pro Tempore of the Senate shall serve for two years;

(6) one member appointed by the President Pro Tempore of the Senate shall serve for three years;

(7) one member appointed by the Speaker of the House of Representatives shall serve for one year;

(8) one member appointed by the Speaker of the House of Representatives shall serve for two years; and

(9) one member appointed by the Speaker of the House of Representatives shall serve for three years.

At the expiration of these initial terms, successors must be appointed for terms of four years.

Section 60-17-20. (A) The South Carolina Confederate Relic Room and Military Museum is authorized to supplement its state appropriations by receiving donations of funds and artifacts and admission fees and to expend these donations and fees to support its operations and for the acquisition, restoration, preservation, and display of its collection.

(B) The South Carolina Confederate Relic Room and Military Museum is authorized to collect, retain, and expend fees from research and photographic processing requests and from the sale of promotional items.

Section 60-17-30. No artifacts owned by the State in the permanent collections of the South Carolina Confederate Relic Room and Military Museum may be permanently removed or disposed of except by a Concurrent Resolution of the General Assembly.

Section 60-17-40. The Director of the South Carolina Confederate Relic Room and Military Museum must be selected by the South Carolina Confederate Relic Room and Military Museum Commission after consultation with the South Carolina Division Commander of the Sons of the Confederate Veterans and the President of the South Carolina Chapter of the United Daughters of the Confederacy. The director shall serve at the pleasure of the commission."

B. Article 7, Chapter 11, Title 1 of the 1976 Code is repealed.

Part VII

State Fiscal Accountability Authority and
Related Provisions

State Fiscal Accountability Authority established, Joint Bond Review Committee, conforming changes

SECTION 18. A. Title 11 of the 1976 Code is amended by adding:

"CHAPTER 55

State Fiscal Accountability Authority

Section 11-55-10. (A) There is established the State Fiscal Accountability Authority consisting of members as follows:

(1) the Governor, who shall serve ex officio as chairman;

(2) the State Treasurer, who shall serve ex officio;

(3) the Comptroller General, who shall serve ex officio;

(4) the Chairman of the Ways and Means Committee of the House of Representatives, ex officio; and

(5) the Chairman of the Senate Finance Committee, ex officio.

(B)(1) The authority shall select an executive director who in turn shall employ other staff under the direction of the State Fiscal Accountability Authority as necessary for the operations of the authority.

(2) The executive director shall serve a four-year term. The executive director may only be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity as found by the authority. The executive director shall have that responsibility and perform the duties prescribed by law and as may be directed by the authority.

(3) The General Assembly, in the annual general appropriations act, shall appropriate those funds necessary for the operations of the authority.

(C) The authority may organize its staff as it considers most appropriate to carry out the various functions, powers, duties, responsibilities, and authority assigned to it.

Section 11-55-30. In the course of conducting and managing state affairs where a matter arises which would under prior precedents and practices be referred to the former Budget and Control Board for decision, although the procedure for the decision is not specifically provided for by general law, the matter instead shall be referred to and decided by the authority.

Section 11-55-40. (A) The authority shall exercise all functions, powers, duties, responsibilities, and authority related to the issuance of bonds and bonding authority, in general found in Title 11 of the 1976 Code, but also contained in certain other provisions of South Carolina law, as exercised by the former Budget and Control Board prior to the effective date of Act 121 of 2014, R. 124, S. 22.

(B) The authority shall exercise all functions, powers, duties, responsibilities, and authority, generally found in Title 11 of the 1976 Code, but also contained in certain other provisions of South Carolina law, exercised by the former Budget and Control Board related to grants, loans, and other forms of financial assistance to other entities.

(C) Bonded indebtedness issued by the South Carolina Jobs - Economic Development Authority (JEDA) requires approval by the authority as provided in Chapter 43, Title 41. Bonded indebtedness issued pursuant to this item does not constitute nor give rise to a pecuniary liability to the State or a charge against the credit or taxing powers of the State.

Section 11-55-50. Where the applicable enabling statute or the general law relating to a permanent improvement project or the issuance of bonds or funding relating to the project both the review of the Joint Bond Review Committee and the approval by the former Budget and Control Board, the responsibility of the former Budget and Control Board, in this regard, is devolved upon the authority with no prior approval required on the part of the department."

B. Chapter 47, Title 2 of the 1976 Code is amended to read:

"CHAPTER 47

Joint Bond Review Committee

Section 2-47-10. The General Assembly finds that a need exists for careful planning of permanent improvements and of the utilization of state general obligation and institutional bond authority in order to ensure the continued favorable bond credit rating our State has historically enjoyed. It further finds that the responsibility for management of these matters is properly placed upon the legislative and executive branches of government. It is the purpose of this chapter to further ensure the proper legislative and executive response in the fulfillment of this responsibility.

Section 2-47-20. There is hereby created a six member joint committee of the General Assembly to be known as the Joint Bond Review Committee to study and monitor policies and procedures relating to the approval of permanent improvement projects and to the issuance of state general obligation and institutional bonds; to evaluate the effect of current and past policies on the bond credit rating of the State; and provide advisory assistance in the establishment of future capital management policies. Three members shall be appointed from the Senate Finance Committee by the chairman thereof and three from the Ways and Means Committee of the House of Representatives by the chairman of that committee corresponding to the terms for which they are elected to the General Assembly. The committee shall elect officers of the committee, but any person so elected may succeed himself if elected to do so.

The expenses of the committee shall be paid from approved accounts of both houses. The Legislative Council and all other legislative staff organizations shall provide such assistance as the joint committee may request.

Section 2-47-25. In addition to the members provided for by Section 2-47-20, two additional members shall be appointed by the Chairman of the Ways and Means Committee of the House of Representatives from the membership of that body. Two additional members shall be appointed by the Chairman of the Finance Committee of the Senate from the membership of the Senate. Members shall serve the same

terms as the members of the committee provided for in Section 2-47-20.

Section 2-47-30. The committee is specifically charged with, but not limited to, the following responsibilities:

(1) to review, prior to approval by the State Fiscal Accountability Authority, the establishment of any permanent improvement project and the source of funds for any such project not previously authorized specifically by the General Assembly;

(2) to study the amount and nature of existing general obligation and institutional bond obligations and the capability of the State to fulfill such obligations based on current and projected revenues;

(3) to recommend priorities of future bond issuance based on the social and economic needs of the State;

(4) to recommend prudent limitations of bond obligations related to present and future revenue estimates;

(5) to consult with independent bond counsel and other nonlegislative authorities on such matters and with fiscal officials of other states to gain in-depth knowledge of capital management and assist in the formulation of short- and long-term recommendations for the General Assembly;

(6) to carry out all of the above assigned responsibilities in consultation and cooperation with the executive branch of government and the authority;

(7) to report its findings and recommendations to the General Assembly annually or more frequently if deemed advisable by the committee.

Section 2-47-35. No project authorized in whole or in part for capital improvement bond funding under the provisions of Act 1377 of 1968, as amended, may be implemented until funds can be made available and until the Joint Bond Review Committee, in consultation with the authority, establishes priorities for the funding of the projects. The Joint Bond Review Committee shall report its priorities to the members of the General Assembly within thirty days of the establishment of the funding priorities.

Section 2-47-40. (A) To assist the authority and the Joint Bond Review Committee in carrying out their respective responsibilities, any agency or institution requesting or receiving funds from any source for use in the financing of any permanent improvement project, as a

minimum, shall provide to the authority, in such form and at such times as the authority, after review by the committee, may prescribe:

(1) a complete description of the proposed project;

(2) a statement of justification for the proposed project;

(3) a statement of the purposes and intended uses of the proposed project;

(4) the estimated total cost of the proposed project;

(5) an estimate of the additional future annual operating costs associated with the proposed project;

(6) a statement of the expected impact of the proposed project on the five-year operating plan of the agency or institution proposing the project;

(7) a proposed plan of financing the project, specifically identifying funds proposed from sources other than capital improvement bond authorizations; and

(8) the specification of the priority of each project among those proposed.

(B) All institutions of higher learning shall submit permanent improvement project proposal and justification statements to the authority, through the Commission on Higher Education, which shall forward all such statements and all supporting documentation received to the authority together with its comments and recommendations. The recommendations of the Commission on Higher Education, among other things, shall include all of the permanent improvement projects requested by the several institutions listed in the order of priority deemed appropriate by the Commission on Higher Education without regard to the sources of funds proposed for the financing of the projects requested.

The authority shall forward a copy of each project proposal and justification statement and supporting documentation received together with the authority's recommendations on such projects to the committee for its review and action. The recommendations of the Commission on Higher Education shall be included in the materials forwarded to the committee by the authority.

(C) No provision in this section or elsewhere in this chapter, shall be construed to limit in any manner the prerogatives of the committee and the General Assembly with regard to recommending or authorizing permanent improvement projects and the funding such projects may require.

Section 2-47-50. (A) The authority shall establish formally each permanent improvement project before actions of any sort which

implement the project in any way may be undertaken and no expenditure of any funds for any services or for any other project purpose contracted for, delivered, or otherwise provided prior to the date of the formal action of the authority to establish the project shall be approved. State agencies and institutions may advertise and interview for project architectural and engineering services for a pending project so long as the architectural and engineering contract is not awarded until after a state project number is assigned. After the committee has reviewed the form to be used to request the establishment of permanent improvement projects and has reviewed the time schedule for considering such requests as proposed by the authority, requests to establish permanent improvement projects shall be made in such form and at such times as the authority may require.

(B) Any proposal to finance all or any part of any project using any funds not previously authorized specifically for the project by the General Assembly or using any funds not previously approved for the project by the authority and reviewed by the committee shall be referred to the committee for review prior to approval by the authority.

(C) Any proposed revision of the scope or of the budget of an established permanent improvement project deemed by the authority to be substantial shall be referred to the committee for its review prior to any final action by the authority. In making their determinations regarding changes in project scope, the authority, and the committee shall utilize the permanent improvement project proposal and justification statements, together with any supporting documentation, considered at the time the project was authorized or established originally. Any proposal to increase the budget of a previously approved project using any funds not previously approved for the project by the authority and reviewed by the committee shall in all cases be deemed to be a substantial revision of a project budget which shall be referred to the committee for review. The committee shall be advised promptly of all actions taken by the authority which approve revisions in the scope of or the budget of any previously established permanent improvement project not deemed substantial by the authority.

(D) For purposes of this chapter, with regard to all institutions of higher learning, permanent improvement project is defined as:

(1) acquisition of land, regardless of cost, with staff level review of the committee and the State Fiscal Accountability Authority, up to two hundred fifty thousand dollars;

(2) acquisition, as opposed to the construction, of buildings or other structures, regardless of cost, with staff level review of the

committee and the State Fiscal Accountability Authority, up to two hundred fifty thousand dollars;

(3) work on existing facilities for any given project including their renovation, repair, maintenance, alteration, or demolition in those instances in which the total cost of all work involved is one million dollars or more;

(4) architectural and engineering and other types of planning and design work, regardless of cost, which is intended to result in a permanent improvement project. Master plans and feasibility studies are not permanent improvement projects and are not to be included;

(5) capital lease purchase of a facility acquisition or construction in which the total cost is onemillion dollars or more;

(6) equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract shall be included as a part of a project in which the total cost is one million dollars or more; and

(7) new construction of a facility that exceeds a total cost of five hundred thousand dollars.

(E) Any permanent improvement project that meets the above definition must become a project, regardless of the source of funds. However, an institution of higher learning that has been authorized or appropriated capital improvement bond funds, capital reserve funds or state appropriated funds, or state infrastructure bond funds by the General Assembly for capital improvements shall process a permanent improvement project, regardless of the amount.

(F) For purposes of establishing permanent improvement projects, Clemson University Public Service Activities (Clemson-PSA) and South Carolina State University Public Service Activities (SC State-PSA) are subject to the provisions of this chapter.

Section 2-47-55. (A) All state agencies responsible for providing and maintaining physical facilities are required to submit a Comprehensive Permanent Improvement Plan (CPIP) to the Joint Bond Review Committee and the authority. The CPIP must include all of the agency's permanent improvement projects anticipated and proposed over the next five years beginning with the fiscal year starting July first after submission. The purpose of the CPIP process is to provide the authority and the committee with an outline of each agency's permanent improvement activities for the next five years. Agencies must submit a CPIP to the committee and the authority on or before a date to be determined by the committee and the authority. The CPIP for each higher education agency, including the technical colleges,

must be submitted through the Commission on Higher Education which must review the CPIP and provide its recommendations to the authority and the committee. The authority and the committee must approve the CPIP after submission and may develop policies and procedures to implement and accomplish the purposes of this section.

(B) The State shall define a permanent improvement only in terms of capital improvements, as defined by generally accepted accounting principles, for reporting purposes to the State.

Section 2-47-56. Each state agency and institution may accept gifts-in-kind for architectural and engineering services and construction of a value less than two hundred fifty thousand dollars with the approval of the Commission of Higher Education or its designated staff, the director of the department, and the Joint Bond Review Committee or its designated staff. No other approvals or procedural requirements, including the provisions of Section 11-35-10, may be imposed on the acceptance of such gifts.

Section 2-47-60. The Joint Bond Review Committee is hereby authorized and directed to regulate the starting date of the various projects approved for funding through the issuance of state highway bonds so as to ensure that the sources of revenue for debt service on such bonds shall be sufficient during the current fiscal year."

Insurance Reserve Fund, transfer to State Fiscal Accountability Authority, conforming changes

SECTION 19. A. (1) The Insurance Reserve Fund is transferred to the State Fiscal Accountability Authority on July 1, 2015, as a division of the authority.

(2) The Insurance Reserve Fund, transferred to the authority, shall administer and perform all administrative and operational functions of the Office of Insurance Services, including the Insurance Reserve Fund, except that the Attorney General of this State must continue to approve the attorneys-at-law retained to represent the clients of the Insurance Reserve Fund in the manner provided by law.

B. Section 1-11-140 of the 1976 Code is amended to read:

"Section 1-11-140. (A) The State Fiscal Accountability Authority, through the Insurance Reserve Fund, is authorized to provide insurance for the State, its departments, agencies, institutions, commissions,

boards, and the personnel employed by the State in its departments, agencies, institutions, commissions, and boards so as to protect the State against tort liability and to protect these personnel against tort liability arising in the course of their employment. The insurance also may be provided for physicians or dentists employed by the State, its departments, agencies, institutions, commissions, or boards against any tort liability arising out of the rendering of any professional services as a physician or dentist for which no fee is charged or professional services rendered of any type whatsoever so long as any fees received are directly payable to the employer of a covered physician or dentist, or to any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State; provided, any insurance coverage provided by the authority may be on the basis of claims made or upon occurrences. The insurance also may be provided for students of high schools, South Carolina Technical Schools, or state-supported colleges and universities while these students are engaged in work study, distributive education, or apprentice programs on the premises of private companies. Premiums for the insurance must be paid from appropriations to or funds collected by the various entities, except that in the case of the above-referenced students in which case the premiums must be paid from fees paid by students participating in these training programs. The authority has the exclusive control over the investigation, settlement, and defense of claims against the various entities and personnel for whom it provided insurance coverage and may promulgate regulations in connection therewith.

(B) Any political subdivision of the State including, without limitations, municipalities, counties, and school districts, may procure the insurance for itself and for its employees in the same manner provided for the procurement of this insurance for the State, its entities, and its employees, or in a manner provided by Section 15-78-140.

(C) The procurement of tort liability insurance in the manner provided is the exclusive means for the procurement of this insurance.

(D) The authority, through the Insurance Reserve Fund, also is authorized to offer insurance to governmental hospitals and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established; and chartered, nonprofit, eleemosynary hospitals and any subsidiary of or other entity affiliated with the hospital currently existing or as may be established in this State so as to protect these hospitals against tort liability. Notwithstanding any other provision of this section, the procurement of tort liability insurance by a hospital and any subsidiary of or other

entity affiliated with the hospital currently existing or as may be established supported wholly or partially by public funds contributed by the State or any of its political subdivisions in the manner herein provided is not the exclusive means by which the hospital may procure tort liability insurance.

(E) The authority, through the Insurance Reserve Fund, is authorized to provide insurance for duly appointed members of the boards and employees of health system agencies, and for members of the State Health Coordinating Council which are created pursuant to Public Law 93-641.

(F) The authority, through the Insurance Reserve Fund, is further authorized to provide insurance as prescribed in Sections 10-7-10 through 10-7-40, 59-67-710, and 59-67-790.

(G) Documentary or other material prepared by or for the Insurance Reserve Fund in providing any insurance coverage authorized by this section or any other provision of law which is contained in any claim file is subject to disclosure to the extent required by the Freedom of Information Act only after the claim is settled or finally concluded by a court of competent jurisdiction.

(H) The authority, through the Insurance Reserve Fund, is further authorized to provide insurance for state constables, including volunteer state constables, to protect these personnel against tort liability arising in the course of their employment, whether or not for compensation, while serving in a law enforcement capacity."

C. Section 15-78-140 of the 1976 Code is amended to read:

"Section 15-78-140. (A) The political subdivisions of this State, in regard to tort and automobile liability, property, and casualty insurance shall procure insurance to cover these risks for which immunity has been waived by: (1) the purchase of liability insurance pursuant to Section 1-11-140; or (2) the purchase of liability insurance from a private carrier; or (3) self-insurance; or (4) establishing pooled self-insurance liability funds, by intergovernmental agreement, which may not be construed as transacting the business of insurance or otherwise subject to state laws regulating insurance. A pooled self-insurance liability pool is authorized to purchase specific and aggregate excess insurance. A pooled self-insurance liability fund must provide liability coverage for all employees of a political subdivision applying for participation in the fund. If the insurance is obtained other than pursuant to Section 1-11-140, it must be obtained subject to the following conditions:

(1) if the political subdivision does not procure tort liability insurance pursuant to Section 1-11-140, it also must procure its automobile liability and property and casualty insurance from other sources and shall not procure these coverages through the Insurance Reserve Fund;

(2) if a political subdivision procures its tort liability insurance, automobile liability insurance, or property and casualty insurance through the Insurance Reserve Fund, all liability exposures of the political subdivision as well as its property and casualty insurance must be insured with the Insurance Reserve Fund;

(3) if the political subdivision, at any time, procures its tort liability, automobile liability, property, or casualty insurance other than through the Insurance Reserve Fund and then subsequently desires to obtain this coverage with the Insurance Reserve Fund, notice of its intention to so obtain this subsequent coverage must be provided to the Insurance Reserve Fund at least ninety days prior to the beginning of the coverage with the Insurance Reserve Fund. The other lines of insurance that the political subdivision is required to procure from the fund are not required to commence until the coverage for that line of insurance expires. Any political subdivision may cancel all lines of insurance with the Insurance Reserve Fund if it gives ninety days' notice to the fund. The Insurance Reserve Fund may negotiate the insurance coverage for any political subdivision separate from the insurance coverage for other insureds;

(4) if any political subdivision cancels its insurance with the Insurance Reserve Fund, it is entitled to an appropriate refund of the premium, less reasonable administrative cost.

(B) For any claim filed under this chapter, the remedy provided in Section 15-78-120 is exclusive. The immunity of the State and its political subdivisions, with regard to the seizure, execution, or encumbrance of their properties is reaffirmed."

State Fiscal Accountability Authority and Department of Administration indemnification provisions, State Fiscal Accountability Authority conforming changes to bond and financial provisions among others

SECTION 20. A. Section 1-11-440 of the 1976 Code is amended to read:

"Section 1-11-440. (A) The State must defend the members of the State Fiscal Accountability Authority and the Director of the

Department of Administration against a claim or suit that arises out of or by virtue of their performance of official duties on behalf of the authority or the department, as applicable, and must indemnify them for a loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. The State must defend officers and management employees of the authority, legislative employees performing duties for the authority's members or the department, and the department's officers and management employees against a claim or suit that arises out of or by virtue of the performance of official duties unless the officer, management employee, or legislative employee was acting in bad faith and must indemnify these officers, management employees, and legislative employees for a loss or judgment incurred by them as a result of such claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members of the authority, the authority's officers and management employees, the department's director and officers and management employees, and legislative employees after they have left their employment with the authority, the General Assembly, or the department, as applicable, if the claim or suit arises out of or by virtue of their performance of official duties on behalf of their employer.

(B) The State must defend the members of the Retirement Systems Investment Panel established pursuant to Section 16, Article X of the Constitution of this State and Section 9-16-310 against a claim or suit that arises out of or by virtue of their performance of official duties on behalf of the panel and must indemnify these members for a loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members of the panel after they have left their service with the panel if the claim or suit arises out of or by virtue of their performance of official duties on behalf of the panel."

B. 1. Section 11-18-20 of the 1976 Code, as added by Act 290 of 2010, is amended to read:

"Section 11-18-20. (a) 'ARRA Bonds' mean:

(1) recovery zone bonds authorized under Section 1401 of ARRA; and

(2) Qualified Energy Conservation Bonds authorized under Section 301(a) of Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. 110-343, 122 Stat. 1365 (2008) as amended by Section 112 of ARRA.

(b) 'Board' means the State Fiscal Accountability Authority's governing board.

(c) 'Code' means the Internal Revenue Code of 1986, as amended.

(d) 'Local Government' means each county and municipality that received an allocation of Volume Cap pursuant to the Code and IRS Notice 2009-50.

(e) 'Other federal bonds' mean any such bond, whether tax-exempt, taxable or tax credit, created after the date hereof whereby a volume cap limitation is proscribed under the Code.

(f) 'Qualified energy conservation bond' means the term as defined in Section 54D(a) of the Code.

(g) 'Recovery zone' means the term as defined in Section 1400U-1(b) of the Code.

(h) 'Recovery zone economic development bond' means the term as defined in Section 1400U-2 of the Code.

(i) 'Recovery zone facility bond' means the term as defined in Section 1400U-3 of the Code.

(j) 'State' means the State of South Carolina.

(k) 'Volume Cap' means the amount or other limitation of ARRA Bonds allocated to each state and to counties and large municipalities within each state in accordance with Section 1400U-1(a)(4) of the Code, with respect to Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds, Section 54D(e)(1) of the Code, with respect to Qualified Energy Conservation Bonds, and any other section of the Code which imposes a volume cap limitation on any other Federal Bonds."

2. The Code Commissioner is directed to change references in Chapter 18, Title 11 of the 1976 Code from "State Budget and Control Board" or any similar derivation of this term to "State Fiscal Accountability Authority".

C. The final paragraph of Section 11-27-10 of the 1976 Code is amended to read:

"'Ratification date' means the effective date of New Article X. 'State board' means the governing body of the State Fiscal Accountability

Authority. Any term defined in New Article X shall have the meanings therein given to such term."

D. Chapter 31, Title 11 of the 1976 Code is amended by adding:

"Section 11-31-5. For the purposes of this chapter, 'state board' means the governing body of the State Fiscal Accountability Authority."

E. Section 11-37-30 of the 1976 Code is amended to read:

"Section 11-37-30. There is created a body politic and corporate known as the South Carolina Resources Authority. The authority is declared to be a public instrumentality of the State and the exercise by it of any power conferred in this chapter is the performance of an essential public function. The authority consists of the members of the State Fiscal Accountability Authority."

F. Section 11-38-20(A) of the 1976 Code is amended to read:

"(A) The State Fiscal Accountability Authority is authorized to provide for the issuance of capital improvement bonds in denominations of less than one thousand dollars."

G. 1. Section 11-40-20(A) of the 1976 Code is amended to read:

"(A) There is created a body corporate and politic and an instrumentality of the State to be known as the South Carolina Infrastructure Facilities Authority. The members of the State Fiscal Accountability Authority comprise the authority to serve ex officio in the same capacity as they serve as members of the authority."

2. Section 11-40-250 of the 1976 Code is amended to read:

"Section 11-40-250. The Division of Local Government of the State Rural Infrastructure Authority shall provide staff and otherwise assist the authority in the administration of the fund and the performance of its functions under this chapter. The funds to be used for purposes of the Infrastructure Facilities Authority must come from funds appropriated to or made available to the Infrastructure Facilities Authority and not those funds of the Rural Infrastructure Authority, the administration of which also is a part of the responsibilities of the

Division of Local Government as provided by law. In providing such assistance the Division of Local Government shall:

(1) assist in the formulation, establishment, and structuring of programs undertaken by the authority pursuant to this chapter;

(2) provide local governments information as to the programs of the authority and the procedures for obtaining the assistance intended by the chapter;

(3) assist local governments in making application to such state and federal agencies, including the authority, as may be necessary or helpful in order to avail themselves of such programs;

(4) assist the authority in analyzing and evaluating local government requests for assistance pursuant to this chapter;

(5) assist in the structuring and negotiation of local government loan agreements and loan obligations and authority bonds;

(6) administer the fund, including any accounts therein;

(7) administer the authority's programs and loans, including monitoring compliance by local governments with any rules, regulations, or other requirements of the authority with respect to such programs and compliance with covenants and agreements made by local governments with respect to any loan agreement or loan obligation; and

(8) provide other assistance and perform other duties as may be requested or directed by the authority."

H. 1. The first paragraph of Section 11-41-70 of the 1976 Code is amended to read:

"Before issuing economic development bonds, the department or in the case of a tourism training infrastructure project or a national and international convention and trade show center, the State or agency, instrumentality, or political subdivision thereof that will own such project shall notify the Joint Bond Review Committee and the State Fiscal Accountability Authority of the following:"

2. Sections 11-41-80, 11-41-90, and 11-41-100 of the 1976 Code are amended to read:

"Section 11-41-80. Following the receipt of the notification presented pursuant to Section 11-41-70 and after review by the Joint Bond Review Committee, and approval by the State Fiscal Accountability Authority, by resolution duly adopted, shall effect the

issue of bonds, or pending the issue of the bonds, effect the issue of bond anticipation notes pursuant to Chapter 17 of this title.

Section 11-41-90. To effect the issuance of bonds, the State Fiscal Accountability Authority shall adopt a resolution providing for the issuance of bonds pursuant to the provisions of this chapter. The authorizing resolution must include:

(1) a statement of whether the bonds are being authorized and issued pursuant to Section 11-41-50(A) or Section 11-41-50(B);

(2) a schedule showing the aggregate of bonds issued, the annual principal payments required to retire the bonds, and the interest on the bonds;

(3) the amount of bonds proposed to be issued;

(4) a schedule showing future annual principal requirements and estimated annual interest requirements on the bonds to be issued; and

(5) certificates evidencing that the provisions of Sections 11-41-50 and 11-41-60 have been or will be met.

Section 11-41-100. The bonds must bear the date and mature at the time that the resolution provides, except that a bond may not mature more than thirty years from its date of issue. The bonds may be in the denominations, be payable in the medium of payment, be payable at the place and at the time, and be subject to redemption or repurchase and contain other provisions determined by the State Fiscal Accountability Authority before their issue. The bonds may bear interest payable at the times and at the rates determined by the State Fiscal Accountability Authority."

3. Section 11-41-180 of the 1976 Code is amended to read:

"Section 11-41-180. All procurements of infrastructure, as defined in Section 11-41-30 and owned by a research university, as defined in Section 11-51-30(5), shall be exempt from Title 11, Chapter 35, except that such research university must work in conjunction with the State Fiscal Accountability Authority's Chief Procurement Officer to establish alternative procurement procedures. The research university shall submit its alternative procurement procedures to the State Fiscal Accountability Authority for approval. The procurement process shall include provisions for audit and recertification."

I. Section 11-43-510(2) of the 1976 Code is amended to read:

"(2) 'State board' means the governing board of the State Fiscal Accountability Authority."

J. 1. Section 11-45-30(10) of the 1976 Code is amended to read:

"(10) 'Lender' means a banking institution subject to the income tax on banks under Chapter 11, Title 12, an insurance company subject to a state premium tax liability pursuant to Chapter 7, Title 38, a captive insurance company regulated pursuant to Chapter 90, Title 38, a utility regulated pursuant to Title 58, or a financial institution with proven experience in state-based venture capital transactions, pursuant to guidelines established by the authority. Both the guidelines and the lender must be approved by the State Fiscal Accountability Authority."

2. Section 11-45-55(B) of the 1976 Code is amended to read:

"(B) The authority shall issue tax credit certificates to each lender contemporaneously with each loan made pursuant to this chapter in accordance with any guidelines established by the authority pursuant to Section 11-45-100. The tax credit certificates must describe procedures for the issuance, transfer and redemption of the certificates, and related tax credits. These certificates also must describe the amounts, year, and conditions for redemption of the tax credits reflected on the certificates. Once a loan is made by a lender, the certificate issued to the lender shall be binding on the authority and this State and may not be modified, terminated, or rescinded. The form of the tax credit certificate must be approved by the State Fiscal Accountability Authority."

3. Section 11-45-105 of the 1976 Code is amended to read:

"Section 11-45-105. Any guideline issued by the authority pursuant to this chapter must be approved by the State Fiscal Accountability Authority."

K. Section 11-49-40 of the 1976 Code is amended to read:

"Section 11-49-40. (A) The authority is governed by a board that shall consist of the members of the State Fiscal Accountability Authority. All members serve ex officio.

(B) Members of the board serve without pay but are allowed the usual mileage, per diem, and subsistence as provided by law for members of state boards, committees, and commissions.

(C) Members of the board and its employees, if any, are subject to the provisions of Chapter 13, Title 8, the Ethics, Government Accountability, and Campaign Reform Act, and Chapter 17, Title 2, relating to lobbying.

(D) To the extent that administrative assistance is needed for the functions and operations of the authority, the board may obtain this assistance from the Office of the State Treasurer and the State Fiscal Accountability Authority, and any successor agency, office, or division, each of which must provide the assistance requested by the board at no cost to the board or to the authority other than for expenses incurred and paid to entities that are not agencies or departments of the State. The board must retain ultimate responsibility and provide proper oversight for the implementation of this chapter.

(E) The board shall exercise the powers of the authority. A majority of the members of the board constitutes a quorum for the purpose of conducting all business. The board shall determine the number of personnel it requires, their compensation, and duties."

L. 1. Section 11-51-30(6) of the 1976 Code is amended to read:

"(6) 'State board' means the governing board of the State Fiscal Accountability Authority."

2. Section 11-51-125(A)(2) of the 1976 Code is amended to read:

"(2) thirty-five percent of the total twelve percent must be allocated by FTE student enrollment from the prior academic year at each eligible institution.

The Research Centers of Excellence Review Board has no jurisdiction over these projects and no matching requirement is imposed for these projects. The Joint Bond Review Committee must review and the State Fiscal Accountability Authority must approve all projects."

3. Section 11-51-190 of the 1976 Code is amended to read:

"Section 11-51-190. The research universities while engaging in projects related to this act shall be exempt from the state procurement process, except that the research universities must work in conjunction with the State Fiscal Accountability Authority's Chief Procurement Officer to establish alternate procurement procedures, and must submit a procurement process to the State Commission on Higher Education to be forwarded to the State Fiscal Accountability Authority for approval. These processes shall include provisions for audit and recertification."

M. Section 59-109-30(1) of the 1976 Code is amended to read:

"(1) 'Authority' means the State Fiscal Accountability Authority, acting as the Educational Facilities Authority for Private Nonprofit Institutions of Higher Learning and serving ex officio."

N. Section 59-109-40 of the 1976 Code is amended to read:

"Section 59-109-40. There is hereby created a body politic and corporate to be known as the 'Educational Facilities Authority for Private Nonprofit Institutions of Higher Learning,' hereinafter in this chapter called the authority. The authority is constituted a public instrumentality and the exercise by the authority of the powers conferred by this chapter must be deemed and held to be the performance of an essential public function. The authority shall consist of the members from time to time of the State Fiscal Accountability Authority, ex officio; and all the functions and powers of the authority are hereby granted to the State Fiscal Accountability Authority, as an incident of its functions in connection with the public finances of the State."

O. 1. Section 59-115-20(1) of the 1976 Code is amended to read:

"(1) 'Authority' means the State Fiscal Accountability Authority, acting as the State Education Assistance Authority."

2. Section 59-115-40 of the 1976 Code is amended to read:

"Section 59-115-40. There is hereby created a body politic and corporate to be known as the State Education Assistance Authority (authority). The authority is hereby declared to be a public

instrumentality of the State and the exercise by the authority of any power conferred herein shall be deemed and held to be the performance of an essential public function. The authority shall consist of the members, from time to time, of the State Fiscal Accountability Authority, ex officio."

P. Section 48-5-30 of the 1976 Code is amended to read:

"Section 48-5-30. There is created the South Carolina Water Quality Revolving Fund 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 members of the State Fiscal Accountability Authority comprise the authority."

Definition for purposes of governing body of the State Fiscal Accountability Authority

SECTION 21. Section 11-35-310(2) of the 1976 Code is amended to read:

"(2) 'Board' means governing body of the State Fiscal Accountability Authority."

Part VIII

Naval Base Museum Authority

Charleston Naval Base Museum Authority

SECTION 22. (A) Notwithstanding any other provision of law, in addition to the present members of the Charleston Naval Complex Redevelopment Authority, as created by gubernatorial executive order pursuant to Section 31-12-40 of the 1976 Code, there shall be four additional members, two appointed by the Speaker of the House of Representatives and two appointed by the President Pro Tempore of the Senate. These four additional members shall each serve for terms of four years and until their successors are appointed and qualify. Vacancies shall be filled for the remainder of the unexpired term by appointment in the same manner of original appointment.

(B) These four additional members shall serve as members of the Charleston Naval Complex Redevelopment Authority with the same

powers, duties, and responsibilities of other such members as provided by law. In addition, these four members, together with the gubernatorial appointees to the Charleston Naval Complex Redevelopment Authority, also shall constitute the Charleston Naval Base Museum Authority as a division of the Charleston Naval Redevelopment Authority. Service as a member of the Naval Base Museum Authority is considered an additional and supplemental function and duty of those specified members of the Naval Complex Redevelopment Authority and is not considered another office of honor or profit of this State. The Naval Base Museum Authority shall select from among its members a chairman and such other officers as they consider necessary.

(C) The Naval Base Museum Authority shall become operative upon the signing of a Memorandum of Understanding between the RDA and the Hunley Commission. With respect to the Hunley project, the MOU must provide for the Naval Base Museum Authority division of the RDA to undertake and comply with the duties, responsibilities, powers, and functions of the Hunley Commission as specified in Sections 54-7-100 and 54-7-110 of the 1976 Code, and as otherwise provided by law. The Naval Base Museum Authority shall possess and may exercise all powers and authority granted to the Hunley Commission by specific statutory reference in Sections 54-7-100 and 54-7-110.

(D) Notwithstanding the provisions of this act, the provisions of this section take effect upon approval by the Governor.

Definition for purposes of the Executive Budget Office, expenditure proposals

SECTION 23. A. Section 2-65-15(4) of the 1976 Code is amended to read:

"(4) 'Board' means the Executive Budget Office."

B. Chapter 65, Title 2 of the 1976 Code is amended by adding:

"Section 2-65-130. If the board does not authorize an expenditure proposal then the proposal must be forwarded to the State Fiscal Accountability Authority for consideration. The authority may overturn the decision by the board and authorize the expenditures requested in the proposal if the authority finds that the expenditure proposal meets the standards for approval provided in this chapter."

State Fiscal Accountability Authority, bonds

SECTION 24. A.Section 41-43-100 of the 1976 Code, as last amended by Act 404 of 1992, is further amended to read:

"Section 41-43-100. In addition to other powers vested in the authority by existing laws, the authority has all powers granted the counties and municipalities of this State pursuant to the provisions of Chapter 29, Title 4, including the issuance of bonds by the authority and the refunding of bonds issued under that chapter. The authority may issue bonds upon receipt of a certified resolution by the county or municipality in which the project, as defined in Chapter 29, Title 4, is or will be located, containing the findings pursuant to Section 4-29-60 and evidence of a public hearing held not less than fifteen days after publication of notice in a newspaper of general circulation in the county in which the project is or will be located. The authority may combine for the purposes of a single offering bonds to finance more than one project. The interest rate of bonds issued pursuant to this section is subject to approval by the State Fiscal Accountability Authority."

B. Section 41-43-110(A) of the 1976 Code, as last amended by Act 404 of 1992, is further amended to read:

"(A) The authority may issue bonds to provide funds for any program authorized by this chapter. The bonds authorized by this chapter are limited obligations of the authority. The principal and interest are payable solely out of the revenues derived by the authority. The bonds issued do not constitute an indebtedness of the State or the authority within the meaning of any state constitutional provision or statutory limitation. They are an indebtedness payable solely from a revenue producing source or from a special source that does not include revenues from any tax or license. The bonds do not constitute nor give rise to a pecuniary liability of the State or the authority or a charge against the general credit of the authority or the State or taxing powers of the State and this fact must be plainly stated on the face of each bond. The bonds may be executed and delivered at any time as a single issue or from time to time as several issues, may be in such form and denominations, may be of such tenor, may be in coupon or registered form, may be payable in such installments and at such time, may be subject to terms of redemption, may be payable at such place,

may bear interest at such rate payable at such place and evidenced in such manner, and may contain such provisions not inconsistent herewith, all of which are provided in the resolution of the authority authorizing the bonds. Subject to approval by the State Fiscal Accountability Authority as to their issuance and sale, any bonds issued under this section may be sold at public or private sale as may be determined to be most advantageous. The bonds may be sold at public or private sale and, if by private sale, the authority shall designate the syndicate manager or managers. The authority may pay all expenses, premiums, insurance premiums, and commissions which it considers necessary from proceeds of the bonds or program funds in connection with the sale of bonds. The interest rate of bonds issued pursuant to this section is subject to approval by the State Fiscal Accountability Authority."

Part IX

Performance Audit, Other Transfers and Provisions, and Effective Date

State Fiscal Accountability Authority strategic sourcing initiative and report on state procurement activities, Code Commissioner directive and report concerning conforming changes

SECTION 25. (A)(1) The Code Commissioner is directed to change or correct all references to these offices of the former Budget and Control Board in the 1976 Code, Office of the Governor, or other agencies to reflect the transfer of them to the Department of Administration or other entities, including those newly created by the provisions of this act. References to the names of these offices in the 1976 Code or other provisions of law are considered to be and must be construed to mean appropriate references.

(2) On or before July 1, 2014, the Code Commissioner also shall prepare and deliver a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives concerning appropriate and conforming changes to the 1976 Code of Laws reflecting the provisions of this act.

(B)(1) By December 31, 2015, the State Fiscal Accountability Authority shall undertake a strategic sourcing initiative through which it must analyze the state's current spending on various categories of goods and services, identify the greatest opportunities to leverage the

state's purchasing power, and prioritize the state's subsequent efforts to maximize achievable savings.

(2) By June 30, 2016, the State Fiscal Accountability Authority shall submit a report to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives to recommend changes to statutes, policies, and procedures governing state procurement activities. The recommendations shall be formulated in order to reduce costs, accelerate processing times, and improve services provided to state agencies and their business partners.

Legislative Audit Council, 2020 performance review, mission

SECTION 26. A.During the year 2020, the Legislative Audit Council shall conduct a performance review of the provisions of this act to determine its effectiveness and achievements with regard to the more efficient performance of the functions and duties of the various agencies provided for herein and the cost savings and benefits to the State.

B. Section 2-15-50(b)(2) of the 1976 Code is amended to read:

"(2) the effectiveness of organizations, programs, activities, or functions and whether these organizations, programs, activities, or functions should be continued, revised, or eliminated; and"

Severability

SECTION 27. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 28. Unless otherwise provided, this act takes effect July 1, 2015. However, beginning on January 1, 2014, the appropriate

officials of the executive, legislative, and judicial branches involved with the implementation of the provisions of this act including the transfer of divisions, offices, and personnel to other agencies, the implementation of new offices or divisions within agencies, and the negotiation and execution of necessary agreements relating to this act such as memorandums of understanding may begin undertaking and executing these responsibilities so that the provisions of this act may be fully implemented on July 1, 2015, with the appropriations contained in the 2014-2015 General Appropriations Act to the fullest extent possible being reflective of the transfers, realignments and restructuring provided by this act.

Ratified the 23rd day of January, 2014.

Approved the 27th day of January, 2014.

No. 122

(R126, S671)

AN ACT TO AMEND SECTION 7-7-240, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN EDGEFIELD COUNTY, SO AS TO REVISE CERTAIN PRECINCTS AND TO DESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Edgefield County voting precincts revised

SECTION 1. Section 7-7-240 of the 1976 Code, as last amended by Act 131 of 2005, is further amended to read:

"Section 7-7-240. (A) In Edgefield County there are the following voting precincts:

Edgefield No. 1
Edgefield No. 2

Johnston No. 1
Johnston No. 2
Trenton No. 1
Trenton No. 2
Merriweather No. 1
Merriweather No. 2
West Side
Harmony
North Side
Brunson

(B) The precinct lines defining the above precincts are as shown on maps provided to the Registration and Elections Commission for Edgefield County as maintained by the Office of Research and Statistics of the State Budget and Control Board and designated as document P-37-13.

(C) Polling places for the precincts provided in this section must be determined by the Registration and Elections Commission for Edgefield County with the approval of a majority of the Edgefield County Legislative Delegation."

Time effective

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

Ratified the 23rd day of January, 2014.

Approved the 27th day of January, 2014.

No. 123

(R127, S308)

AN ACT TO AMEND SECTION 16-23-465, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROHIBITION ON THE CARRYING OF A PISTOL OR FIREARM INTO A BUSINESS THAT SELLS ALCOHOLIC LIQUORS, BEER, OR WINE TO BE CONSUMED ON THE PREMISES, SO AS TO PROVIDE THAT THE PROHIBITION DOES NOT APPLY TO PERSONS CARRYING A CONCEALABLE WEAPON IN COMPLIANCE WITH A

CONCEALABLE WEAPON PERMIT UNDER CERTAIN CIRCUMSTANCES, INCLUDING THAT THE PERSON MAY NOT CONSUME ALCOHOLIC LIQUOR, BEER, OR WINE WHILE CARRYING THE CONCEALABLE WEAPON ON THE PREMISES; TO PROVIDE THAT THE BUSINESS MAY CHOOSE TO PROHIBIT THE CARRYING OF CONCEALABLE WEAPONS ON ITS PREMISES BY POSTING NOTICE; TO REVISE THE PENALTIES FOR VIOLATIONS, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 23-31-210, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE ARTICLE ON CONCEALED WEAPON PERMITS, SO AS TO REVISE THE DEFINITIONS OF "PICTURE IDENTIFICATION" AND "PROOF OF TRAINING", TO DELETE THE TERM "PROOF OF RESIDENCE", AND TO MAKE CONFORMING CHANGES; TO AMEND SECTION 23-31-215, AS AMENDED, RELATING TO THE ISSUANCE OF CONCEALABLE WEAPON PERMITS, SO AS TO REVISE THE REQUIREMENTS THAT MUST BE MET IN ORDER TO RECEIVE A CONCEALABLE WEAPON PERMIT, TO ALLOW PERMIT APPLICATIONS TO BE SUBMITTED ONLINE WITH SLED, TO PROVIDE THAT A PERSON MAY NOT CARRY A CONCEALABLE WEAPON INTO A PLACE CLEARLY MARKED WITH A SIGN PROHIBITING THE CARRYING OF A CONCEALABLE WEAPON, TO PROVIDE THAT A PERMIT IS VALID FOR FIVE YEARS, TO REQUIRE SLED TO SEND A RENEWAL NOTICE AT LEAST THIRTY DAYS BEFORE A PERMIT EXPIRES, AND TO MAKE CONFORMING CHANGES; TO AMEND SECTION 16-23-20, AS AMENDED, RELATING TO THE UNLAWFUL CARRYING OF A HANDGUN, SO AS TO ALLOW A CONCEALABLE WEAPON PERMIT HOLDER TO ALSO SECURE HIS WEAPON UNDER A SEAT IN A VEHICLE OR IN ANY OPEN OR CLOSED STORAGE COMPARTMENT IN THE VEHICLE; AND TO AMEND SECTION 16-23-10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE ARTICLE ON HANDGUNS, SO AS TO REDEFINE THE TERM "LUGGAGE COMPARTMENT".

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

Concealable weapons, carrying of concealed weapons into businesses that sell alcohol for on-premises consumption, exception when notice posted, penalties

SECTION 1. Section 16-23-465 of the 1976 Code, as last amended by Act 274 of 2002, is further amended to read:

"Section 16-23-465. (A) In addition to the penalties provided for by Sections 16-11-330, 16-11-620, 16-23-460, 23-31-220, and Article 1, Chapter 23, Title 16, a person convicted of carrying a firearm into a business which sells alcoholic liquor, beer, or wine for consumption on the premises is guilty of a misdemeanor, and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

In addition to the penalties described above, a person who violates this section while carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23 must have his concealed weapon permit revoked for a period of five years.

(B)(1) This section does not apply to a person carrying a concealable weapon pursuant to and in compliance with Article 4, Chapter 31, Title 23; however, the person shall not consume alcoholic liquor, beer, or wine while carrying the concealable weapon on the business' premises. A person who violates this item may be charged with a violation of subsection (A).

(2) A property owner, holder of a lease interest, or operator of a business may prohibit the carrying of concealable weapons into the business by posting a 'NO CONCEALABLE WEAPONS ALLOWED' sign in compliance with Section 23-31-235. A person who carries a concealable weapon into a business with a sign posted in compliance with Section 23-31-235 may be charged with a violation of subsection (A).

(3) A property owner, holder of a lease interest, or operator of a business may request that a person carrying a concealable weapon leave the business' premises, or any portion of the premises, or request that a person carrying a concealable weapon remove the concealable weapon from the business' premises, or any portion of the premises. A person carrying a concealable weapon who refuses to leave a business' premises or portion of the premises when requested or refuses to remove the concealable weapon from a business' premises or portion of the premises when requested may be charged with a violation of subsection (A)."

Concealable weapon permits, definitions, online applications, five-year permits

SECTION 2. A. Section 23-31-210 of the 1976 Code, as last amended by Act 347 of 2006, is further amended to read:

"Section 23-31-210. As used in this article:

(1) 'Resident' means an individual who is present in South Carolina with the intention of making a permanent home in South Carolina or military personnel on permanent change of station orders.

(2) 'Qualified nonresident' means an individual who owns real property in South Carolina, but who resides in another state.

(3) 'Picture identification' means:

(a) a valid driver's license or photographic identification card issued by the state in which the applicant resides; or

(b) an official photographic identification card issued by the Department of Revenue, a federal or state law enforcement agency, an agency of the United States Department of Defense, or the United States Department of State.

(4) 'Proof of training' means an original document or certified copy of the document supplied by an applicant that certifies that he is either:

(a) a person who, within three years before filing an application, successfully has completed a basic or advanced handgun education course offered by a state, county, or municipal law enforcement agency or a nationally recognized organization that promotes gun safety. This education course must include, but is not limited to:

(i) information on the statutory and case law of this State relating to handguns and to the use of deadly force;

(ii) information on handgun use and safety;

(iii) information on the proper storage practice for handguns with an emphasis on storage practices that reduces the possibility of accidental injury to a child; and

(iv) the actual firing of the handgun in the presence of the instructor;

(b) a person who demonstrates any of the following must comply with the provisions of subitem (a)(i) only:

(i) a person who demonstrates the completion of basic military training provided by any branch of the United States military who produces proof of his military service through the submission of a DD214 form;

(ii) a retired law enforcement officer who produces proof that he is a graduate of the Criminal Justice Academy or that he was a law

enforcement officer prior to the requirement for graduation from the Criminal Justice Academy; or

(iii) a retired state or federal law enforcement officer who produces proof of graduation from a federal or state academy that includes firearms training as a graduation requirement;

(c) an instructor certified by the National Rifle Association or another SLED-approved competent national organization that promotes the safe use of handguns;

(d) a person who can demonstrate to the Director of SLED or his designee that he has a proficiency in both the use of handguns and state laws pertaining to handguns;

(e) an active duty police handgun instructor;

(f) a person who has a SLED-certified or approved competitive handgun shooting classification; or

(g) a member of the active or reserve military, or a member of the National Guard.

SLED shall promulgate regulations containing general guidelines for courses and qualifications for instructors which would satisfy the requirements of this item. For purposes of subitems (a) and (c), 'proof of training' is not satisfied unless the organization and its instructors meet or exceed the guidelines and qualifications contained in the regulations promulgated by SLED pursuant to this item.

(5) 'Concealable weapon' means a firearm having a length of less than twelve inches measured along its greatest dimension that must be carried in a manner that is hidden from public view in normal wear of clothing except when needed for self-defense, defense of others, and the protection of real or personal property.

(6) 'Proof of ownership of real property' means a certified current document from the county assessor of the county in which the property is located verifying ownership of the real property. SLED must determine the appropriate document that fulfills this requirement."

B. Section 23-31-215 of the 1976 Code, as last amended by Act 349 of 2008, is further amended to read:

"Section 23-31-215. (A) Notwithstanding any other provision of law, except subject to subsection (B), SLED must issue a permit, which is no larger than three and one-half inches by three inches in size, to carry a concealable weapon to a resident or qualified nonresident who is at least twenty-one years of age and who is not prohibited by state law from possessing the weapon upon submission of:

(1) a completed application signed by the person;

(2) a photocopy of a driver's license or photographic identification card;

(3) proof of residence or if the person is a qualified nonresident, proof of ownership of real property in this State;

(4) proof of actual or corrected vision rated at 20/40 within six months of the date of application or, in the case of a person licensed to operate a motor vehicle in this State, presentation of a valid driver's license;

(5) proof of training;

(6) payment of a fifty-dollar application fee. This fee must be waived for disabled veterans and retired law enforcement officers; and

(7) a complete set of fingerprints unless, because of a medical condition verified in writing by a licensed medical doctor, a complete set of fingerprints is impossible to submit. In lieu of the submission of fingerprints, the applicant must submit the written statement from a licensed medical doctor specifying the reason or reasons why the applicant's fingerprints may not be taken. If all other qualifications are met, the Chief of SLED may waive the fingerprint requirements of this item. The statement of medical limitation must be attached to the copy of the application retained by SLED. A law enforcement agency may charge a fee not to exceed five dollars for fingerprinting an applicant.

(B) Upon submission of the items required by subsection (A), SLED must conduct or facilitate a local, state, and federal fingerprint review of the applicant. SLED also must conduct a background check of the applicant through notification to and input from the sheriff of the county where the applicant resides or if the applicant is a qualified nonresident, where the applicant owns real property in this State. The sheriff within ten working days after notification by SLED, may submit a recommendation on an application. Before making a determination whether or not to issue a permit under this article, SLED must consider the recommendation provided pursuant to this subsection. If the fingerprint review and background check are favorable, SLED must issue the permit.

(C) SLED shall issue a written statement to an unqualified applicant specifying its reasons for denying the application within ninety days from the date the application was received; otherwise, SLED shall issue a concealable weapon permit. If an applicant is unable to comply with the provisions of Section 23-31-210(4), SLED shall offer the applicant a handgun training course that satisfies the requirements of Section 23-31-210(4). The course shall cost fifty dollars. SLED shall use the proceeds to defray the training course's operating costs. If a permit is granted by operation of law because an applicant was not

notified of a denial within the ninety-day notification period, the permit may be revoked upon written notification from SLED that sufficient grounds exist for revocation or initial denial.

(D) Denial of an application may be appealed. The appeal must be in writing and state the basis for the appeal. The appeal must be submitted to the Chief of SLED within thirty days from the date the denial notice is received. The chief shall issue a written decision within ten days from the date the appeal is received. An adverse decision shall specify the reasons for upholding the denial and may be reviewed by the Administrative Law Court pursuant to Article 5, Chapter 23, Title 1, upon a petition filed by an applicant within thirty days from the date of delivery of the division's decision.

(E) SLED must make permit application forms available to the public. A permit application form shall require an applicant to supply:

(1) name, including maiden name if applicable;

(2) date and place of birth;

(3) sex;

(4) race;

(5) height;

(6) weight;

(7) eye and hair color;

(8) current residence address; and

(9) all residence addresses for the three years preceding the application date.

(F) The permit application form shall require the applicant to certify that:

(1) he is not a person prohibited under state law from possessing a weapon;

(2) he understands the permit is revoked and must be surrendered immediately to SLED if the permit holder becomes a person prohibited under state law from possessing a weapon; and

(3) all information contained in his application is true and correct to the best of his knowledge.

(G) Medical personnel, law enforcement agencies, organizations offering handgun education courses pursuant to Section 23-31-210(4), and their personnel, who in good faith provide information regarding a person's application, must be exempt from liability that may arise from issuance of a permit; provided, however, a weapons instructor must meet the requirements established in Section 23-31-210(4) in order to be exempt from liability under this subsection.

(H) A permit application must be submitted in person, by mail, or online to SLED headquarters which shall verify the legibility and

accuracy of the required documents. If an applicant submits his application online, SLED may continue to make all contact with that applicant through online communications.

(I) SLED must maintain a list of all permit holders and the current status of each permit. SLED may release the list of permit holders or verify an individual's permit status only if the request is made by a law enforcement agency to aid in an official investigation, or if the list is required to be released pursuant to a subpoena or court order. SLED may charge a fee not to exceed its costs in releasing the information under this subsection. Except as otherwise provided in this subsection, a person in possession of a list of permit holders obtained from SLED must destroy the list.

(J) A permit is valid statewide unless revoked because the person has:

(1) become a person prohibited under state law from possessing a weapon;

(2) moved his permanent residence to another state and no longer owns real property in this State;

(3) voluntarily surrendered the permit; or

(4) been charged with an offense that, upon conviction, would prohibit the person from possessing a firearm. However, if the person subsequently is found not guilty of the offense, then his permit must be reinstated at no charge.

Once a permit is revoked, it must be surrendered to a sheriff, police department, a SLED agent, or by certified mail to the Chief of SLED. A person who fails to surrender his permit in accordance with this subsection is guilty of a misdemeanor and, upon conviction, must be fined twenty-five dollars.

(K) A permit holder must have his permit identification card in his possession whenever he carries a concealable weapon. When carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23, a permit holder must inform a law enforcement officer of the fact that he is a permit holder and present the permit identification card when an officer:

(1) identifies himself as a law enforcement officer; and

(2) requests identification or a driver's license from a permit holder.

A permit holder immediately must report the loss or theft of a permit identification card to SLED headquarters. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined twenty-five dollars.

(L) SLED shall issue a replacement for lost, stolen, damaged, or destroyed permit identification cards after the permit holder has updated all information required in the original application and the payment of a five-dollar replacement fee. Any change of permanent address must be communicated in writing to SLED within ten days of the change accompanied by the payment of a fee of five dollars to defray the cost of issuance of a new permit. SLED shall then issue a new permit with the new address. A permit holder's failure to notify SLED in accordance with this subsection constitutes a misdemeanor punishable by a twenty-five dollar fine. The original permit shall remain in force until receipt of the corrected permit identification card by the permit holder, at which time the original permit must be returned to SLED.

(M) A permit issued pursuant to this section does not authorize a permit holder to carry a concealable weapon into a:

(1) law enforcement, correctional, or detention facility;

(2) courthouse or courtroom;

(3) polling place on election days;

(4) office of or the business meeting of the governing body of a county, public school district, municipality, or special purpose district;

(5) school or college athletic event not related to firearms;

(6) daycare facility or preschool facility;

(7) place where the carrying of firearms is prohibited by federal law;

(8) church or other established religious sanctuary unless express permission is given by the appropriate church official or governing body;

(9) hospital, medical clinic, doctor's office, or any other facility where medical services or procedures are performed unless expressly authorized by the employer; or

(10) place clearly marked with a sign prohibiting the carrying of a concealable weapon on the premises pursuant to Sections 23-31-220 and 23-31-235. Except that a property owner or an agent acting on his behalf, by express written consent, may allow individuals of his choosing to enter onto property regardless of any posted sign to the contrary. A person who violates a provision of this item, whether the violation is wilful or not, only may be charged with a violation of Section 16-11-620 and must not be charged with or penalized for a violation of this subsection.

Except as provided for in item (10), a person who wilfully violates a provision of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or

imprisoned not more than one year, or both, at the discretion of the court and have his permit revoked for five years.

Nothing contained in this subsection may be construed to alter or affect the provisions of Sections 10-11-320, 16-23-420, 16-23-430, 16-23-465, 44-23-1080, 44-52-165, 50-9-830, and 51-3-145.

(N) Valid out-of-state permits to carry concealable weapons held by a resident of a reciprocal state must be honored by this State, provided, that the reciprocal state requires an applicant to successfully pass a criminal background check and a course in firearm training and safety. A resident of a reciprocal state carrying a concealable weapon in South Carolina is subject to and must abide by the laws of South Carolina regarding concealable weapons. SLED shall maintain and publish a list of those states as the states with which South Carolina has reciprocity.

(O) A permit issued pursuant to this article is not required for a person:

(1) specified in Section 16-23-20, items (1) through (5) and items (7) through (11);

(2) carrying a self-defense device generally considered to be nonlethal including the substance commonly referred to as 'pepper gas'; or

(3) carrying a concealable weapon in a manner not prohibited by law.

(P) Upon renewal, a permit issued pursuant to this article is valid for five years. Subject to subsection (Q), SLED shall renew a currently valid permit upon:

(1) payment of a fifty-dollar renewal fee by the applicant. This fee must be waived for disabled veterans and retired law enforcement officers;

(2) completion of the renewal application; and

(3) picture identification or facsimile copy thereof.

(Q) Upon submission of the items required by subsection (P), SLED must conduct or facilitate a state and federal background check of the applicant. If the background check is favorable, SLED must renew the permit.

(R) No provision contained within this article shall expand, diminish, or affect the duty of care owed by and liability accruing to, as may exist at law immediately before the effective date of this article, the owner of or individual in legal possession of real property for the injury or death of an invitee, licensee, or trespasser caused by the use or misuse by a third party of a concealable weapon. Absence of a sign

prohibiting concealable weapons shall not constitute negligence or establish a lack of duty of care.

(S) At least thirty days before a permit issued pursuant to this article expires, SLED shall notify the permit holder by mail or online if permitted by subsection (H) at the permit holder's address of record that the permit is set to expire along with notification of the permit holder's opportunity to renew the permit pursuant to the provisions of subsections (P) and (Q).

(T) During the first quarter of each calendar year, SLED must publish a report of the following information regarding the previous calendar year:

(1) the number of permits;
(2) the number of permits that were issued;
(3) the number of permit applications that were denied;
(4) the number of permits that were renewed;
(5) the number of permit renewals that were denied;
(6) the number of permits that were suspended or revoked; and
(7) the name, address, and county of a person whose permit was revoked, including the reason for the revocation pursuant to subsection (J)(1).

The report must include a breakdown of such information by county.

(U) A concealable weapon permit holder whose permit has been expired for no more than one year may not be charged with a violation of Section 16-23-20 but must be fined not more than one hundred dollars."

C. Section 16-23-20(9)(a) of the 1976 Code, as last amended by Act 28 of 2007, is further amended to read:

"(a) secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle; however, this item is not violated if the glove compartment, console, or trunk is opened in the presence of a law enforcement officer for the sole purpose of retrieving a driver's license, registration, or proof of insurance. If the person has been issued a concealed weapon permit pursuant to Article 4, Chapter 31, Title 23, then the person also may secure his weapon under a seat in a vehicle, or in any open or closed storage compartment within the vehicle's passenger compartment; or"

D. Section 16-23-10(10) of the 1976 Code, as added by Act 294 of 2004, is amended to read:

"(10) 'Luggage compartment' means the trunk of a motor vehicle which has a trunk; however, with respect to a motor vehicle which does not have a trunk, the term 'luggage compartment' refers to the area of the motor vehicle in which the manufacturer designed that luggage be carried or to the area of the motor vehicle in which luggage is customarily carried. In a station wagon, van, hatchback vehicle, truck, or sport utility vehicle, the term 'luggage compartment' refers to the area behind the rearmost seat."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of February, 2014.

Approved the 11th day of February, 2014.

No. 124

(R128, S689)

AN ACT TO AMEND SECTION 7-7-80, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN ANDERSON COUNTY, SO AS TO ADD THE "BELTON ANNEX" PRECINCT, THE "NORTH POINTE" PRECINCT, AND THE "GLENVIEW" PRECINCT, TO REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD, AND TO CORRECT ARCHAIC LANGUAGE.

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

Anderson County voting precincts revised

SECTION 1. Section 7-7-80 of the 1976 Code, as last amended by Act 182 of 2012, is further amended to read:

"Section 7-7-80. (A) In Anderson County there are the following voting precincts:
Appleton-Equinox
Barker's Creek-McAdams
Belton
Belton Annex
Bishop's Branch
Bowling Green
Broadview
Broadway
Brushy Creek
Cedar Grove
Center Rock
Centerville Station A
Centerville Station B
Chiquola Mill
Concrete
Cox's Creek
Craytonville
Denver-Sandy Springs
Edgewood Station A
Edgewood Station B
Five Forks
Flat Rock
Fork No. 1
Fork No. 2
Friendship
Glenview
Gluck Mill
Green Pond Station A
Grove School
Hall
Hammond School
Hammond Annex
High Point
Homeland Park
Honea Path
Hopewell
Hunt Meadows
Iva
Jackson Mill

LaFrance
Lakeside
Melton
Mount Tabor
Mountain Creek
Mt. Airy
Neal's Creek
North Pointe
Pelzer
Pendleton
Piedmont
Piercetown
Powdersville
Rock Mill
Rock Spring
Shirley's Store
Simpsonville
Starr
Three and Twenty
Toney Creek
Town Creek
Townville
Varennes
West Pelzer
West Savannah
White Plains
Williamston
Williamston Mill
Wright's School
Anderson 1/1
Anderson 1/2
Anderson 2/1
Anderson 2/2
Anderson 3/1
Anderson 3/2
Anderson 4/1
Anderson 4/2
Anderson 5/A
Anderson 5/B
Anderson 6/1
Anderson 6/2

(B) The precinct lines defining the precincts in Anderson County are as shown on the official map prepared by and on file with the Office of Research and Statistics of the State Budget and Control Board designated as document P-07-14 and as shown on official copies furnished to the Registration and Elections Commission for Anderson County.

(C) The polling places for the precincts provided in this section must be established by the Registration and Elections Commission for Anderson County subject to the approval of the majority of the Anderson County Legislative Delegation."

Time effective

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

Ratified the 27th day of February, 2014.

Approved the 4th day of March, 2014.

No. 125

(R129, S807)

AN ACT TO AMEND SECTION 7-7-380, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LEXINGTON COUNTY, SO AS TO ADD FOUR PRECINCTS AND TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINTS MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Lexington County voting precincts revised

SECTION 1. Section 7-7-380 of the 1976 Code, as last amended by Act 254 of 2012, is further amended to read:

"Section 7-7-380. (A) In Lexington County there are the following voting precincts:
Amicks Ferry
Barr Road 1
Barr Road 2
Batesburg
Beulah Church
Boiling Springs
Boiling Springs South
Bush River
Carolina Springs
Cayce No. 1
Cayce No. 2
Cayce No. 3
Cayce 2A
Cedar Crest
Chalk Hill
Challedon
Chapin
Coldstream
Congaree 1
Congaree 2
Cromer
Dreher Island
Dutchman Shores
Edenwood
Edmund 1
Edmund 2
Emmanuel Church
Fairview
Faith Church
Gardendale
Gaston 1
Gaston 2
Gilbert
Grenadier
Hollow Creek
Hook's Store
Irmo
Kitti Wake
Lake Murray 1
Lake Murray 2

Leaphart Road
Leesville
Lexington No. 1
Lexington No. 2
Lexington No. 3
Lexington No. 4
Lincreek
Mack-Edisto
Midway
Mims
Mt. Hebron
Mount Horeb
Murraywood
Oakwood
Old Barnwell Road
Old Lexington
Park Road 1
Park Road 2
Pelion 1
Pelion 2
Pilgrim Church
Pine Ridge 1
Pine Ridge 2
Pineview
Platt Springs 1
Platt Springs 2
Pond Branch
Providence Church
Quail Hollow
Quail Valley
Red Bank
Red Bank South 1
Red Bank South 2
Ridge Road
River Bluff
Round Hill
Saluda River
Sand Hill
Sandy Run
Seven Oaks
Sharpe's Hill
Springdale

Springdale South
St. Davids
St. Michael
Summit
Swansea 1
Swansea 2
West Columbia No. 1
West Columbia No. 2
West Columbia No. 3
West Columbia No. 4
Westover
White Knoll
Whitehall
Woodland Hills

(B) The polling places of the various voting precincts in Lexington County must be designated by the Registration and Elections Commission for Lexington County. The precinct lines defining the precincts in subsection (A) are as shown on the official map prepared by and on file with the Office of Research and Statistics of the State Budget and Control Board designated as document P-63-14 and as shown on copies provided to the Registration and Elections Commission for Lexington County. The official map may not be changed except by act of the General Assembly."

Time effective

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

Ratified the 27th day of February, 2014.

Approved the 4th day of March, 2014.

No. 126

(R130, S953)

AN ACT TO AMEND SECTION 12-6-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE

REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2013 AND TO PROVIDE THAT ANY INTERNAL REVENUE CODE SECTIONS ADOPTED BY THE STATE THAT EXPIRED ON DECEMBER 31, 2013, THAT ARE EXTENDED BY CONGRESSIONAL ENACTMENT IN 2014, ARE ALSO EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES.

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

Internal Revenue Code conformity, extension

SECTION 1. Section 12-6-40(A)(1) of the 1976 Code, as last amended by Act 10 of 2013, is further amended to read:

"(1)(a) Except as otherwise provided, 'Internal Revenue Code' means the Internal Revenue Code of 1986, as amended through December 31, 2013, and includes the effective date provisions contained in it.

(b) For purposes of Sections 63 and 179 of the Internal Revenue Code, the amendments made by Sections 103 and 202 of the Jobs and Growth Tax Relief Reconciliation Act of 2003, P.L. 108-27 (May 28, 2003) are effective only for taxable years beginning after December 31, 2003.

(c) If Internal Revenue Code sections adopted by this State which expired or portions thereof expired on December 31, 2013, are extended, but otherwise not amended, by congressional enactment during 2014, these sections or portions thereof also are extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes."

Time effective

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

Ratified the 27th day of February, 2014.

Approved the 4th day of March, 2014.

No. 127

(R131, S987)

AN ACT TO AMEND SECTION 7-7-490, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN SPARTANBURG COUNTY, SO AS TO CHANGE THE NAMES OF TWO PRECINCTS AND DELETE A PRECINCT AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Spartanburg County voting precincts revised

SECTION 1. Section 7-7-490 of the 1976 Code, as last amended by Act 167 of 2012, is further amended to read:

"Section 7-7-490. (A) In Spartanburg County there are the following voting precincts:
Abner Creek Baptist
Anderson Mill Elementary
Arcadia Elementary
Arrowood Baptist
Beaumont Methodist
Beech Springs Intermediate
Ben Avon Methodist
Bethany Baptist
Bethany Wesleyan
Boiling Springs Elementary
Boiling Springs High School
Boiling Springs Intermediate
Boiling Springs Jr. High
Boiling Springs 9th Grade
Canaan Baptist
Cannons Elementary
Carlisle Fosters Grove
Cavins Hobbysville

C.C. Woodson Recreation
Cedar Grove Baptist
Chapman Elementary
Chapman High School
Cherokee Springs Fire Station
Chesnee Senior Center
Cleveland Elementary
Clifdale Elementary
Converse Fire Station
Cooley Springs Baptist
Cornerstone Baptist
Cowpens Depot Museum
Cowpens Fire Station
Croft Baptist
Cross Anchor Fire Station
Cudd Memorial
Daniel Morgan Technology Center
Drayton Fire Station
Eastside Baptist
Ebenezer Baptist
Enoree First Baptist
E.P. Todd Elementary
Fairforest Middle School
Friendship Baptist
Gable Middle School
Glendale Fire Station
Grace Baptist
Gramling Methodist
Greater St. James
Hayne Baptist
Hendrix Elementary
Holly Springs Baptist
Jesse Bobo Elementary
Jesse Boyd Elementary
Lake Bowen Baptist
Landrum High School
Landrum United Methodist
Lyman Town Hall
Mayo Elementary
Motlow Creek Baptist
Mountain View Baptist
Mt. Calvary Presbyterian

Mt. Moriah Baptist
Mt. Sinai Baptist
Mt. Zion Full Gospel Baptist
North Spartanburg Fire Station
Oakland Elementary
Pacolet Elementary School
Park Hills Elementary
Pauline Glenn Springs Elementary
Pelham Fire Station
Pine Street Elementary
Poplar Springs Fire Station
Powell Saxon Una Fire Station
R.D. Anderson Vocational
Rebirth Missionary Baptist
Reidville Elementary
Reidville Fire Station
Roebuck Bethlehem
Roebuck Elementary
Silverhill United Methodist
Southside Baptist
Spartanburg High School
Startex Fire Station
Swofford Career Center
Travelers Rest Baptist
Trinity Methodist
Una Fire Station
Victor Mill Methodist
Wellford Fire Station
Holy Communion
West View Elementary
White Stone Methodist
Whitlock Jr. High
Woodland Heights Recreation Center
Woodruff American Legion
Woodruff Armory Drive Fire Station
Woodruff Fire Station
Woodruff Town Hall

(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map on file with the Office of Research and Statistics of the State Budget and Control Board and as shown on copies provided to the Board of Voter Registration of the county by the Office of Research and Statistics designated as document P-83-14.

(C) The polling places for the precincts listed in subsection (A) must be determined by the Spartanburg County Election Commission with the approval of a majority of the Spartanburg County Legislative Delegation."

Time effective

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

Ratified the 27th day of February, 2014.

Approved the 4th day of March, 2014.

No. 128

(R133, H3623)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-77-127 SO AS TO PROVIDE THAT AN AUTOMOBILE INSURER MAY VERIFY THE COVERAGE OF AN INSURED BY ELECTRONIC FORMAT TO A MOBILE ELECTRONIC DEVICE UPON REQUEST OF THE INSURED, AND TO PROVIDE A NECESSARY DEFINITION; AND TO AMEND SECTION 56-10-225, RELATING TO REQUIREMENTS FOR MAINTAINING PROOF OF FINANCIAL RESPONSIBILITY IN AN AUTOMOBILE, SO AS TO PERMIT THE USE OF A MOBILE ELECTRONIC DEVICE TO SATISFY THESE REQUIREMENTS, TO PROVIDE AN INSURER IS NOT REQUIRED TO ISSUE THIS VERIFICATION IN AN ELECTRONIC FORMAT, TO PROVIDE THAT PRESENTING AN ELECTRONIC MOBILE DEVICE TO LAW ENFORCEMENT TO SATISFY PROOF OF AUTOMOBILE FINANCIAL RESPONSIBILITY DOES NOT SUBJECT INFORMATION CONTAINED OR STORED IN THE DEVICE TO SEARCH ABSENT A VALID SEARCH WARRANT OR CONSENT OF THE LAWFUL OWNER OF THE DEVICE.

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

Insurer may provide proof electronically

SECTION 1. Article 3, Chapter 77, Title 38 of the 1976 Code is amended by adding:

"Section 38-77-127. (A) An automobile insurer may issue verification concerning the existence of coverage it provides an insured in an electronic format to a mobile electronic device upon request of the insured.

(B) For purposes of this section, 'mobile electronic device' means a portable computing and communication device that has a display screen with touch input or a miniature keyboard and is capable of receiving information transmitted in an electronic format."

Insured may prove electronically, device not subject to search, exceptions

SECTION 2. Section 56-10-225(B) of the 1976 Code is amended to read:

"(B) The owner of a motor vehicle must maintain proof of financial responsibility in the motor vehicle at all times, and it must be displayed upon demand of a police officer or any other person duly authorized by law. Evidence of financial responsibility may be provided by use of a mobile electronic device in a format issued by an automobile insurer. This section does not require that an automobile insurer issue verification concerning the existence of coverage it provides an insured in an electronic format. Information contained or stored in a mobile electronic device presented pursuant to this subsection is not subject to a search by a law enforcement officer except pursuant to the provisions of Section 17-13-140 providing for the issuance, execution, and return of a search warrant or pursuant to the express written consent of the lawful owner of the device."

Savings clause

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws

repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 27th day of February, 2014.

Approved the 4th day of March, 2014.

No. 129

(R134, H3847)

AN ACT TO AMEND SECTION 48-60-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR TERMS USED IN THE SOUTH CAROLINA MANUFACTURER RESPONSIBILITY AND CONSUMER CONVENIENCE INFORMATION TECHNOLOGY EQUIPMENT COLLECTION AND RECOVERY ACT OF 2010, SO AS TO ADD, AMONG OTHER DEFINITIONS, TERMS RELATED TO COMPUTER MONITORS; TO AMEND SECTION 48-60-30, RELATING TO REQUIREMENTS OF CERTAIN MANUFACTURERS TO PROVIDE LABELS ON DEVICES INDICATING THE BRAND, SO AS TO REQUIRE COMPUTER MONITOR MANUFACTURERS TO DO SO; TO AMEND SECTION 48-60-50, RELATING TO THE REQUIREMENT FOR TELEVISION MANUFACTURERS TO PROVIDE A RECOVERY PROGRAM FOR RECYCLING TELEVISIONS, SO AS TO REQUIRE COMPUTER MONITOR MANUFACTURERS TO DO SO; BY ADDING SECTION 48-60-55 SO AS TO PROVIDE FOR THE CREATION AND OPERATION OF STATEWIDE CONSUMER ELECTRONIC DEVICE STEWARDSHIP PROGRAMS AND THE DEVELOPMENT AND IMPLEMENTATION OF RELATED

RECOVERY PLANS, INCLUDING REQUIREMENTS FOR APPROVAL OF PLANS BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, AND TO ESTABLISH OTHER RESPONSIBILITIES AND AUTHORITY OF THE DEPARTMENT AND REQUIREMENTS OF REGULATED MANUFACTURERS; TO AMEND SECTION 48-60-60, RELATING TO PROTECTION FROM LIABILITY FOR CERTAIN DAMAGES, SO AS TO APPLY TO COMPUTER MONITOR MANUFACTURERS; TO AMEND SECTION 48-60-70, RELATING TO RETAILER SALE REQUIREMENTS, SO AS TO PROHIBIT RETAILERS FROM SELLING DEVICES MADE BY MANUFACTURERS WHO DO NOT COMPLY WITH THE REQUIREMENTS OF SECTION 48-60-55; TO AMEND SECTION 48-60-90, RELATING TO DISCARDING OR PLACING COVERED DEVICES IN A WASTE STREAM, SO AS TO PROHIBIT COMPONENTS OF COVERED DEVICES; TO AMEND SECTION 48-60-100, RELATING TO RECOVERY PROCESS FEES, SO AS TO LIMIT THE ABILITY OF LOCAL GOVERNMENTS TO CHARGE CERTAIN FEES; TO AMEND SECTION 48-60-140, RELATING TO REQUIREMENTS THAT RECOVERY PROCESSES COMPLY WITH STATE AND FEDERAL LAW, SO AS TO REQUIRE RECYCLING OR REUSE FACILITIES TO MAINTAIN CERTIFICATION, TO IDENTIFY APPROVED CERTIFICATION PROGRAMS, AND TO REQUIRE MANUFACTURERS AND GOVERNMENTS ONLY TO USE FACILITIES THAT HAVE APPROPRIATE CERTIFICATION; TO AMEND SECTION 48-60-150, RELATING TO THE DEPARTMENT'S PROMULGATION OF REGULATIONS, SO AS TO ELIMINATE THE RIGHT TO CHARGE CERTAIN FEES TO MANUFACTURERS; BY ADDING SECTION 48-60-160 SO AS TO PROVIDE FOR CERTAIN FEES AND PENALTIES; BY ADDING SECTION 48-60-170 SO AS TO SET FORTH THE PURPOSES OF THE CHAPTER AND CERTAIN LIMITATIONS ON LIABILITY, TO PROVIDE EXPIRATION DATES FOR REGULATIONS PROMULGATED PURSUANT TO THIS CHAPTER, AND TO MAKE TECHNICAL CORRECTIONS; TO REPEAL SECTION 48-60-50 RELATING TO THE REQUIREMENT OF TELEVISION AND COMPUTER MONITOR MANUFACTURERS TO PROVIDE A RECYCLING PROGRAM, AFTER DECEMBER 31, 2014, AND TO REPEAL CHAPTER 60, TITLE 48 AFTER DECEMBER 31, 2021,

EXCEPT FOR SECTION 48-60-90 THEREOF, RELATING TO PROHIBITIONS AND REQUIREMENTS FOR THE DISPOSAL OF COVERED DEVICES APPLICABLE TO THE PUBLIC AND LANDFILL OWNERS AND OPERATORS.

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

Definitions revised

SECTION 1. Section 48-60-20 of the 1976 Code, as added by Act 178 of 2010, is amended to read:

"Section 48-60-20. As used in this chapter:

(1) 'Collect' or 'collection' means to facilitate the delivery of a covered device to a collection site included in the manufacturer's program, and to transport the covered device for recovery.

(2) 'Computer manufacturer' means a person who:

(a) manufactures a covered computer device under its own brand for sale or without affixing a brand;

(b) sells in this State a covered computer device produced by another supplier under its own brand or label;

(c) imports covered computer devices; provided that if a company from which an importer purchases a covered computer device has a presence or assets in the United States, that company must be considered the manufacturer; or

(d) manufactures a covered computer device, supplies a covered computer device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

(3) 'Computer monitor manufacturer' means a person who:

(a) manufactures a covered computer monitor device under its own brand for sale or without affixing a brand;

(b) sells in this State a covered computer monitor device produced by another supplier under its own brand or label;

(c) imports covered computer monitor devices; provided that if a company from which an importer purchases a covered computer monitor device has a presence or assets in the United States, that company must be considered the manufacturer; or

(d) manufactures a covered computer monitor device, supplies a covered computer monitor device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

(4) 'Consumer' means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or home business use.

(5) 'Consumer electronic device stewardship program' means a recycling effort established by the representative organization or manufacturer of a covered television device or covered computer monitor device.

(6) 'Covered computer device' means a desktop, laptop or notebook computer or a printing device marketed and intended for use by a consumer, but does not include a covered television device.

(7) 'Covered computer monitor device' means a display device typically manufactured without an internal tuner that can display pictures and sound and is designed for use with a desktop computer.

(8) 'Covered devices' means a covered computer device, covered computer monitor device, and a covered television device marketed and intended for use by a consumer. 'Covered device', 'covered computer device', 'covered computer monitor device', and 'covered television device' do not include:

(a) a covered device that is a part of a motor vehicle or a component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(b) a covered device that is functionally or physically a part of, or connected to, or integrated within equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting including, but not limited to, diagnostic, monitoring, control or medical products as defined under the federal Food, Drug, and Cosmetic Act, or equipment used for security, sensing, monitoring, antiterrorism, or emergency services purposes or equipment designed and intended primarily for use by professional users;

(c) a covered device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, water heater, or exercise equipment;

(d) telephones of any type including, but not limited to, mobile telephones, a personal digital assistant (PDA), a global positioning system (GPS), or a hand-held gaming device; or

(e) a plastic, wood, or composite case that once held a covered device or was a subassembly of a covered device but is void of any electronics, leaded glass, or metal electronic components.

(9) 'Covered television device' means an electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite including, but not limited to, a direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

(10) 'Department' means the South Carolina Department of Health and Environmental Control.

(11) 'Manufacturer's brands' means a manufacturer's name, brand name either owned or licensed by the manufacturer, or brand logo for which the manufacturer otherwise has legal responsibility.

(12) 'Person' means an individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, government entity, public benefit corporation, or public authority.

(13) 'Program' means a consumer electronic device stewardship program.

(14) 'Program year' means the calendar year.

(15) 'Representative organization' means an organization created to develop and oversee implementation of a statewide plan consisting of one or more consumer electronic device stewardship programs, both in the State and in other jurisdictions that authorize such a representative organization.

(16) 'Recover' means to reuse or recycle.

(17) 'Recoverer' means a person that reuses or recycles a covered device.

(18) 'Retail sale' means the sale of a new product through a sales outlet, the Internet, mail order, or otherwise, whether or not the seller has a physical presence in this State. A retail sale includes the sale of new products.

(19) 'Retailer' means a person engaged in retail sales.

(20) 'Sale' or 'sell' means a transfer for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means, but does not mean leases.

(21) 'Television' means an electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving

and displaying television or video programming via broadcast, cable, or satellite including, but not limited to, a direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

(22) 'Television manufacturer' means a person who:

(a) manufactures covered television devices under a brand that it licenses or owns for sale in this State;

(b) manufactures covered television devices without affixing a brand for sale in this State;

(c) resells into this State a covered television device under a brand it owns or licenses produced by other suppliers, including retail establishments that sell covered television devices under a brand the retailer owns or licenses;

(d) imports covered television devices; provided that if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer;

(e) manufactures covered television devices, supplies them to a person or persons within a distribution network that includes wholesalers or retailers in this State and benefits from the sale in this State of those covered television devices through the distribution network; or

(f) assumes the responsibilities and obligations of a television manufacturer under this chapter. If the television manufacturer is one who manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand must not be included in the definition of television manufacturer under items (a) or (c)."

Requirement for manufacturer's label on covered devices revised

SECTION 2. Section 48-60-30 of the 1976 Code, as added by Act 178 of 2010, is amended to read:

"Section 48-60-30. A computer, computer monitor, or television manufacturer may not sell or offer to sell a covered device unless a label indicating the computer, computer monitor, or television manufacturer's brand is permanently affixed to the covered device in a readily visible location."

Requirement to provide recovery program revised

SECTION 3. Section 48-60-50 of the 1976 Code, as added by Act 178 of 2010, is amended to read:

"Section 48-60-50. (A) No television manufacturer or computer monitor manufacturer shall sell or offer for sale a covered television device or covered computer monitor device in this State unless the television manufacturer or computer monitor manufacturer provides a recovery program at no charge or provides a financial incentive of equal or greater value, such as a coupon.

(B)(1) For the program year 2014, which begins January 1, 2014, a television manufacturer or computer monitor manufacturer shall recycle or arrange for the recycling of its market share of covered television devices or covered computer monitor devices pursuant to this section. Market share, as used in this chapter, is the total weight of the manufacturer's televisions or computer monitors that were sold at retail in the United States to individuals during the previous program year, multiplied by the population fraction of South Carolina to the United States population, divided by the total weight of all of the televisions or computer monitors that were sold at retail to individuals in South Carolina during the previous program year. The individual recycling obligation for each television manufacturer is calculated by multiplying 4.8 million pounds by the manufacturer's market share as calculated above. The individual recycling obligation for each computer monitor manufacturer is calculated by multiplying 720,000 pounds by the manufacturer's market share as calculated above. The population fraction is determined by using the most recent United States Census data for the total population of South Carolina divided by the total population of the United States. A television manufacturer or computer monitor manufacturer may use covered televisions or covered computer monitor devices to meet their recycling obligation.

(2) The department shall notify each television manufacturer and computer monitor manufacturer of its market share recycling obligation by March 15, 2014. A television manufacturer and computer monitor manufacturer shall provide the department information necessary for the department to calculate market share and to determine each television manufacturer's recycling obligation.

(3) A television manufacturer and computer monitor manufacturer shall report to the department the total weight of manufacturer's televisions or computer monitors sold at retail in the

United States, the state specific television or computer monitor sales data annually calculated using the population fraction of South Carolina to the United States population, and the total weight of covered television devices and covered computer monitor devices collected and recycled in the State during the previous program year. If a computer monitor manufacturer or a television manufacturer does not provide the department the necessary information for the department to calculate market share then the department shall use the best available national market share data to make this calculation.

(C) A television manufacturer or computer monitor manufacturer may fulfill the requirements of this section either individually or in participation with other manufacturers. A recovery program may use existing collection and consolidation infrastructure for collecting covered television or covered computer monitor devices, including retailers, recyclers, and reuse organizations. Every manufacturer shall provide the department a report at the beginning of each program year, regarding compliance with the obligations established by the department.

(D) A television manufacturer or computer monitor manufacturer shall provide the department with contact information for the manufacturer's designated agent or employee whom the department may contact for information related to the manufacturer's compliance with the requirements of this section."

Requirement to join organization to implement recovery program or to create own program

SECTION 4. Chapter 60, Title 48 of the 1976 Code is amended by adding:

"Section 48-60-55. (A) On January 1, 2015, and annually thereafter, a television manufacturer or computer monitor manufacturer shall either:

(1) join a representative organization created by manufacturers of covered electronic devices to establish fair and reasonable policies to be applied in the State and to provide a plan to the department in accordance with this section; or

(2) notify the department of its intent to fulfill its obligations under this chapter by implementing a program under subsection (K).

(B) A representative organization shall submit a plan for the operation of a statewide consumer electronic device stewardship program described in this section to the department for approval

annually. The initial plan must be submitted to the department by September 3, 2014, and annually ninety days before the beginning of the program year in subsequent years. The plan must include details on how one or more eligible companies or covered electronic device stewardship programs operating within the plan will:

(1) provide for the recycling of all used covered television devices and used covered computer monitor devices collected by participating local governments specified in the plan based on the proportionate membership of the representative organization;

(2) work with a representative organization, the department, and local government recycling representatives to provide recycling services of covered television devices and covered computer monitor devices and to provide consumers with information and educational materials regarding the program to promote the recycling and reuse of used covered television devices and used covered computer monitor devices;

(3) achieve environmentally sound management for covered television devices and covered computer monitor devices that are collected for reuse and recycling; and

(4) incorporate economic arrangements that minimize costs to participating manufacturers, consistent with Section 48-60-170.

(C) The representative organization plan must:

(1) document how the collection component of the plan was developed with input from local government recycling representatives and other stakeholders interested in electronics recycling, especially recycling of used covered television devices and used covered computer monitor devices;

(2) identify each manufacturer and local government participating in the consumer electronic device stewardship programs included in the representative organization plan and the brands of consumer electronic devices sold in the State that are covered by the programs;

(3) provide a mechanism for making the most current list of participating manufacturers available to the department;

(4) include incentives to ensure convenient mechanisms to collect used consumer electronic devices throughout the State; and

(5) explain why a disruption of commercial activity that may arise from implementation of the plan is consistent with fulfilling the intent of this chapter and provide sufficient information to allow the department to confirm the consistency of the plan with this chapter by review of the plan’s financial and operational elements.

(D) Representative organization's annual plans must include, but not be limited to, the following:

(1) a list of collection programs and locations available to consumers in the State;

(2) a description of the methods used to collect, transport, and process used consumer electronic devices in the State;

(3) the results of a survey of county and municipal recycling representatives concerning the availability of opportunities for consumers to recycle covered electronic devices;

(4) samples of information awareness and educational materials provided to consumers of consumer electronic devices to promote reuse and recycling and collection opportunities for used devices that are available in the State;

(5) a list of participating companies for the most recent program year and the upcoming year;

(6) a list of contacts from all participating local governments who may be contacted by the department to confirm that their recycling needs are being met by manufacturers participating in the representative organization;

(7) a report of the organization's prior year's activities, including the amount of electronics collected for recycling in the State and the number and location of collection locations used during the prior year;

(8) a description of services provided to each of the local government participants including, but not limited to, collection event services and logistical support for electronics pick-up; and

(9) a list of manufacturers, as determined by the representative organization, failing to meet their individual recycling obligation as assigned by the representative organization and any shortfall penalties, pursuant to Section 48-60-160(E)(3). A manufacturer so reported to the department may elect to account for the shortfall in the next program year but only may elect this option once every three years. This does not preclude a representative organization from developing and implementing participation requirements that may otherwise exclude manufacturers from participating in the representative organization for failing to meet those participation requirements.

(E)(1) Not later than thirty calendar days after submission of the plan pursuant to subsection (B), the department shall determine whether or not to approve the plan. The department shall approve the plan for the establishment of a consumer electronic device stewardship program by the submitting representative organization if it meets the requirements of subsections (B) and (C). If the department finds activities included in the plan that do not fulfill those requirements, it

shall specify in writing what the department believes to be the plan's deficiencies, promptly meet with the representative organization to discuss the department's concerns, and allow the representative organization at least thirty calendar days after the denial notice to submit a revised plan. If a revised plan is submitted, the department shall review and approve or disapprove the plan within thirty calendar days of submission.

(2) If the department disapproves a plan submitted pursuant to item (1), and the representative organization chooses not to submit a revised plan or the department disapproves the revised plan, the representative organization shall have the right to appeal pursuant to Section 44-1-60.

(3) If the plan is disapproved on appeal, the representative organization may resubmit a plan pursuant to item (1) which conforms with the guidance of the appellate opinion or member companies may comply with subsection (K).

(F) After the representative organization's plan is approved, the representative organization is responsible for maintaining continuous service to local governments specified in the plan provided by the participating consumer electronic device stewardship programs. The representative organization shall establish fair and reasonable policies for administration and operation.

(G) Manufacturers of covered television devices or covered computer monitor devices that are participating in a plan submitted pursuant to this section and subject to a recycling assessment may choose to fulfill their recycling assessment using a consumer electronic device stewardship program that meets the elements set forth in the approved representative organization plan.

(H) The department shall maintain a list of the names of manufacturers and eligible programs complying with the requirement of this chapter and the brands of consumer electronic devices that are covered by the consumer electronic device stewardship program and post this list on its website.

(I) A representative organization and the department shall confer with stakeholders at least quarterly to address compliance, efficiency, and best practices of the stewardship programs that implement the representative organization's plan.

(J)(1) Local governments that receive recycling services from stewardship programs participating in the representative organization's plan to recycle covered television devices and covered computer monitor devices must not charge the manufacturer or the representative operating the stewardship program for collection costs and shall offer

the manufacturer or its representative other covered devices collected by a participating local government at no cost. Provided, this item does not obligate a local government to offer other covered devices collected by a participating local government at no cost once the representative organization's obligation within its plan to recycle covered television devices and covered computer monitor devices has been met during a program year.

(2) A representative organization shall provide the department and each local government recycling representative a point of contact for the organization, including email and phone number, to ensure communication and coordination among local governments, participating manufacturers, consumer electronic device stewardship programs and the representative organization.

(K)(1) If a television manufacturer or computer monitor manufacturer does not participate in a representative organization, the manufacturer annually shall recycle or arrange for the recycling of covered television devices and covered computer monitor devices in the amount of eighty percent of the weight of the covered television devices and covered computer monitor devices sold by the manufacturer in the State during the previous program year.

(2) The department shall notify each television manufacturer or computer monitor manufacturer of its recycling obligation by March fifteenth of each program year. A television manufacturer or computer monitor manufacturer shall provide the department information noted in item (3) to be used by the department to calculate each television and computer monitor manufacturer's recycling obligation under this subsection.

(3) A television or computer monitor manufacturer shall report to the department the total weight of the manufacturer's covered television devices or covered computer monitor devices sold at retail in the United States or in this State, if the information is available, and the total weight of covered devices collected and recycled in the State during the previous program year. A manufacturer's weight sold data is proprietary information of the manufacturer.

(L) A manufacturer may fulfill the requirements of this section either individually, in participation with other manufacturers, or through a representative organization. A recovery program may use existing collection and consolidation infrastructure for collecting covered devices, including local governments, retailers, recyclers, and reuse organizations.

(M) A manufacturer shall provide the department with contact information for the manufacturer's designated agent or employee

whom the department may contact concerning the manufacturer's compliance with the requirements of this section.

(N) Manufacturers not identified as participating in a representative organization plan pursuant to subsection (B) of this section shall comply with the requirements of subsection (K)."

Protection from liability for electronic manufacturers revised

SECTION 5. Section 48-60-60 of the 1976 Code, as added by Act 178 of 2010, is amended to read:

"Section 48-60-60. A computer, computer monitor, or television manufacturer is not liable for damages arising from information stored on a covered device collected from a consumer under the manufacturer's recovery programs of this chapter."

Retailer sale requirements for covered devices revised

SECTION 6. Section 48-60-70 of the 1976 Code, as added by Act 178 of 2010, is amended to read:

"Section 48-60-70. (A) A retailer only may sell or offer to sell a covered device that:

(1) bears a manufacturer label as provided in Section 48-60-30; and

(2) is manufactured by a manufacturer that offers a recovery program as provided in Sections 48-60-40, 48-60-50, and 48-60-55.

(B) The requirements of this section do not apply to a television sold by a retailer for less than one hundred dollars."

Placing or discarding covered devices in waste stream

SECTION 7. Section 48-60-90(A) of the 1976 Code, as added by Act 178 of 2010, is amended to read:

"(A) After July 1, 2011, a consumer must not knowingly place or discard a covered device or subassemblies of a covered device in a waste stream that is to be disposed of in a solid waste landfill."

Public information and fees

SECTION 8. Section 48-60-100 of the 1976 Code, as added by Act 178 of 2010, is amended to read:

"Section 48-60-100. The department shall provide information to the public on its Internet website regarding the provisions of the chapter and the prohibition on disposing of covered devices in a solid waste landfill. The department also shall provide information about recovery programs available in the State on the department's Internet website. The website must include information about collection options available, the definition of covered devices, the proper methods for disposal of covered devices, the proper methods for disposal of noncovered devices, and links to relevant portions of computer or television manufacturer's Internet websites."

Recovery and recycling of devices in compliance with law and best practices

SECTION 9. Section 48-60-140 of the 1976 Code, as added by Act 178 of 2010, is amended to read:

"Section 48-60-140. (A) Covered devices must be recovered in a manner that complies with all applicable federal, state, and local requirements. Collection and storage of covered devices must be performed in accordance with best management practices.

(B) All recycling or reuse facilities used by recoverers of covered electronic devices must, at a minimum, achieve and maintain third-party accredited certification. Acceptable certification programs include the Responsible Recycling (R)(2) Practices and e-Stewards. Other certification programs recognized by the department or the United States Environmental Protection Agency also are acceptable. Manufacturers of covered electronic devices shall ensure that recycling or reuse facilities used as part of their recovery programs meet this requirement. Local governments and other consolidators of covered electronic devices shall ensure that the material they collect is transferred to a recycling or reuse facility that meets this requirement."

Promulgate regulations

SECTION 10. Section 48-60-150 of the 1976 Code, as added by Act 178 of 2010, is amended to read:

"Section 48-60-150. The department shall promulgate regulations needed to implement this chapter's provisions, which must be submitted to the General Assembly pursuant to the Administrative Procedures Act."

Fees and fines for manufacturers and representative organizations, exemptions

SECTION 11. Chapter 60, Title 48 of the 1976 Code is amended by adding:

"Section 48-60-160. (A) A manufacturer subject to the requirements of this chapter shall pay the department an annual registration fee in the amount of three thousand five hundred dollars.

(B) A representative organization shall pay the department an annual registration fee in the amount of twenty thousand dollars for the department to pay the full costs of administering and enforcing the provisions of this chapter relating to representative organizations.

(C) Manufacturers participating in a representative organization are exempt from paying an annual registration fee.

(D) A manufacturer that produces computer monitors, computers, or televisions is only required to pay one annual registration fee, if a fee is required.

(E)(1) A manufacturer of a covered device that fails to comply with a requirement of this chapter, excluding recycling obligation shortfalls as provided for in this section, is subject to a fine not to exceed one thousand dollars per violation.

(2) A manufacturer of a covered television device or covered computer monitor device participating in a plan pursuant to Section 48-60-50 or Section 48-60-55(K) that fails to meet its individual recycling obligation for the previous program year as outlined in this chapter may elect to:

(a) pay a shortfall fee as determined by the department; or

(b) account for the amount of the shortfall in the following year. A manufacturer electing to account for the amount of a shortfall in the following year only may elect this option once every three years.

(3) The shortfall fee provided for in this section must be calculated as follows:

(a) If the manufacturer of a covered television or computer monitor device recycles at least ninety percent, but less than one hundred percent of its individual recycling obligation, the shortfall fee

is thirty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

(b) If the manufacturer of a covered television or computer monitor device recycles at least fifty percent, but less than ninety percent of its individual recycling obligation, the shortfall fee is forty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

(c) If the manufacturer of a covered television or computer monitor device recycles less than fifty percent of its individual recycling obligation, the shortfall fee is fifty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

(F) A manufacturer of a covered device that sells five hundred or fewer such devices in the State per year is exempt from registration, penalty, or shortfall fees proposed in this chapter.

(G) A television manufacturer participating in a representative organization with an approved consumer electronic device stewardship program that falls below seventy-five percent of its allocation, as determined by a representative organization at the end of the program year, is ineligible to participate in the consumer electronic device stewardship program the following year and must participate in the plan enumerated in Section 48-60-55(K).

(H) All fees and penalties collected by the department to administer and enforce this chapter must be deposited in a dedicated account and may be expended by the department to cover the department's costs to implement this chapter. Shortfall fees must be used to assist local governments in recycling covered devices as required by this chapter."

Intent of chapter, immunity from liability

SECTION 12. Chapter 60, Title 48 of the 1976 Code is amended by adding:

"Section 48-60-170. (A) The intent of this chapter is to implement programs and services that ensure the availability of adequate end-of-life electronic product handling for the benefit of citizens of the State, which fairly, effectively, and efficiently share the burdens of doing so among television manufacturers, computer manufacturers, and computer monitor manufacturers, regardless of the effect on competition of doing so, and which require the State to direct and

supervise implementation of a statewide plan of one or more consumer electronic device stewardship programs. Representative organizations and persons participating in representative organizations may not be held liable or prosecuted under federal or state antitrust law.

(B) A manufacturer acting in accordance with the provisions of this chapter may negotiate, enter into, or conduct business with a representative organization, and the manufacturer, representative organization, and eligible program are not subject to damages, liability, or scrutiny under federal or state antitrust law, regardless of the effects of their actions on competition. It further is the intent and belief of the State that the supervisory activities described in this chapter are sufficient to confirm that activities of the manufacturers, eligible programs, and recyclers developing or participating in a plan that is approved pursuant to Section 48-60-55 are authorized and actively supervised by the State."

Annual report

SECTION 13. The department shall compile and submit annual reports concerning the implementation of the provisions contained in this act to the Chairman of the Senate Agriculture and Natural Resources Committee and the Chairman of the House Agriculture and Natural Resources Committee. The annual reports also must be posted on the department's website.

Repeal of provisions of chapter

SECTION 14. Section 48-60-50 of the 1976 Code, as amended by Section 3 of this act, is repealed December 31, 2014. The remaining provisions of Chapter 60, Title 48 of the 1976 Code, except Section 48-60-90, are repealed December 31, 2021.

Severability clause

SECTION 15. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs,

subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 16. This act takes effect upon approval by the Governor.

Ratified the 27th day of February, 2014.

Approved the 4th day of March, 2014.

No. 130

(R135, H4475)

AN ACT TO AMEND SECTION 7-7-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN AIKEN COUNTY, SO AS TO REDESIGNATE VARIOUS EXISTING PRECINCTS, TO ADD THREE PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Aiken County voting precincts revised

SECTION 1. Section 7-7-40, of the 1976 Code, as last amended by Act 136 of 2010, is further amended to read:

"Section 7-7-40. (A) In Aiken County there are the following voting precincts:
Aiken No. 1
Aiken No. 2
Aiken No. 3
Aiken No. 4
Aiken No. 5

Aiken No. 6
Aiken No. 47
Anderson Pond No. 69
Ascauga Lake
Bath
Beech Island
Belvedere No. 9
Belvedere No. 44
Belvedere No. 62
Belvedere No. 74
Breezy Hill
Carolina Heights
Cedar Creek No. 64
China Springs
Clearwater
College Acres
Couchton
Eureka
Fox Creek No. 58
Fox Creek No. 73
Gem Lakes No. 60
Gem Lakes No. 77
Gloverville
Graniteville
Hammond
New Holland
Hitchcock No. 66
Hollow Creek
Jackson
Langley
Levels No. 52
Levels No. 72
Lynwood
Midland Valley No. 51
Midland Valley No. 71
Millbrook
Misty Lakes
Monetta
Montmorenci No. 22
Montmorenci No. 78
New Ellenton
North Augusta No. 25

North Augusta No. 26
North Augusta No. 27
North Augusta No. 28
North Augusta No. 29
North Augusta No. 54
North Augusta No. 55
North Augusta No. 67
North Augusta No. 68
Oak Grove
Perry
Redds Branch
Salley
Sandstone No. 70
Sandstone No. 79
Shaws Fork
Shiloh
Silver Bluff
Six Points No. 35
Six Points No. 46
Sleepy Hollow No. 65
South Aiken No. 75
South Aiken No. 76
Tabernacle
Talatha
Pine Forest
Vaucluse
Wagener
Ward
Warrenville
White Pond
Willow Springs
Windsor

(B) The precinct lines defining the precincts provided in subsection (A) of this section are as shown on the official map prepared by and on file with the Office of Research and Statistics of the State Budget and Control Board designated as document P-03-14 and as shown on certified copies of the official map provided by the office to the State Election Commission and the Aiken County Board of Elections and Registration.

(C) The polling places for the precincts provided in subsection (A) of this section must be established by the Aiken County Board of

Elections and Registration with the approval of a majority of the county legislative delegation."

Time effective

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

Ratified the 27th day of February, 2014.

Approved the 4th day of March, 2014.

No. 131

(R136, H4497)

AN ACT TO AMEND SECTION 7-7-110, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN BEAUFORT COUNTY, SO AS TO REDESIGNATE FIVE EXISTING PRECINCTS, ADD NINE PRECINCTS AND DELETE THREE PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THESE MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Beaufort County voting precincts revised

SECTION 1. Section 7-7-110 of the 1976 Code, as last amended by Act 232 of 2012, is further amended to read:

"Section 7-7-110. (A) In Beaufort County there are the following voting precincts:
Beaufort 1
Beaufort 2
Beaufort 3
Belfair
Bluffton 1A
Bluffton 1B

Bluffton 1C
Bluffton 1D
Bluffton 2A
Bluffton 2B
Bluffton 2C
Bluffton 2D
Bluffton 2E
Bluffton 3
Bluffton 4A
Bluffton 4B
Bluffton 4C
Bluffton 4D
Bluffton 5A
Bluffton 5B
Burton 1A
Burton 1B
Burton 1C
Burton 1D
Burton 2A
Burton 2B
Burton 2C
Burton 3
Chechessee 1
Chechessee 2
Dale Lobeco
Daufuskie
Hilton Head 1A
Hilton Head 1B
Hilton Head 2A
Hilton Head 2B
Hilton Head 2C
Hilton Head 3
Hilton Head 4A
Hilton Head 4B
Hilton Head 4C
Hilton Head 4D
Hilton Head 5A
Hilton Head 5B
Hilton Head 5C
Hilton Head 6
Hilton Head 7A
Hilton Head 7B

Hilton Head 8
Hilton Head 9A
Hilton Head 9B
Hilton Head 10
Hilton Head 11
Hilton Head 12
Hilton Head 13
Hilton Head 14
Hilton Head 15A
Hilton Head 15B
Ladys Island 1A
Ladys Island 1B
Ladys Island 2A
Ladys Island 2B
Ladys Island 2C
Ladys Island 3A
Ladys Island 3B
Ladys Island 3C
Moss Creek
Mossy Oaks 1A
Mossy Oaks 1B
Mossy Oaks 2
Port Royal 1
Port Royal 2
Rose Hill
Seabrook 1
Seabrook 2
Seabrook 3
Sheldon 1
Sheldon 2
St. Helena 1A
St. Helena 1B
St. Helena 1C
St. Helena 2A
St. Helena 2B
St. Helena 2C
Sun City 1
Sun City 2
Sun City 3
Sun City 4
Sun City 5
Sun City 6

Sun City 7
Sun City 8

(B) The precinct lines defining the above precincts are as shown on the official map prepared by and on file with the Office of Research and Statistics of the State Budget and Control Board designated as document P-13-14 and as shown on copies provided to the Beaufort County Board of Elections and Registration by the Office of Research and Statistics.

(C) The polling places for the precincts provided in this section must be established by the Beaufort County Board of Elections and Registration subject to the approval of a majority of the Beaufort County Delegation."

Time effective

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

Ratified the 27th day of February, 2014.

Approved the 4th day of March, 2014.

No. 132

(R137, H4521)

AN ACT TO AMEND SECTION 7-7-330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN JASPER COUNTY, SO AS TO ADD A PRECINCT AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAME OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Jasper County voting precincts revised

SECTION 1. Section 7-7-330 of the 1976 Code, as last amended by Act 108 of 1999, is further amended to read:

"Section 7-7-330. (A) In Jasper County there are the following voting precincts:

Coosawhatchie
Gillisonville
Grahamville 1
Grahamville 2
Grays
Hardeeville 1
Hardeeville 2
Levy
Okatie
Pineland
Ridgeland 1
Ridgeland 2
Ridgeland 3
Sun City
Tillman

(B) The precinct lines defining the precincts in subsection (A) are as shown on maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Office of Research and Statistics of the State Budget and Control Board designated as document P-53-14.

(C) The polling places for the precincts listed in subsection (A) must be determined by the Board of Elections and Voter Registration of Jasper County with the approval of a majority of the Jasper County Legislative Delegation."

Time effective

SECTION 2. This act takes effect July 1, 2014.

Ratified the 27th day of February, 2014.

Approved the 4th day of March, 2014.

No. 133

(R145, H3027)

AN ACT TO AMEND SECTION 12-43-220, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX ASSESSMENT RATIOS, SO AS TO PROVIDE THAT, IN CERTAIN SITUATIONS, AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE UNITED STATES MAY CLAIM THE FOUR PERCENT ASSESSMENT RATIO REGARDLESS OF THE OWNER'S RELOCATION AND REGARDLESS OF ANY RENTAL INCOME, AND TO PROVIDE THAT AN ACTIVE DUTY MEMBER OF THE ARMED FORCES OF THE UNITED STATES, IN CERTAIN SITUATIONS, MAY CLAIM THE FOUR PERCENT ASSESSMENT RATIO ON TWO RESIDENTIAL PROPERTIES SO LONG AS THE OWNER ATTEMPTS TO SELL THE FIRST RESIDENCE WITHIN THIRTY DAYS OF ACQUIRING THE SECOND RESIDENCE.

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

Special four percent assessment ratio for certain members of the armed forces

SECTION 1. Section 12-43-220(c)(2)(v) of the 1976 Code is amended to read:

"(v)(A) A member of the armed forces of the United States on active duty who is a legal resident of and domiciled in another state is nevertheless deemed a legal resident and domiciled in this State for purposes of this item if the member's permanent duty station is in this State. A copy of the member's orders filed with the assessor is considered proof sufficient of the member's permanent duty station.

(B) An active duty member of the Armed Forces of the United States eligible for and receiving the special assessment ratio for owner-occupied residential property allowed pursuant to this subsection (c), who receives orders for a permanent change of station or a temporary duty assignment for at least one year, retains that four percent assessment ratio and applicable exemptions for so long as the owner remains on active duty, regardless of the owner's subsequent relocation and regardless of any rental income attributable to the

property. Subject to subsubitem (C), the provisions of this subsubitem (B) do not apply if the owner or a member of the owner's household, as defined in item (2)(iii) of this subsection (c), claims the special four percent assessment ratio allowed pursuant to this subsection for any other residential property located in this State.

(C)(1) Notwithstanding any other provision of law, an active duty member of the Armed Forces of the United States meeting all the other requirements of this subsection who receives orders for a permanent change of station or a temporary duty assignment for at least one year, may claim the four percent assessment ratio and applicable exemptions for two residential properties located in the State so long as the owner attempts to sell the first acquired residence within thirty days of acquiring the second residence. The taxpayer must continue to attempt to sell the first acquired residence in any year in which the four percent assessment ratio is claimed.

(2) The four percent assessment ratio may not be claimed on both residences for more than two property tax years.

(3) This subsubitem does not apply unless the owner of the properties or the owner's agent applies for the four percent assessment ratio on both residences before the first penalty date for the payment of taxes for the tax year for which the owner first claims eligibility for this assessment ratio. The burden of proof for eligibility for the four percent assessment ratio on both residences is on the taxpayer. The taxpayer must provide the proof the assessor requires, including, but not limited to, a copy of the owner's most recently filed South Carolina individual income tax return and copies of South Carolina motor vehicle registrations for all motor vehicles registered in the name of the owner. The taxpayer must apply to the county assessor by May fifteenth of each year to utilize the provisions of subsubitems (B) and (C). Along with the application, the applicant must submit a Leave and Earnings Statement (LES) from the current calendar year. Any information contained in the LES that is not related to the active duty status of the member may be redacted.

(D) For purposes of subsubitems (B) and (C), owner includes the spouse of the service member who jointly owns the qualifying property.

(E) The special four percent assessment ratio allowed by this subitem (v) must be construed as a property tax exemption for an amount of the fair market value of the residence sufficient to equal a four percent assessment ratio and other exemptions allowed applicable to property qualifying for the special assessment ratio."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies for property tax years beginning after 2013.

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 134

(R146, H3089)

AN ACT TO AMEND SECTION 12-6-1140, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEDUCTIONS ALLOWED FROM SOUTH CAROLINA TAXABLE INCOME OF AN INDIVIDUAL FOR PURPOSES OF THE SOUTH CAROLINA INCOME TAX ACT, SO AS TO ALLOW A MAXIMUM THREE THOUSAND DOLLAR A YEAR DEDUCTION FOR VOLUNTEER STATE CONSTABLES DESIGNATED BY THE STATE LAW ENFORCEMENT DIVISION AS STATE CONSTABLES AND TO PROVIDE THE ELIGIBILITY REQUIREMENTS FOR THIS DEDUCTION.

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

Volunteer state constable tax deduction, eligibility

SECTION 1. A. Section 12-6-1140(10)(a) of the 1976 Code is amended to read:

"(a) A deduction calculated as provided in this item for a volunteer firefighter, rescue squad member, volunteer member of a Hazardous Materials (HAZMAT) Response Team, reserve police officer, Department of Natural Resources deputy enforcement officer, a member of the State Guard, or a volunteer state constable appointed pursuant to Section 23-1-60 for the purpose of assisting named law enforcement agencies and who has been designated by the State Law Enforcement Division as a state constable not otherwise eligible for this exemption."

B. Section 12-6-1140(10)(c) of the 1976 Code is amended by adding at the end:

"(v) In the case of a volunteer state constable and in lieu of minimum points determining eligibility, this deduction is allowed only if the volunteer state constable completes a minimum logged service time of two hundred forty hours per year and has been designated by the State Law Enforcement Division as a state constable before the taxable year for which the deduction is first claimed and if the volunteer state constable is current with the required SLED approved annual training for constables for the most recently completed fiscal year as evidenced by a copy of the documentation provided to SLED of this annual training filed with the volunteer state constable's state income tax return."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies for taxable years beginning after 2013.

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 135

(R147, H3367)

AN ACT TO AMEND SECTION 33-56-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE SOUTH CAROLINA SOLICITATION OF CHARITABLE FUNDS ACT, SO AS TO REVISE SPECIFIC DEFINITIONS; TO AMEND SECTION 33-56-60, RELATING TO CERTAIN FILING REQUIREMENTS, SO AS TO FURTHER PROVIDE FOR WHICH CHARITABLE ORGANIZATIONS ARE REQUIRED TO FILE AND THE APPLICABLE FILING REQUIREMENTS; TO AMEND SECTION 33-56-70, RELATING TO CONTRACTS WITH PROFESSIONAL SOLICITORS REQUIRED TO BE FILED

WITH THE SECRETARY OF STATE, SO AS TO PROVIDE FOR ADDITIONAL FILING INFORMATION AND TO FURTHER PROVIDE WHEN A PROFESSIONAL SOLICITOR, COMMERCIAL CO-VENTURER, OR PROFESSIONAL FUNDRAISING COUNSEL MAY BEGIN PROVIDING OR CONTINUE PROVIDING SOLICITATIONS AND SERVICES IN THIS STATE; TO AMEND SECTION 33-56-110, RELATING TO REGISTRATION OF CERTAIN PERSONS, SO AS TO REVISE THE PROVISIONS OF THE SECTION IN REGARD TO THE REQUIREMENTS OF AND PROCEDURES FOR REGISTRATION, INCLUDING THE SANCTIONS OR PENALTIES FOR NONCOMPLIANCE OR VIOLATION; AND TO AMEND SECTION 33-56-120, RELATING TO PROHIBITED MISREPRESENTATIONS, SO AS TO CLARIFY A REFERENCE.

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

Solicitation of Charitable Funds Act, definitions

SECTION 1. Section 33-56-20 of the 1976 Code is amended to read:

"Section 33-56-20. As used in this chapter, unless a different meaning is required by the context:

(1)(a) 'Charitable organization' means a person, as defined in item (7):

(i) determined by the Internal Revenue Service to be a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code;

(ii) that is or holds itself out to be established for any benevolent, social welfare, scientific, educational, environmental, philanthropic, humane, patriotic, public health, civic, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety; or

(iii) that employs a charitable appeal as the basis of solicitation or an appeal that suggests that there is a charitable purpose to a solicitation, or that solicits or obtains contributions solicited from the public for a charitable purpose.

(b) This definition does not include:

(i) a church, synagogue, mosque, or other congregation organized for the purpose of divine worship, and integrated auxiliaries of them, or a religious organization determined by the Internal Revenue

Service to be a tax exempt organization that is not required to file Internal Revenue Service Form 990, Form 990-EZ, or Form 990-N based on its religious classification. 'Integrated auxiliaries', as used in this subsection, include men's or women's organizations, seminaries, mission societies, and youth groups affiliated with a church, synagogue, mosque, or other congregation organized for the purpose of divine worship; or

(ii) a candidate for national, state, or local office or a political party or other group required to file information with the Federal Election Commission or State Election Commission.

(2) 'Charitable purpose' means a purpose described in Section 501(c)(3) of the Internal Revenue Code or a benevolent, social welfare, scientific, educational, environmental, philanthropic, humane, patriotic, public health, civic, or other eleemosynary objective, including an objective of an organization of law enforcement personnel, firefighters, or other persons who protect the public safety if a stated purpose of the solicitations includes a benefit to a person outside the actual service membership of the organization.

(3) 'Commercial co-venturer' means a person that regularly and primarily engages in trade or commerce for profit that, for the benefit of a charitable organization, may raise funds by advertising that the purchase or use of goods, services, entertainment, or other thing of value benefits the charitable organization, if it is offered at a price comparable to similar goods or services in the market.

(4) 'Contribution' means the promise, grant, or pledge of money, credit, assistance, or property of any kind or value. It does not include bona fide fees, dues, assessments, or sponsorships paid by members of an organization if membership is not conferred solely as consideration for making a contribution in response to a solicitation, and the monetary value of the fees, dues, assessments, or sponsorships compares reasonably with the monetary value of benefits provided to members. Fees, dues, assessments, or sponsorships paid by members primarily to support the organization's activities, and not to obtain benefits of more than nominal or insubstantial monetary value, are contributions within the meaning of this chapter.

(5) 'Educational institution' means an organization organized and operated exclusively for educational purposes, which usually maintains a regular faculty and curriculum and usually has a regularly enrolled body of pupils or students in attendance at the place where educational activities are regularly conducted. The term 'educational institution' also includes the following persons, entities, or institutions if their

fundraising activities are not conducted by professional solicitors as defined by this chapter:

(a) an educational institution that is a nonprofit junior or senior college in South Carolina whose major campus and headquarters are located within this State and which is accredited by the Southern Association of Colleges and Schools or other accreditation commission that is recognized by the United States Department of Education; and

(b) a person or an entity performing sanctioned fundraising activities on behalf of the educational institutions referenced in subitem (a), its foundations, or related or affiliated funds.

(6) 'Parent organization' means that part of a charitable organization which coordinates, supervises, or exercises control over policy, fundraising, and expenditures, or assists or advises one or more chapters, branches, or affiliates in this State.

(7) 'Person' means an individual, an organization, a trust, a foundation, a group, an association, a partnership, a corporation, a society, or a combination of them.

(8) 'Professional fundraising counsel' means a person that for a fixed rate of compensation plans, conducts, manages, prepares materials for, advises, or acts as a consultant, directly or indirectly, in connection with soliciting contributions for or on behalf of a charitable organization, but that actually does not solicit, receive, or collect contributions as a part of these services. A person whose compensation is computed on the basis of funds actually raised or to be raised is not a professional fundraising counsel pursuant to the provisions of this chapter. A bona fide salaried officer or employee of a charitable organization maintaining a permanent establishment within this State, or the bona fide salaried officer or employee of a parent organization certified as tax exempt, is not a professional fundraising counsel.

(9) 'Professional solicitor' means a person that, for monetary or other consideration, solicits contributions for or on behalf of a charitable organization, either personally or through its agents, servants, or employees or through agents, servants, or employees who are specially employed by or for a charitable organization, who are engaged in the solicitation of contributions under the direction of that person. 'Professional solicitor' also means a person that plans, conducts, manages, carries on, advises, or acts as a consultant to a charitable organization in connection with the solicitation of contributions but does not qualify as 'professional fundraising counsel' within the meaning of this chapter. A bona fide salaried officer, unpaid director, a bona fide employee of a charitable organization, or a part-time student employee of an educational institution is not a

professional solicitor. A paid director or employee of a charitable organization is not a professional solicitor unless his salary or other compensation is paid as a commission computed on the basis of funds actually raised or to be raised.

(10) 'Solicit' and 'solicitation' means to request and the request for money, credit, property, financial assistance, or other thing of value, or a portion of it, to be used for a charitable purpose or to benefit a charitable organization. A solicitation takes place whether or not the person making the request receives a contribution."

Charitable organizations required to file with the Secretary of State

SECTION 2. Section 33-56-60 of the 1976 Code is amended to read:

"Section 33-56-60. (A) A charitable organization that has filed a registration statement with the Secretary of State pursuant to Section 33-56-30, or that is soliciting contributions in this State, whether individually or collectively with other organizations, shall file in the office of the Secretary of State an annual report of its financial activities, on forms prescribed by the Secretary of State or on Internal Revenue Service Form 990, 990-EZ, or 990-PF, certified to be true by the organization's chief executive officer and chief financial officer. The report must cover the preceding fiscal year and must be filed within four and one-half months of the close of the organization's fiscal year unless a written extension has been granted by the Secretary of State. To receive an extension, the organization must file with the Secretary of State a written request for an extension or a copy of the extension request submitted to the Internal Revenue Service.

(B) The annual financial report must include:

(1) specific and itemized support and revenue statements disclosing direct public support from solicitation, indirect public support, government grants, program service revenue, and other revenue. The report must disclose the amount of direct public support received from direct mail solicitation, telephone solicitation, commercial co-venturers, door-to-door solicitations, telethons, and all other itemized sources;

(2) specific and itemized expense statements disclosing program services, public information expenditures, fundraising costs, payments to affiliates, management costs, and salaries paid; and

(3) balance sheet disclosures containing total assets and liabilities.

(C) If a charitable organization is required or elects to file a completed Internal Revenue Service Form 990, 990-EZ, or 990-PF, the organization may file the form with the Secretary of State instead of the report required by subsection (A); however, the form may exclude the information which the Internal Revenue Service would not release pursuant to a Freedom of Information request.

(D) A charitable organization determined by the Secretary of State to be exempt from registration pursuant to Section 33-56-50 is not required to file an annual financial report.

(E) An organization which fails to file a timely annual financial report required by this section may be enjoined from further solicitation of funds in this State in an action brought by the Secretary of State and is ineligible to renew its registration as a charitable organization until the required financial statements are filed with the Secretary of State. An organization which fails to file a timely annual financial report required by this section may be assessed by the Secretary of State administrative fines of ten dollars for each day of noncompliance for each delinquent report not to exceed two thousand dollars for each separate violation."

Contracts with professional solicitors, requirements

SECTION 3. Section 33-56-70 of the 1976 Code is amended to read:

"Section 33-56-70. (A) A contract or agreement between any professional fundraising counsel, professional solicitor, or commercial co-venturer and a charitable organization must be in writing and filed with the Secretary of State at least ten days before the professional fundraising counsel, professional solicitor, or commercial co-venturer begins any solicitation activity or any other activity contemplated by the contract or agreement in this State. In addition, a professional solicitor or commercial co-venturer shall attach a completed Notice of Solicitation form that complies with the requirements of this section to the contract or agreement filed with the Secretary of State.

(B) A contract filed pursuant to this section must disclose the following, if applicable:

(1) legal name and alias name, address, and registration number, if any, of the professional solicitor, professional fundraising counsel, or commercial co-venturer;

(2) legal name, address, and registration number of the charitable organization;

(3) name and residence address of each person directing or supervising the contract solicitation services;

(4) description of the event or campaign;

(5) date the solicitation or campaign will commence;

(6) date the solicitation or campaign will terminate;

(7) statement of the amount or guaranteed minimum percentage of gross receipts to be remitted or retained by the charitable organization, excluding the amount which the charitable organization must pay for fundraising costs;

(8) statement of the amount or percentage of gross receipts with which the professional solicitor, professional fundraising counsel, or commercial co-venturer is compensated, including the amount the professional solicitor, professional fundraising counsel, or commercial co-venturer must be reimbursed as payment for fundraising costs; and

(9) if applicable, the maximum dollar amount that will benefit the charitable organization.

(C) Every Notice of Solicitation form filed pursuant to this section must disclose:

(1) legal name and alias name, address, and registration number of the professional solicitor or commercial co-venturer;

(2) legal name, address, and registration number of the charitable organization;

(3) date the solicitation activity will commence and terminate in this State;

(4) name and residence address of phone room directors for any solicitation activities;

(5) location, including physical address, and telephone numbers from which the solicitation activity, including telephone solicitations, is conducted;

(6) description of all solicitation activity; and

(7) the terms of remuneration for the campaign or event pursuant to the contract.

(D) Solicitations or services pursuant to a contract or agreement between a charitable organization and a professional solicitor, professional fundraising counsel, or commercial co-venturer may not begin in this State until the contract or agreement has been filed with the Secretary of State and until both the charitable organization and the professional solicitor, professional fundraising counsel, or commercial co-venturer are registered properly with the Secretary of State.

(E) Within ninety days after a solicitation campaign has been completed, or within ninety days after the anniversary of a solicitation campaign lasting more than one year, a professional solicitor or

commercial co-venturer shall file with the Secretary of State a joint financial report for the campaign, including gross revenue, an itemization of expenses, and the amount paid to the charitable organization. This joint financial report must be completed on the form prescribed by the Secretary of State, signed by both an authorized official of the professional solicitor or commercial co-venturer and an authorized official of the charitable organization, and certified to be true.

(F) A professional solicitor, professional fundraising counsel, or commercial co-venturer shall cease all solicitation or any other activity conducted pursuant to a contract or agreement with a charitable organization in this State, upon receipt of notice from the charitable organization or the Secretary of State that the registration of the charitable organization with the Secretary of State has expired or has been terminated or suspended.

(G) A professional fundraising counsel, professional solicitor, or commercial co-venturer failing to comply with this section is ineligible to renew its registration or continue solicitation activities or campaigns until the required information is filed and is liable for an administrative fine not to exceed ten dollars for each day of noncompliance, with a maximum fine of two thousand dollars for each separate violation."

Professional solicitors, registration requirements

SECTION 4. Section 33-56-110 of the 1976 Code is amended to read:

"Section 33-56-110. (A) A person may not act as a professional solicitor, professional fundraising counsel, or commercial co-venturer for a charitable organization subject to the provisions of this chapter without first having registered with the Secretary of State. Registration includes filing of a complete application and filing fee. An application for registration must be in writing under oath or affirmation in the form prescribed by the Secretary of State and accompanied by an annual fee of fifty dollars.

(B) The application for a professional solicitor must be signed by its chief executive officer and chief financial officer and certified as true, and must include the following:

(1) legal name of the applicant and all other names under which the professional solicitor is known or operates;

(2) principal address of the applicant and address of officers and directors of the applicant;

(3) list of employees, whether full time, part time, or contract, and their job titles;

(4) form of the applicant's business;

(5) names, addresses, and titles of all current principal officers, directors, individual owners, or partners, and those for the preceding three years;

(6) list of the full names and addresses of each state in which an applicant is registered currently as a professional solicitor or professional fundraising counsel;

(7) list of charitable organizations with which an applicant contracted in this State for the previous three years;

(8) registration fee of fifty dollars;

(9) statement as to whether the applicant, or its directors, principal officers, individual owners, or partners is or has been the subject of a legal or administrative action, including an injunction, concerning a charitable solicitation, fundraising campaign, or campaign with a commercial co-venturer by another local, state, or federal governmental authority including, but not limited to, registration or license revocation or denial, fines, injunctions, suspensions, or voluntary agreement to discontinue any charitable solicitation activity and, if so, a written explanation of those actions;

(10) statement as to whether the applicant, or its directors, principal officers, individual owners, or partners has been the subject of a criminal conviction, including guilty or nolo contendere pleas, involving any charitable solicitations act, fraud, dishonesty, false statement, forgery, or theft, including identity theft, in a jurisdiction within the United States and, if so, a description and date of any such conviction;

(11) list of individuals who serve as couriers or employees to personally collect contributed funds from solicited parties, as applicable; and

(12) statement as to the relationship of any of the officers, directors, trustees, or board members of the professional solicitor to:

(a) each other; or

(b) a director, officer, agent, or employee of a charitable organization under contract with the professional fundraising counsel or solicitor.

(C) The application for an individual professional solicitor employed by a professional solicitor company registered pursuant to subsection (B) must be signed by the applicant and certified as true, and must include the following:

(1) legal name and address of the applicant;

(2) legal name and address of the applicant's employer;

(3) list of the full names and addresses of each state in which an applicant is registered currently as a professional solicitor or professional fundraising counsel;

(4) list of charitable organizations with which an applicant contracted in this State for the previous three years;

(5) registration fee of fifty dollars;

(6) statement as to whether the applicant is or has been the subject of a legal or administrative action, including an injunction, concerning a charitable solicitation, fundraising campaign, or campaign with a commercial co-venturer by another local, state, or federal governmental authority including, but not limited to, registration or license revocation or denial, fines, injunctions, suspensions, or voluntary agreement to discontinue any charitable solicitation activity and, if so, a written explanation of those actions; and

(7) statement as to whether the applicant is or has been the subject of a criminal conviction, including guilty or nolo contendere pleas, involving any charitable solicitations act, fraud, dishonesty, false statement, forgery, or theft, including identity theft, in a jurisdiction within the United States and, if so, a description and date of any such conviction.

(D) The application for a professional fundraising counsel must be signed by its chief executive officer and chief financial officer and certified as true, and must include the following:

(1) legal name of the applicant and all other names under which the professional fundraising counsel is known or operates;

(2) principal address of the applicant and address of officers and directors of the applicant;

(3) list of employees, whether full time, part time, or contract, and their job titles;

(4) form of the applicant's business;

(5) names, addresses, and titles of all current principal officers, directors, individual owners, or partners, and those for the preceding three years;

(6) list of the full names and addresses of each state in which an applicant is registered currently as a professional fundraising counsel or professional solicitor;

(7) list of charitable organizations with which an applicant contracted in this State for the previous three years;

(8) registration fee of fifty dollars;

(9) statement as to whether the applicant, or its directors, principal officers, individual owners, or partners is or has been the

subject of a legal or administrative action, including an injunction, concerning a charitable solicitation, fundraising campaign, or campaign with a commercial co-venturer by another local, state, or federal governmental authority including, but not limited to, registration or license revocation or denial, fines, injunctions, suspensions, or voluntary agreement to discontinue any charitable solicitation activity and, if so, a written explanation of those actions;

(10) statement as to whether the applicant, or its directors, principal officers, individual owners, or partners has been the subject of a criminal conviction, including guilty or nolo contendere pleas, involving any charitable solicitations act, fraud, dishonesty, false statement, forgery, or theft, including identity theft, in a jurisdiction within the United States and, if so, a description and date of any such conviction;

(11) statement as to the relationship of any of the officers, directors, trustees, or board members to:

(a) each other; or

(b) a director, officer, agent, or employee of a charitable organization under contract with the professional fundraising counsel.

(E) The application for a commercial co-venturer must be signed by its chief executive officer and chief financial officer and certified as true, and must include the following:

(1) legal name of the applicant and all other names under which the commercial co-venturer is known or operates;

(2) principal address of the applicant and address of officers and directors of the applicant;

(3) form of the applicant's business;

(4) list of the full names and addresses of each state in which an applicant is registered currently as a commercial co-venturer;

(5) list of charitable organizations with which an applicant contracted in this State for the previous three years;

(6) registration fee of fifty dollars;

(7) statement as to whether the applicant, or its directors, principal officers, individual owners, or partners is or has been the subject of a legal or administrative action, including an injunction, concerning a charitable solicitation, fundraising campaign, or campaign with a commercial co-venturer by another local, state, or federal governmental authority including, but not limited to, registration or license revocation or denial, fines, injunctions, suspensions, or voluntary agreement to discontinue any charitable solicitation activity and, if so, a written explanation of those actions;

(8) statement as to whether the applicant, or its directors, principal officers, individual owners, or partners has been the subject of a criminal conviction, including guilty or nolo contendere pleas, involving any charitable solicitations act, fraud, dishonesty, false statement, forgery, or theft, including identity theft, in a jurisdiction within the United States and, if so, a description and date of any such conviction;

(9) statement as to the relationship of any of the officers, directors, trustees, or board members to:

(a) each other; or

(b) a director, officer, agent, or employee of a charitable organization under contract with the commercial co-venturer.

(F) At the time of application, a professional solicitor registered pursuant to subsection (B) shall file with and have approved by the Secretary of State a surety bond, and a list of all professional solicitors operating under the bond. The applicant or its employer must be the principal obligor in the sum of fifteen thousand dollars, with one or more sureties that are satisfactory to the Secretary of State and whose liability in the aggregate as the sureties at least equals that sum, and shall maintain the bond in effect so long as a registration is in effect. A deposit of cash in the amount of fifteen thousand dollars may be accepted instead of the bond. The bond shall run to the State of South Carolina for the use of the Secretary of State or his appropriate division and a person who has cause of action against the obligor of the bond for losses resulting from malfeasance, nonfeasance, or misfeasance in the conduct of solicitation activities or any violation of this chapter. A partnership or corporation which is a professional solicitor may file a consolidated bond on behalf of all its members, officers, and employees.

(G) Each registration is valid throughout the State for one year and may be renewed for additional one-year periods upon written application under oath in the form prescribed by the Secretary of State and upon payment of the fee prescribed in this chapter.

(H) A professional solicitor, professional fundraising counsel, or commercial co-venturer that fails to comply with the provisions of this section is liable for an administrative fine of ten dollars for each day of noncompliance, not to exceed two thousand dollars for each separate violation.

(I) A professional solicitor or professional fundraising counsel that has been convicted of or pled guilty or nolo contendere to a crime involving charitable solicitation activities or a felony involving fraud, dishonesty, false statement, forgery, or theft, including identity theft, in

a jurisdiction within the United States in the past five years may be ineligible for registration as a professional solicitor or professional fundraising counsel in the State of South Carolina."

Solicitation of contributions for charitable purposes

SECTION 5. Section 33-56-120(A) of the 1976 Code is amended to read:

"(A) In connection with the solicitation of contributions or the sale of goods or services for charitable purposes, a person shall not misrepresent or mislead, knowingly and wilfully, a person by any manner, means, practice, or device."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 136

(R148, H3563)

AN ACT TO AMEND CHAPTER 20, TITLE 39, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SELF-SERVICE STORAGE FACILITIES, SO AS TO DEFINE "ELECTRONIC MAIL", TO PROVIDE THAT WHEN RENT IS SEVEN OR MORE CALENDAR DAYS PAST DUE THE OWNER MAY DENY THE OCCUPANT ACCESS TO THE PERSONAL PROPERTY AND THE OCCUPANT IS CONSIDERED IN DEFAULT, TO PROVIDE THAT WHEN RENT IS FOURTEEN OR MORE DAYS PAST DUE THE OCCUPANT MUST BE NOTIFIED, TO PROVIDE THE OPTION OF NOTIFICATION THROUGH ELECTRONIC MAIL, AND TO PROVIDE THE PROCESS BY WHICH A DEFAULTING OCCUPANT'S PERSONAL PROPERTY MAY BE DESTROYED OR SOLD.

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

Defaulting occupant of a self-service storage facility

SECTION 1. Chapter 20, Title 39 of the 1976 Code is amended to read:

"CHAPTER 20

Self-Service Storage Facilities

Section 39-20-10. This chapter is known and may be cited as the 'South Carolina Self-Service Storage Facility Act'.

Section 39-20-20. For purposes of this chapter:

(a) 'Last known address' means the physical, mailing, or electronic mail address provided by the occupant either in the latest rental agreement or in a subsequent written notice of a change of address as the address the occupant selects for the owner to use for making contact or providing notice to the occupant under the provisions of this chapter.

(b) 'Occupant' means a person, his sublessee, successor, or assign entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.

(c) 'Owner' means the owner, operator, lessor, or sublessor of a self-service storage facility, his agent, or any other person authorized by him to manage the facility or to receive rent from an occupant under a rental agreement.

(d) 'Personal property' means movable property not affixed to land and includes, but is not limited to, goods, merchandise, and household items.

(e) 'Rental agreement' means any written agreement or lease that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of a self-service storage facility.

(f) 'Self-service storage facility' means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property. No occupant may use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse within the meaning of Chapter 19,

Title 39 and the provisions of law relative to bonded public warehousemen do not apply to the owner of a self-service storage facility. A self-service storage facility is not a safe-deposit box or vault maintained by banks, trust companies, or other financial entities.

(g) 'Electronic mail' means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two or more computers or electronic terminals and includes electronic messages that are transmitted within or between computer networks from which a confirmation of receipt is received.

Section 39-20-30. (A) The owner of a self-service storage facility and his heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent in relation to the personal property, and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this chapter. The lien provided for in this chapter is junior to any other liens or security interests which are perfected and recorded or liens by any lienholder with an interest in the property of whom the owner has knowledge either through the disclosure provision of the rental agreement or through other written notice. The lien attaches as of the date the occupant is considered in default.

(B) When rent is seven or more calendar days past due the owner may deny the occupant access to the personal property located in the self-service storage facility.

Section 39-20-40. If an owner complies with the requirements of this code section and Section 39-20-45, he may enforce the lien without judicial intervention. An owner shall obtain from the occupant a written rental agreement and a copy of the completed agreement shall be given to the occupant upon execution. The rental agreement must include the following language with bold type where indicated:

'This agreement, made and entered into this ___ day of_____, 20___, by and between _____, the owner and _____, the occupant, whose last known address is _____. YOU HAVE THE RIGHT TO CHOOSE WHETHER YOU WANT TO RECEIVE ANY NOTICE OF DEFAULT BY MAIL OR ELECTRONIC MAIL. WHEN CHOOSING ELECTRONIC MAIL, YOU WAIVE ANY RIGHT TO RECEIVE NOTICE OF DEFAULT PROCEEDINGS THROUGH PERSONAL SERVICE OR MAIL.
TO CHOOSE NOTICE BY MAIL TO THE ADDRESS WRITTEN ABOVE, SIGN HERE:

_____ (*Occupant signs on this line to receive notice by mail.*)
TO CHOOSE NOTICE BY ELECTRONIC MAIL, SIGN HERE AND PRINT YOUR ELECTRONIC MAIL ADDRESS:
_____(*Occupant signs on this line to receive notice by electronic mail.*)
_____ (*If Occupant selects to receive notice by electronic mail, on this line Occupant must print the electronic mail address for Owner to use in sending notice.*)
CHANGES TO YOUR PREFERRED METHOD OF RECEIVING NOTICE MUST BE SUBMITTED IN WRITING AND SENT BY FIRST CLASS MAIL OR HAND DELIVERED TO THE OWNER.

For the consideration provided for in this agreement, the owner agrees to let the occupant use and occupy a space in the self-service storage facility, known as _____, located in the City of _____, State of South Carolina, and more particularly described as follows: Space #___. The space is to be occupied and used for the purposes specified in this agreement and subject to the conditions set forth beginning on the ___ day of _____, 20___, and continuing month to month until terminated.

'Space', as used in this agreement, means that part of the self-service storage facility as described above. The occupant agrees to pay the owner, as payment for the use of the space and improvements on the space, the monthly sum of $_____. Monthly installments are payable in advance on or before _____day of each month, in the amount of $_____, and a like amount of each month after that, until the termination of this agreement.

When rent is seven calendar days past due, or if any check given in payment is dishonored, occupant is considered to be in default and the owner may deny access to the personal property located in the self-storage facility. THIS IS THE OCCUPANT'S NOTICE THAT OCCUPANT MAY BE DENIED ACCESS UPON DEFAULT.

The space named in this agreement is to be used by the occupant solely for the purpose of storing any personal property belonging to the occupant. The occupant agrees not to store any explosives or any highly inflammable goods or any other goods in the space which would cause danger to the space. The occupant agrees that the property will not be used for any unlawful purposes and the occupant agrees not to commit waste, nor alter, nor affix signs on the space, and will keep the space in good condition during the term of this agreement.
UPON DEFAULT BY THE OCCUPANT THE OWNER HAS A LIEN ON ALL PERSONAL PROPERTY STORED IN OCCUPANT'S SPACE FOR RENT IN RELATION TO THE

PERSONAL PROPERTY, AND FOR ITS PRESERVATION OR EXPENSES REASONABLY INCURRED IN ITS SALE OR OTHER DISPOSITION PURSUANT TO THIS AGREEMENT. PERSONAL PROPERTY STORED IN OCCUPANT'S SPACE WILL BE SOLD OR OTHERWISE DISPOSED OF IF NO PAYMENT HAS BEEN RECEIVED FOR A CONTINUOUS FIFTY-DAY PERIOD AFTER DEFAULT. IF ANY RENT IS SEVEN CALENDAR DAYS PAST DUE, OR IF ANY CHECK GIVEN IN PAYMENT IS DISHONORED, THE OCCUPANT IS IN DEFAULT FROM DATE PAYMENT WAS DUE.

For purposes of owner's lien: 'personal property' means movable property, not affixed to land and includes, but is not limited to, goods, merchandise, and household items; 'last known address' means that address provided by the occupant in the latest rental agreement or the address provided by the occupant in a subsequent written notice of a change of address. The owner's lien attaches as of the date the occupant is considered in default.

OWNER DOES NOT PROVIDE ANY TYPE OF INSURANCE WHICH WOULD PROTECT THE OCCUPANT'S PERSONAL PROPERTY FROM LOSS BY FIRE, THEFT, OR ANY OTHER TYPE CASUALTY LOSS. IT IS THE OCCUPANT'S RESPONSIBILITY TO PROVIDE SUCH INSURANCE.'

Section 39-20-45. (A) If the occupant has been in default continuously for fifty days, owner may enforce its lien, provided owner shall comply with, during the fifty-day default period, the following procedure.

(B) When rent is fourteen or more days past due the occupant must be notified by written notice delivered to the occupant's last known address (1) in person, (2) by personal delivery service as provided by court rule, (3) by first-class mail with a certificate of mailing, (4) by certified mail, or (5) by electronic mail.

(C) Owner's notice to occupant shall include:

(1) a brief and general description of what is believed to constitute the personal property contained in the storage unit;

(2) a statement of the owner's claim, showing the sum due at the time of the notice and the date the sum became due;

(3) a demand for payment within a specified time not less than fourteen days after delivery of notice;

(4) a conspicuous statement that, unless the claim is paid within the time stated in the notice, the personal property will be advertised

for sale or disposed of as provided by law and will be sold or otherwise disposed of after a specified date;

(5) a conspicuous statement that partial payment of the owner's claim does not stop or delay the owner's right to proceed with the sale or disposition of the property; and

(6) a conspicuous statement notifying the occupant of denial of access to the personal property and provide the name, street address, and telephone number of the owner or its designated agent, whom the occupant may contact to respond to this notice.

(D) Any notice given pursuant to this section is presumed delivered when it is (1) properly addressed to the last known address, and (2) either deposited with the United States Postal Service with postage prepaid for first class mail with a certificate of mailing or certified mail or sent by electronic mail from which a confirmation of receipt is received.

(E) After the expiration of the fifty-day default period, the owner shall publish an advertisement of the public sale to the highest bidder once a week for two consecutive weeks in a newspaper of general circulation where the self-service storage facility is located.

(F) The advertisement shall include:

(1) a brief and general description of what is believed to constitute the personal property, contained in the storage unit;

(2) the address of the self-storage facility or the address where the self-contained storage unit is located and the name of the occupant; and

(3) the time, place, and manner of the public sale or other disposition.

(G) If the owner determines that the property in the storage space has a sale value of less than three hundred dollars, the owner, at the owner's sole discretion, may hold the property for sixty days from the date notice was provided pursuant to this section. If the occupant fails to claim the goods and pay the rent owed during that period, the owner may destroy or dispose of the property without further notice to occupant and occupant's debt shall be extinguished and the owner shall have no liability to the occupant or any other person for the personal property.

(H) If the property upon which the lien is claimed is a motor vehicle or a watercraft and rent and other charges related to the property remain unpaid or unsatisfied for sixty days following the maturity of the obligation to pay rent, the lienor may have the property towed by a towing company licensed pursuant to law. If a motor vehicle is towed as authorized in this subsection, the lienor shall not be liable for the

motor vehicle or any damages to the motor vehicle once the tower takes possession of the property.

(I) If no one purchases the property at the public sale and if the owner has complied with the foregoing procedures, the owner may otherwise dispose of the property and shall notify the occupant of the action taken. Any sale or disposition of the personal property must be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored.

(J) Before any sale or other disposition of personal property pursuant to this agreement, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred, and by that action redeem the personal property and after that the owner shall have no liability to any person with respect to the personal property. A partial payment of rent shall not satisfy the lien, stop or delay the owner's right to proceed with a sale or disposition of the occupant's property as provided in this section unless the owner agrees to the stop or delay in a writing signed by the owner.

(K) A purchaser in good faith of the personal property sold to satisfy owner's lien takes the property subject to any other liens or security interests which are perfected and recorded or liens by any lienholder with an interest in the property of whom the owner has knowledge either through the disclosure provision of the rental agreement or through other written notice.

(L) In the event of a sale, the owner may satisfy his lien from the proceeds of the sale. The owner shall hold the balance of the proceeds, if any, for the occupant or any notified, secured interest holder. If not claimed within two years of the date of sale, the balance of the proceeds must be disposed of in accordance with Chapter 18, Title 27. In no event may the owner's liability exceed the proceeds of the sale.

Section 39-20-47. (A) If no written rental agreement exists between the owner and occupant and the oral rental agreement was entered into prior to the effective date of this chapter, an owner may enforce collection of rent due by distress in the manner prescribed by this section if the occupant has been in default continuously for thirty days. Any magistrate having jurisdiction over the district in which the self-service storage facility is located may issue, upon receipt of an affidavit of the owner or his agent setting forth the amount of rent due, a notice directed to the occupant stating the alleged amount of rent due, including any cost, and fixing a time and place for a predistress hearing to be held not earlier than five days after the service of the notice. The notice, together with a copy of the affidavit, must be delivered to (a)

any regular constable, (b) such special constable as the magistrate may appoint, or (c) the sheriff of the county for enforcement. The officer shall serve a copy of the notice and affidavit on the occupant by personal service by any method provided by law.

(B) The purpose of the predistress hearing is to protect the occupant's use and possession of property from arbitrary encroachment and to prevent unfair or mistaken deprivation of property. If the magistrate shall, after conducting the hearing, find that the owner's right to distress is valid and the occupant has no overriding right to continue in possession of the property subject to distress, then the magistrate may issue his distress warrant naming the amount of rent due, with costs, and the warrant shall be delivered to an officer as set forth in subsection (A).

(C) The officer to whom a distress warrant is delivered after the predistress hearing shall demand of the occupant payment of the rent with costs as enumerated in the distress warrant. If the amount is paid the officer shall return the warrant with the amount collected to the magistrate who shall settle with the owner. If the tenant fails or refuses to pay the rent with costs, the officer shall distrain sufficient other property upon the rented premises to pay the amount by delivering or mailing to the occupant at his last known address a list in writing of the property distrained together with a copy of the distress warrant.

(D) If any property distrained is not the property of the occupant, the occupant immediately shall name the owner of the property and inform the officer of the ownership and the officer shall distrain sufficient other property of the occupant to pay the rent and costs. The property of the occupant must be first applied to payments of the rent and costs. All property in the self-service storage facility is subject to distress as provided in this section.

(E) Any property belonging to the occupant removed from the self-service storage facility must, if found, be subject to distraint and sale, provided the distraint be made within thirty days after the removal.

(F) Within five days after the distraint, the occupant may free the property from the lien of the distraint by giving a bond payable to the owner in double the amount claimed, with sufficient surety or sureties approved by the court, and the issues thus joined must be tried by the court. The owner has the right to except to the surety or sureties and the surety or sureties shall justify before the magistrate as provided for justification for sureties in claim and delivery actions.

(G) If the occupant fails to give bond as prescribed in subsection (F) then the officer may sell the property at public auction to the highest

bidder for cash at a designated place of sale after posting a notice of the sale for five days upon the premises and two other public places in the county stating the time and place of the sale.

(H) The purchaser at a sale of chattels seized under a distress warrant takes the property subject to any other perfected and recorded liens on the property.

(I) If the property distrained brings more than the rent with costs at the sale the surplus must be paid to the occupant and the rent must be paid to the owner.

Section 39-20-49. The owner of a self-service storage facility may require of a person laying claim to any of the contents of the self-service storage facility that the claimant pay to the owner all unpaid rents due for the use of the facility before taking possession of the contents. The owner is not responsible for any property taxes that may be due on any contents that have been in storage in the facility.

Section 39-20-50. Nothing in this chapter may be construed as in any manner impairing or affecting the right of the parties to create additional rights, duties, and obligations in and by virtue of the rental agreement. The rights provided by this chapter are in addition to all other rights allowed by law to a creditor against his debtor."

Prior agreements valid

SECTION 2. All rental agreements entered into before the effective date of this act, and not extended or renewed after that date, and the rights, duties, and interests flowing from them remain valid and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this State.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 137

(R149, H4468)

AN ACT TO AMEND SECTION 7-7-320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN HORRY COUNTY, SO AS TO REDESIGNATE VARIOUS EXISTING PRECINCTS, TO ADD TWO PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Horry County voting precincts revised

SECTION 1. Section 7-7-320 of the 1976 Code, as last amended by Act 129 of 2010, is further amended to read:

"Section 7-7-320. (A) In Horry County there are the following voting precincts:
Adrian
Allsbrook
Atlantic Beach
Aynor
Bayboro - Gurley
Brooksville
Brownway
Burgess #1
Burgess #2
Burgess #3
Burgess #4
Carolina Forest #1
Carolina Forest #2
Cedar Grove
Cherry Grove #1
Cherry Grove #2
Coastal Carolina
Coastal Lane #1

Coastal Lane #2
Cool Springs
Crescent
Daisy
Deerfield
Dog Bluff
Dogwood
Dunes #1
Dunes #2
Dunes #3
East Conway
East Loris
Ebenezer
Emerald Forest #1
Emerald Forest #2
Emerald Forest #3
Enterprise
Floyds
Forestbrook
Four Mile
Galivants Ferry
Garden City #1
Garden City #2
Garden City #3
Garden City #4
Glenns Bay
Green Sea
Hickory Grove
Hickory Hill
Homewood
Horry
Inland
Jackson Bluff
Jamestown
Jernigan’s Cross Roads
Jet Port #1
Jet Port #2
Jordanville
Joyner Swamp
Juniper Bay
Lake Park
Leon

Little River #1
Little River #2
Little River #3
Live Oak
Maple
Marlowe #1
Marlowe #2
Marlowe #3
Methodist - Mill Swamp
Mt. Olive
Mt. Vernon
Myrtle Trace
Myrtlewood #1
Myrtlewood #2
Myrtlewood #3
Nixon's Cross Roads #1
Nixon's Cross Roads #2
North Conway #1
North Conway #2
Norton
Ocean Drive #1
Ocean Drive #2
Ocean Forest #1
Ocean Forest #2
Ocean Forest #3
Palmetto Bays
Pawley's Swamp
Pleasant View
Poplar Hill
Port Harrelson
Race Path #1
Race Path #2
Red Bluff
Red Hill #1
Red Hill #2
Salem
Sea Oats #1
Sea Oats #2
Sea Winds
Shell
Socastee #1
Socastee #2

Socastee #3
Socastee #4
Spring Branch
Surfside #1
Surfside #2
Surfside #3
Surfside #4
Sweet Home
Taylorsville
Tilly Swamp
Toddville
Wampee
West Conway
West Loris
White Oak
Wild Wing
Windy Hill #1
Windy Hill #2

(B) The precinct lines defining the precincts provided for in subsection (A) are as shown on maps filed with the county election commission and the voter registration board as provided and maintained by the Office of Research and Statistics of the State Budget and Control Board designated as document P-51-14.

(C) The polling places for the precincts listed in subsection (A) must be determined by the Horry County Election Commission with the approval of a majority of the Horry County Legislative Delegation."

Time effective

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

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 138

(R151, H4647)

AN ACT TO AMEND SECTION 7-7-360, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LAURENS COUNTY, SO AS TO REVISE BOUNDARIES OF EXISTING PRECINCTS AND TO DESIGNATE THE MAP NUMBER ON WHICH THE BOUNDARIES OF LAURENS COUNTY VOTING PRECINCTS AS REVISED BY THIS ACT MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Laurens County voting precincts revised

SECTION 1. Section 7-7-360(B) of the 1976 Code, as last amended by Act 194 of 2012, is further amended to read:

"(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map designated as P-59-14 and on file with the Office of Research and Statistics of the State Budget and Control Board and as shown on certified copies provided to the Registration and Elections Commission for Laurens County."

Time effective

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

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 139

(R138, S558)

AN ACT TO AMEND ARTICLE 13, CHAPTER 25, TITLE 50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RESTRICTIONS PLACED ON THE USE OF WATERCRAFT ON LAKES WILLIAM C. BOWEN AND H. TAYLOR BLALOCK IN SPARTANBURG COUNTY, SO AS TO SPECIFY THE TYPES OF WATERCRAFT TO WHICH THESE RESTRICTIONS APPLY, TO PROVIDE THAT CERTAIN SIGNS THAT CONTAIN THESE RESTRICTIONS MUST BE DESIGNED AND INSTALLED BY THE SPARTANBURG WATER SYSTEM, TO PROVIDE THAT CERTAIN VESSELS ARE EXEMPTED FROM THESE RESTRICTIONS, TO PROVIDE THAT THESE RESTRICTIONS APPLY TO A HYDROELECTRIC GENERATOR OUTFALL, AND TO PROVIDE THAT CERTAIN RESTRICTIONS APPLICABLE TO LAKE H. TAYLOR BLALOCK DO NOT APPLY TO THE HUNTING OF WATERFOWL IN CERTAIN AREAS DURING CERTAIN TIMES OF THE YEAR.

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

Restrictions applicable to Lake William C. Bowen and Lake H. Taylor Blalock

SECTION 1. Article 13, Chapter 25, Title 50 of the 1976 Code is amended to read:

"Article 13

Restrictions Applicable to Lakes William C. Bowen and H. Taylor Blalock in Spartanburg County

Section 50-25-1310. On Lakes William C. Bowen and H. Taylor Blalock in Spartanburg County:

(1) There is established a no wake zone within three hundred feet of all bridges and public docks. No wake zones must be clearly marked with signs. The signs must be designed and installed by the department.

(2) No boat, watercraft, or any other type of vessel may be operated, anchored, moored, docked, or otherwise may enter within five hundred feet of any pump station, water intake of a dam, or hydroelectric generator outfall, or spillway. These restricted areas must be clearly marked with signs. Signs must be designed and installed by the Spartanburg Water System. Boats, watercraft, and other vessels operated for law enforcement, emergency medical services, or dam maintenance and repair are exempted from this requirement.

(3) No boat, watercraft, or any other type of vessel may operate or anchor within one hundred fifty feet of public fishing piers.

(4) No sailing craft with a mast height in excess of thirty feet is permitted to operate.

(5) No wading, bathing, or swimming is permitted within two hundred feet of any public landing, bridge, or restricted area. These restricted areas must be clearly marked with signs. The signs must be designed and installed by the Spartanburg Water System.

(6) The lake wardens, at their discretion, may limit entrance of boats, watercraft, or any other type of vessel onto the lakes via the public landings when conditions such as overcrowding or adverse weather create an unsafe boating environment.

Section 50-25-1320. On Lake William C. Bowen:

(1) No boat, watercraft, or any other type of vessel with an outboard motor having a horsepower rating in excess of one hundred fifteen horsepower is permitted.

(2) No boat, watercraft, or any other type of vessel with an outboard motor in excess of the United States Coast Guard rating, with Coast Guard rating plate missing or changed, is permitted.

(3) No boat, watercraft, or any other type of vessel powered by an outdrive or inboard motor having an engine automotive horsepower rating in excess of one hundred ninety horsepower is permitted. This restriction does not apply to towboats which have been approved by the American Waterski Association or any Coast Guard approved boat commonly referred to as an inboard boat designed by the manufacturer for towing waterskiers with the motor or engine located near the midpoint of the boat between the bow and stern, propeller driven by a single rod drive shaft extending through the hull with the propeller located under the boat in front of a rudder.

(4) There is no minimum or maximum restriction on length of boats, watercraft, or any other type of vessel. Boats, watercraft, and other vessels operated for law enforcement, emergency medical

services, or dam maintenance and repair are exempted from the restrictions in items (1) and (3) of this section.

Section 50-25-1330. (A) No boat, watercraft, or any other vessel may operate on Lake H. Taylor Blalock with an engine greater than thirty horsepower or greater than twenty-five feet in length, and in the case of a pontoon boat, the engine may not be greater than forty horsepower or greater than twenty-five feet in length, unless:

(1) the gas line has been disconnected and the engine or prop is trimmed out of water; and

(2) an electric trolling motor or engine of thirty horsepower or less is mounted. Boats, watercraft, and other vessels operated for law enforcement, emergency medical services, or dam maintenance and repair are exempted from the restrictions contained in this subsection.

(B) It is unlawful on Lake H. Taylor Blalock to:

(1) operate personal watercraft, including jet skis;

(2) operate any boat, watercraft, or any other type of vessel between midnight and one hour before sunrise, except that public access to Lake H. Taylor Blalock for the purpose of hunting waterfowl on South Carolina Department of Natural Resources leased premises shall be open weekly on Wednesday mornings beginning at 5:00 a.m. during the federal waterfowl hunting season, provided the hunting of waterfowl shall no longer be allowed on Lake H. Taylor Blalock after December 31, 2018, unless reauthorized in statute;

(3) operate any boat, watercraft, or any other type of vessel with an outboard motor having horsepower in excess of the United States Coast Guard rating for the watercraft or with the Coast Guard rating plate missing or changed;

(4) operate, anchor, moor, or dock any boat, watercraft, or allow such vessel to enter within five hundred feet of any pump station, water intake of a dam, hydroelectric generator outfall, or spillways, and these restricted areas must be clearly marked with signs designed and installed by the Spartanburg Water System. Boats, watercraft, and other vessels operated for law enforcement, emergency medical service, or dam maintenance and repair are exempted from this requirement;

(5) operate, anchor, moor, or dock any boat, watercraft, or any other type of vessel within one hundred fifty feet of public fishing piers;

(6) operate sailing craft with a mast height in excess of thirty feet;

(7) wade, bathe, or swim within two hundred feet of any public landing, bridge, or restricted area, and these restricted areas must be clearly marked with signs designed and installed by the Spartanburg Water System.

(C) The lake wardens may limit entrance of boats, watercraft, or any other type of vessel onto the lake via the public landings when conditions including, but not limited to, overcrowding or adverse weather create an unsafe boating environment.

Section 50-25-1340. On Lake H. Taylor Blalock, it is unlawful to waterski or tow rafts, discs, or any other similar floating devices.

Section 50-25-1350. On Lake William C. Bowen it is unlawful to:

(1) waterski or tow rafts, discs, or other similar floating devices within three hundred feet of any bridge or within one hundred feet of public dock facilities of the Spartanburg Water System;

(2) waterski and tow rafts, discs, or other similar floating devices upstream and west of the Interstate Highway 26 bridge which crosses over Lake William C. Bowen;

(3) pull more than two skiers at one time from any boat or to waterski while carrying one or more persons piggyback;

(4) operate any boat, watercraft, or any other type of a vessel between midnight and one hour before sunrise.

Section 50-25-1360. The department, after consultation with the Spartanburg Water System, by special permit, may waive the restrictions and provisions of Sections 50-25-1310 through 50-25-1350 to allow for boat testing, water and ski shows, and similar activities. It is unlawful to violate the terms and conditions of the permit.

Section 50-25-1370. A person violating a provision of this article is guilty of a misdemeanor and must be punished as provided in Section 50-1-130."

Savings clause

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws

repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 140

(R139, S699)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 46-25-815 SO AS TO IMPOSE AN INSPECTION FEE OF ONE DOLLAR A TON ON THE DISTRIBUTION OR SALE OF COMMERCIAL FERTILIZER IN THIS STATE, TO PROVIDE THAT THIS FEE MUST BE REPORTED, PAID, AND ENFORCED IN THE SAME MANNER THAT THE EXISTING FIFTY CENTS A TON INSPECTION TAX ON THE SALE OF COMMERCIAL FERTILIZER IS REPORTED, PAID, AND ENFORCED, TO PROVIDE THAT THE REVENUES OF THIS INSPECTION FEE MUST BE RETAINED AND EXPENDED BY THE DIVISION OF REGULATORY AND PUBLIC SERVICE PROGRAMS OF CLEMSON UNIVERSITY (CLEMSON PSA) FOR THE SUPPORT OF THE DIVISION'S PROGRAMS, AND TO PROVIDE THAT UNEXPENDED FEE REVENUES AT THE END OF A FISCAL YEAR CARRY FORWARD TO THE SUCCEEDING FISCAL YEAR AND MUST BE USED FOR THE SAME PURPOSES.

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

Fertilizer inspection fee imposed

SECTION 1. Article 11, Chapter 25, Title 46 of the 1976 Code is amended by adding:

"Section 46-25-815. In addition to the inspection tax on the distribution or sale of commercial fertilizer imposed pursuant to Section 46-25-810, there is imposed an inspection fee equal to one dollar a ton on the distribution or sale of commercial fertilizer in this State.

The provisions of Section 46-25-810 with respect to the liability for reporting, payment, collection, and enforcement of the fifty cents a ton inspection fee on the distribution or sale of commercial fertilizer in this State are deemed to apply to the additional one dollar a ton inspection fee imposed pursuant to this section. All revenues of the fee imposed pursuant to this section must be retained and expended by the Division of Regulatory and Public Service Programs of Clemson University (Clemson PSA) for Clemson PSA programs. Unexpended revenues of this fee at the end of a fiscal year carry forward to the succeeding fiscal year for Clemson PSA and must be used for the same purposes."

Time effective

SECTION 2. This act takes effect July 1, 2014.

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 141

(R141, S957)

AN ACT TO AMEND SECTION 7-7-230, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN DORCHESTER COUNTY, SO AS TO ADD NINE PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE

OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Dorchester County voting precincts revised

SECTION 1. Section 7-7-230 of the 1976 Code, as last amended by Act 212 of 2008, is further amended to read:

"Section 7-7-230. (A) In Dorchester County there are the following voting precincts:
Archdale
Archdale 2
Ashborough East
Ashborough East 2
Ashborough West
Ashborough West 2
Ashley River
Bacons Bridge
Bacons Bridge 2
Beech Hill
Beech Hill 2
Brandymill
Brandymill 2
Briarwood
Briarwood 2
Briarwood 3
Butternut
Carolina
Central
Central 2
Clemson
Clemson 2
Clemson 3
Coastal
Coastal 2
Coastal 3
Coosaw
Coosaw 2
Coosaw 3
Cypress

Cypress 2
Delemars
Dorchester
Dorchester 2
Flowertown
Flowertown 2
Flowertown 3
Four Hole
German Town
Givhans
Givhans 2
Greenhurst
Greenwave
Grover
Harleyville
Indian Field
Indian Field 2
Irongate
Irongate 2
Irongate 3
King's Grant
King's Grant 2
Knightsville
Lincoln
Miles/Jamison
Newington
Newington 2
North Summerville
North Summerville 2
Oakbrook
Oakbrook 2
Patriot
Reevesville
Ridgeville
Ridgeville 2
Rosinville
Rosses
Saul Dam
Sawmill Branch
Spann
St. George No. 1
St. George No. 2

Stallsville
Tranquil
Tranquil 2
Tranquil 3
Trolley
Tupperway
Tupperway 2
Windsor
Windsor 2

(B) The precinct lines defining the above precincts are as shown on maps filed with the Office of Research and Statistics of the State Budget and Control Board designated as document P-35-14 and as shown on copies provided to the Dorchester County Board of Elections and Registration by the office.

(C) The polling places for the precincts provided in this section must be established by the Dorchester County Board of Elections and Registration."

Time effective

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

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 142

(R142, S989)

AN ACT TO AMEND SECTION 7-7-290, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN GREENWOOD COUNTY, SO AS TO REVISE BOUNDARIES OF EXISTING PRECINCTS AND TO DESIGNATE THE MAP NUMBER ON WHICH THE BOUNDARIES OF GREENWOOD COUNTY VOTING PRECINCTS AS REVISED BY THIS ACT MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Greenwood County voting precincts revised

SECTION 1. Section 7-7-290 of the 1976 Code, as last amended by Act 89 of 2013, is further amended to read:

"Section 7-7-290. (A) In Greenwood County there are the following voting precincts:

Greenwood No. 1
Greenwood No. 2
Greenwood No. 3
Greenwood No. 4
Greenwood No. 5
Greenwood No. 6
Greenwood No. 7
Greenwood No. 8
Glendale
Harris
Laco
Ninety Six
Ninety Six Mill
Ware Shoals
Hodges
Cokesbury
Coronaca
Greenwood High
Georgetown
Sandridge
Callison
Bradley
Troy
Epworth
Verdery
New Market
Emerald
Airport
Emerald High
Civic Center
Riley
Shoals Junction

Greenwood Mill
Stonewood
Mimosa Crest
Lower Lake
Pinecrest
Maxwellton Pike
New Castle
Rutherford Shoals
Liberty
Biltmore Pines
Marshall Oaks
Sparrows Grace
Mountain Laurel
Allie's Crossing
Gideon's Way
Parson's Mill

(B) The precinct lines defining the precincts are as shown on the official map P-47-14 on file with the Office of Research and Statistics of the State Budget and Control Board and as shown on copies provided to the Greenwood Board of Voter Registration. The official map may not be changed except by act of the General Assembly.

(C) The Greenwood County Election Commission shall designate the polling places of each precinct."

Time effective

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

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 143

(R143, S995)

AN ACT TO AMEND SECTION 7-7-530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN YORK COUNTY, SO AS TO REVISE BOUNDARIES OF EXISTING PRECINCTS

AND TO DESIGNATE THE MAP NUMBER ON WHICH THE BOUNDARIES OF YORK COUNTY VOTING PRECINCTS AS REVISED BY THIS ACT MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

York County voting precincts revised

SECTION 1. Section 7-7-530(B) of the 1976 Code, as last amended by Act 53 of 2009, is further amended to read:

"(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map on file with the Office of Research and Statistics of the State Budget and Control Board designated as document P-91-14 and as shown on copies provided to the Registration and Elections Commission for York County by the Office of Research and Statistics."

Time effective

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

Ratified the 11th day of March, 2014.

Approved the 13th day of March, 2014.

No. 144

(R152, S19)

AN ACT TO AMEND SECTION 17-15-55, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BOND AND THE AUTHORITY OF THE CIRCUIT COURT TO REVOKE BOND UNDER CERTAIN CIRCUMSTANCES, SO AS TO PROVIDE THAT A BOND HEARING MUST BE HELD IN CIRCUIT COURT WITHIN THIRTY DAYS WHEN A PERSON COMMITS A SUBSEQUENT VIOLENT CRIME WHILE ON BOND FOR A PREVIOUS VIOLENT CRIME AND TO

PROVIDE FOR THE REVOCATION OF BOND ON PREVIOUSLY SET BONDS AND FOR NO BOND ON THE CURRENT VIOLENT OFFENSE WHEN THE COURT FINDS THAT NO CONDITIONS WILL ENSURE THE PERSON WILL NOT FLEE OR POSE A DANGER TO THE COMMUNITY; TO AMEND SECTION 17-15-30, RELATING TO MATTERS TO BE CONSIDERED WHEN DETERMINING CONDITIONS OF RELEASE ON BOND, SO AS TO INCLUDE THAT THE COURT SHALL CONSIDER WHETHER THE CHARGED PERSON APPEARS IN THE STATE GANG DATABASE MAINTAINED BY THE STATE LAW ENFORCEMENT DIVISION; TO AMEND SECTION 22-5-510, AS AMENDED, RELATING TO BOND HEARINGS AND INFORMATION TO BE PROVIDED TO THE COURT, SO AS TO MAKE CONFORMING CHANGES TO SECTION 17-15-30 TO INCLUDE THE SAME FACTORS A COURT MAY AND SHALL CONSIDER IN DETERMINING RELEASE ON BOND; TO AMEND SECTION 22-5-530, RELATING TO DEPOSITS IN LIEU OF RECOGNIZANCE IN MAGISTRATES AND MUNICIPAL COURTS, SO AS TO PROVIDE FOR THE PAYMENT OF BOND SET BY A SUMMARY COURT JUDGE TO THE JAIL OR DETENTION FACILITY IN WHICH THE PERSON IS HELD; AND TO CREATE THE STUDY COMMITTEE ON BONDS TO REVIEW THE BOND LAWS OF THE STATE AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY CONCERNING PROPOSED CHANGES TO THE BOND LAWS.

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

Bond, circuit court's authority to revoke bond, subsequent violent offenders

SECTION 1. Section 17-15-55 of the 1976 Code is amended by adding at the end to read:

"(C) If a person commits a violent crime, as defined in Section 16-1-60, which was committed when the person was already out on bond for a previous violent crime and the subsequent violent crime did not arise out of the same series of events as the previous violent crime, then the bond hearing for the subsequent violent crime must be held in the circuit court within thirty days. If the court finds that certain

conditions of release on bond will ensure that the person is unlikely to flee or pose a danger to any other person or the community and the person will abide by the terms of release on bond, the judge shall consider bond in accordance with the provisions of this chapter and set or amend bond accordingly. If the court finds no such conditions will ensure that the person is unlikely to flee or not pose a danger to the community, the court shall not set a bond for the instant offense and must revoke all previously set bonds.

(D) If a person commits a violent crime, as defined in Section 16-1-60, which was committed when the person was already out on bond for a previous violent crime, and the subsequent violent crime did not arise out of the same series of events as the previous violent crime, then the arresting law enforcement agency must transmit notice of the second arrest, implicating subsection (C), to the solicitor of the circuit in which the crime was committed and the administrative chief judge of the circuit in which the crime was committed. The prosecuting agency must notify any victims of the initial or subsequent crimes pursuant to Chapter 3, Title 16 of any bond hearings."

Conditions of release on bond, inclusion of persons on state gang database

SECTION 2. Section 17-15-30 of the 1976 Code is amended to read:

"Section 17-15-30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person's:

(1) family ties;
(2) employment;
(3) financial resources;
(4) character and mental condition;
(5) length of residence in the community;
(6) record of convictions; and
(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) A court shall consider:

(1) a person's criminal record;
(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency shall provide the court with the following information:

(a) a person's criminal record;

(b) any charges pending against a person at the time release is requested;

(c) all incident reports generated as a result of the offense charged; and

(d) any other information that will assist the court in determining conditions of release.

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's hearing.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section."

Bond hearings, factors to be considered, conforming changes

SECTION 3. Section 22-5-510 of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"Section 22-5-510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, 1895, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. 'Violent offenses' as used in this section means the offenses contained in Section 16-1-60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with

sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty-four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person's:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(D) A court shall consider:

(1) a person's criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(E) Prior to or at the time of the bond hearing, the arresting law enforcement agency shall provide the court with the following information:

(1) the person's criminal record;

(2) any charges pending against the person at the time release is requested;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining conditions of release.

(F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) is not available at the time of the hearing and the reason the information is

not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person's bond hearing.

(G) A court hearing this matter has contempt powers to enforce these provisions."

Bond in summary courts, payment of bonds to jail or detention facilities

SECTION 4. Section 22-5-530(B) of the 1976 Code is amended to read:

"(B) In a jurisdiction in which the governing body has established a system for receipt of deposits in lieu of recognizance:

(1) a person held or incarcerated in a jail or detention center who is entitled to deposit a sum of money in lieu of entering into recognizance pursuant to this section may secure the person's immediate release from custody by paying to or depositing the sum of money required by this section with the jail or detention facility in which the person is being held; and

(2) a person held or incarcerated in a jail or detention center whose bond has been set by a summary court judge may secure the person's immediate release from custody by paying to or depositing the sum of money set by the summary court judge with the jail or detention facility in which the person is being held."

Study Committee on Bonds

SECTION 5. (A) There is created the Study Committee on Bonds to review the bond laws of the State and make recommendations to the General Assembly concerning proposed changes to the bond laws.

(B) The study committee must be composed of three members of the Senate, appointed by the Chairman of the Senate Judiciary Committee, and three members of the House of Representatives, appointed by the Chairman of the House Judiciary Committee.

(C) Vacancies in the membership of the study committee must be filled for the remainder of the unexpired term in the manner of original appointment.

(D) The Chairmen of the Senate and House Judiciary Committees shall provide appropriate staffing for the study committee.

(E) The study committee shall make a report of its recommendations to the General Assembly by December 31, 2014, at which time the study committee must be dissolved.

Savings Clause

SECTION 6. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 145

(R153, S148)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 37-20-161 SO AS TO PROVIDE CIRCUMSTANCES IN WHICH CONSUMER REPORTING AGENCIES SHALL PLACE A SECURITY FREEZE ON THE CONSUMER REPORT OF A PROTECTED CONSUMER, TO PROVIDE FOR THE DURATION OF THE FREEZE AND CIRCUMSTANCES FOR ITS REMOVAL, TO PROVIDE CONSUMER REPORTING AGENCIES SHALL NOT RELEASE CERTAIN INFORMATION FROM FROZEN

ACCOUNTS, TO PROHIBIT CONSUMER REPORTING AGENCIES FROM CHARGING RELATED FEES, AND TO DEFINE NECESSARY TERMS.

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

Preemptive security freezes on protected consumers' consumer reports

SECTION 1. Chapter 20, Title 37 of the 1976 Code is amended by adding:

"Section 37-20-161. (A) For purposes of this section:

(1) 'Protected consumer' means an individual who is:

(a) under the age of sixteen years at the time a request for the placement of a security freeze is made; or

(b) an incapacitated person or a protected person for whom a guardian or conservator has been appointed.

(2) 'Record' means a compilation of information that:

(a) identifies a protected consumer;

(b) is created by a consumer reporting agency solely for the purpose of complying with this section; and

(c) may not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living for any purpose listed in Section 37-20-110(3).

(3) 'Representative' means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(4) 'Security freeze' means:

(a) if a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction that:

(i) is placed on the protected consumer's record in accordance with this section; and

(ii) prohibits the consumer reporting agency from releasing the protected consumer's record except as provided in this section; or

(b) if a consumer reporting agency has a file pertaining to the protected consumer, a restriction that:

(i) is placed on the protected consumer's consumer report in accordance with this section; and

(ii) prohibits the consumer reporting agency from releasing the protected consumer's consumer report or any information derived

from the protected consumer's consumer report except as provided in this section.

(5) 'Sufficient proof of authority' means documentation that shows a representative has authority to act on behalf of a protected consumer and includes:

(a) an order issued by a court of law;

(b) a lawfully executed and valid power of attorney; or

(c) a written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

(6) 'Sufficient proof of identification' means information or documentation that identifies a protected consumer or a representative of a protected consumer and includes:

(a) a social security number or a copy of a social security card issued by the social security administration;

(b) a certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate; or

(c) a copy of a driver's license, an identification card issued by the motor vehicle administration, or any other government-issued identification.

(B) This section does not apply to the use of a protected consumer's consumer report or record by a person specified in Section 37-20-160(K) or (L).

(C)(1) A consumer reporting agency shall place a security freeze for a protected consumer if:

(a) the consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this section; and

(b) the protected consumer's representative:

(i) submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(ii) provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative; and

(iii) provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer;

(2) if a consumer reporting agency does not have a file pertaining to a protected consumer when the consumer reporting agency receives a request under item (1), the consumer reporting agency shall create a record for the protected consumer.

(D) Within thirty days after receiving a request that meets the requirements of item (1), a consumer reporting agency shall place a security freeze for the protected consumer.

(E) Unless a security freeze for a protected consumer is removed in accordance with subsection (G) or (I), a consumer reporting agency may not release the protected consumer's consumer report, any information derived from the protected consumer's consumer report, or any record created for the protected consumer.

(F) A security freeze for a protected consumer placed under subsection (D) shall remain in effect until:

(1) the protected consumer or the protected consumer's representative requests the consumer reporting agency to remove the security freeze in accordance with subsection (G) of this section; or

(2) the security freeze is removed in accordance with subsection (I).

(G) If a protected consumer or a protected consumer's representative wishes to remove a security freeze for the protected consumer, the protected consumer or the protected consumer's representative shall:

(1) submit a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency; and

(2) provide to the consumer reporting agency:

(a) in the case of a request by the protected consumer:

(i) sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid; and

(ii) sufficient proof of identification of the protected consumer; or

(b) in the case of a request by the representative of a protected consumer:

(i) sufficient proof of identification of the protected consumer and the representative; and

(ii) sufficient proof of authority to act on behalf of the protected consumer.

(H) Within fifteen days after receiving a request that meets the requirements of subsection (G), the consumer reporting agency shall remove the security freeze for the protected consumer.

(I) A consumer reporting agency may remove a security freeze for a protected consumer or delete a record of a protected consumer if the security freeze was placed or the record was created based on a

material misrepresentation of fact by the protected consumer or the protected consumer's representative.

(J) A consumer reporting agency must not charge a fee to place a security freeze for a protected consumer. If the protected consumer does not already have a consumer credit file, and the consumer reporting agency must create one in order to place the security freeze, the consumer reporting agency must not charge a fee to create a consumer credit file in order to place the security freeze."

Time effective

SECTION 2. This act takes effect January 1, 2015.

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 146

(R154, S405)

AN ACT TO AMEND SECTION 1-23-560, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE CODE OF JUDICIAL CONDUCT TO ADMINISTRATIVE LAW JUDGES AND THE ENFORCEMENT AND ADMINISTRATION OF THESE RULES BY THE STATE ETHICS COMMISSION, SO AS TO PROVIDE INSTEAD THAT THE COMMISSION ON JUDICIAL CONDUCT, UNDER AUTHORITY OF THE SUPREME COURT, SHALL HANDLE COMPLAINTS AGAINST ADMINISTRATIVE LAW JUDGES FOR POSSIBLE VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT IN THE SAME MANNER AS COMPLAINTS AGAINST OTHER JUDGES.

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

Complaints against administrative law judges

SECTION 1. Section 1-23-560 of the 1976 Code, as last amended by Act 334 of 2008, is further amended to read:

"Section 1-23-560. Administrative law judges are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules. The sole grounds for discipline and sanctions for administrative law judges are those contained in the Code of Judicial Conduct in Rule 502, Rule 7 of the South Carolina Appellate Court Rules. The Commission on Judicial Conduct, under the authority of the Supreme Court, shall handle complaints against administrative law judges for possible violations of the Code of Judicial Conduct in the same manner as complaints against other judges. Notwithstanding another provision of law, an administrative law judge and the judge's spouse or guest may accept an invitation to attend a judicial-related or bar-related function, or an activity devoted to the improvement of the law, legal system, or the administration of justice."

Time effective

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

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 147

(R156, S1031)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 48-39-135 SO AS TO PROVIDE THAT GOLF COURSES SEAWARD OF THE BASELINE THAT EXISTED PRIOR TO THE EFFECTIVE DATE OF CERTAIN REGULATIONS PROMULGATED IN 1991 MAY BE PROTECTED UNDER EMERGENCY ORDERS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL.

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

Protection of certain golf courses seaward of the baseline

SECTION 1. Chapter 39, Title 48 of the 1976 Code is amended by adding:

"Section 48-39-135. Golf courses seaward of the baseline that existed prior to the effective date of the regulations promulgated in 1991 pursuant to the Beachfront Management Act may be protected under emergency orders issued or approved by the department using the same methodology that is used to protect structures pursuant to emergency orders."

Time effective

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

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 148

(R157, H3231)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 57-1-90 SO AS TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL NOT DISCRIMINATE AGAINST MOTORCYCLES, MOTORCYCLE OPERATORS, OR MOTORCYCLE PASSENGERS WHEN IT FORMULATES TRANSPORTATION POLICY, PROMULGATES REGULATIONS, ALLOCATES FUNDS, AND PLANS, DESIGNS, CONSTRUCTS, EQUIPS, OPERATES, AND MAINTAINS A TRANSPORTATION FACILITY, AND TO PROVIDE THAT THE ALLOCATION OF PARKING SPACE IN CERTAIN TRANSPORTATION FACILITIES MUST MAKE

REASONABLE ACCOMMODATIONS FOR MOTORCYCLE PARKING.

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

Motorcycles

SECTION 1. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

"Section 57-1-90. (A) In formulating transportation policy, promulgating regulations, allocating funds, and planning, designing, constructing, equipping, operating and maintaining transportation facilities, no action of the South Carolina Transportation Commission, or the South Carolina Department of Transportation shall have the effect of discriminating against motorcycles, motorcycle operators, or motorcycle passengers. No regulation or action of the commission, or department shall have the effect of enacting a prohibition or imposing a requirement that applies only to motorcycles or motorcyclists, and the principal purpose of which is to restrict or inhibit access or motorcycles and motorcyclists to any highway, bridge, tunnel, or other transportation facility.

(B) The allocation of parking space square footage specifically in transportation facilities, and other projects undertaken or operated by a political subdivision of this State where state or local source funds have been used in whole or in part to plan, design, construct, equip, operate, or maintain the facility must make reasonable accommodations for motorcycle parking. In carrying forward this requirement, among other options, the facility at its discretion may comply by sectioning portions of the area where the size configuration of the space does not meet code requirements for full-sized vehicles.

(C) As used in this section, 'reasonable accommodations' shall not be interpreted to include, require, or otherwise mandate the structural or technological modification of parking structures constructed or substantially completed before July 1, 2014."

Time effective

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

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 149

(R158, H3410)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 13 TO CHAPTER 1, TITLE 13 SO AS TO TRANSFER THE REGIONAL EDUCATION CENTERS ESTABLISHED BY THE EDUCATION AND ECONOMIC DEVELOPMENT COORDINATING COUNCIL TO THE DEPARTMENT OF COMMERCE; TO AMEND SECTION 59-59-190, RELATING TO ASSISTANCE THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE, THE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION, AND THE COMMISSION ON HIGHER EDUCATION SHALL PROVIDE THE DEPARTMENT OF EDUCATION WITH RESPECT TO CERTAIN PROGRAMS UNDER THE SOUTH CAROLINA EDUCATION AND ECONOMIC DEVELOPMENT ACT, SO AS TO MAKE CONFORMING CHANGES; AND TO REPEAL SECTION 59-59-170 RELATING TO THE EDUCATION AND ECONOMIC DEVELOPMENT COORDINATING COUNCIL, AND SECTION 59-59-180 RELATING TO REGIONAL EDUCATION CENTERS.

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

Regional education centers transferred to Department of Commerce

SECTION 1. Chapter 1, Title 13 of the 1976 Code is amended by adding:

"Article 13

Regional Education Centers

Section 13-1-1810. The powers and duties of the Education and Economic Development Coordinating Council relating to regional education centers pursuant to Chapter 59, Title 59 are transferred to the Department of Commerce.

Section 13-1-1820. (A) The Department of Commerce shall provide oversight to the regional education centers, which are to coordinate and facilitate the delivery of information, resources, and services to students, educators, employers, and the community as provided in this article. The department shall seek the input from the State Department of Education in carrying out the requirements of this section.

(B) The primary responsibilities of these centers are to:

(1) provide services to students and adults for career planning, employment seeking, training, and other support functions;

(2) provide information, resources, and professional development programs to educators;

(3) provide resources to school districts for compliance and accountability pursuant to the provisions of Chapter 59, Title 59;

(4) provide information and resources to employers including, but not limited to, education partnerships, career-oriented learning, and training services;

(5) facilitate local connections among businesses and those involved in education;

(6) work with school districts and institutions of higher education to create and coordinate workforce education programs; and

(7) ensure each regional education center has a career development facilitator.

(C)(1) Each regional education center shall have a career development facilitator to coordinate career oriented learning, career development, and postsecondary transitioning for the schools in its region.

(2) A career development facilitator must be certified and recognized by the National Career Development Association.

(D) The centers shall provide data and reports that the department requests.

(E)(1) The regional centers must conform to the geographic configuration of the Local Workforce Investment Areas (LWIA) of the South Carolina Workforce Investment Act. Each regional center shall have an advisory board comprised of a school district superintendent, high school principal, local workforce investment board chairperson, technical college president, four-year college or university representative, career center director or school district career and

technology education coordinator, parent-teacher organization representative, and business and civic leaders. Appointees must reside or do business in the geographic area of the center. Appropriate local legislative delegations shall make the appointments to the regional center boards.

(2) The regional centers shall include, but not be limited to, the one-stop shops, workforce investment boards, tech prep consortia, and regional instructional technology centers.

Section 13-1-1840. The South Carolina Department of Employment and Workforce, in collaboration with the State Board for Technical and Comprehensive Education and the Commission on Higher Education, and the State Department of Education shall assist the Department of Commerce in planning and promoting the career information and employment options and preparation programs provided for in this section and in the establishment of the regional education centers by:

(1) identifying potential employers to participate in the career-oriented learning programs;

(2) serving as a contact point for employees seeking career information and training;

(3) providing labor market information including, but not limited to, supply and demand;

(4) promoting increased career awareness and career counseling through the management and promotion of the South Carolina Occupational Information System;

(5) collaborating with local agencies and businesses to stimulate funds; and

(6) cooperating in the creation and coordination of workforce education programs."

Conforming change

SECTION 2. Section 59-59-190 of the 1976 Code, as added by Act 88 of 2005, is amended to read:

"Section 59-59-190. (A) The South Carolina Department of Employment and Workforce, in collaboration with the State Board for Technical and Comprehensive Education and the Commission on Higher Education, shall assist the Department of Education, in planning and promoting the career information and employment options and preparation programs provided for in this chapter by:

(1) identifying potential employers to participate in the career-oriented learning programs;

(2) serving as a contact point for employees seeking career information and training;

(3) providing labor market information including, but not limited to, supply and demand;

(4) promoting increased career awareness and career counseling through the management and promotion of the South Carolina Occupational Information System;

(5) collaborating with local agencies and businesses to stimulate funds; and

(6) cooperating in the creation and coordination of workforce education programs.

(B) The South Carolina Department of Employment and Workforce shall assist in providing a link between employers in South Carolina and youth seeking employment."

Repeal

SECTION 3. Section 59-59-170 and Section 59-59-180 of the 1976 Code are repealed.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 150

(R159, H3592)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 48-52-825, 48-52-827, AND 48-52-865 SO AS TO REQUIRE THE STATE TO ADOPT CURRENT ENERGY EFFICIENCY AND ENVIRONMENTAL RATING SYSTEMS FOR CERTAIN STATE-FUNDED BUILDING PROJECTS AND PROMULGATE

REGULATIONS, TO LIMIT THE USE OF RATING CREDITS OR POINTS, AND TO CREATE THE ENERGY INDEPENDENCE AND SUSTAINABLE CONSTRUCTION ADVISORY COMMITTEE AND PROVIDE FOR ITS MEMBERSHIP AND DUTIES; TO AMEND SECTION 48-52-810, RELATING TO DEFINITIONS, SO AS TO CHANGE THE DEFINITION OF "BOARD"; AND TO AMEND SECTION 48-52-830, RELATING TO CERTIFICATION STANDARDS FOR CERTAIN STATE-FUNDED BUILDING PROJECTS, SO AS TO CHANGE CERTIFICATION CRITERIA.

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

Adoption of current facility energy efficiency rating systems

SECTION 1. Article 8, Chapter 52, Title 48 of the 1976 Code is amended by adding:

"Section 48-52-825. (A)(1)(a) The board shall automatically adopt by reference the most current editions of the rating systems developed by Green Building Initiative and U.S. Green Building Council's Leadership in Energy and Environmental Design used for certification pursuant to this article. Upon adoption, the most current edition of the rating system shall be used for certification purposes under this article. Provided, however, that the most current edition of the rating system shall be subject to regulations concerning that edition of the rating system when promulgated pursuant to item (2).

(b) In the event that two rating systems from the same organization have been adopted by reference and are effective concurrently for certification purposes, then either rating system may be utilized to certify projects as required pursuant to this article. The latter of the two rating systems to be adopted by reference pursuant to subitem (a) shall be deemed to be the most current edition of the rating system for purposes of review and regulation pursuant to subsection (B).

(2) The board shall refer new or updated rating systems to the Energy Independence and Sustainable Construction Advisory Committee for consideration pursuant to Section 48-52-865(B) immediately upon the release of the new or updated rating system and prior to the rating system's effective date. After receiving the advisory committee's recommendations, the board shall promulgate regulations to amend the rating system under consideration to remove specific

provisions, provided that the recommended amendments would not so alter the rating system as to render certification under the rating system impossible. If the advisory committee does not make a recommendation within the time period prescribed in Section 48-52-865(B)(2) the board, upon consultation with the State Engineer, shall proceed with promulgating regulations as provided in this item.

(B) The regulations promulgated pursuant to subsection (A) must provide that the rating systems provide certification credits for, preference for, and promotes building materials or furnishings, including, but not limited to, wood grown in this State, and masonry, plastics, concrete, steel, textiles, and wood that are manufactured or produced within the State. The regulations promulgated may not place at a disadvantage building materials or furnishings that are manufactured or produced within the State.

Section 48-52-827. A major facility project, as defined in Section 48-52-810(10), requesting third-party certification shall not be allowed to seek a rating credit or point for building product disclosure and optimization credit that requires material ingredient reporting; and, the language would apply to any subsequent editions of rating systems developed by the Green Building Initiative, the U.S. Green Building Council's Leadership in Energy and Environmental Design, or third-party certification initiatives."

Energy Independence and Sustainable Construction Advisory Committee, creation, membership, duties

SECTION 2. Article 8, Chapter 52, Title 48 of the 1976 Code is amended by adding:

"Section 48-52-865. (A)(1) There is established the Energy Independence and Sustainable Construction Advisory Committee. The committee shall consist of thirteen members, ten of which shall be appointed by the Governor for terms of four years until their successors are appointed and qualified. The committee shall be composed of the following:

(a) the State Engineer, or his designee, who shall serve as chairman;

(b) the Director of the State Energy Office, or his designee;

(c) the Director of the Department of Health and Environmental Control, or his designee;

(d) one member recommended by the Association of General Contractors;

(e) two members recommended by the Commission on Higher Education, one of which shall be appointed from either a research university or a comprehensive teaching institution and one of which shall be appointed from either a regional two-year campus of the University of South Carolina or a technical college;

(f) one member recommended by the South Carolina Manufacturer's Alliance;

(g) one member recommended by the American Chemistry Council;

(h) one member recommended by the South Carolina Chapter of the American Institute of Architects;

(i) one member recommended by the South Carolina Forestry Association;

(j) one member recommended by the South Carolina Council of Engineering and Surveying Societies;

(k) one member recommended by the South Carolina Chapter of the American Society of Heating, Refrigerating and Air Conditioning Engineers; and

(l) one member recommended by the conservation community.

(2) When making appointments to the committee, the Governor shall appoint members that have subject area expertise related to the design, engineering, construction, operation, maintenance, management, energy management, or growing or manufacturing products used in major facility projects certified under this article.

(B)(1) The committee shall:

(a) review and analyze all rating systems referred to it by the board pursuant to Section 48-52-825;

(b) closely monitor the development of new rating systems, or updates to existing rating systems, to expedite review and analysis of the new or updated rating systems pursuant to subitem (a);

(c) review and analyze rating systems in use concerning the rating systems' effectiveness in meeting the goals set forth in Section 48-52-820;

(d) make recommendations to the State Engineer concerning the promulgation of regulations concerning rating systems referred to it by the board pursuant to Section 48-52-825;

(e) report to the board concerning the effectiveness of current rating systems in meeting the goals set forth in Section 48-52-820; and

(f) develop and implement a methodology by which the cost-benefit ratio of the rating systems may be measured so that the State may consider the return on its investment for projects subject to this chapter.

(2) The committee shall make recommendations to the board concerning the promulgation of regulations relating to rating systems referred to it by the board pursuant to Section 48-52-825 no later than thirty days after the referral. The thirty day review time shall commence on the day of referral.

(C)(1) The committee shall meet as soon as practicable after being referred new rating systems pursuant to Section 48-52-820.

(2) Except as provided in item (1), the committee shall meet quarterly, or more frequently as necessary upon the call of the chair or a majority of the membership.

(3) Seven members constitutes a quorum to transact committee business.

(D) Vacancies on the committee shall be filled in the manner of the original appointment.

(E) Members of the committee shall not receive per diem, mileage, and subsistence as provided by law for members of boards, commissions, and committees."

Definition, revised

SECTION 3. Section 48-52-810(1) of the 1976 Code, as added by Act 88 of 2007, is amended to read:

"(1) 'Board' means the State Fiscal Accountability Authority's governing board."

Certification standards for a major facility project

SECTION 4. Section 48-52-830(A)(2) of the 1976 Code, as added by Act 88 of 2007, is amended to read:

"(2) In obtaining certification as receiving two globes using the Green Globes Rating System, a major facility project must earn at least twenty percent of the available points for energy performance under 'C.1.1 Energy Consumption'. In obtaining certification as meeting the LEED Silver standard, a major facility project must earn at least forty percent of the available points for energy performance under 'EA Credit: Optimize Energy Performance'. The Office of State Engineer

may waive the requirements of this item for a proposed major facility project should it determine that the costs of meeting this item are not economically feasible. The Office of State Engineer shall notify the board of the reason for the issuance of a waiver."

Time effective

SECTION 5. SECTION 3 of this act takes effect July 1, 2015. All other provisions contained in this act take effect upon approval by the Governor.

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 151

(R160, H3784)

AN ACT TO AMEND SECTION 59-114-30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NATIONAL GUARD COLLEGE ASSISTANCE PROGRAM, SO AS TO CLARIFY THAT EACH ACADEMIC YEAR'S ANNUAL MAXIMUM GRANT MUST BE BASED ON THE AMOUNT OF AVAILABLE PROGRAM FUNDS; TO AMEND SECTION 59-114-40, AS AMENDED, RELATING TO THE NATIONAL GUARD COLLEGE ASSISTANCE PROGRAM QUALIFICATION REQUIREMENTS, SO AS TO PROVIDE THAT NATIONAL GUARD MEMBERS BECOME ELIGIBLE FOR COLLEGE ASSISTANCE PROGRAM GRANTS UPON COMPLETION OF BASIC TRAINING AND ADVANCED INDIVIDUAL TRAINING; AND TO AMEND SECTION 59-114-65, RELATING TO GRANT AVAILABILITY, SO AS TO ALLOW APPROPRIATIONS TO THE NATIONAL GUARD COLLEGE ASSISTANCE PROGRAM TO BE CARRIED FORWARD TO A SUBSEQUENT FISCAL YEAR AND EXPENDED FOR THE SAME PURPOSE, AND TO EXEMPT APPROPRIATIONS TO THE NATIONAL GUARD COLLEGE ASSISTANCE PROGRAM FROM MIDYEAR BUDGET REDUCTIONS.

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

Determination of maximum grant

SECTION 1. Section 59-114-30 of the 1976 Code, as last amended by Act 40 of 2007, is further amended to read:

"Section 59-114-30. Qualifying members of the National Guard may receive college assistance program grants up to an amount equal to one hundred percent of college tuition and fees, provided, however, the total of all grants received may not exceed eighteen thousand dollars. A member may not qualify for college assistance program grants for more than one hundred thirty semester hours or related quarter hours. Grants are not to be awarded for graduate degree courses. A new application must be submitted for each separate academic year prior to the beginning of the academic year. The annual maximum grant must be determined for each academic year based on the amount of available program funds."

Determination of eligibility

SECTION 2. Section 59-114-40(B) of the 1976 Code, as last amended by Act 40 of 2007, is further amended to read:

"(B) Individuals joining the National Guard become eligible for college assistance program grants upon completion of basic training and Advanced Individual Training (AIT). Enlisted personnel shall continue their service in the National Guard during the term of the courses covered by the grant received. Officers shall continue their service with the National Guard for at least four years after completion of the most recent grant awarded or degree completion."

Appropriations carry forward and exemption

SECTION 3. Section 59-114-65 of the 1976 Code, as added by Act 40 of 2007, is amended to read:

"Section 59-114-65. Grants provided pursuant to this chapter are subject to the availability of funds appropriated by the General Assembly. Funds appropriated for the college assistance program may be carried forward and expended for the same purpose. If a midyear

budget reduction is imposed by the General Assembly or the State Budget and Control Board, the appropriations for the college assistance program are exempt. Up to five percent of the amount appropriated to the college assistance program may be used to defray administrative costs incurred by the commission associated with the implementation of this chapter."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 152

(R161, H3978)

AN ACT TO AMEND ARTICLE 2, CHAPTER 7, TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEDICAID NURSING HOME PERMITS, SO AS TO DEFINE "MEDICAID PERMIT DAY", TO SPECIFY THE MANNER IN WHICH ADDITIONAL MEDICAID PERMIT DAYS ARE ALLOCATED, TO SET FORTH COMPLIANCE STANDARDS AND PENALTIES FOR VIOLATIONS, AND TO PROVIDE CERTAIN REPORTING REQUIREMENTS.

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

Medicaid permit day, allocation of days, penalties

SECTION 1. Article 2, Chapter 7, Title 44 of the 1976 Code is amended to read:

"Article 2

Medicaid Nursing Home Permits

Section 44-7-80. For the purposes of this article:

(1) 'Nursing home' means a facility with an organized nursing staff to maintain and operate organized facilities and services to accommodate two or more unrelated persons over a period exceeding twenty-four hours, which is operated either in connection with a hospital or as a freestanding facility for the express or implied purpose of providing intermediate or skilled nursing care for persons who are not in need of hospital care. Rehabilitative therapies may be provided on an outpatient basis.

(2) 'Medicaid nursing home permit' means a permit to serve Medicaid patients in an appropriately certified nursing home.

(3) 'Medicaid patient' means a person who is eligible for Medicaid (Title XIX) sponsored long-term care services.

(4) 'Medicaid patient day' means a day of nursing home care for which a nursing home receives Medicaid reimbursement.

(5) 'Medicaid permit day' means a day of service provided to a Medicaid patient in a Medicaid-certified nursing home which holds a Medicaid days permit.

(6) 'Department' means the Department of Health and Environmental Control.

Section 44-7-82. No nursing home may provide care to Medicaid patients without first obtaining a permit in the manner provided in this article.

Section 44-7-84. (A) In the annual appropriations act, the General Assembly shall establish the maximum number of Medicaid patient days for which the department is authorized to issue Medicaid nursing home permits. The State Department of Health and Human Services shall provide the number of Medicaid patient days available to the department within thirty days after the effective date of the annual appropriations act.

(B) Based on a method the department develops for determining the need for nursing home care for Medicaid patients in each area of the State, the department shall determine the distribution of Medicaid patient days for which Medicaid nursing home permits can be issued. Nursing homes holding a Medicaid nursing home permit must be allocated Medicaid days based on their current allocation and available funds. Requests for days must be submitted to the department no later than June fifteenth each year. The department shall issue permits to the facilities by August first of each year. The application must state the specific number of Medicaid patient days the nursing home will

provide. If a nursing home requests fewer days than the previous year, or is permitted fewer days, those days first must be offered to the facilities within the same county currently holding a Medicaid nursing home permit. However, if Medicaid patient days remain available after being offered to those nursing homes currently holding a Medicaid patient days permit in that county, then existing nursing homes with a restricted Certificate of Need, within the same county, may apply for a Medicaid nursing home permit to receive the Medicaid permit days remaining available. Following the initial allocation of Medicaid patient days, any additional Medicaid permit days must be credited to a statewide pool and the days must be allocated to those counties showing the greatest need based on the average number of fully eligible Medicaid nursing facility applicants by county in the Community Long Term Care awaiting placement reports for the past twelve months. The Department of Health and Human Services shall provide this information to the department no later than July fifteenth of each year. The Medicaid permit days must be proportionately allocated to each facility within the county that currently holds a Medicaid permit and is currently in compliance with its Medicaid permit. A facility is deemed to be in compliance for allocation of these additional Medicaid permit days if it has not exceeded its stated Medicaid permit by more than seven percent. In addition, a nursing home that provides less than ninety percent of the stated Medicaid permit in any fiscal year may not apply for additional Medicaid permit days in the next fiscal year. If a nursing home fails to provide ninety percent of the stated Medicaid permit days for two consecutive fiscal years, the department may issue a Medicaid nursing home permit for fewer days than requested in order to ensure that the nursing home will serve the minimum number of Medicaid patients and that the State will optimize the available Medicaid days. If a nursing home has its Medicaid patient days reduced, the freed days first must be offered to other facilities in the same county before being offered to other nursing homes in the State. The department shall analyze the performance of nursing homes that are under the permit minimum or exceed the permit maximum for a fiscal year, including utilization data from the State Department of Health and Human Services, anticipated back days, delayed payments, CLTC waiting list, and other factors considered significant by the department. A nursing home which terminates its Medicaid contract must not be penalized for not meeting the requirements of this section if the nursing home was in compliance with its permit at the time of the cancellation. Facilities designated as

Special Focus Facilities may not be issued additional Medicaid permit days while they remain on the Special Focus list.

(C) If the Department of Health and Human Services or the General Assembly decreases the number of Medicaid patient days available to the department, the department shall proportionately decrease the authorized Medicaid patient days for each nursing home. If additional Medicaid patient days are authorized in the following year, they must be restored proportionately to each nursing home in accordance with subsection (B).

Section 44-7-88. Nursing home patients may not be involuntarily discharged or transferred due to the Medicaid status. If no Medicaid patients are waiting for admission to the nursing home, or if for some other reason a nursing home anticipates the possibility that the home cannot satisfy the Medicaid nursing home permit requirements, the home may request a waiver of the Medicaid permit requirements from the department.

Section 44-7-90. (A) Based on reports from the State Department of Health and Human Services, the department shall determine each nursing home's compliance with its Medicaid nursing home permit. Violations of this article include:

(1) a nursing home exceeding by more than five percent the number of Medicaid patient days stated in its permit;

(2) the provisions of any Medicaid patient days by a home without a Medicaid nursing home permit.

(B) A nursing home which exceeds its Medicaid patient days stated in its permit may be fined on the number of Medicaid patient days exceeding the permit days multiplied by its daily Medicaid per diem. Medicaid permit days provided to Complex Care residents, as certified by the Department of Health and Human Services, must not be counted against the facility's Medicaid permit for the first six months of their care. Any complex care provided after six months must be counted toward the facility's Medicaid patient days under the permit days times their daily Medicaid per diem rate less the statewide average patient per diem recurring income times thirty percent. Complex Care reimbursement must not be used in the fine calculation. A facility may be fined incrementally for exceeding its Medicaid permit. Violations above five and up to ten percent of the stated permit may be fined at thirty percent of its Medicaid per diem rate less the statewide average patient per diem recurring income times the number of excess Medicaid permit days. A facility may be fined fifty percent of its

Medicaid per diem rate less the statewide average patient per diem recurring income for each day above ten and up to fifteen percent of its Medicaid permit. A facility may be fined seventy percent of its Medicaid per diem rate less the statewide average patient per diem recurring income for each day in excess of fifteen percent of its stated Medicaid permit. A facility may appeal to the department any fine for days over its permit based on the facility's inability to discharge a resident based on the requirements of Section 44-7-88 if the facility can prove:

(1) the resident's primary pay source upon admission was not Medicaid;

(2) the resident did not convert to Medicaid within twenty days of being admitted as a Medicare or Medicaid replacement policy resident; and

(3) the resident did not convert to Medicaid within thirty days of being admitted as a private pay resident.

(C) In the event of a voluntary or involuntary discontinuation of participation of a nursing facility in the Medicaid program, the State must ensure that the facility provides for patient safety and freedom of choice. The Department of Health and Environmental Control and the Department of Health and Human Services must determine the availability of existing patient days statewide for the purpose of relocating these patients. Based upon this determination, the department, at its discretion, may reallocate the patient days from a facility discontinuing its Medicaid participation to a facility that participates in the Medicaid program and agrees to accept the residents from the facility that is discontinuing Medicaid participation. The Medicaid permit day shall permanently remain with the facility accepting the resident. In the allocation of patient days from the facility discontinuing Medicaid participation, the department must give first priority to restoring a county's allocation where a facility holding a permit closes, or discontinues participation in Medicaid. A nursing home receiving beds under the provisions of this subsection must not be a Special Focus Facility at the time of allocation.

(D) Effective July 1, 2014, all nursing facility providers holding a Medicaid permit must report their daily Medicaid resident census information to the South Carolina Department of Health and Human Services or its contractor for the purpose of maintaining a statewide bed locator and permit day tracking system.

(E) Each Medicaid day above the allowable range is considered a separate violation. A fine assessed against a nursing home must be deducted from the nursing home's Medicaid reimbursement."

Time effective

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

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 153

(R162, H4347)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SOUTH CAROLINA CHILDREN'S ADVOCACY MEDICAL RESPONSE SYSTEM ACT" BY ADDING ARTICLE 4 TO CHAPTER 11, TITLE 63 SO AS TO CREATE THE SOUTH CAROLINA CHILDREN'S ADVOCACY MEDICAL RESPONSE SYSTEM, A PROGRAM TO PROVIDE COORDINATION AND MEDICAL SERVICE RESOURCES STATEWIDE TO AGENCIES AND ENTITIES THAT RESPOND TO VICTIMS OF CHILD ABUSE AND NEGLECT, AND TO PROVIDE FOR THE DUTIES AND RESPONSIBILITIES OF THE PROGRAM.

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

South Carolina Children's Advocacy Medical Response System created, duties, and purpose

SECTION 1. Chapter 11, Title 63 of the 1976 Code is amended by adding:

"Article 4

South Carolina Children's Advocacy Medical Response System

Section 63-11-400. This article may be cited as the 'South Carolina Children's Advocacy Medical Response System Act'.

Section 63-11-410. There is created the South Carolina Children's Advocacy Medical Response System, a program to provide coordination and administration of medical service resources to those entities responding to cases of suspected child abuse or neglect. The program is administered by the University of South Carolina School of Medicine.

Section 63-11-420. For purposes of this article:

(1) 'Child' has the same meaning as provided for in Section 63-7-20.

(2) 'Child abuse or neglect' has the same meaning as provided for in Section 63-7-20.

(3) 'Children's advocacy centers' has the same meaning as provided for in Section 63-11-310.

(4) 'Program' means the South Carolina Children's Advocacy Medical Response System, created pursuant to this article.

(5) 'Health care provider' means a physician, advanced practice registered nurse, or physician assistant licensed to practice in this State pursuant to Article 1, Chapter 47, Title 40, Article 1, Chapter 33, Title 40, and Article 7, Chapter 47, Title 40, respectively.

Section 63-11-430. (A) The program coordinates and administers child abuse medical service resources for the State, assisting and collaborating with children's advocacy centers and state agencies charged with the investigation, assessment, treatment, and prosecution of child abuse or neglect for children in the State.

(B) The program shall develop, support, and maintain a consistent quality standard of care and practice for the following services intrinsic to the assessment of children with suspected abuse or neglect:

(1) forensic medical examinations, assessments, and diagnoses;

(2) medical consultations;

(3) participation in multidisciplinary team case conferences and reviews; and

(4) medical expert witness services.

(C) The program also shall develop, support, and maintain:

(1) guidelines for the educational, clinical training, and professional development requirements of health care providers participating in the forensic medical assessment of children who are suspected victims of child abuse or neglect;

(2) a standardized clinical assessment tool to report the findings of the forensic medical assessment; and

(3) guidelines for the South Carolina Department of Social Services and law enforcement agencies on when to obtain a forensic medical assessment.

(D) The program shall collect and manage data from child abuse health care providers participating in the program, children's advocacy centers, and children's hospitals for the purposes of establishing quality assurance programs, research, and public policy guidance."

Time effective

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

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 154

(R163, H4541)

AN ACT TO AMEND SECTION 50-13-325, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TAKING OF CERTAIN NONGAME FISH IN GILL NETS AND SHAD NETS, SO AS TO REVISE THE RESTRICTIONS PLACED ON SETTING NETS ALONG THE LITTLE PEE DEE RIVER UPSTREAM OF PUNCH BOWL LANDING.

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

Taking of nongame fish in freshwaters

SECTION 1. Section 50-13-325(A) of the 1976 Code, as last amended by Act 17 of 2013, is further amended to read:

"(A) The season for taking nongame fish other than American shad and herring in the freshwaters of this State with a gill net is from November first to March first inclusive. A gill net may be used or possessed in the freshwaters in which their use is authorized on Wednesdays, Thursdays, Fridays, and Saturdays only. A gill net used

in the freshwaters must have a mesh size not less than four and one-half inches stretch mesh. A gill net measuring more than one hundred yards in length must not be used in the freshwaters and a gill net, cable, line or other device used for support of a gill net may not extend more than halfway across any stream or body of water. A gill net may be placed in the freshwaters on a first come first served basis but a gill net must not be placed within two hundred yards of another gill net. However, notwithstanding another provision of law, along the Little Pee Dee River upstream of Punch Bowl Landing, no net may be set within seventy-five feet of a gill net previously set, or drifted within seventy-five feet of another drifting net. Use or possession of a gill net at any place or time other than those prescribed in this subsection is unlawful."

Time effective

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

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

No. 155

(R170, H3919)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-18-325 SO AS TO PROVIDE THAT ALL STUDENTS ENTERING THE ELEVENTH GRADE FOR THE FIRST TIME IN SCHOOL YEAR 2014-2015 AND SUBSEQUENT YEARS MUST BE ADMINISTERED A COLLEGE AND CAREER READINESS ASSESSMENT AND A WORKKEYS ASSESSMENT, AND TO PROVIDE FOR THE ACCEPTABLE USES OF THESE ASSESSMENT RESULTS; TO AMEND SECTION 59-18-310, AS AMENDED, RELATING TO THE EXIT EXAM REQUIRED FOR HIGH SCHOOL GRADUATION, SO AS TO ELIMINATE THIS REQUIREMENT FOR STUDENTS BEGINNING WITH THE GRADUATING CLASS OF 2015, TO PROVIDE PROCEDURES THAT FORMER PUBLIC HIGH SCHOOL

STUDENTS WHO DID NOT GRADUATE OR RECEIVE A DIPLOMA SOLELY FOR FAILING THIS EXIT EXAM MAY PETITION BY JANUARY 31, 2015 TO OBTAIN A HIGH SCHOOL DIPLOMA, TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO ADVERTISE INFORMATION ABOUT THIS PETITION PROCESS TO THE PUBLIC IN A CERTAIN MANNER, TO PROVIDE RELATED REPORTING REQUIREMENTS OF SCHOOL DISTRICTS AND THE DEPARTMENT, AND TO REQUIRE THE DEPARTMENT TO REMOVE ANY CONFLICTING REQUIREMENTS AND PROMULGATE REGULATIONS WITH CONFORMING CHANGES; TO AMEND SECTION 59-18-950, RELATING TO PUBLIC SCHOOL AND PUBLIC SCHOOL DISTRICT REPORT CARDS, SECTION 59-48-35, RELATING TO THE GOVERNOR'S SCHOOL FOR SCIENCE AND MATHEMATICS, AND SECTION 59-139-60, RELATING TO ASSESSMENTS OF EARLY CHILDHOOD ACADEMIC ASSISTANCE, ALL SO AS TO MAKE CONFORMING CHANGES.

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

High school exit exam eliminated

SECTION 1. Section 59-18-310(B) of the 1976 Code, as last amended by Act 282 of 2008, is further amended to read:

"(B)(1) The statewide assessment program must include the subjects of English/language arts, mathematics, science, and social studies in grades three through eight, as delineated in Section 59-18-320(B), to be first administered in 2009, and end-of-course tests for gateway courses awarded units of credit in English/language arts, mathematics, science, and social studies. Student performance targets must be established following the 2009 administration. The assessment program must be used for school and school district accountability purposes beginning with the 2008-2009 school year. The publication of the annual school and school district report card may be delayed for the 2008-2009 school year until no later than February 15, 2010. A student's score on an end-of-year assessment may not be the sole criterion for placing the student on academic probation, retaining the student in his current grade, or requiring the student to attend summer school. Beginning with the graduating class of 2010, students are

required to pass a high school credit course in science and a course in United States history in which end-of-course examinations are administered to receive the state high school diploma. Beginning with the graduating class of 2015, students are no longer required to meet the exit examination requirements set forth in this section and State Regulation to earn a South Carolina high school diploma.

(2) A person who is no longer enrolled in a public school and who previously failed to receive a high school diploma or was denied graduation solely for failing to meet the exit exam requirements pursuant to this section and State Regulation may petition the local school board to determine the student's eligibility to receive a high school diploma pursuant to this chapter. The local school board will transmit diploma requests to the South Carolina Department of Education in accordance with department procedures. Petitions under this section must be submitted to the local school district by December 31, 2015. Students receiving diplomas in accordance with this section shall not be counted as graduates in the graduation rate calculations for affected schools and districts, either retroactively or in current or future calculations. On or before January 31, 2017, the South Carolina Department of Education shall report to the State Board of Education and the General Assembly the number of diplomas granted, by school district, under the provision. The State Board of Education shall remove any conflicting requirement and promulgate conforming changes in its applicable regulations. The department shall advertise the provisions of this item in at least one daily newspaper of general circulation in the area of each school district within forty-five days after this enactment. At a minimum, this notice must consist of two columns measuring at least ten inches in length and measuring at least four and one-half inches in combined width, and include:

(a) a headline printed in at least a twenty-four point font that is boldfaced;

(b) an explanation of who qualifies for the petitioning option;

(c) an explanation of the petition process;

(d) a contact name and phone number; and

(e) the deadline for submitting a petition."

Governor's School for Science and Math, conforming change

SECTION 2. Section 59-48-35 of the 1976 Code is amended to read:

"Section 59-48-35. The students enrolled in the Special School of Science and Mathematics who earn a total of twenty units of credit

distributed as specified in the Defined Minimum Program for South Carolina school districts and who meet the school's requirements for graduation are eligible to receive a state high school diploma. The board of the special school, in its discretion, may issue its own high school diploma."

Early childhood academic assistance assessment, conforming change

SECTION 3. Section 59-139-60 of the 1976 Code is amended to read:

"Section 59-139-60. The State Board of Education, through the State Department of Education and in consultation with the Education Oversight Committee, shall establish an assessment system to evaluate the degree to which the purposes of this chapter are met. To that end, the State Board of Education, through the Department of Education shall:

(1) develop or adapt a developmentally appropriate assessment program to be administered to all public school students by the end of grade three that is designed to measure a student's strengths and weaknesses in skills required to perform academic work considered to be at the fourth grade level. Information on each student's progress and on areas in need of improvement must be provided to the student's parent and fourth grade teacher. Aggregated information on student progress must be given to the students' kindergarten through third grade schools so that deficiencies in the schools' academic programs can be addressed;

(2) review the performance of students on the eighth grade basic skills assessment test pursuant to Section 59-30-10, or its equivalent, for progress in meeting the skill levels required by these examinations. Student data must be aggregated by the schools the students attended so that programs' deficiencies can be addressed;

(3) review the data on students overage for grade in each school at grades four and nine;

(4) monitor the performance of schools and districts so that continuing weaknesses in the programs preparing students for the fourth grade and ninth grade shall receive special assistance from the Department of Education; and

(5) propose other methods or measures for assessing how well the purposes of this chapter are met."

College and career readiness assessment created

SECTION 4. Article 3, Chapter 18, Title 59 of the 1976 Code is amended by adding:

"Section 59-18-325. (A) All students entering the eleventh grade for the first time in school year 2014-2015 and subsequent years must be administered a college and career readiness assessment as required by the federal Individuals with Disabilities Education Improvement Act and by Title 1 of the Elementary and Secondary Education Act and that is from a provider secured by the department. In addition, all students entering the eleventh grade for the first time in school year 2014-2015 and subsequent years must be administered a WorkKeys assessment. The results of the assessments must be provided to each student, their respective schools, and to the State to:

(1) assist students, parents, teachers, and guidance counselors in developing individual graduation plans and in selecting courses aligned with each student's future ambitions;

(2) promote South Carolina's Work Ready Communities initiative; and

(3) meet federal and state accountability requirements.

(B) Students subsequently may use the results of these assessments to apply to college or to enter careers. The results must be added as part of each student's permanent record and maintained at the department for at least ten years. The purpose of the results is to provide instructional information to assist students, parents, and teachers to plan for each student's course selection. This course selection might include remediation courses, dual-enrollment courses, advanced placement courses, internships, or other options during the remaining semesters in high school."

School and school district report cards, conforming change

SECTION 5. Section 59-18-950 of the 1976 Code is amended to read:

"Section 59-18-950. Notwithstanding another provision of law to the contrary, the Education Oversight Committee may base ratings for school districts and high schools on criteria that include graduation rates and other criteria identified by technical experts and appropriate groups of educators and workforce advocates."

Time effective

SECTION 6. This act takes effect upon approval of the Governor except as otherwise provided.

Ratified the 10th day of April, 2014.

Approved the 14th day of April, 2014.

No. 156

(R171, H4574)

AN ACT TO AMEND SECTION 40-23-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING THE ENVIRONMENTAL CERTIFICATION BOARD, SO AS TO REVISE AND ADD DEFINITIONS; TO AMEND SECTION 40-23-90, RELATING TO BOARD INVESTIGATIONS OF COMPLAINTS AGAINST LICENSEES, SO AS TO CHANGE THE MANNER IN WHICH AN INITIAL COMPLAINT MAY BE REFERRED TO AN INVESTIGATOR; TO AMEND SECTION 40-23-95, RELATING TO REFERRALS OF VIOLATIONS FROM THE DEPARTMENT OF LABOR, LICENSING AND REGULATION TO THE BOARD, SO AS TO ELIMINATE THE AUTHORITY OF THE BOARD WITH RESPECT TO REPORTS OF CERTAIN VIOLATIONS THAT DO NOT ALLEGE UNLICENSED PRACTICE; TO AMEND SECTION 40-23-230, RELATING TO LICENSEES, SO AS TO ELIMINATE A PROVISION THAT ENABLES CERTAIN LICENSEES FROM OBTAINING CLASS "A" OR CLASS "B" WELL DRILLER LICENSES WHEN MEETING CERTAIN CRITERIA; TO AMEND SECTION 40-23-300, RELATING TO CERTIFICATION CLASSES OF WATER TREATMENT OPERATORS, SO AS TO REVISE CRITERIA FOR TRAINEE WATER OPERATORS AND CLASS "E" WATER TREATMENT OPERATORS; TO AMEND SECTION 40-23-310, RELATING TO WATER DISTRIBUTION SYSTEM OPERATOR LICENSES, SO AS TO REVISE CRITERIA FOR TRAINEE WATER DISTRIBUTION SYSTEM OPERATORS AND CLASS "D" WATER DISTRIBUTION SYSTEM

OPERATORS; TO AMEND SECTION 40-23-320, RELATING TO LICENSURE AS A CLASS "C" ENVIRONMENTAL, COASTAL, OR ROCK WELL DRILLER, SO AS TO REMOVE THE MINIMUM AGE REQUIREMENTS, AND TO REPLACE THE REQUIREMENT OF HAVING AT LEAST ONE YEAR OF EXPERIENCE AS AN APPRENTICE WITH AT LEAST ONE YEAR OF EXPERIENCE AS A CLASS "D" WELL DRILLER; AND TO AMEND SECTION 40-23-340, RELATING TO RESTRICTIONS ON WELL DRILLERS ACCORDING TO CLASSIFICATION OF THE WELL DRILLER, SO AS TO REVISE RESTRICTIONS ON CLASS "D" AND CLASS "C" WELL DRILLERS.

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

Definitions

SECTION 1. Section 40-23-20 of the 1976 Code is amended to read:

"Section 40-23-20. When used in this chapter:

(1) 'Abate' or 'abatement' refers to actions taken to ameliorate or correct conditions requiring remediation as defined in this section.

(2) 'Accessible supervision' means the supervisor is on-site or immediately available to supervised persons via telephone, radio, or other electronic means.

(3) 'Board' means the South Carolina Environmental Certification Board.

(4) 'Bored' means a large diameter well, commonly greater than or equal to twenty-four inches in diameter, which is typically installed at a very shallow depth and constructed of rock, concrete, or ceramic material.

(5) 'Certificate of Registration', 'Certificate', or 'License' means a serially numbered document issued by the board, containing the name of the person registered, certified, or licensed and the date of registration, certification, or licensing and certifying that the person named is authorized to practice a profession regulated by the board as specified on said document.

(6) 'Coastal well' means an opening into the ground, which qualifies as a 'well' of Type II, III, IV, or V construction as defined in this section, that is made by boring, drilling, jetting, driving, direct push technology, or any other method into unconsolidated materials, and that does not qualify as an environmental well.

(7) 'Director' means the Director of Labor, Licensing and Regulation.

(8) 'Direct push technology' means the creation of a man-made opening in the earth through the use of mechanical means wherein a tool is forced or hammered into the earth. Direct push technology includes but is not limited to cone penetrometers.

(9) 'Direct supervision' means supervision provided by a licensee who must:

(a) be on-site or immediately available to supervise persons by means of telephone, radio, or other electronic means; and

(b) maintain continued involvement in appropriate aspects of each professional activity of the supervisee.

(10) 'Environmental systems operator' is a generic term for any occupation licensed by the board.

(11) 'Environmental well' means an opening into the ground which qualifies as a 'well' of Type I, II, III, IV, or V construction as defined in this section, that is made by boring, drilling, jetting, driving, direct push technology, or any other method for obtaining a sample of underground waters or soils for environmental or geological investigation or research or for environmental remediation, where the depth of the opening is reasonably likely to penetrate the water table.

(12) 'Explorational boring' means a borehole for the purpose of subsurface, mineral investigation, exploration, and mineral sampling that can be converted later to measure groundwater levels.

(13) 'Human consumption' means water used for drinking, bathing, cooking, dishwashing, maintaining oral hygiene, or other similar uses.

(14) 'Licensed activity' means any operation, function, or action of any kind in which one may not engage, or offer to engage, without a license issued pursuant to this chapter.

(15) 'Licensee' means a person currently or previously authorized to practice a licensed activity pursuant to this chapter and includes a person holding a license, permit, certification, or registration granted pursuant to this chapter.

(16) 'Operator' when used in reference to public water or wastewater treatment means a person employed in a public water treatment facility or public wastewater treatment plant whose duties include alteration of the physical, chemical, or bacteriological characteristics of water or wastewater. When used in reference to public water distribution, 'operator' means a person employed in a public water distribution system whose duties include making process control and system integrity decisions about water quality or quantity that affect public health.

(17) 'Person' means an individual, partnership, copartnership, cooperative, firm, company, public or private corporation, political subdivision, government agency, trust, estate, joint structure company, or any other legal entity or its legal representative, agent, or assigns.

(18) 'Public wastewater treatment plant' means that portion of any system that treats domestic or industrial waste and that alters physical, chemical, or bacteriological characteristics before placing the waste into any receiving waters.

(19) 'Public water distribution system' means that portion of a public water system that is utilized for the delivery of water for human consumption, whether bottled, piped, or delivered through some other constructed conveyance, up to the point of consumer or owner connection.

(20) 'Public water system' means:

(a) any publicly or privately owned waterworks system which provides water, whether bottled, piped, or delivered through some other constructed conveyance, for human consumption, including the source of supply whether the source of supply is of surface or subsurface origin;

(b) all structures and appurtenances used for the collection, treatment, storage, or distribution of water delivered to point of meter of consumer or owner connection;

(c) any part or portion of the system, including any water treatment facility, which in any way alters the physical, chemical, radiological, or bacteriological characteristics of the water; however, a public water system does not include a water system serving a single private residence or dwelling. A separately owned system with its source of supply from another waterworks system must be a separate public water system. A connection to a system that delivers water by a constructed conveyance other than a pipe must not be considered a connection if:

(i) the water is used exclusively for purposes other than residential uses consisting of drinking, bathing, and cooking or similar uses;

(ii) the Department of Health and Environmental Control determines that alternative water sources to achieve the equivalent level of public health protection provided by the applicable State Primary Drinking Water Regulations is provided for residential or similar uses for drinking or cooking; or

(iii) the Department of Health and Environmental Control determines the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the

point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level or protection provided by the applicable State Primary Drinking Water Regulations.

(21) 'Public water system treatment facility' means that portion of a public water system that alters the physical, chemical, or bacteriological characteristics of water furnished to the public for human consumption, whether the source of supply is of surface or subterranean origin.

(22) 'Remediation' means the correction, repair, restoration, or any other action taken in order to bring any condition or circumstance into compliance with a statute, standard, or regulation.

(23) 'Rock well' means an opening into the ground, which qualifies as a 'well' of Type I construction as defined in this section, that is made by boring, drilling, jetting, driving, direct push technology, or any other method into consolidated materials, and that does not qualify as an environmental well.

(24) 'Safe Drinking Water Act' means Article 1, Chapter 55, Title 44.

(25) 'Soil sampling' means the extraction of soils from beneath the surface of the earth by mechanical means for the purpose of environmental or geological investigation or research or for environmental remediation, where the depth of the opening is reasonably likely to penetrate the water table.

(26) 'Well' means a manmade horizontal, vertical, or angled opening in the ground made by digging, boring, drilling, jetting, driving, direct push technology, or any other method through which water is injected or withdrawn from beneath the surface of the earth for the purpose of human consumption, irrigation, industrial or commercial processes, or construction of closed loop systems. The duration of, existence of, or use of any well is of no consequence for purposes of this definition. For purposes of this chapter, wells are categorized by the following types of construction:

(a) Construction Type I: open hole wells into bedrock aquifers;

(b) Construction Type II: screened, natural filter wells into unconsolidated aquifers;

(c) Construction Type III: screened, artificial filter wells into unconsolidated aquifers including, but not limited to, gravel pack filters;

(d) Construction Type IV: open hole wells into limestone aquifers;

(e) Construction Type V: bored wells;

(f) Construction Type VI: environmental wells of any other construction method.

(27) 'Well drilling category' means the taxonomy of well drilling licenses according to the type of well a licensee is authorized to construct including, but not limited to, environmental wells, coastal wells, rock wells, and bored wells."

Complaint referrals

SECTION 2. Section 40-23-90 of the 1976 Code is amended to read:

"Section 40-23-90. Presentation of results of an investigation and proceedings pursuant to this chapter must be conducted as provided in Section 40-1-90. The board may receive complaints by any person against a licensee and may require the complaints to be submitted in writing, specifying the exact charge or charges and to be signed by the initial complainant. Upon receipt of an initial complaint, where appropriate, the initial complaint may be referred to an investigator of the department, who shall investigate the allegations in the complaint. The results of any investigation must be reported to the board. If from these results it appears a violation has occurred or a licensee has become unfit to practice, the board may authorize the department to issue a formal complaint for disciplinary action as authorized by Section 40-1-120 or 40-23-120."

Administrative citations for violations

SECTION 3. Section 40-23-95(A) of the 1976 Code is amended to read:

"(A) The department may issue administrative citations and cease and desist orders, in person or by certified mail, and may assess administrative penalties against any person for a violation of this chapter."

Well driller license requirements

SECTION 4. Section 40-23-230 of the 1976 Code is amended to read:

"(A) The board may issue a license to an applicant if he satisfies all licensure requirements of this chapter. A license confers a personal right and is not transferable, and the issuance of a license is evidence

that the person is entitled to all rights and privileges of a licensee while the license remains current and unrestricted. A license is the property of the State and upon suspension or revocation must be returned to the board immediately.

(B) A license issued under this chapter is renewable:

(1) as provided for in Section 40-1-30;

(2) upon the payment of a renewal fee; and

(3) upon the fulfillment of continuing education as determined by the board in regulation.

(C) The department may reinstate the license of a licensee who allows his license to lapse by failing to renew the license as provided in this section if the licensee:

(1) makes payment of a reinstatement fee and the current renewal fee;

(2) files an application for renewal within three hundred sixty-five days of the date on which the license expired; and

(3) demonstrates he complies with the current continuing education requirements of the prior licensing period or that he complies with the current continuing education requirements after the department renews his license, provided he does not engage in licensed activity until he has completed the continuing education requirement.

(D) A licensee shall ensure that the board administrator has the licensee's correct official mailing address of record and that the administrator is expressly and specifically notified in writing and in a timely manner of any change in the licensee's official mailing address."

Trainee water treatment operator license requirements

SECTION 5. Section 40-23-300(B)(1) and (2) of the 1976 Code is amended to read:

"(1) To be licensed by the board as a Trainee Water Treatment Operator, an applicant must submit an application on forms approved by the board and the prescribed fee.

(2) To be licensed by the board as a Class 'E' Water Treatment Operator, an applicant must:

(a) hold a valid Trainee Operator license;

(b) have completed high school or the equivalent;

(c) pass an examination approved by the board;

(d) have completed at least six months of actual operating experience as an operator of a public water treatment facility; and

(e) submit an application on forms approved by the board and the prescribed fee."

Trainee water distribution operator license requirements

SECTION 6. Section 40-23-310(B)(1) and (2) of the 1976 Code is amended to read:

"(1) To be licensed by the board as a Trainee Water Distribution System Operator, an applicant must submit an application on forms approved by the board and the prescribed fee.

(2) To be licensed by the board as a Class 'D' Water Distribution System Operator, an applicant must:

(a) hold a valid Trainee Operator license;

(b) have completed high school or the equivalent;

(c) pass an examination approved by the board;

(d) have completed at least one year of actual operating experience as an operator of a public water distribution system facility; and

(e) submit an application on forms approved by the board and the prescribed fee."

Environmental, coastal, or rock well driller license requirements

SECTION 7. Section 40-23-320(C)(3) of the 1976 Code is amended to read:

"(3) complete at least one year of experience as a Class 'D' well driller, primarily spent in installing wells of the well drilling category for which Class 'C' status is sought;"

Well driller work restrictions

SECTION 8. Section 40-23-340(B)(1) and (2) of the 1976 Code is amended to read:

"(1) A Class 'D' well driller may not engage in the construction of wells that are not within the well drilling category for which the Class 'D' well driller is licensed. Further, a Class 'D' well driller may practice only as a bona fide employee of a Class 'A' or Class 'B' driller, and under direct supervision of a Class 'A', Class 'B', or Class

'C' driller who is licensed to practice in the same well drilling category of the Class 'D' driller.

(2) A Class 'C' well driller may not engage in the construction of or supervise the construction of wells that are not within the well drilling category for which the Class 'C' driller is licensed. Further, a Class 'C' driller may practice only as a bona fide employee and under the direct supervision of a Class 'A' or Class 'B' driller who is licensed to practice in the same well drilling category of the Class 'C' driller."

Time effective

SECTION 9. This act takes effect upon approval by the Governor.

Ratified the 10th day of April, 2014.

Approved the 14th day of April, 2014.

No. 157

(R172, H4604)

AN ACT TO AMEND SECTION 40-22-280, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXEMPTIONS FROM THE LICENSURE REQUIREMENT TO PRACTICE ENGINEERING, SO AS TO PROVIDE AN EXEMPTION FOR CERTAIN ACTIVITIES PERFORMED BY FULL-TIME EMPLOYEES OR OTHER PERSONNEL OF A MANUFACTURING COMPANY, AND TO DEFINE NECESSARY TERMS.

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

Exceptions from engineering licensure, manufacturing settings

SECTION 1. Section 40-22-280(A) of the 1976 Code, as last amended by Act 55 of 2013, is further amended by adding an appropriately numbered item at the end to read:

"( ) the activities of full-time employees of a manufacturing company or other personnel under the direct supervision and control of

the manufacturing company, or a subsidiary of the manufacturing company, on or in connection with activities related to the research, development, design, fabrication, production, assembly, integration, installation, or service of products manufactured by the manufacturing company. This exemption does not apply to activities where the seal of a professional engineer is expressly required by statute, regulation, or building code, or to engineering services offered to the public. For the purposes of this item, 'manufacturing company' means a company that produces or assembles tangible personal property and 'other personnel' includes individuals employed by a staffing company working for the manufacturing company."

Time effective

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

Ratified the 10th day of April, 2014.

Approved the 14th day of April, 2014.

No. 158

(R166, S137)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT "EMMA'S LAW"; TO AMEND SECTION 56-1-286, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER'S LICENSE OF A PERSON UNDER THE AGE OF TWENTY-ONE FOR HAVING AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO MAKE TECHNICAL CHANGES, TO REDUCE THE TIME PERIOD FROM FIVE TO THREE YEARS IN WHICH A PERSON WHO REFUSES TO TAKE A BREATH TEST MUST HAVE HIS DRIVING RECORD EVALUATED TO DETERMINE WHETHER HIS DRIVING PRIVILEGE IS SUSPENDED FOR ONE YEAR FOR PREVIOUSLY VIOLATING A PROVISION THAT MAKES IT UNLAWFUL TO OPERATE A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS, TO REDUCE THE TIME PERIOD FROM FIVE TO THREE YEARS IN WHICH A

PERSON WHO HAS AN ALCOHOL CONCENTRATION OF TWO ONE-HUNDREDTHS OF ONE PERCENT OR MORE MUST HAVE HIS DRIVING RECORD EVALUATED TO DETERMINE WHETHER HIS DRIVING PRIVILEGE IS SUSPENDED FOR ONE YEAR FOR PREVIOUSLY VIOLATING A PROVISION THAT MAKES IT UNLAWFUL TO OPERATE A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS, TO DELETE REFERENCES TO SECTION 56-5-2950, TO DELETE THE TERM "ADMINISTRATIVE HEARING" AND REPLACE IT WITH THE TERM "CONTESTED CASE HEARING"; TO AMEND SECTION 56-1-400, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER'S LICENSE, A DRIVER'S LICENSE RENEWAL OR ITS RETURN, AND THE ISSUANCE OF A DRIVER'S LICENSE THAT RESTRICTS THE DRIVER TO OPERATING ONLY A VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE FOR THE ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE FOR THE VIOLATION OF CERTAIN MOTOR VEHICLE OFFENSES, TO PROVIDE A FEE FOR THE LICENSE, AND TO PROVIDE FOR THE DISPOSITION OF FEES COLLECTED FROM THE ISSUANCE OF THE LICENSE, TO REVISE THE PERIOD OF TIME THAT A PERSON'S DRIVER'S LICENSE MUST BE SUSPENDED WHEN HE REFUSES TO HAVE AN IGNITION INTERLOCK DEVICE INSTALLED ON HIS VEHICLE WHEN REQUIRED BY LAW AND WHEN HE CONSENTS TO HAVE THE DEVICE INSTALLED ON HIS VEHICLE, TO REVISE THE PROCEDURE WHEREBY A PERSON WHO ONLY MAY OPERATE A VEHICLE DURING THE TIME FOR WHICH HE IS SUBJECT TO HAVING AN IGNITION INTERLOCK DEVICE INSTALLED ON A VEHICLE MAY OBTAIN PERMISSION FROM THE DEPARTMENT OF MOTOR VEHICLES TO DRIVE A VEHICLE THAT IS NOT EQUIPPED WITH THIS DEVICE; TO AMEND SECTION 56-1-460, AS AMENDED, RELATING TO DRIVING A MOTOR VEHICLE WITH A CANCELED, SUSPENDED, OR REVOKED DRIVER'S LICENSE, SO AS TO REVISE THE PENALTY FOR A THIRD OR SUBSEQUENT OFFENSE, MAKE TECHNICAL CHANGES, AND TO PROVIDE THAT THIS PROVISION APPLIES ALSO TO A DRIVER'S LICENSE THAT IS SUSPENDED OR

REVOKED PURSUANT TO SECTION 56-5-2945; TO AMEND SECTION 56-1-748, AS AMENDED, RELATING TO THE ISSUANCE OF A RESTRICTED DRIVER'S LICENSE TO A PERSON WHO IS INELIGIBLE TO OBTAIN A SPECIAL RESTRICTED DRIVER'S LICENSE, SO AS TO MAKE TECHNICAL CHANGES, AND TO ALLOW A PERSON WHO POSSESSES A ROUTE-RESTRICTED DRIVER'S LICENSE TO USE THE DRIVER'S LICENSE TO ATTEND ALCOHOL AND DRUG SAFETY ACTION PROGRAM CLASSES OR A COURT-ORDERED DRUG PROGRAM IN ADDITION TO THE OTHER PERMITTED USES OF THE DRIVER'S LICENSE; TO REPEAL SECTION 56-1-1310 RELATING TO THE DEFINITION OF THE TERM "CONVICTED"; TO AMEND SECTION 56-1-1320, RELATING TO THE ISSUANCE OF A PROVISIONAL DRIVER'S LICENSE BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO MAKE TECHNICAL CHANGES; TO REPEAL SECTION 56-1-1350 RELATING TO THE DEPARTMENT OF MOTOR VEHICLES REQUIREMENT THAT A PERSON MUST PROVIDE PROOF OF FINANCIAL RESPONSIBILITY AND ASSURANCE OF HIS ACCEPTANCE INTO AN ALCOHOL TRAFFIC SAFETY SCHOOL PRIOR TO BEING ISSUED A PROVISIONAL DRIVER'S LICENSE; TO AMEND SECTION 56-5-2941, AS AMENDED, RELATING TO THE REQUIREMENT THAT A PERSON WHO IS CONVICTED OF CERTAIN OFFENSES SHALL HAVE AN IGNITION INTERLOCK DEVICE INSTALLED ON ANY MOTOR VEHICLE HE DRIVES, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT THIS SECTION APPLIES TO AN OFFENSE CONTAINED IN SECTION 56-5-2947, TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO CERTAIN PROVISIONS OF LAW, TO REVISE THE PROCEDURES THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL FOLLOW WHEN IT WAIVES OR WITHDRAWS THE WAIVER OF THE REQUIREMENTS OF THIS SECTION, TO REVISE THE TIME THAT A DEVICE IS REQUIRED TO BE AFFIXED TO A MOTOR VEHICLE, TO REVISE THE LENGTH OF TIME A PERSON MUST HAVE A DEVICE INSTALLED ON A VEHICLE BASED UPON THE ACCUMULATION OF POINTS UNDER THE IGNITION INTERLOCK DEVICE POINT SYSTEM, TO PROVIDE FOR THE USE OF FUNDS CONTAINED IN THE IGNITION INTERLOCK DEVICE FUND, TO REVISE THE AMOUNT

THIS IGNITION INTERLOCK SERVICE PROVIDER SHALL COLLECT AND REMIT TO THE IGNITION INTERLOCK DEVICE FUND, TO PROVIDE A PENALTY FOR A PERSON'S FAILURE TO HAVE THE IGNITION INTERLOCK DEVICE INSPECTED EVERY SIXTY DAYS OR FAILS TO COMPLETE A RUNNING RETEST OF THE DEVICE, TO REVISE THE INFORMATION THAT MUST BE CONTAINED IN AN INSPECTION REPORT OF A DEVICE AND PENALTIES ASSOCIATED WITH VIOLATIONS CONTAINED IN THE REPORT, TO DECREASE THE NUMBER OF IGNITION INTERLOCK DEVICE POINTS THAT MAY BE APPEALED, TO PROVIDE THAT THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES MUST PROVIDE A NOTICE OF ASSESSMENT OF IGNITION INTERLOCK DEVICE POINTS THAT MUST ADVISE A PERSON OF HIS RIGHT TO REQUEST A CONTESTED CASE HEARING BEFORE THE OFFICE OF MOTOR VEHICLE HEARINGS AND THAT UNDER CERTAIN CIRCUMSTANCE HIS RIGHT TO A HEARING IS WAIVED, TO PROVIDE THE PROCEDURE TO OBTAIN A HEARING, THE POTENTIAL OUTCOMES THAT MAY RESULT FROM A HEARING, AND THE PROCEDURES TO BE FOLLOWED DURING THE HEARING, TO REVISE THE TIME PERIOD IN WHICH A PERSON MAY APPLY FOR THE REMOVAL OF AN IGNITION INTERLOCK DEVICE FROM A MOTOR VEHICLE AND THE REMOVAL OF THE RESTRICTION FROM THE PERSON'S DRIVER'S LICENSE, TO REVISE THE PENALTIES APPLICABLE TO A PERSON WHO IS SUBJECT TO THE PROVISIONS OF THIS SECTION AND IS FOUND GUILTY OF VIOLATING THEM, TO REQUIRE A PERSON WHO OPERATES AN EMPLOYER'S VEHICLE PURSUANT TO THIS SECTION TO HAVE A COPY OF THE DEPARTMENT OF MOTOR VEHICLE'S FORM, CONTAINED IN SECTION 56-1-400, TO PROVIDE THAT OBSTRUCTING OR OBSCURING THE CAMERA LENS OF AN IGNITION INTERLOCK DEVICE CONSTITUTES TAMPERING, TO PROVIDE THAT THIS PROVISION DOES NOT APPLY TO CERTAIN LEASED VEHICLES, TO PROVIDE THAT A DEVICE MUST CAPTURE A PHOTOGRAPHIC IMAGE OF THE DRIVER AS HE OPERATES THE IGNITION INTERLOCK DEVICE, TO PROVIDE THAT THESE IMAGES MAY BE USED BY THE DEPARTMENT OF PROBATION,

PAROLE AND PARDON SERVICES TO AID ITS MANAGEMENT OF THE IGNITION INTERLOCK DEVICE PROGRAM, TO PROVIDE THAT NO POLITICAL SUBDIVISION OF THE STATE MAY BE HELD LIABLE FOR ANY INJURY CAUSED BY A PERSON WHO OPERATES A MOTOR VEHICLE AFTER THE USE OR ATTEMPTED USE OF AN IGNITION INTERLOCK DEVICE, AND TO PROVIDE RESTRICTIONS ON THE USE AND RELEASE OF INFORMATION OBTAINED REGARDING A PERSON'S PARTICIPATION IN THE IGNITION INTERLOCK DEVICE PROGRAM; TO AMEND SECTION 56-5-2942, AS AMENDED, RELATING TO THE IMMOBILIZATION OF A PERSON'S VEHICLE UPON HIS CONVICTION OF AN ALCOHOL-RELATED DRIVING OFFENSE, SO AS TO PROVIDE THAT THIS PROVISION DOES NOT APPLY TO VEHICLES OWNED OR REGISTERED TO A PERSON WHO HOLDS A VALID IGNITION INTERLOCK RESTRICTED LICENSE, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 56-5-2945, AS AMENDED, RELATING TO THE OPERATION OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL AND GREAT BODILY INJURY OR DEATH OCCURS, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE THE PROVISION RELATING TO THE PERIOD OF INCARCERATION THAT MUST BE IMPOSED UPON A PERSON FOR A CONVICTION OF A CRIME CONTAINED IN THIS SECTION WHEN GREAT BODILY INJURY OR DEATH OCCURS, AND TO PROVIDE THAT AFTER A PERSON IS RELEASED FROM PRISON AFTER A CONVICTION FOR AN OFFENSE CONTAINED IN THIS SECTION, HE IS REQUIRED TO ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM, HAVE THE SUSPENSION OF HIS DRIVER'S LICENSE ENDED, AND OBTAIN AN IGNITION INTERLOCK RESTRICTED LICENSE, AND TO SPECIFY THE PERIOD OF TIME IN WHICH AN IGNITION INTERLOCK DEVICE MUST BE AFFIXED TO A MOTOR VEHICLE FOR CERTAIN CONVICTIONS; TO AMEND SECTION 56-5-2947, AS AMENDED, RELATING TO THE OFFENSE OF CHILD ENDANGERMENT, SO AS TO MAKE TECHNICAL CHANGES, TO REVISE THE PERIOD OF A DRIVER'S LICENSE SUSPENSION FOR A CONVICTION FOR THE VARIOUS INFRACTIONS CONTAINED IN THIS SECTION, TO PROVIDE THAT A PERSON CONVICTED OF

CHILD ENDANGERMENT FOR CERTAIN INFRACTIONS CONTAINED IN THIS SECTION SHALL ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM, HAVE HIS PERIOD OF DRIVER'S LICENSE SUSPENDED, AND OBTAIN AN IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE, TO PROVIDE THE PERIOD OF TIME AN IGNITION INTERLOCK DEVICE MUST BE AFFIXED TO A MOTOR VEHICLE, TO REVISE THIS EFFECTIVE DATE OF ENROLLMENT IN AN ALCOHOL AND DRUG SAFETY ACTION PROGRAM AND THE ISSUANCE OF A PROVISIONAL DRIVER'S LICENSE, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 56-5-2950, AS AMENDED, RELATING TO A PERSON WHO OPERATES A MOTOR VEHICLE GIVING IMPLIED CONSENT TO SUBMIT TO CHEMICAL TESTS TO DETERMINE THE PRESENCE OF ALCOHOL OR DRUGS IN HIS BODY, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT CERTAIN PERIODS OF DRIVER'S LICENSE SUSPENSION CONTAINED IN THIS SECTION MAY BE ENDED IF A PERSON ENROLLS IN THE IGNITION INTERLOCK DEVICE PROGRAM, AND TO DELETE THE TERM "ADMINISTRATIVE HEARING" AND REPLACE IT WITH THE TERM "CONTESTED CASE HEARING"; TO AMEND SECTION 56-5-2951, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER'S LICENSE OF A PERSON WHO REFUSES TO BE TESTED TO DETERMINE HIS ALCOHOL CONCENTRATION, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE THE TERM "ADMINISTRATIVE HEARING" AND REPLACE IT WITH THE TERM "CONTESTED CASE HEARING", TO REQUIRE THAT A PERSON WHO DOES NOT REQUEST A CONTESTED CASE HEARING ENROLL IN AN ALCOHOL AND DRUG SAFETY ACTION PROGRAM, TO PROVIDE AN EXCEPTION TO CERTAIN PERIODS OF DRIVER'S LICENSE SUSPENSION OR ISSUANCE OF A LICENSE OR PERMIT CONTAINED IN THIS SECTION IF A PERSON ENROLLS IN THE IGNITION INTERLOCK DEVICE PROGRAM, OBTAINS AN IGNITION INTERLOCK RESTRICTED LICENSE, AND HAS AN IGNITION INTERLOCK DEVICE AFFIXED TO CERTAIN MOTOR VEHICLES FOR A CERTAIN PERIOD OF TIME, TO REVISE THE LIST OF OFFENSES THAT ARE APPLICABLE TO THIS PROVISION, TO REVISE THE CONDITIONS THAT MUST BE MET BEFORE A PERSON'S

PRIVILEGE TO OPERATE A VEHICLE MUST BE RESTORED, AND TO DELETE THE DEPARTMENT OF MOTOR VEHICLES' AUTHORITY TO PROMULGATE REGULATIONS UNDER THIS SECTION; AND TO AMEND SECTION 56-5-2990, RELATING TO THE SUSPENSION OF A PERSON'S DRIVER'S LICENSE FOR A VIOLATION OF CERTAIN ALCOHOL AND DRUG-RELATED DRIVING OFFENSES, SO AS TO MAKE TECHNICAL CHANGES, TO REVISE THE PENALTIES CONTAINED IN THIS PROVISION, TO SPECIFY THE OFFENSES THAT ARE CONSIDERED PRIOR OFFENSES, TO REVISE THE LIST OF OFFENSES THAT ARE COVERED BY THIS PROVISION, AND TO PROVIDE THE CIRCUMSTANCES UPON WHICH THE DEPARTMENT OF MOTOR VEHICLES MAY WAIVE THE SUCCESSFUL COMPLETION OF THE ALCOHOL AND DRUG SAFETY PROGRAM AS A MANDATORY REQUIREMENT OF THE ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE.

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

Emma's Law

SECTION 1. This act may be cited as "Emma's Law".

Driver's license suspension

SECTION 2. Section 56-1-286 of the 1976 Code, as last amended by Act 264 of 2012, is further amended to read:

"Section 56-1-286. (A) The Department of Motor Vehicles shall suspend the driver's license, permit, or nonresident operating privilege of, or deny the issuance of a license or permit to a person under the age of twenty-one who drives a motor vehicle and has an alcohol concentration of two one-hundredths of one percent or more. In cases in which a law enforcement officer initiates suspension proceedings for a violation of this section, the officer has elected to pursue a violation of this section and is subsequently prohibited from prosecuting the person for a violation of Section 63-19-2440, 63-19-2450, 56-5-2930, or 56-5-2933, arising from the same incident.

(B) A person under the age of twenty-one who drives a motor vehicle in this State is considered to have given consent to chemical

tests of the person's breath or blood for the purpose of determining the presence of alcohol.

(C) A law enforcement officer who has arrested a person under the age of twenty-one for a violation of Chapter 5 of this title (Uniform Act Regulating Traffic on Highways), or any other traffic offense established by a political subdivision of this State, and has reasonable suspicion that the person under the age of twenty-one has consumed alcoholic beverages and driven a motor vehicle may order the testing of the person arrested to determine the person's alcohol concentration.

A law enforcement officer may detain and order the testing of a person to determine the person's alcohol concentration if the officer has reasonable suspicion that a motor vehicle is being driven by a person under the age of twenty-one who has consumed alcoholic beverages.

(D) A test must be administered at the direction of the primary investigating law enforcement officer. At the officer's direction, the person first must be offered a breath test to determine the person's alcohol concentration. If the person physically is unable to provide an acceptable breath sample because the person has an injured mouth or is unconscious or dead, or for any other reason considered acceptable by licensed medical personnel, a blood sample may be taken. The breath test must be administered by a person trained and certified by the South Carolina Criminal Justice Academy, pursuant to the State Law Enforcement Division's policies. The primary investigating officer may administer the test. Blood samples must be obtained by physicians licensed by the State Board of Medical Examiners, registered nurses licensed by the State Board of Nursing, or other medical personnel trained to obtain these samples in a licensed medical facility. Blood samples must be obtained and handled in accordance with procedures approved by the division. The division shall administer the provisions of this subsection and shall promulgate regulations necessary to carry out the subsection's provisions. The costs of the tests administered at the officer's direction must be paid from the state's general fund. However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person shall pay twenty-five dollars for the costs of the tests. The twenty-five dollars must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

The person tested or giving samples for testing may have a qualified person of the person's choice conduct additional tests at the person's expense and must be notified in writing of that right. A person's request or failure to request additional blood tests is not admissible against the person in any proceeding. The person's failure or inability to obtain additional tests does not preclude the admission of evidence relating to the tests or samples taken at the officer's direction. The officer shall provide affirmative assistance to the person to contact a qualified person to conduct and obtain additional tests. Affirmative assistance shall, at a minimum, include providing transportation for the person to the nearest medical facility which provides blood tests to determine a person's alcohol concentration. If the medical facility obtains the blood sample but refuses or fails to test the blood to determine the person's alcohol concentration, the State Law Enforcement Division shall test the blood and provide the result to the person and to the officer. Failure to provide affirmative assistance upon request to obtain additional tests bars the admissibility of the breath test result in a judicial or administrative proceeding.

(E) A qualified person and the person's employer who obtain samples or administer the tests or assist in obtaining samples or administering of tests at the primary investigating officer's direction are immune from civil and criminal liability unless the obtaining of samples or the administering of tests is performed in a negligent, reckless, or fraudulent manner. A person may not be required by the officer ordering the tests to obtain or take any sample of blood or urine.

(F) If a person refuses upon the primary investigating officer's request to submit to chemical tests as provided in subsection (C), the department shall suspend the person's license, permit, or nonresident operating privilege, or deny the issuance of a license or permit to the person for:

(1) six months; or

(2) one year, if the person, within the three years preceding the violation of this section, has been previously convicted of violating Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, or the person has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990.

(G) If a person submits to a chemical test and the test result indicates an alcohol concentration of two one-hundredths of one percent or more, the department shall suspend the person's license,

permit, or nonresident operating privilege, or deny the issuance of a license or permit to the person for:

(1) three months; or

(2) six months, if the person, within the three years preceding the violation of this section, has been previously convicted of violating Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, or the person has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990.

(H) A person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension pursuant to subsection (F) or (G) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program in which the person is enrolled. After the person's driving privilege is restored, the person shall continue to participate in the Alcohol and Drug Safety Action Program in which the person is enrolled. If the person withdraws from or in any way stops making satisfactory progress toward the completion of the Alcohol and Drug Safety Action Program, the person's license must be suspended until the person completes the Alcohol and Drug Safety Action Program. A person shall be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 before the person's driving privilege may be restored at the conclusion of the suspension period.

(I) A test may not be administered or samples taken unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed that:

(1) the person does not have to take the test or give the samples but that the person's privilege to drive must be suspended or denied for at least six months if the person refuses to submit to the tests, and that the person's refusal may be used against the person in court;

(2) the person's privilege to drive must be suspended for at least three months if the person takes the test or gives the samples and has an alcohol concentration of two one-hundredths of one percent or more;

(3) the person has the right to have a qualified person of the person's own choosing conduct additional independent tests at the person's expense;

(4) the person has the right to request a contested case hearing within thirty days of the issuance of the notice of suspension; and

(5) the person shall enroll in an Alcohol and Drug Safety Action Program within thirty days of the issuance of the notice of suspension if the person does not request a contested case hearing or within thirty days of the issuance of notice that the suspension has been upheld at the contested case hearing.

The primary investigating officer promptly shall notify the department of a person's refusal to submit to a test requested pursuant to this section as well as the test result of a person who submits to a test pursuant to this section and registers an alcohol concentration of two one-hundredths of one percent or more. The notification must be in a manner prescribed by the department.

(J) If the test registers an alcohol concentration of two one-hundredths of one percent or more or if the person refuses to be tested, the primary investigating officer shall issue a notice of suspension, and the suspension is effective beginning on the date of the alleged violation of this section. The person, within thirty days of the issuance of the notice of suspension, shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 if the person does not request an administrative hearing. If the person does not request an administrative hearing and does not enroll in an Alcohol and Drug Safety Action Program within thirty days, the suspension remains in effect, and a temporary alcohol license must not be issued. If the person drives a motor vehicle during the period of suspension without a temporary alcohol license, the person must be penalized for driving while the person's license is suspended pursuant to Section 56-1-460.

(K) Within thirty days of the issuance of the notice of suspension the person may:

(1) obtain a temporary alcohol license by filing with the Department of Motor Vehicles a form for this purpose. A one hundred-dollar fee must be assessed for obtaining a temporary alcohol license. Twenty-five dollars of the fee collected by the Department of Motor Vehicles must be distributed to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy-five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the Department of Motor Vehicle's expenses. The temporary alcohol license allows the person to drive a motor vehicle without any restrictive conditions pending the outcome of the contested case hearing provided for in this section or the final decision or disposition of the matter; and

(2) request a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure.

At the contested case hearing if:

(a) the suspension is upheld, the person shall enroll in an Alcohol and Drug Safety Action Program and the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension periods provided for in subsections (F) and (G); or

(b) the suspension is overturned, the person's driver's license, permit, or nonresident operating privilege must be reinstated.

(L) The periods of suspension provided for in subsections (F) and (G) begin on the day the notice of suspension is issued, or at the expiration of any other suspensions, and continue until the person applies for a temporary alcohol license and requests an administrative hearing.

(M) If a person does not request a contested case hearing, the person has waived the person's right to the hearing and the person's suspension must not be stayed but shall continue for the periods provided for in subsections (F) and (G).

(N) The notice of suspension must advise the person of the requirement to enroll in an Alcohol and Drug Safety Action Program and of the person's right to obtain a temporary alcohol license and to request a contested case hearing. The notice of suspension also must advise the person that, if the person does not request a contested case hearing within thirty days of the issuance of the notice of suspension, the person shall enroll in an Alcohol and Drug Safety Action Program, and the person waives the person's right to the contested case hearing, and the suspension continues for the periods provided for in subsections (F) and (G).

(O) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings. The scope of the hearing is limited to whether the person:

(1) was lawfully arrested or detained;

(2) was given a written copy of and verbally informed of the rights enumerated in subsection (I);

(3) refused to submit to a test pursuant to this section; or

(4) consented to taking a test pursuant to this section, and the:

(a) reported alcohol concentration at the time of testing was two one-hundredths of one percent or more;

(b) individual who administered the test or took samples was qualified pursuant to this section;

(c) test administered and samples taken were conducted pursuant to this section; and

(d) the machine was operating properly.

Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the breath test result.

The Department of Motor Vehicles and the arresting officer shall have the burden of proof in contested case hearings conducted pursuant to this section. If neither the Department of Motor Vehicles nor the arresting officer appears at the contested case hearing, the hearing officer shall rescind the suspension of the person's license, permit, or nonresident's operating privilege regardless of whether the person requesting the contested case hearing or the person's attorney appears at the contested case hearing.

A written order must be issued to all parties either reversing or upholding the suspension of the person's license, permit, or nonresident's operating privilege, or denying the issuance of a license or permit. If the suspension is upheld, the person must receive credit for the number of days the person's license was suspended before the person received a temporary alcohol license and requested the contested case hearing.

(P) A contested case hearing is a contested proceeding under the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with its appellate rules. The filing of an appeal shall stay the suspension until a final decision is issued.

(Q) A person who is unconscious or otherwise in a condition rendering him incapable of refusal is considered to be informed and not to have withdrawn the consent provided for in subsection (B) of this section.

(R) When a nonresident's privilege to drive a motor vehicle in this State has been suspended under the procedures of this section, the department shall give written notice of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license or permit.

(S) A person required to submit to a test must be provided with a written report including the time of arrest, the time of the tests, and the results of the tests before any proceeding in which the results of the tests are used as evidence. A person who obtains additional tests shall furnish a copy of the time, method, and results of any additional tests to the officer before any trial, hearing, or other proceeding in which the person attempts to use the results of the additional tests as evidence.

(T) A person whose driver's license or permit is suspended under this section is not required to file proof of financial responsibility.

(U) The department shall administer the provisions of this section, not including subsection (D), and shall promulgate regulations necessary to carry out its provisions.

(V) Notwithstanding any other provision of law, no suspension imposed pursuant to this section is counted as a demerit or result in any insurance penalty for automobile insurance purposes if at the time the person was stopped, the person whose license is suspended had an alcohol concentration that was less than eight one-hundredths of one percent."

Ignition interlock device

SECTION 3. Section 56-1-400 of the 1976 Code, as last amended by Act 285 of 2008, is further amended to read:

"Section 56-1-400. (A) The Department of Motor Vehicles, upon suspending or revoking a license, shall require that the license be surrendered to the department. At the end of the suspension period, other than a suspension for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or pursuant to the point system, the department shall issue a new license to the person. If the person has not held a license within the previous nine months, the department shall not issue or restore a license which has been suspended for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or for violations under the point system, until the person has filed an application for a new license, submitted to an examination as upon an original application, and satisfied the department, after an investigation of the person's driving ability, that it would be safe to grant the person the privilege of driving a motor vehicle on the public highways. The department, in the department's discretion, where the suspension is for a violation under the point system, may waive the examination, application, and investigation. A record of the suspension must be endorsed on the license issued to the person, showing the grounds of the suspension. If a person is permitted to operate a motor vehicle only with an ignition interlock device installed pursuant to Section 56-5-2941, the restriction on the license issued to the person must conspicuously identify the person as a person who only may drive a motor vehicle with an ignition

interlock device installed, and the restriction must be maintained on the license for the duration of the period for which the ignition interlock device must be maintained pursuant to Section 56-1-286, 56-5-2945, 56-5-2947 except if the conviction was for Section 56-5-750, 56-5-2951, or 56-5-2990. For purposes of Title 56, the license must be referred to as an ignition interlock restricted license. The fee for an ignition interlock restricted license is one hundred dollars, which shall be placed into a special restricted account by the Comptroller General to be used by the Department of Motor Vehicles to defray the department's expenses. Unless the person establishes that the person is entitled to the exemption set forth in subsection (B), no ignition interlock restricted license may be issued by the department without written notification from the authorized ignition interlock service provider that the ignition interlock device has been installed and confirmed to be in working order. If a person chooses to not have an ignition interlock device installed when required by law, the license will remain suspended indefinitely. If the person subsequently decides to have the ignition interlock device installed, the device must be installed for the length of time set forth in Section 56-1-286, 56-5-2945, 56-5-2947 except if the conviction was for Section 56-5-750, 56-5-2951, or 56-5-2990. This provision does not affect nor bar the reckoning of prior offenses for reckless driving and driving under the influence of intoxicating liquor or narcotic drugs, as provided in Article 23, Chapter 5 of this title.

(B)(1) A person who does not own a vehicle, as shown in the Department of Motor Vehicles' records, and who certifies that the person:

(a) cannot obtain a vehicle owner's permission to have an ignition interlock device installed on a vehicle;

(b) will not be driving a vehicle other than a vehicle owned by the person's employer; and

(c) will not own a vehicle during the interlock period, may petition the department, on a form provided by the department, for issuance of an ignition interlock restricted license that permits the person to operate a vehicle specified by the employee according to the employer's needs as contained in the employer's statement during the days and hours specified in the employer's statement without having to show that an ignition interlock device has been installed.

(2) The form must contain:

(a) identifying information about the employer's noncommercial vehicles that the person will be operating;

(b) a statement that explains the circumstances in which the person will be operating the employer's vehicles; and

(c) the notarized signature of the person's employer.

(3) This subsection does not apply to a person who is self-employed or to a person who is employed by a business owned in whole or in part by the person or a member of the person's household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle's ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section.

(4) Whenever the person operates the employer's vehicle pursuant to this subsection, the person shall have with the person a copy of the form specified by this subsection.

(5) The determination of eligibility for the waiver is subject to periodic review at the discretion of the department. The department shall revoke a waiver issued pursuant to this exemption if the department determines that the person has been driving a vehicle other than the vehicle owned by the person's employer or has been operating the person's employer's vehicle outside the locations, days, or hours specified by the employer in the department's records. The person may seek relief from the department's determination by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings.

(C) A person whose license has been suspended or revoked for an offense within the jurisdiction of the court of general sessions shall provide the department with proof that the fine owed by the person has been paid before the department may issue the person a license. Proof that the fine has been paid may be a receipt from the clerk of court of the county in which the conviction occurred stating that the fine has been paid in full."

Driving under suspension

SECTION 4. Section 56-1-460 of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"Section 56-1-460. (A)(1) Except as provided in item (2), a person who drives a motor vehicle on a public highway of this State when the person's license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;

(b) for a second offense, fined six hundred dollars or imprisoned for up to sixty consecutive days, or both; and

(c) for a third or subsequent offense, fined one thousand dollars, and imprisoned for up to ninety days or confined to a person's place of residence pursuant to the Home Detention Act for up to ninety days. No portion of a term of imprisonment or confinement under home detention may be suspended by the trial judge except when the court is suspending a term of imprisonment upon successful completion of the terms and conditions of confinement under home detention. For purposes of this item, a person sentenced to confinement pursuant to the Home Detention Act is required to pay for the cost of such confinement.

(d) Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, an offense punishable under this item may be tried in magistrates or municipal court.

(e)(i) A person convicted of a first or second offense of this item, as determined by the records of the department, and who is employed or enrolled in a college or university at any time while the person's driver's license is suspended pursuant to this item, may apply for a route restricted driver's license permitting the person to drive only to and from work or the person's place of education and in the course of the person's employment or education during the period of suspension. The department may issue the route restricted driver's license only upon a showing by the person that the person is employed or enrolled in a college or university and that the person lives further than one mile from the person's place of employment or place of education.

(ii) When the department issues a route restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A person holding a route restricted driver's license pursuant to this item shall report to the department immediately any change in the person's employment hours, place of employment, status as a student, or residence.

(iii) The fee for a route restricted driver's license issued pursuant to this item is one hundred dollars, but no additional fee is due when changes occur in the place and hours of employment, education, or residence. Of this fee, eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the Department of Motor

Vehicles' expenses. The remainder of the fees collected pursuant to this item must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

(iv) The operation of a motor vehicle outside the time limits and route imposed by a route-restricted license is a violation of subsection (A)(1).

(2) A person who drives a motor vehicle on a public highway of this State when the person's license has been suspended or revoked pursuant to the provisions of Section 56-5-2990 or 56-5-2945 must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days;

(b) for a second offense, fined six hundred dollars or imprisoned for not less than sixty days nor more than six months;

(c) for a third or subsequent offense, fined one thousand dollars and imprisoned for not less than six months nor more than three years.

No portion of the minimum sentence imposed pursuant to this item may be suspended.

(B) The Department of Motor Vehicles, upon receiving a record of a person's conviction pursuant to this section upon a charge of driving a vehicle while the person's license was suspended for a definite period of time, shall extend the suspension period for an additional like period. If the original period of suspension has expired or terminated before trial and conviction, the department shall again suspend the person's license for an additional like period of time. If the suspension is not for a definite period of time, the suspension must be for an additional three months. If the license of a person cited for a violation of this section is suspended solely pursuant to the provisions of Section 56-25-20, the additional period of suspension pursuant to this section is thirty days, and the person does not have to offer proof of financial responsibility as required pursuant to Section 56-9-500 prior to the person's license being reinstated. If the conviction was for a charge of driving while a license was revoked, the department shall not issue a new license for an additional period of one year from the date the person could otherwise have applied for a new license. Only those violations which occurred within a period of five years including and immediately preceding the date of the last violation constitute prior violations within the meaning of this section.

(C) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special

restricted account to be used by the Department of Public Safety for the Highway Patrol."

Issuance of a restricted driver's license

SECTION 5. Section 56-1-748 of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

"Section 56-1-748. (A) No person issued a restricted driver's license under the provisions of Section 56-1-170, 56-1-320, 56-1-740, 56-1-745, 56-1-746, 56-5-750, 56-9-430, 56-10-260, 56-10-270, or 56-5-2951 shall subsequently be eligible for issuance of a restricted driver's license under these provisions.

(B) A person who obtains a route restricted driver's license and who is required to attend an Alcohol and Drug Safety Action Program or a court-ordered drug program as a condition of reinstatement of the person's driving privileges may use the route restricted driver's license to attend the Alcohol and Drug Safety Action Program classes or court-ordered drug program in addition to the other permitted uses of the route restricted driver's license."

Repeal

SECTION 6. Section 56-1-1310 of the 1976 Code is repealed.

Issuance of a provisional driver's license

SECTION 7. Section 56-1-1320 of the 1976 Code is amended to read:

"Section 56-1-1320. (A) A person with a South Carolina driver's license, a person who had a South Carolina driver's license at the time of the offense referenced below, or a person exempted from the licensing requirements by Section 56-1-30, who is or has been convicted of a first offense violation of a law of this State that prohibits a person from operating a vehicle while under the influence of intoxicating liquor, drugs, or narcotics, including Sections 56-5-2930 and 56-5-2933, and whose license is not presently suspended for any other reason, may apply to the Department of Motor Vehicles to obtain a provisional driver's license of a design to be determined by the department to operate a motor vehicle. The person shall enter an Alcohol and Drug Safety Action Program pursuant to Section 56-1-1330, and shall pay to the department a fee of one hundred dollars

for the provisional driver's license. The provisional driver's license is not valid for more than six months from the date of issue shown on the license. The determination of whether or not a provisional driver's license may be issued pursuant to the provisions of this article as well as reviews of cancellations or suspensions under Sections 56-1-370 and 56-1-820 must be made by the director of the department or his designee.

(B) Ninety-five dollars of the collected fee must be credited to the state's general fund for use of the Department of Public Safety in the hiring, training, and equipping of members of the South Carolina Highway Patrol and Transportation Police and in the operations of the South Carolina Highway Patrol and Transportation Police."

Repeal

SECTION 8. Section 56-1-1350 of the 1976 Code is repealed.

Ignition interlock device

SECTION 9. Section 56-5-2941 of the 1976 Code, as last amended by Act 285 of 2008, is further amended to read:

"Section 56-5-2941. (A) The Department of Motor Vehicles shall require a person who is a resident of this State and who is convicted of violating the provisions of Section 56-5-2930, 56-5-2933, 56-5-2945, 56-5-2947 except if the conviction was for Section 56-5-750, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, to have installed on any motor vehicle the person drives an ignition interlock device designed to prevent driving of the motor vehicle if the person has consumed alcoholic beverages. This section does not apply to a person convicted of a first offense violation of Section 56-5-2930 or 56-5-2933, unless the person submitted to a breath test pursuant to Section 56-5-2950 and had an alcohol concentration of fifteen one-hundredths of one percent or more. The department may waive the requirements of this section if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed device. If the department grants a medical waiver, the department shall suspend the person's driver's license for the length of time that the person would have been required to hold an ignition interlock restricted license. The department may withdraw the waiver at any time that the department becomes aware

that the person's medical condition has improved to the extent that the person has become capable of properly operating an installed device. The department also shall require a person who has enrolled in the Ignition Interlock Device Program in lieu of the remainder of a driver's license suspension or denial of the issuance of a driver's license or permit to have an ignition interlock device installed on any motor vehicle the person drives.

The length of time that a device is required to be affixed to a motor vehicle as set forth in Sections 56-1-286, 56-5-2945, 56-5-2947 except if the conviction was for Section 56-5-750, 56-5-2951, and 56-5-2990.

(B) Notwithstanding the pleadings, for purposes of a second or a subsequent offense, the specified length of time that a device is required to be affixed to a motor vehicle is based on the Department of Motor Vehicle's records for offenses pursuant to Section 56-1-286, 56-5-2930, 56-5-2933, 56-5-2945, 56-5-2947 except if the conviction was for Section 56-5-750, 56-5-2950, or 56-5-2951.

(C) If a resident of this State is convicted of violating a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, and, as a result of the conviction, the person is subject to an ignition interlock device requirement in the other state, the person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

(D) If a person from another state becomes a resident of South Carolina while subject to an ignition interlock device requirement in another state, the person may only obtain a South Carolina driver's license if the person enrolls in the South Carolina Ignition Interlock Device Program pursuant to this section. The person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

(E) The person must be subject to an Ignition Interlock Device Point System managed by the Department of Probation, Parole and Pardon Services. A person accumulating a total of:

(1) two points or more, but less than three points, must have the length of time that the device is required extended by two months;

(2) three points or more, but less than four points, must have the length of time that the device is required extended by four months, shall submit to a substance abuse assessment pursuant to Section 56-5-2990, and shall successfully complete the plan of education and treatment, or both, as recommended by the certified substance abuse

program. Should the person not complete the recommended plan, or not make progress toward completing the plan, the Department of Motor Vehicles shall suspend the person's ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan;

(3) four points or more must have the person's ignition interlock restricted license suspended for a period of six months, shall submit to a substance abuse assessment pursuant to Section 56-5-2990, and successfully shall complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. Should the person not complete the recommended plan or not make progress toward completing the plan, the Department of Motor Vehicles shall leave the person's ignition interlock restricted license in suspended status, or, if the license has already been reinstated following the six-month suspension, shall resuspend the person's ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan. The Department of Alcohol and Other Drug Abuse Services is responsible for notifying the Department of Motor Vehicles of a person's completion and compliance with education and treatment programs. Upon reinstatement of driving privileges following the six-month suspension, the Department of Probation, Parole and Pardon Services shall reset the person's point total to zero points, and the person shall complete the remaining period of time on the ignition interlock device.

(F) The cost of the device must be borne by the person. However, if the person is indigent and cannot afford the cost of the device, the person may submit an affidavit of indigency to the Department of Probation, Parole and Pardon Services for a determination of indigency as it pertains to the cost of the device. The affidavit of indigency form must be made publicly accessible on the Department of Probation, Parole and Pardon Services' Internet website. If the Department of Probation, Parole and Pardon Services determines that the person is indigent as it pertains to the device, the Department of Probation, Parole and Pardon Services may authorize a device to be affixed to the motor vehicle and the cost of the initial installation and standard use of the device to be paid for by the Ignition Interlock Device Fund managed by the Department of Probation, Parole and Pardon Services. Funds remitted to the Department of Probation, Parole and Pardon Services for the Ignition Interlock Device Fund also may be used by the Department of Probation, Parole and Pardon Services to support the Ignition Interlock Device Program. For purposes of this section, a person is indigent if the person is financially unable to afford the cost

of the ignition interlock device. In making a determination whether a person is indigent, all factors concerning the person's financial conditions should be considered including, but not limited to, income, debts, assets, number of dependents claimed for tax purposes, living expenses, and family situation. A presumption that the person is indigent is created if the person's net family income is less than or equal to the poverty guidelines established and revised annually by the United States Department of Health and Human Services published in the Federal Register. 'Net income' means gross income minus deductions required by law. The determination of indigency is subject to periodic review at the discretion of the Department of Probation, Parole and Pardon Services.

(G) The ignition interlock service provider shall collect and remit monthly to the Ignition Interlock Device Fund a fee as determined by the Department of Probation, Parole and Pardon Services not to exceed thirty dollars per month for each month the person is required to drive a vehicle with a device. A service provider who fails to properly remit funds to the Ignition Interlock Device Fund may be decertified as a service provider by the Department of Probation, Parole and Pardon Services. If a service provider is decertified for failing to remit funds to the Ignition Interlock Device Fund, the cost for removal and replacement of a device must be borne by the service provider.

(H)(1) The person shall have the device inspected every sixty days to verify that the device is affixed to the motor vehicle and properly operating, and to allow for the preparation of an ignition interlock device inspection report by the service provider indicating the person's alcohol content at each attempt to start and running retest during each sixty-day period. Failure of the person to have the interlock device inspected every sixty days must result in one ignition interlock device point.

(2) Only a service provider authorized by the Department of Probation, Parole and Pardon Services to perform inspections on ignition interlock devices may conduct inspections. The service provider immediately shall report devices that fail inspection to the Department of Probation, Parole and Pardon Services. The report must contain the person's name, identify the vehicle upon which the failed device is installed, and the reason for the failed inspection.

(3) If the inspection report reflects that the person has failed to complete a running retest, the person must be assessed one ignition interlock device point.

(4) The inspection report must indicate the person's alcohol content at each attempt to start and running retest during each sixty-day

period. If the report reflects that the person violated a running retest by having an alcohol concentration of:

(a) two one-hundredths of one percent or more but less than four one-hundredths of one percent, the person must be assessed one-half ignition interlock device point;

(b) four one-hundredths of one percent or more but less than fifteen one-hundredths of one percent, the person must be assessed one ignition interlock device point; or

(c) fifteen one-hundredths of one percent or more, the person must be assessed two ignition interlock device points.

(5) A person may appeal less than four ignition interlock device points received to an administrative hearing officer with the Department of Probation, Parole and Pardon Services through a process established by the Department of Probation, Parole and Pardon Services. The administrative hearing officer's decision on appeal is final and no appeal from such decision is allowed.

(I)(1) If a person's license is suspended due to the accumulation of four or more ignition interlock device points, the Department of Probation, Parole and Pardon Services must provide a notice of assessment of ignition interlock points which must advise the person of his right to request a contested case hearing before the Office of Motor Vehicle Hearings. The notice of assessment of ignition interlock points also must advise the person that, if he does not request a contested case hearing within thirty days of the issuance of the notice of assessment of ignition interlock points, he waives his right to the administrative hearing and the person's driver's license is suspended pursuant to Section 56-5-2941(E).

(2) The person may seek relief from the Department of Probation, Parole and Pardon Services determination that a person's license is suspended due to the accumulation of four or more ignition interlock device points by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act. The filing of the request for a contested case hearing will stay the driver's license suspension pending the outcome of the hearing. However, the filing of the request for a contested case hearing will not stay the requirements of the person having the ignition interlock device.

(3) At the contested case hearing:

(a) the assessment of driver's license suspension can be upheld;

(b) the driver's license suspension can be overturned, or any or all of the contested ignition interlock points included in the device

inspection report that results in the contested suspension can be overturned, and the penalties as specified pursuant to Section 56-5-2941(E) will then be imposed accordingly.

(4) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings. Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the ignition interlock device. However, if the ignition interlock device is found to not be in working order due to failure of regular maintenance and upkeep by the person challenging the accumulation of ignition interlock points pursuant to the requirement of the ignition interlock program, such allegation cannot serve as a basis to overturn point accumulations.

(5) A written order must be issued by the Office of Motor Vehicle Hearings to all parties either reversing or upholding the assessment of ignition interlock points.

(6) A contested case hearing is governed by the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with its appellate rules. The filing of an appeal does not stay the ignition interlock requirement.

(J) Five years from the date of the person's driver's license reinstatement and every five years thereafter a fourth or subsequent offender whose license has been reinstated pursuant to Section 56-1-385 may apply to the Department of Probation, Parole and Pardon Services for removal of the ignition interlock device and the removal of the restriction from the person's driver's license. The Department of Probation, Parole and Pardon Services may, for good cause shown, notify the Department of Motor Vehicles that the person is eligible to have the restriction removed from the person's license.

(K)(1) Except as otherwise provided in this section, it is unlawful for a person who is subject to the provisions of this section to drive a motor vehicle that is not equipped with a properly operating, certified ignition interlock device. A person who violates this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than one year. The person must have the length of time that the ignition interlock device is required extended by six months;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five thousand dollars or imprisoned not more than three years. The person must have the length

of time that the ignition interlock device is required extended by one year; and

(c) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than ten thousand dollars or imprisoned not more than ten years. The person must have the length of time that the ignition interlock device is required extended by three years.

(2) No portion of the minimum sentence imposed pursuant to this subsection may be suspended.

(3) Notwithstanding any other provision of law, a first or second offense punishable pursuant to this subsection may be tried in summary court.

(L)(1) A person who is required in the course and scope of the person's employment to drive a motor vehicle owned by the person's employer may drive the employer's motor vehicle without installation of an ignition interlock device, provided that the person's use of the employer's motor vehicle is solely for the employer's business purposes. This subsection does not apply to a person who is self employed or to a person who is employed by a business owned in whole or in part by the person or a member of the person's household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle's ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section.

(2) Whenever the person operates the employer's vehicle pursuant to this subsection, the person shall have with the person a copy of the Department of Motor Vehicles' form specified by Section 56-1-400(B).

(3) This subsection will be construed in parallel with the requirements of Section 56-1-400(B). A waiver issued pursuant to this subsection will be subject to the same review and revocation as described in Section 56-1-400(B).

(M) It is unlawful for a person to tamper with or disable, or attempt to tamper with or disable, an ignition interlock device installed on a motor vehicle pursuant to this section. Obstructing or obscuring the camera lens of an ignition interlock device constitutes tampering. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(N) It is unlawful for a person to knowingly rent, lease, or otherwise provide a person who is subject to this section with a motor vehicle

without a properly operating, certified ignition interlock device. This subsection does not apply if the person began the lease contract period for the motor vehicle prior to the person's arrest for a first offense violation of Section 56-5-2930 or Section 56-5-2933. A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(O) It is unlawful for a person who is subject to the provisions of this section to solicit or request another person, or for a person to solicit or request another person on behalf of a person who is subject to the provisions of this section, to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section. A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(P) It is unlawful for another person to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section. A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(Q) Only ignition interlock devices certified by the Department of Probation, Parole and Pardon Services may be used to fulfill the requirements of this section.

(1) The Department of Probation, Parole and Pardon Services shall certify whether a device meets the accuracy requirements and specifications provided in guidelines or regulations adopted by the National Highway Traffic Safety Administration, as amended from time to time. All devices certified to be used in South Carolina must be set to prohibit the starting of a motor vehicle when an alcohol concentration of two one-hundredths of one percent or more is measured and all running retests must record violations of an alcohol concentration of two one-hundredths of one percent or more, and must capture a photographic image of the driver as the driver is operating the ignition interlock device. The photographic images recorded by the ignition interlock device may be used by the Department of Probation, Parole and Pardon Services to aid in the Department of Probation, Parole and Pardon Services' management of the Ignition Interlock Device Program; however, neither the Department of Probation, Parole and Pardon Services, the Department of Probation, Parole and Pardon Services' employees, nor any other political subdivision of this State may be held liable for any injury caused by a driver or other person

who operates a motor vehicle after the use or attempted use of an ignition interlock device.

(2) The Department of Probation, Parole and Pardon Services shall maintain a current list of certified ignition interlock devices and manufacturers. The list must be updated at least quarterly. If a particular certified device fails to continue to meet federal requirements, the device must be decertified, may not be used until it is compliant with federal requirements, and must be replaced with a device that meets federal requirements. The cost for removal and replacement must be borne by the manufacturer of the noncertified device.

(3) Only ignition interlock installers certified by the Department of Probation, Parole and Pardon Services may install and service ignition interlock devices required pursuant to this section. The Department of Probation, Parole and Pardon Services shall maintain a current list of vendors that are certified to install the devices.

(R) In addition to availability under the Freedom of Information Act, any Department of Probation, Parole and Pardon Services policy concerning ignition interlock devices must be made publicly accessible on the Department of Probation, Parole and Pardon Services' Internet website. Information obtained by the Department of Probation, Parole and Pardon Services and ignition interlock service providers regarding a person's participation in the Ignition Interlock Device Program is to be used for internal purposes only and is not subject to the Freedom of Information Act. A person participating in the Ignition Interlock Device Program or the person's family member may request that the Department of Probation, Parole and Pardon Services provide the person or family member with information obtained by the department and ignition interlock service providers. The Department of Probation, Parole and Pardon Services may release the information to the person or family member at the department's discretion. The Department of Probation, Parole and Pardon Services and ignition interlock service providers may retain information regarding a person's participation in the Ignition Interlock Device Program for a period not to exceed eighteen months from the date of the person's completion of the Ignition Interlock Device Program.

(S) The Department of Probation, Parole and Pardon Services shall develop policies including, but not limited to, the certification, use, maintenance, and operation of ignition interlock devices and the Ignition Interlock Device Fund."

Immobilization of a motor vehicle

SECTION 10. Section 56-5-2942 of the 1976 Code, as last amended by Act 212 of 2012, is further amended to read:

"Section 56-5-2942. (A) A person who is convicted of or pleads guilty or nolo contendere to a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945 must have all motor vehicles owned by or registered to the person immobilized if the person is a resident of this State, unless the vehicle has been confiscated pursuant to Section 56-5-6240 or the person is a holder of a valid ignition interlock restricted license.

(B) For purposes of this section, 'immobilized' and 'immobilization' mean suspension and surrender of the registration and motor vehicle license plate.

(C) Upon receipt of a conviction by the department from the court for a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945, the department shall determine all vehicles registered to the person, both solely and jointly, and suspend all vehicles registered to the person, unless the person is a holder of a valid ignition interlock restricted license.

(D) Upon notification by a court in this State or another state of a conviction for a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945, the department shall require the person, unless the person is a holder of a valid ignition interlock restricted license, to surrender all license plates and vehicle registrations subject to immobilization pursuant to this section. The immobilization is for a period of thirty days to take place during the driver's license suspension pursuant to a conviction for a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945. The department shall maintain a record of all vehicles immobilized pursuant to this section.

(E) An immobilized motor vehicle must be released to the holder of a bona fide lien on the motor vehicle when possession of the motor vehicle is requested, as provided by law, by the lienholder for the purpose of foreclosing on and satisfying the lien.

(F) An immobilized motor vehicle may be released by the department without legal or physical restraints to a person who has not been convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945, if that person is a registered owner of the motor vehicle or a member of the household of a

registered owner. The vehicle must be released if an affidavit is submitted by that person to the department stating that:

(1) the person regularly drives the motor vehicle subject to immobilization;

(2) the immobilized motor vehicle is necessary to the person's employment, transportation to an educational facility, or for the performance of essential household duties;

(3) no other motor vehicle is available for the person's use;

(4) the person will not authorize the use of the motor vehicle by any other person known by the person to have been convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945; or

(5) the person will report immediately to a local law enforcement agency any unauthorized use of the motor vehicle by a person known by the person to have been convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945.

(G) The department may issue a determination permitting or denying the release of the vehicle based on the affidavit submitted pursuant to subsection (F). A person may seek relief from a department determination immobilizing a motor vehicle or denying the release of the motor vehicle by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings.

(H) A person who drives an immobilized motor vehicle except as provided in subsections (E) and (F) is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days.

(I) A person who fails to surrender registrations and license plates pursuant to this section is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days.

(J) A fee of fifty dollars must be paid to the department for each motor vehicle that was suspended before any of the suspended registrations and license plates may be registered or before the motor vehicle may be released pursuant to subsection (F). This fee must be placed by the Comptroller General into a special restricted interest bearing account to be used by the Department of Motor Vehicles to defray the Department of Motor Vehicles' expenses.

(K) For purposes of this article, a conviction of or plea of nolo contendere to Section 56-5-2933 is considered a prior offense of Section 56-5-2930."

Driving under the influence and causing great bodily injury or death

SECTION 11. Section 56-5-2945 of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

"Section 56-5-2945. (A) A person who, while under the influence of alcohol, drugs, or the combination of alcohol and drugs, drives a motor vehicle and when driving a motor vehicle does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to another person, is guilty of the offense of felony driving under the influence, and, upon conviction, must be punished:

(1) by a mandatory fine of not less than five thousand one hundred dollars nor more than ten thousand one hundred dollars and mandatory imprisonment for not less than thirty days nor more than fifteen years when great bodily injury results;

(2) by a mandatory fine of not less than ten thousand one hundred dollars nor more than twenty-five thousand one hundred dollars and mandatory imprisonment for not less than one year nor more than twenty-five years when death results.

A part of the mandatory sentences required to be imposed by this section must not be suspended, and probation must not be granted for any portion.

(B) As used in this section, 'great bodily injury' means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(C)(1) The Department of Motor Vehicles shall suspend the driver's license of a person who is convicted pursuant to this section. For suspension purposes of this section, convictions arising out of a single incident must run concurrently.

(2) After the person is released from prison, the person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for three years when great bodily injury results and five years when a death occurs.

(D) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special

restricted account to be used by the Department of Public Safety for the Highway Patrol."

Child endangerment

SECTION 12. Section 56-5-2947 of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

"Section 56-5-2947. (A) A person eighteen years of age or older is guilty of child endangerment when:

(1) the person violates:

(a) Section 56-5-750;

(b) Section 56-5-2930;

(c) Section 56-5-2933; or

(d) Section 56-5-2945; and

(2) the person has one or more passengers younger than sixteen years of age in the motor vehicle when the violation occurs.

If more than one passenger younger than sixteen years of age is in the vehicle when a violation occurs, the person may be charged with only one violation of this section.

(B) Upon conviction, the person must be:

(1) fined not more than one-half of the maximum fine allowed for committing the violation in subsection (A)(1), when the person is fined for that offense;

(2) imprisoned not more than one-half of the maximum term of imprisonment allowed for committing the violation listed in subsection (A)(1), when the person is imprisoned for the offense; or

(3) fined and imprisoned as prescribed in items (1) and (2) when the person is fined and imprisoned for the offense.

(C) No portion of the penalty assessed pursuant to subsection (B) may be suspended or revoked and probation may not be awarded.

(D)(1) In addition to imposing the penalties for offenses listed in subsection (A)(1) and the penalties contained in subsection (B), the Department of Motor Vehicles shall suspend the person's driver's license for sixty days upon conviction under subsection (A)(1)(a). Upon conviction under subsection (A)(1)(b) through (d), the Department of Motor Vehicles shall suspend the person's driver's license.

(2) Upon conviction under subsection (A)(1)(b) through (d), the person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock

restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for three months.

(3) Sections 56-1-1320 and 56-5-2990 as they relate to enrollment in an alcohol and drug safety action program and to the issuance of a provisional driver's license will not be effective until the ignition interlock restricted license period is completed.

(E) A person may be convicted pursuant to this section for child endangerment in addition to being convicted for an offense listed in subsection (A)(1).

(F) The court that has jurisdiction over an offense listed in subsection (A)(1) has jurisdiction over the offense of child endangerment.

(G) A first offense charge for a violation of this section may not be used as the only evidence for taking a child into protective custody pursuant to Sections 63-7-620(A) and 63-7-660."

Implied consent

SECTION 13. Section 56-5-2950 of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

"Section 56-5-2950. (A) A person who drives a motor vehicle in this State is considered to have given consent to chemical tests of the person's breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or the combination of alcohol and drugs, if arrested for an offense arising out of acts alleged to have been committed while the person was driving a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs. A breath test must be administered at the direction of a law enforcement officer who has arrested a person for driving a motor vehicle in this State while under the influence of alcohol, drugs, or a combination of alcohol and drugs. At the direction of the arresting officer, the person first must be offered a breath test to determine the person's alcohol concentration. If the person is physically unable to provide an acceptable breath sample because the person has an injured mouth, is unconscious or dead, or for any other reason considered acceptable by the licensed medical personnel, the arresting officer may request a blood sample to be taken. If the officer has reasonable suspicion that the person is under the influence of drugs other than alcohol, or is under the influence of a combination of alcohol and drugs, the officer may order that a urine sample be taken for testing. A breath sample taken for testing must be collected within two hours of

the arrest. Any additional tests to collect other samples must be collected within three hours of the arrest. The breath test must be administered by a person trained and certified by the South Carolina Criminal Justice Academy, pursuant to SLED policies. Before the breath test is administered, an eight one-hundredths of one percent simulator test must be performed and the result must reflect a reading between 0.076 percent and 0.084 percent. Blood and urine samples must be obtained by physicians licensed by the State Board of Medical Examiners, registered nurses licensed by the State Board of Nursing, and other medical personnel trained to obtain the samples in a licensed medical facility. Blood and urine samples must be obtained and handled in accordance with procedures approved by SLED.

(B) No tests may be administered or samples obtained unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed that:

(1) the person does not have to take the test or give the samples, but that the person's privilege to drive must be suspended or denied for at least six months with the option of ending the suspension if the person enrolls in the Ignition Interlock Device Program, if the person refuses to submit to the test, and that the person's refusal may be used against the person in court;

(2) the person's privilege to drive must be suspended for at least one month with the option of ending the suspension if the person enrolls in the Ignition Interlock Device Program, if the person takes the test or gives the samples and has an alcohol concentration of fifteen one-hundredths of one percent or more;

(3) the person has the right to have a qualified person of the person's own choosing conduct additional independent tests at the person's expense;

(4) the person has the right to request a contested case hearing within thirty days of the issuance of the notice of suspension; and

(5) if the person does not request a contested case hearing or if the person's suspension is upheld at the contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program.

(C) A hospital, physician, qualified technician, chemist, or registered nurse who obtains the samples or conducts the test or participates in the process of obtaining the samples or conducting the test in accordance with this section is not subject to a cause of action for assault, battery, or another cause alleging that the drawing of blood or taking samples at the request of the arrested person or a law enforcement officer was wrongful. This release from liability does not

reduce the standard of medical care required of the person obtaining the samples or conducting the test. This qualified release also applies to the employer of the person who conducts the test or obtains the samples.

(D) The person tested or giving samples for testing may have a qualified person of the person's own choosing conduct additional tests at the person's expense and must be notified in writing of that right. A person's request or failure to request additional blood or urine tests is not admissible against the person in the criminal trial. The failure or inability of the person tested to obtain additional tests does not preclude the admission of evidence relating to the tests or samples obtained at the direction of the law enforcement officer.

(E) The arresting officer shall provide affirmative assistance to the person to contact a qualified person to conduct and obtain additional tests. Affirmative assistance, at a minimum, includes providing transportation for the person to the nearest medical facility which performs blood tests to determine a person's alcohol concentration. If the medical facility obtains the blood sample but refuses or fails to test the blood sample to determine the person's alcohol concentration, SLED shall test the blood sample and provide the result to the person and to the arresting officer. Failure to provide affirmative assistance upon request to obtain additional tests bars the admissibility of the breath test result in a judicial or administrative proceeding.

SLED shall administer the provisions of this subsection and shall make regulations necessary to carry out this subsection's provisions. The costs of the tests administered at the direction of the law enforcement officer must be paid from the state's general fund. However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person shall pay twenty-five dollars for the costs of the tests. The twenty-five dollars must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

(F) A qualified person who obtains samples or administers the tests or assists in obtaining samples or the administration of tests at the direction of a law enforcement officer is released from civil and criminal liability unless the obtaining of samples or tests is performed in a negligent, reckless, or fraudulent manner. No person may be required by the arresting officer, or by another law enforcement officer, to obtain or take any sample of blood or urine.

(G) In the criminal prosecution for a violation of Section 56-5-2930, 56-5-2933, or 56-5-2945 the alcohol concentration at the time of the test, as shown by chemical analysis of the person's breath or other body fluids, gives rise to the following:

(1) if the alcohol concentration was at that time five one-hundredths of one percent or less, it is conclusively presumed that the person was not under the influence of alcohol;

(2) if the alcohol concentration was at that time in excess of five one-hundredths of one percent but less than eight one-hundredths of one percent, this fact does not give rise to any inference that the person was or was not under the influence of alcohol, but this fact may be considered with other evidence in determining the guilt or innocence of the person; or

(3) if the alcohol concentration was at that time eight one-hundredths of one percent or more, it may be inferred that the person was under the influence of alcohol.

The provisions of this section must not be construed as limiting the introduction of any other evidence bearing upon the question of whether or not the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.

(H) A person who is unconscious or otherwise in a condition rendering the person incapable of refusal is considered to be informed and not to have withdrawn the consent provided by subsection (A) of this section.

(I) A person required to submit to tests by the arresting law enforcement officer must be provided with a written report including the time of arrest, the time of the tests, and the results of the tests before any trial or other proceeding in which the results of the tests are used as evidence. A person who obtains additional tests shall furnish a copy of the time, method, and results of such tests to the officer before a trial, hearing, or other proceeding in which the person attempts to use the results of the additional tests as evidence.

(J) Policies, procedures, and regulations promulgated by SLED may be reviewed by the trial judge or hearing officer on motion of either party. The failure to follow policies, procedures, and regulations, or the provisions of this section, shall result in the exclusion from evidence of any test results, if the trial judge or hearing officer finds that this failure materially affected the accuracy or reliability of the test results or the fairness of the testing procedure and the court trial judge or hearing officer rules specifically as to the manner in which the failure materially affected the accuracy or reliability of the test results or the fairness of the procedure.

(K) If a state employee charged with the maintenance of breath testing devices in this State and the administration of breath testing policy is required to testify at a contested case hearing or court proceeding, the entity employing the witness may charge a reasonable fee to the defendant for such services."

Driver's license suspension

SECTION 14. Section 56-5-2951 of the 1976 Code, as last amended by Act 264 of 2012, is further amended to read:

"Section 56-5-2951. (A) The Department of Motor Vehicles shall suspend the driver's license, permit, or nonresident operating privilege of, or deny the issuance of a license or permit to, a person who drives a motor vehicle and refuses to submit to a test provided for in Section 56-5-2950 or has an alcohol concentration of fifteen one-hundredths of one percent or more. The arresting officer shall issue a notice of suspension which is effective beginning on the date of the alleged violation of Section 56-5-2930, 56-5-2933, or 56-5-2945.

(B) Within thirty days of the issuance of the notice of suspension, the person may:

(1) obtain a temporary alcohol license from the Department of Motor Vehicles. A one hundred-dollar fee must be assessed for obtaining a temporary alcohol license. Twenty-five dollars of the fee must be distributed by the Department of Motor Vehicles to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy-five dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the Department of Motor Vehicles' expenses. The temporary alcohol license allows the person to drive without any restrictive conditions pending the outcome of the contested case hearing provided for in subsection (F) or the final decision or disposition of the matter. If the suspension is upheld at the contested case hearing, the temporary alcohol license remains in effect until the Office of Motor Vehicle Hearings issues the hearing officer's decision and the Department of Motor Vehicles sends notice to the person that the person is eligible to receive a restricted license pursuant to subsection (H); and

(2) request a contested case hearing before the Office of Motor Vehicle Hearings in accordance with the Office of Motor Vehicle Hearings' rules of procedure.

At the contested case hearing, if:

(a) the suspension is upheld, the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension period provided for in subsection (I). Within thirty days of the issuance of the notice that the suspension has been upheld, the person shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990;

(b) the suspension is overturned, the person must have the person's driver's license, permit, or nonresident operating privilege reinstated.

The provisions of this subsection do not affect the trial for a violation of Section 56-5-2930, 56-5-2933, or 56-5-2945.

(C) The period of suspension provided for in subsection (I) begins on the day the notice of suspension is issued, or at the expiration of any other suspensions, and continues until the person applies for a temporary alcohol license and requests a contested case hearing.

(D) If a person does not request a contested case hearing, the person waives the person's right to the hearing, and the person's suspension must not be stayed but continues for the period provided for in subsection (I).

(E) The notice of suspension must advise the person:

(1) of the person's right to obtain a temporary alcohol driver's license and to request a contested case hearing before the Office of Motor Vehicle Hearings;

(2) the notice of suspension also must advise the person that, if the person does not request a contested case hearing within thirty days of the issuance of the notice of suspension, the person waives the person's right to the contested case hearing, and the suspension continues for the period provided for in subsection (I); and

(3) the notice of suspension also must advise the person that, if the suspension is upheld at the contested case hearing or the person does not request a contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program.

(F) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings. The scope of the hearing is limited to whether the person:

(1) was lawfully arrested or detained;

(2) was given a written copy of and verbally informed of the rights enumerated in Section 56-5-2950;

(3) refused to submit to a test pursuant to Section 56-5-2950; or

(4) consented to taking a test pursuant to Section 56-5-2950, and the:

(a) reported alcohol concentration at the time of testing was fifteen one-hundredths of one percent or more;

(b) individual who administered the test or took samples was qualified pursuant to Section 56-5-2950;

(c) tests administered and samples obtained were conducted pursuant to Section 56-5-2950; and

(d) machine was working properly.

Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the breath test result.

A written order must be issued to all parties either reversing or upholding the suspension of the person's license, permit, or nonresident's operating privilege, or denying the issuance of a license or permit. If the suspension is upheld, the person must receive credit for the number of days the person's license was suspended before the person received a temporary alcohol license and requested the contested case hearing.

The Department of Motor Vehicles and the arresting officer shall have the burden of proof in contested case hearings conducted pursuant to this section. If neither the Department of Motor Vehicles nor the arresting officer appears at the contested case hearing, the hearing officer shall rescind the suspension of the person's license, permit, or nonresident's operating privilege regardless of whether the person requesting the contested case hearing or the person's attorney appears at the contested case hearing.

(G) A contested case hearing is governed by the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with the Administrative Law Court's appellate rules. The filing of an appeal stays the suspension until a final decision is issued on appeal.

(H)(1) If the person did not request a contested case hearing or the suspension is upheld at the contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990, and may apply for a restricted license if the person is employed or enrolled in a college or university. The restricted license permits the person to drive only to and from work and the person's place of education and in the course of the person's employment or education during the period of suspension. The restricted license also permits the person to drive to and from the Alcohol Drug Safety Action Program classes or to a court-ordered drug program. The department may issue the restricted license only upon

showing by the person that the person is employed or enrolled in a college or university, that the person lives further than one mile from the person's place of employment, place of education, or location of the person's Alcohol and Drug Safety Action Program classes, or the location of the person's court-ordered drug program, and that there is no adequate public transportation between the person's residence and the person's place of employment, the person's place of education, the location of the person's Alcohol and Drug Safety Action Program classes, or the location of the person's court-ordered drug program.

(2) If the department issues a restricted license pursuant to this subsection, the department shall designate reasonable restrictions on the times during which and routes on which the person may drive a motor vehicle. A change in the employment hours, place of employment, status as a student, status of attendance of Alcohol and Drug Safety Action Program classes, status of attendance of the person's court-ordered drug program, or residence must be reported immediately to the department by the person.

(3) The fee for a restricted license is one hundred dollars, but no additional fee may be charged because of changes in the place and hours of employment, education, or residence. Twenty dollars of this fee must be deposited in the state's general fund, and eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the Department of Motor Vehicles' expenses.

(4) Driving a motor vehicle outside the time limits and route imposed by a restricted license is a violation of Section 56-1-460.

(I)(1) Except as provided in item (3), the period of a driver's license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, an arrested person who has no previous convictions for violating Section 56-5-2930, 56-5-2933, or 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs within the ten years preceding a violation of this section, and who has had no previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990, within the ten years preceding a violation of this section is:

(a) six months for a person who refuses to submit to a test pursuant to Section 56-5-2950; or

(b) one month for a person who takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more.

(2) The period of a driver's license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, a person who has been convicted previously for violating Section 56-5-2930, 56-5-2933, or 56-5-2945, or another law of this State or another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or another drug within the ten years preceding a violation of this section, or who has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990, within the ten years preceding a violation of this section is:

(a) for a second offense, nine months if the person refuses to submit to a test pursuant to Section 56-5-2950, or two months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more;

(b) for a third offense, twelve months if the person refuses to submit to a test pursuant to Section 56-5-2950, or three months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more; and

(c) for a fourth or subsequent offense, fifteen months if the person refuses to submit to a test pursuant to Section 56-5-2950, or four months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more.

(3) In lieu of serving the remainder of a suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension or denial of the issuance of a license or permit, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time remaining on the person's suspension or denial of the issuance of a license or permit. If the length of time remaining is less than three months, the ignition interlock device is required to be affixed to the motor vehicle for three months. Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and cannot subsequently choose to serve the suspension.

(J) A person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension or ignition interlock restricted license requirement pursuant to subsection (I) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program. After the person's driving privilege

is restored, the person shall continue the services of the Alcohol and Drug Safety Action Program. If the person withdraws from or in any way stops making satisfactory progress toward the completion of the Alcohol and Drug Safety Action Program, the person's license must be suspended until the completion of the Alcohol and Drug Safety Action Program. A person shall be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 before the person's driving privilege can be restored at the conclusion of the suspension period or ignition interlock restricted license requirement.

(K) When a nonresident's privilege to drive a motor vehicle in this State has been suspended pursuant to the provisions of this section, the department shall give written notice of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license or permit.

(L) The department shall not suspend the privilege to drive of a person under the age of twenty-one pursuant to Section 56-1-286, if the person's privilege to drive has been suspended pursuant to this section arising from the same incident.

(M) A person whose driver's license or permit is suspended pursuant to this section is not required to file proof of financial responsibility.

(N) An insurer shall not increase premiums on, add surcharges to, or cancel the automobile insurance of a person charged with a violation of Section 56-1-286, 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs based solely on the violation unless the person is convicted of the violation.

(O) The department shall administer the provisions of this section.

(P) If a person does not request a contested case hearing within the thirty-day period as authorized pursuant to this section, the person may file with the department a form after enrolling in a certified Alcohol and Drug Safety Action Program to apply for a restricted license. The restricted license permits him to drive only to and from work and his place of education and in the course of his employment or education during the period of suspension. The restricted license also permits him to drive to and from Alcohol and Drug Safety Action Program classes or a court-ordered drug program. The department may issue the restricted license at any time following the suspension upon a showing by the individual that he is employed or enrolled in a college or university, that he lives further than one mile from his place of employment, place of education, the location of his Alcohol and Drug Safety Action Program classes, or the location of his court-ordered

drug program, and that there is no adequate public transportation between his residence and his place of employment, his place of education, the location of his Alcohol and Drug Safety Action Program classes, or the location of his court-ordered drug program. The department must designate reasonable restrictions on the times during which and routes on which the individual may drive a motor vehicle. A change in the employment hours, place of employment, status as a student, status of attendance of Alcohol and Drug Safety Action Program classes, status of his court-ordered drug program, or residence must be reported immediately to the department by the licensee. The route restrictions, requirements, and fees imposed by the department for the issuance of the restricted license issued pursuant to this item are the same as those provided in this section had the person requested a contested case hearing. A restricted license is valid until the person successfully completes a certified Alcohol and Drug Safety Action Program, unless the person fails to complete or make satisfactory progress to complete the program."

Driver's license suspension

SECTION 15. Section 56-5-2990 of the 1976 Code is amended to read:

"Section 56-5-2990. (A)(1) The Department of Motor Vehicles shall suspend the driver's license of a person who is convicted for a violation of Section 56-5-2930, 56-5-2933, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs.

(2) For a first offense:

(a) If a person is found to have refused to submit to a breath test pursuant to Section 56-5-2950 and is convicted of Section 56-5-2930 or 56-5-2933, the person's driver's license must be suspended six months. The person is not eligible for a provisional license pursuant to Article 7, Chapter 1, Title 56. In lieu of serving the remainder of the suspension, the person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time remaining on the person's suspension. If the length of time remaining is less than three months, the ignition interlock device is required to be affixed to the motor vehicle for three months. Once a person has enrolled in the

Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and cannot subsequently choose to serve the suspension.

(b) If a person submitted to a breath test pursuant to Section 56-5-2950 and is convicted of having an alcohol concentration of less than fifteen one-hundredths of one percent, the person's driver's license must be suspended six months. The person is eligible for a provisional license pursuant to Article 7, Chapter 1, Title 56. In lieu of serving the remainder of the suspension, the person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time remaining on the person's suspension. If the length of time remaining is less than three months, the ignition interlock device is required to be affixed to the motor vehicle for three months. Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and cannot subsequently choose to serve the suspension.

(c) If a person submitted to a breath test pursuant to Section 56-5-2950 and is convicted of having an alcohol concentration of fifteen one-hundredths of one percent or more, the person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for six months. The person is not eligible for a provisional license pursuant to Article 7, Chapter 1, Title 56.

(3) For a second offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for two years.

(4) For a third offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for three years. If the third offense occurs within five years from the date of the first offense, the ignition interlock device is required to be affixed to the motor vehicle for four years.

(5) For a fourth or subsequent offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for life.

(6) Except as provided in subsection (A)(4), only those offenses which occurred within ten years, including and immediately preceding the date of the last offense, shall constitute prior offenses within the meaning of this section.

(B) A person whose license is suspended pursuant to this section, Section 56-1-286, Section 56-5-2945, or Section 56-5-2951 must be notified by the department of the suspension and of the requirement to enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services. A person who must complete an Alcohol and Drug Safety Action Program as a condition of reinstatement of his driving privileges or a court-ordered drug program may use the route restricted or special restricted driver's license to attend the Alcohol and Drug Safety Action Program classes or court-ordered drug program in addition to the other permitted uses of a route restricted driver's license or a special restricted driver's license. An assessment of the extent and nature of the alcohol and drug abuse problem, if any, of the person must be prepared and a plan of education or treatment, or both, must be developed for the person. Entry into and successful completion of the services, if the services are necessary, recommended in the plan of education or treatment, or both, developed for the person is a mandatory requirement of the issuance of an ignition interlock restricted license and restoration of driving privileges to the person whose license is suspended pursuant to this section. The Alcohol and Drug Safety Action Program shall determine if the person has successfully completed the services. Alcohol and Drug Safety Action Programs shall meet at least once a month. The person whose license is suspended shall attend the first Alcohol and Drug Safety Action Program available after the date of enrollment.

(C) The Department of Alcohol and Other Drug Abuse Services shall determine the cost of services provided by each certified Alcohol and Drug Safety Action Program. Each person shall bear the cost of services recommended in the person's plan of education or treatment. The cost may not exceed five hundred dollars for education services, two thousand dollars for treatment services, and two thousand five hundred dollars in total for all services. No person may be denied services due to an inability to pay. Inability to pay for services may not

be used as a factor in determining if the person has successfully completed services. A person who is unable to pay for services shall perform fifty hours of community service as arranged by the Alcohol and Drug Safety Action Program, which may use the completion of this community service as a factor in determining if the person has successfully completed services. The Department of Alcohol and Other Drug Abuse Services shall report annually to the House Ways and Means Committee and Senate Finance Committee on the number of first and multiple offenders completing the Alcohol and Drug Safety Action Program, the amount of fees collected and expenses incurred by each Alcohol and Drug Safety Action Program, and the number of community service hours performed in lieu of payment.

(D) If the person has not successfully completed the services as directed by the Alcohol and Drug Safety Action Program within one year of enrollment, a hearing must be provided by the Alcohol and Drug Safety Action Program whose decision is appealable to the Department of Alcohol and Other Drug Abuse Services. If the person is unsuccessful in the Alcohol and Drug Safety Action Program, the Department of Motor Vehicles may waive the successful completion of the program as a mandatory requirement of the issuance of an ignition interlock restricted license upon the recommendation of the Medical Advisory Board as utilized by the Department of Motor Vehicles, if the Medical Advisory Board determines public safety and welfare of the person may not be endangered.

(E) The Department of Motor Vehicles and the Department of Alcohol and Other Drug Abuse Services shall develop procedures necessary for the communication of information pertaining to relicensing, or otherwise. These procedures must be consistent with the confidentiality laws of the State and the United States. If a person's driver's license is suspended pursuant to this section, an insurance company shall not refuse to issue insurance to cover the remaining members of the person's family, but the insurance company is not liable for any actions of the person whose license has been suspended or who has voluntarily turned the person's license in to the Department of Motor Vehicles.

(F) Except as provided for in Section 56-1-365(D) and (E), the driver's license suspension periods under this section begin on the date the person is convicted, receives sentence upon a plea of guilty or of nolo contendere, or forfeits bail posted for the a violation of Section 56-5-2930, 56-5-2933, or for the violation of any other a law of this State or ordinance of a county or municipality of this State that prohibits a person from operating a motor vehicle while under the

influence of intoxicating liquor, or narcotics; however, a person is not prohibited from filing a notice of appeal and receiving a certificate which entitles him to operate a motor vehicle for a period of sixty days after the conviction, plea of guilty or nolo contendere, or bail forfeiture pursuant to Section 56-1-365(F)."

Savings clause

SECTION 16. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 17. This act takes effect on October 1, 2014.

Ratified the 10th day of April, 2014.

Approved the 14th day of April, 2014.

No. 159

(R167, S714)

AN ACT TO AMEND CHAPTER 15, TITLE 50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NONGAME AND ENDANGERED SPECIES CONSERVATION ACT, SO AS TO RENAME THIS CHAPTER "NONGAME AND ENDANGERED SPECIES", TO DESIGNATE THE CHAPTER'S EXISTING SECTIONS AS ARTICLE 1 "NONGAME AND ENDANGERED WILDLIFE SPECIES", TO DELETE THE

SECTION THAT REGULATES ALLIGATOR HUNTING, CONTROL, AND MANAGEMENT, TO ADD ARTICLE 3 TO THIS CHAPTER ENTITLED THE "SOUTH CAROLINA CAPTIVE ALLIGATOR PROPAGATION ACT" WHICH ALLOWS THE DEPARTMENT OF NATURAL RESOURCES TO REGULATE THE BUSINESS OF PROPAGATING ALLIGATORS FOR COMMERCIAL PURPOSES AND THE HUNTING, CONTROL, AND MANAGEMENT OF ALLIGATORS; BY ADDING ARTICLE 5 TO CHAPTER 15, TITLE 50 SO AS TO ENTITLE THIS ARTICLE "ALLIGATOR MANAGEMENT PROGRAM" WHICH ALLOWS THE DEPARTMENT TO REGULATE THE TAKING OF ALLIGATORS UNDER CONTROLLED CONDITIONS AND CIRCUMSTANCES IN COMPLIANCE WITH FEDERAL LAW; AND BY ADDING SECTION 50-9-460 SO AS TO PROVIDE FEES TO APPLY FOR, OBTAIN, AND RENEW AN ALLIGATOR PROPAGATION FACILITY PERMIT.

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

Nongame and endangered wildlife species and captive alligator propagation

SECTION 1. Chapter 15, Title 50 of the 1976 Code is amended to read:

"CHAPTER 15

Nongame and Endangered Species

Article 1

Nongame and Endangered Wildlife Species

Section 50-15-10. As used in this article:

(1) 'Ecosystem' means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life.

(2) 'Endangered species' means any species or subspecies of wildlife whose prospects of survival or recruitment within the State are in jeopardy or are likely within the foreseeable future to become so due to any of the following factors:

(a) the destruction, drastic modification, or severe curtailment of its habitat, or

(b) its over-utilization for scientific, commercial, or sporting purposes, or

(c) the effect on it of disease, pollution, or predation, or

(d) other natural or manmade factors affecting its prospects of survival or recruitment within the State, or

(e) any combination of the foregoing factors. The term shall also be deemed to include any species or subspecies of fish or wildlife appearing on the United States' List of Endangered Native Fish and Wildlife as it appears on July 2, 1974, (Part 17 of Title 50, Code of Federal Regulations, Appendix D) as well as any species or subspecies of fish and wildlife appearing on the United States' List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50 of the Code of Federal Regulations, Appendix A), as such list may be modified hereafter.

(3) 'Management' means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. The term includes the entire range of activities that constitute a modern scientific resource program including, but not limited to, research, census, law enforcement, habitat acquisition and improvement, and education. Also included within the term, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.

(4) 'Nongame species' means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this State as a game species.

(5) 'Optimum carrying capacity' means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

(6) 'Person' means any individual, firm, corporation, association, or partnership.

(7) 'Take' means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.

(8) 'Wildlife' means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or any part, product, egg or offspring, or the dead body or parts thereof.

Section 50-15-20. (A) The department shall conduct investigations on nongame wildlife in order to develop information relating to population, distribution, habitat, needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations the department shall issue proposed regulations and develop management programs designed to ensure the continued ability of nongame wildlife to perpetuate themselves successfully. Such proposed regulations shall set forth species or subspecies of nongame wildlife which the department deems in need of management pursuant to this section, giving their common and scientific names by species or subspecies. The department shall conduct ongoing investigations of nongame wildlife and may from time to time amend such regulations by adding or deleting therefrom species or subspecies of nongame wildlife.

(B) The department shall by such regulations establish proposed limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage such nongame wildlife.

Such regulation shall become effective sixty days after being proposed during which period public comment shall be solicited and received. The board may hold a public hearing if deemed appropriate. On the basis of public comments received or the testimony at any such hearing the department may make such changes in the proposed regulation as are consistent with effective management of nongame wildlife.

(C) Except as provided in regulations issued by the department, it shall be unlawful for any person to take, possess, transport, export, process, sell, or offer for sale or ship nongame wildlife deemed by the department to be in need of management pursuant to this section. Subject to the same exception, it shall further be unlawful for any common or contract carrier knowingly to transport or receive for shipment nongame wildlife deemed by the department to be in need of management pursuant to this section.

Section 50-15-30. (A) On the basis of investigations on nongame wildlife provided for in Section 50-15-20 and other available scientific and commercial data, and after consultation with other state agencies, appropriate federal agencies, and other interested persons and organizations, but not later than one year after July 2, 1974, the department shall by regulation propose a list of those species or subspecies of wildlife indigenous to the State which are determined to

be endangered within this State, giving their common and scientific names by species and subspecies. Such regulation shall become effective sixty days after being proposed during which period public comment shall be solicited and received. The board may hold a public hearing if deemed appropriate. On the basis of public comments received or the testimony at any such hearing, the department may add to such proposed list additional species or subspecies which are determined to be endangered within the State or delete therefrom such species or subspecies which are determined not to be endangered within the State.

(B) The board shall conduct a review of the state list of endangered species within not more than two years from its effective date and every two years thereafter and may amend the list by such additions or deletions as are deemed appropriate. The board shall submit to the Governor a summary report of the data used in support of all amendments to the state list during the preceding biennium.

(C) Except as otherwise provided in this article, it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on any of the following lists:

(1) the list of wildlife indigenous to the State determined to be endangered within the State pursuant to subsection (A);

(2) the United States' List of Endangered Native Fish and Wildlife as it appears on July 2, 1974, (Part 17 of Title 50, Code of Federal Regulations, Appendix D); and

(3) the United States' List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50, Code of Federal Regulations, Appendix A), as such list may be modified hereafter; provided, that any species or subspecies of wildlife appearing on any of the foregoing lists which enters the State from another state or from a point outside the territorial limits of the United States and which is transported across the State destined for a point beyond the State may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(D) In the event the United States' List of Endangered Native Fish and Wildlife is modified subsequent to July 2, 1974, by additions or deletions, such modifications whether or not involving species or subspecies indigenous to the State may be accepted as binding under subsection (C) if, after the type of scientific determination described in subsection (A), the department by regulation accepts such modification

for the State. Any such regulation shall be effective upon promulgation.

Section 50-15-40. (A) The board shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for management of nongame and endangered wildlife. The board shall utilize all authority vested in the department to carry out the purposes of this section.

(B) In carrying out programs authorized by this section, the department may enter into agreements with federal agencies, political subdivisions of the State, or with private persons for administration and management of any area established under this section or utilized for management of nongame or endangered wildlife.

(C) The Governor shall encourage other state and federal agencies to utilize their authorities in furtherance of the purposes of this section.

(D) The department may permit the taking, possession, transportation, exportation, or shipment of species or subspecies of wildlife which appear on the state list of endangered species, or species in need of management on the United States' List of Threatened or Endangered Native Fish and Wildlife, as amended and accepted in accordance with Section 50-15-30(D), or on the United States' List of Threatened or Endangered Foreign Fish and Wildlife, as such list may be modified hereafter, for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife, or for other special purposes.

(E) Upon good cause shown, and where necessary to alleviate damage to property or to protect human health, endangered species may be removed, captured, or destroyed but only pursuant to permit issued by the department and, where possible, by or under the supervision of an agent of the department; provided, that threatened or endangered species or species in need of management may be removed, captured, or destroyed without permit by any person in emergency situations involving an immediate threat to human life. Provisions for removal, capture, or destruction of nongame wildlife for the purposes set forth above shall be set forth in regulations issued by the department pursuant to Section 50-15-20(A).

Section 50-15-50. (A) The department shall promulgate regulations addressing criteria for designating land as certified management area for endangered species or of species in need of management in order to qualify a taxpayer for the income tax credit provided for in Section 12-6-3520.

(B) Every five years the department may review the population status of species subject to certified management agreements and shall revise the regulations accordingly. The department may revise criteria at that time as necessary for lands to retain their designation as certified management areas.

Section 50-15-60. The department shall promulgate such regulations as are necessary to carry out the purposes of this article.

Section 50-15-70. (A) It is unlawful for a person, or a group of individuals traveling in one vehicle, to remove, or attempt to remove from this State more than ten, either in one species or a combination of species, of the named species of turtles at one time with a maximum of twenty turtles of these species, either individually or in combination in any one year: yellowbelly turtle (Trachemys scripta), Florida cooter (Pseudemys floridana), river cooter (Pseudemys concinna), chicken turtle (Deirochelys reticularia), eastern box turtle (Terrapene carolina), eastern painted turtle (Chrysemys picta), spiny softshell turtle (Apalone spinifera), Florida softshell turtle (Apalone ferox), and common snapping turtle (Chelydra serpentina).

(B) The provisions of this section do not prohibit the sale, offer for sale, or purchase of the yellowbelly turtle (Trachemys scripta) species and the common snapping turtle (Chelydra serpentina) species if these turtles were taken from a permitted aquaculture facility or a private pond pursuant to a permit issued by the department at the request of the owner or owner's agent. Any person transporting more than ten yellowbelly turtle (Trachemys scripta) species or common snapping turtle (Chelydra serpentina) species must be in possession of a permit pursuant to which the turtles were taken or acquired and, upon request, must provide it to authorized agents of the department. A person selling, offering to sell, or purchasing these species must have documentation from the aquaculture facility as to the origin of the turtles. The department may charge twenty-five dollars for a permit.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of up to two hundred dollars or up to thirty days in jail, or both. A violator also must have his permit permanently revoked and may never be issued another one. Each turtle removed or in possession of a person attempting to remove them is a separate violation of this section.

Section 50-15-80. (A) A person who violates Section 50-15-20 or a person who fails to procure or violates the terms of a permit issued

under the regulations is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days and ordered to pay restitution.

(B) A person who violates Section 50-15-30(C) or regulations promulgated pursuant to it or a person who fails to procure or violates the terms of a permit issued pursuant to Section 50-15-40(D) and (E) is guilty of a misdemeanor and, upon conviction, must be fined one thousand dollars or imprisoned not more than one year, or both.

(C) An enforcement officer employed and authorized by the department or a police officer of the State or a municipality or county within the State may conduct searches as provided by law and execute a warrant to search for and seize equipment, business records, merchandise, or wildlife taken, used, or possessed in connection with a violation of this article. The officer or agency, without a warrant, may arrest a person who the officer or agent has probable cause to believe is violating, in his presence or view, the article or a regulation or permit provided for by it. An officer or agent who has made an arrest of a person in connection with a violation may search the person or business records at the time of arrest and seize wildlife, records, or property taken or used in connection with the violation.

(D) Equipment, merchandise, wildlife, or records seized under subsection (C) must be held by an officer or agent of the department pending disposition of court proceedings and forfeited to the State for destruction or disposition as the board considers appropriate. Before forfeiture, the board may direct the transfer of wildlife seized to a qualified zoological, educational, or scientific institution for safekeeping. The costs of the transfer are assessable to the defendant. The department may promulgate regulations to implement this subsection.

Section 50-15-90. None of the provisions of this article shall be construed to apply retroactively or to prohibit importation into the State of wildlife which may be lawfully imported into the United States or lawfully taken or removed from another state or to prohibit entry into the State or possession, transportation, exportation, processing, sale or offer for sale, or shipment of any wildlife whose species or subspecies is deemed to be threatened with statewide extinction in this State but not in the state where originally taken if the person engaging therein demonstrates by substantial evidence that such wildlife was lawfully taken or removed from such state; provided, that this section shall not be construed to permit the possession, transportation, exportation, processing, sale or offer for sale, or shipment within this State of

wildlife on the United States' List of Endangered Native Fish and Wildlife, as amended and accepted in accordance with Section 50-15-30(D), except as permitted in the proviso to Section 50-15-30(C) and Section 50-15-40(D).

Article 3

South Carolina Captive Alligator Propagation Act

Section 50-15-310. As contained in this article:

(1) 'Alligator' means the species Alligator mississippiensis.

(2) 'Alligator propagation facility' means an enclosed area not located on public lands or waters, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters where alligators are bred or raised as captive animals.

(3) 'Alligator propagator' means a person who raises captive alligators under controlled conditions which prohibit free movement of the animals onto and off of the facility, and who may harvest alligators under a permit from the department.

(4) 'Alligator part' means any part of an alligator.

(5) 'Commercial purposes' means to derive income or with the intent to derive income.

(6) 'Department' means the South Carolina Department of Natural Resources.

(7) 'Transport' means, in its different tenses, the act of shipping, attempting to ship, receiving or delivering for shipment, transporting, conveying, carrying, or exporting by air, land, or water or by any manner.

Section 50-15-320. (A) Any person may apply to the department for a permit to engage in the business of propagating alligators for commercial purposes. A permit allows the purchase of live alligators or alligator eggs from legal sources, the sale of live alligators within the State to other department-permitted alligator propagators only, the sale of live alligators to other states where the purchase of those animals is lawful, the sale of the carcasses, raw parts, or skins of captive-raised alligators to any person for resale or processing into finished products, including sale for food, and the exhibition of live alligators.

(B) The capture, use, purchase, or sale of wild alligators or wild alligator eggs within this State for the purpose of alligator propagation is prohibited.

(C) Except as provided in subsection (A), the sale of alligator eggs is prohibited.

Section 50-15-330. (A) Upon payment of a nonrefundable application fee for applicants seeking a permit for the first time, the department shall investigate the applicant and the proposed facility. The department must prescribe applicant, facility, and operating requirements to applicants and may deny the application in its discretion after review. A person exhibiting alligators in a circus or zoo or in a similar animal, reptile, or wildlife show at a place or location other than on a captive alligator propagation facility is exempt from the permit and fee requirements of this article.

(B) Upon approval of an application and payment of the permit fee, the department shall issue an alligator propagation facility permit.

(C) A valid permit shall expire twelve months after the date of issuance and may be renewed not more than forty-five days prior to expiration upon payment of a renewal fee.

(D) Alligator propagation facilities located on noncontiguous parcels of land must be permitted separately.

Section 50-15-340. (A) It is unlawful to possess, buy, sell, barter, ship, transport, or offer to buy, sell, barter, ship, or transfer alligator carcasses, skins, or parts unless tagged or labeled according to department regulations.

(B) A person applying for an alligator propagator permit must first secure a bond to insure faithful performance naming the department as beneficiary in the amount of one hundred thousand dollars. The bond must be renewed as a condition of the permit. In the event the facility is closed, abandoned, or destroyed, or the permit is revoked, the department may use the proceeds of the bond to clean up and close the facility.

Section 50-15-350. (A) Permittees must maintain records related to the possession, source, and disposition of alligators and alligator eggs as prescribed by department regulations. These records must be kept on-site and are subject to inspection at any time by department personnel during reasonable hours.

(B) Department personnel may, during reasonable hours, enter and inspect all alligator facilities permitted under provisions of law different from this article and all alligator propagators' places of business, farm buildings, farm lands, vessels, and motor vehicles that are used or are of a type that could be used in the production, storage,

sale, or transportation of any alligators, meat, parts, or skins, and conduct partial or complete inventories to determine whether the permitee is in compliance with applicable laws and regulations.

(C) Any alligator tags that have been issued to an alligator propagator in excess of the number of harvestable alligators actually present on a farm, as revealed by inventory or records, may be seized by department personnel.

Section 50-15-360. Any retailer, including retail food businesses, possessing, buying, or selling alligator parts must maintain an invoice or bill of sale for each purchase or sale for a period of six months. These records must be made available for inspection at any and all reasonable hours by the department.

Section 50-15-370. (A) It is unlawful to alter or compromise the locking mechanism on any alligator tag. The possession of altered or fraudulent tags is unlawful. The possession of any alligator hide or carcass not tagged as prescribed by the department or any unskinned, untagged, frozen alligator carcass is unlawful and is considered contraband and subject to seizure and forfeiture by the department. Forfeited animals and parts must be disposed of by law and the proceeds deposited according to law.

(B) All alligator propagators must submit annual reports as prescribed by the department, on forms provided by the department, no later than January thirty-first of each year. This report must accompany any unused alligator tags from the previous year. No additional permits or tags shall be issued until this report is submitted. It is a violation of this section for any person to possess any unused alligator tags from the previous year after January thirty-first.

Section 50-15-380. (A) All raw alligator skins shipped within this State must be tagged. The accompanying bill of lading must show the number of skins in the shipment, the consignor, shipping point, consignee, and destination. The department must supply suitable tags to all shippers at a cost of ten dollars per tag requiring them for actual shipments. No alligator skin intended for shipment within this State may be accepted by any post office, express company, or agent, or the agent of any common carrier, unless the shipment complies with this section.

(B) A person who violates any provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one

hundred dollars nor more than five hundred dollars, or imprisoned for not more than thirty days, or both.

Section 50-15-390. (A) It is unlawful for a person to take or possess the eggs of alligators, alligators, or their parts or skins in this State except as provided for in this article. The provisions of this section do not apply to legal finished products, alligators or their parts legally acquired before the effective date of this article, alligators or their parts legally acquired from other legal sources, or alligators harvested or collected under a permit from the department.

(B) It is unlawful to release any captive alligator.

(C) It is unlawful for an alligator propagation facility to offer for barter, sale, or trade the opportunity for a person to hunt or take an alligator at the facility except that a permitted facility may contract with an outside contractor to assist with the normal processing of alligators.

Section 50-15-400. Notwithstanding the provisions of this article to the contrary, in the event federal or state law regulations or designations allowed by law places the alligator in the endangered species status, all permits issued pursuant to this article are null and void.

Section 50-15-410. (A) Any alligator propagation facility that fails to renew the required permits or ceases operation for any reason shall have a period of three months in which to legally dispose of any remaining alligators in the facility. After three months, any remaining alligators in the facility must be forfeited to the State and disposed of. Forfeited animals and parts must be disposed of by law and the proceeds from them deposited according to law. The owner of the facility is liable for any costs associated with the disposal of the remaining alligators.

(B) If an alligator propagation facility is abandoned, or the alligator propagator fails to adequately maintain the enclosure after notification by the department, or in the case of wilful neglect of the facility, or the lack of proper care, feeding or humane handling of alligators in the facility, the alligator propagator is considered in violation of this article and any alligators or alligator parts in the facility must be forfeited to the department. Forfeited animals and parts must be disposed of by law and the proceeds from them deposited according to law. The owner of the facility is liable for any costs associated with the disposal of the remaining alligators.

Section 50-15-420. (A) Unless otherwise provided for, a person who violates the provisions of this article or implementing regulations is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than five thousand dollars, or imprisoned for not more than thirty days, or both. The magistrates court retains concurrent jurisdiction for offenses contained in this article.

(B) Any alligator, alligator part, alligator eggs, or alligator skins unlawfully possessed, purchased, sold, bartered, shipped, or transported are contraband and are forfeited to the department. Forfeited animals and parts must be disposed of by law and the proceeds from them deposited according to law.

(C) Any person permitted as an alligator propagator convicted of violating any of the provisions of this article or regulations related to the unlawful taking, purchasing, selling, or bartering of a wild alligator, wild alligator part, or wild alligator eggs, or the unlawful shipping or transporting of those items, forfeits his permit upon conviction for one year, and all alligators, alligator parts, and alligator skins in his possession are forfeited to the State. Forfeited animals and parts must be disposed of by law and the proceeds from them deposited according to law.

Section 50-15-430. (A) To the extent not provided for in other law or by other agency, the department may adopt regulations for the placement, construction, operation, and maintenance of alligator propagation facilities, to include the following:

(1) the minimum distance among alligator propagation facilities, other alligator propagation facilities, and residences;

(2) the secure and humane confinement of the alligators; and

(3) the maximum number of alligators that may be present, in total and for propagation, on an alligator propagation facility at any one time.

(B) Water quality and waste impacts caused by alligator farms shall be subject to regulations issued by the Department of Health and Environmental Control."

Alligator Management Program

SECTION 2. Chapter 15, Title 50 of the 1976 Code is amended by adding:

"Article 5

Alligator Management Program

Section 50-15-500. (A) The General Assembly finds that the American alligator (Alligator mississippiensis) was reclassified by the United States Fish and Wildlife Service from endangered or threatened to 'threatened due to similarity of appearance throughout the remainder of its range' pursuant to the federal Endangered Species Act (16 U.S.C. 1531) and the regulations issued to implement that act. American alligators may now be taken under federal law in compliance with 50 C.F.R. 17.42(a)(2)(ii). Therefore, in order to create more opportunity for hunting and for the controlled harvest of the alligator, the General Assembly finds it in the best interest of the State to allow the taking of the alligator under strictly controlled conditions and circumstances and in compliance with federal law.

(B)(1) The department must establish an alligator management program that allows for hunting and for selective removal of alligators in order to provide for the sound management of the animals and to ensure the continued viability of the species. The department must set the conditions for taking, including the size, methods of take, areas, times and seasons, disposition of the parts, and other conditions to properly control the harvest of alligators and the disposition of parts. The department may allow alligators to be taken at any time of the year, in any area, including sanctuaries, as part of its alligator management program. All alligators taken under the alligator management program must be taken pursuant to permits and tags and under conditions established by the department in accordance with state and federal law. All alligators taken must be tagged. Except for those persons operating under authority of depredation permits, a person who hunts, takes, or attempts to take an alligator must have a hunting license. It is unlawful for a depredation permit holder or his or her designee to sell, barter, or trade or offer to sell, barter, or trade the privilege to take an alligator under the authority of a depredation permit.

(2) The department may establish an alligator hunting season. The department may issue alligator permits and tags to allow hunting and taking of alligators in any game zone where alligators occur. A person desiring to hunt and take alligators must apply to the department.

(3) A landowner or lessee of property on which alligators occur may apply to the department for a permit to participate in the Private

Lands Alligator Program. On those private lands, the season for hunting and taking alligators is from September first through May thirty-first. On those lands in the private lands program only, unsecured alligators may be taken by firearms, provided no alligator may be taken by use of rim fire weapons or shotguns. Unsecured alligators may be taken only by firearms from thirty minutes before sunrise until thirty minutes after sunset. A person who takes an alligator by use of firearms must make a reasonable effort to recover the carcass at the time of taking or for the next ensuing forty-eight hours. A person using a firearm to take an alligator must have a gaff or grappling hook or other similar device to immediately locate and recover the carcass.

(4) The department may designate alligator control agents who demonstrate by training and experience that they possess the skills to remove alligators. Those persons designated serve at the discretion of the department. The department may require periodic demonstrations of skill or require periodic training. Alligator control agents function under the general guidance and supervision of the department for the capture and removal of nuisance alligators including the disposition of the alligator or its parts.

(C) It is unlawful to feed, entice, or molest an alligator except as permitted under state and federal law. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than one hundred fifty dollars or imprisoned for up to thirty days, or both. The magistrates court retains jurisdiction over this offense.

(D) A person who hunts or takes an alligator, or allows an alligator to be hunted or taken, or possesses or disposes of alligator parts, except as allowed by this section and the implementing regulations, is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than two thousand five hundred dollars or imprisoned for up to thirty days, or both. The magistrates court retains jurisdiction over this offense. In addition, the court may order restitution for any animal or part of an animal taken, possessed, or transferred in violation of this section."

Alligator propagation facility permits

SECTION 3. Article 4, Chapter 9, Title 50 of the 1976 Code is amended by adding:

"Section 50-9-460. (A) An applicant for an alligator propagation facility permit must remit a nonrefundable fee of five hundred dollars with the application.

(B) Upon approval of an alligator propagation facility permit, the applicant must remit a fee of one hundred dollars to obtain the permit.

(C) Before renewal of a valid alligator propagation facility permit, the permittee must remit a fee of one hundred dollars to renew the permit."

Savings clause

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 10th day of April, 2014.

Approved the 14th day of April, 2014.

No. 160

(R168, S842)

AN ACT TO AMEND CHAPTER 12, TITLE 25, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VETERANS UNCLAIMED CREMATED REMAINS, SO AS TO PROVIDE THAT A CORONER MAY WORK WITH A

VETERAN'S SERVICE ORGANIZATION TO PROVIDE FOR THE DISPOSITION OF UNCLAIMED CREMATED REMAINS OF A VETERAN PURSUANT TO THE PROVISIONS CONTAINED IN THIS CHAPTER.

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

Coroners may assist with disposition

SECTION 1. Chapter 12, Title 25 of the 1976 Code is amended to read:

"CHAPTER 12

Veteran's Unclaimed Cremated Remains

Section 25-12-10. The unclaimed cremated remains of a veteran as defined in this chapter may be disposed of pursuant to the provisions of this chapter.

Section 25-12-20. As used in this chapter:

(1) 'Veteran' means a person who has:

(a) served on active duty in the uniformed military services of the United States;

(b) served on active duty in the National Guard or any organized state militia; or

(c) served in the reserve components of the uniformed military services of the United States on active duty; and

(d) was released from this service other than by dishonorable discharge.

(2) 'Veterans' service organization' means an association, corporation, or other entity that qualifies under Internal Revenue Code Section 501(c)(3) or Section 501(c)(19) as a tax exempt organization, a federally chartered veterans' service corporation, or a veterans affairs office or agency established by state law. This term also includes a member or employee of any such entity.

(3) 'National cemetery' means a cemetery under the control of the United States Department of Veterans Affairs National Cemetery Administration.

(4) 'Disposition' means disposal of cremated remains by placement in a tomb, mausoleum, crypt, columbarium, or by burial in a cemetery.

For purposes of this chapter, 'disposition' does not include the scattering of cremated remains.

(5) 'Funeral home', 'funeral establishment', and 'mortuary' means as defined in Section 40-19-20.

(6) 'Coroner' means the person defined in Section 17-5-5(3).

Section 25-12-30. A coroner or a manager of a funeral home, funeral establishment, or mortuary, which has held in its possession cremated remains for more than one hundred twenty days from the date of cremation, may determine, in accordance with the provisions of this chapter, if the cremated remains are those of a veteran, and if so, may dispose of those remains as provided in this chapter.

Section 25-12-40. (A) Notwithstanding any law or regulation to the contrary, nothing in this chapter shall prevent a coroner or a manager of a funeral home, funeral establishment, or mortuary from sharing information with the Veterans Administration, a veteran's service agency or veterans affairs office, a veteran's service organization, a national cemetery, or state or local veterans' cemetery for the purpose of determining whether the cremated remains are those of a veteran.

(B) A coroner or a funeral home, funeral establishment, mortuary, and any manager of them is discharged from any legal obligations or liability with regard to releasing or sharing information with the Veterans Administration, a veteran's service agency or veterans affairs office, a veteran's service organization, a national cemetery, or state or local veterans' cemetery pursuant to this chapter in regard to determining if a person's cremated remains are those of a veteran.

Section 25-12-50. (A) If a coroner or a manager of a funeral home, funeral establishment, or mortuary ascertains the cremated remains in its possession are those of a veteran, and they have not been instructed by the person in control of the disposition of the decedent's remains to arrange for the final disposal or delivery of the cremated remains, the coroner or the manager of a funeral home, funeral establishment, or mortuary may dispose of the cremated remains in the manner provided in this chapter or relinquish possession of the cremated remains to a veteran's service organization.

(B) The disposition of the cremated remains must be made in a national cemetery, a state or local veterans' cemetery, a section of a cemetery corporation where veterans are memorialized by a veteran's marker, a veteran's section of a cemetery corporation, or a veteran's

cemetery if the deceased veteran is eligible for interment in such a manner.

Section 25-12-60. The veterans' service organization, coroner, funeral home, funeral establishment, mortuary, and any manager of them, upon disposing of cremated remains in accordance with the provisions of this chapter, must be held harmless for any costs or damages, except if there is gross negligence or wilful misconduct, and is discharged from any legal obligation or liability concerning the cremated remains.

Section 25-12-70. The estate of the decedent is responsible for reimbursing a veteran's service organization, coroner, funeral home, funeral establishment, mortuary, and any manager of them for all reasonable expenses incurred in relation to the disposition of the cremated remains.

Section 25-12-80. A coroner or a manager of a funeral home, funeral establishment, or mortuary shall establish and maintain a record identifying the veterans' service organization receiving the cremated remains.

Section 25-12-90. Nothing in this chapter requires a coroner or a manager of a funeral home, funeral establishment, or mortuary to determine or seek others to determine that an individual's cremated remains are those of a veteran if the manager of a funeral home, funeral establishment, or mortuary was informed by the person in control of the remains that the individual was not a veteran, or to relinquish possession of the cremated remains to a veteran's service organization if the manager of a funeral home, funeral establishment, or mortuary was instructed by a person in control of the remains, or had a reasonable belief, that the decedent did not desire any funeral or burial related services or ceremonies recognizing the decedent's service as a veteran."

Time effective

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

Ratified the 10th day of April, 2014.

Approved the 14th day of April, 2014.

No. 161

(R169, S1028)

AN ACT TO AMEND SECTION 50-25-1010, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO WATERCRAFT OPERATED ON TUGALO LAKE, SO AS TO PROVIDE THAT NO MOTOR IN EXCESS OF TWENTY-FIVE HORSEPOWER SHALL BE USED ON LAKE TUGALO INSTEAD OF TWENTY HORSEPOWER.

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

Watercraft on Tugalo Lake

SECTION 1. Section 50-25-1010 of the 1976 Code is amended to read:

"Section 50-25-1010. Except for law enforcement and dam operation and maintenance watercraft, no motor in excess of twenty-five horsepower shall be used on any watercraft operated on Tugalo Lake. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or more than five hundred dollars, or imprisoned for not more than thirty days, or both."

Time effective

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

Ratified the 10th day of April, 2014.

Approved the 14th day of April, 2014.

No. 162

(R174, S764)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 2 TO CHAPTER 35, TITLE 43 SO AS TO CREATE THE VULNERABLE ADULT GUARDIAN AD LITEM PROGRAM WITHIN THE OFFICE ON AGING TO RECRUIT, TRAIN, AND SUPERVISE VOLUNTEERS TO SERVE AS COURT-APPOINTED GUARDIANS AD LITEM FOR VULNERABLE ADULTS IN ABUSE, NEGLECT, AND EXPLOITATION PROCEEDINGS; TO PROVIDE THE DUTIES AND RESPONSIBILITIES OF A GUARDIAN AD LITEM; TO PROVIDE THAT A GUARDIAN AD LITEM MAY BE A LAYPERSON OR AN ATTORNEY; TO PROVIDE QUALIFICATIONS TO BECOME A GUARDIAN AD LITEM; TO AUTHORIZE THE VULNERABLE ADULT GUARDIAN AD LITEM PROGRAM TO INTERVENE IN PROCEEDINGS TO PETITION FOR REMOVAL OF A GUARDIAN AD LITEM UNDER CERTAIN CONDITIONS; TO PROVIDE THAT CERTAIN INFORMATION, REPORTS, AND RECORDS MUST BE MADE AVAILABLE TO GUARDIANS AD LITEM BY CERTAIN STATE AND FEDERAL AGENCIES, MEDICAL AND DENTAL PRACTITIONERS, AND FINANCIAL INSTITUTIONS; TO PROVIDE THAT REPORTS AND INFORMATION COLLECTED AND MAINTAINED BY THE PROGRAM ARE CONFIDENTIAL AND TO PROVIDE FOR CIVIL IMMUNITY WHEN ACTING IN GOOD FAITH AND IN THE ABSENCE OF GROSS NEGLIGENCE; AND TO AMEND SECTION 43-35-45, RELATING, AMONG OTHER THINGS, TO THE APPOINTMENT OF AN ATTORNEY AND A GUARDIAN AD LITEM FOR A VULNERABLE ADULT IN A PROCEEDING, SO AS TO FURTHER PROVIDE THAT THE COURT SHALL APPOINT AN ATTORNEY FOR A LAY GUARDIAN AD LITEM AND THAT THE GUARDIAN AD LITEM MAY BE REMOVED IF THE VULNERABLE ADULT HAS THE CAPACITY TO ASSIST IN THE CASE.

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

Vulnerable Adult Guardian ad Litem Program

SECTION 1. Chapter 35, Title 43 of the 1976 Code is amended by adding:

"Article 2

Vulnerable Adult
Guardian ad Litem Program

Section 43-35-200. (A) There is created the Vulnerable Adult Guardian ad Litem Program in the Office on Aging to serve as a statewide system to recruit, train, and supervise volunteers to serve as court-appointed guardians ad litem for vulnerable adults in abuse, neglect, and exploitation proceedings within the family court, pursuant to Section 43-35-45(C).

(B) The Vulnerable Adult Guardian ad Litem Program shall develop policies and procedures to administer the program.

Section 43-35-210. In addition to the definitions contained in Section 43-35-10, for purposes of this article, 'guardian ad litem' means an individual appointed by the family court pursuant to Section 43-35-45 to advocate for the best interests of a vulnerable adult.

Section 43-35-220. (A) The duties and responsibilities of a guardian ad litem include, but are not limited to:

(1) representing the best interests of the vulnerable adult by advocating for the welfare and rights of a vulnerable adult involved in an abuse, neglect, or exploitation proceeding;

(2) conducting an independent, balanced, and impartial assessment of the facts and the needs of the vulnerable adult relevant to his or her situation;

(3) maintaining accurate, written case records, including case notes, which are a guardian ad litem's work product and not subject to subpoena;

(4) providing the family court, and all parties, with written reports including, but not limited to, a comprehensive final report regarding the best interests of the vulnerable adult. The final report must be consistent with the rules of evidence and the rules of the court, and must include, but is not limited to, evaluation and assessment of the issues brought before the court, the wishes of the vulnerable adult,

and recommendations for the case plan and the disposition of the case; and

(5) attending all court hearings to protect and promote the best interests of the vulnerable adult until formally relieved of the responsibility by the family court. The guardian ad litem is authorized through counsel to introduce, examine, and cross-examine witnesses in any proceeding involving the vulnerable adult, participate in the proceedings to any degree necessary to represent the vulnerable adult adequately, participate on a multidisciplinary evaluation team concerning the vulnerable adult, and make motions necessary to enforce the orders of the court, seek judicial review, or petition the court for relief on behalf of the vulnerable adult.

(B) The assessment conducted by the guardian ad litem pursuant to subsection (A) must include, but is not limited to:

(1) obtaining and reviewing relevant documents including, but not limited to, the vulnerable adult's medical records; records from the place of residence if the vulnerable adult is living in a facility or other institution; records related to assets and debts of the vulnerable adult in cases of alleged exploitation; and records from the Department of Social Services, Department of Mental Health, Department of Disabilities and Special Needs, or other public entities providing services to the vulnerable adult;

(2) meeting with and observing the vulnerable adult on at least one occasion;

(3) visiting the home setting if appropriate;

(4) interviewing family, caregivers, medical providers, law enforcement, and others with knowledge relevant to the case;

(5) exploring available resources within the family and community to meet the needs of the vulnerable adult;

(6) obtaining the criminal history of a party if determined necessary; and

(7) determining the wishes of the vulnerable adult and informing the court of these wishes.

Section 43-35-230. (A) A guardian ad litem may be either an attorney or a layperson. To be appointed as a guardian ad litem pursuant to Section 43-35-45(C) an individual:

(1) must be twenty-one years of age or older;

(2) shall possess a high school diploma or its equivalent;

(3) shall have completed the minimum hours of continuing education for initial qualification as required by the Vulnerable Adult Guardian ad Litem Program; and

(4) shall have observed two child protective services or adult protective services custody merit hearings before serving as a guardian ad litem. A lay guardian ad litem shall retain a certificate showing that observation of these hearings has been completed. This certificate, which must be on a form approved by court administration, must state the names and dates of the cases and the judges involved and must be attested to by the presiding judge.

(B) An attorney guardian ad litem annually shall complete a minimum of six hours of family or elder law continuing legal education credits; however, this requirement may be waived by the court.

Section 43-35-240. (A) An individual may not be appointed as a guardian ad litem for a vulnerable adult in an abuse, neglect, or exploitation proceeding who:

(1) has been convicted of a crime enumerated in Chapter 3, Title 16, Offenses Against the Person; in Chapter 15, Title 16, Offenses Against Morality and Decency; in Article 3, Chapter 53, Title 44, Narcotics and Controlled Substances; in Section 43-35-85, Omnibus Adult Protection Act; in Chapter 25, Title 16, Criminal Domestic Violence; or Section 16-17-490, Contributing to the Delinquency of a Minor; or

(2) is or has ever been on the Department of Social Services Central Registry of Child Abuse and Neglect, the Sex Offender Registry, or listed as 'not in good standing' on the Nurse Aide Registry.

(B) A criminal background check must be conducted for each volunteer guardian ad litem as required by the Vulnerable Adult Guardian ad Litem Program.

Section 43-35-250. (A) A guardian ad litem is charged in general with representing the vulnerable adult's best interests. After appointment by the family court in a case involving an abused, neglected, or exploited vulnerable adult, the parties to the action and the court shall notify the guardian ad litem of all court hearings and proceedings. The obligation of the guardian ad litem to the court is a continuing obligation and continues until formally relieved by the court.

(B) The Vulnerable Adult Guardian ad Litem Program may intervene in a vulnerable adult abuse, neglect, or exploitation proceeding in order to petition the court to relieve the guardian ad litem from appointment for the following reasons:

(1) incapacity;

(2) conflict of interest;
(3) misconduct;
(4) persistent neglect of duties;
(5) incompetence; or
(6) knowing and wilful violation of the Vulnerable Adult Guardian ad Litem Program policies and procedures that affect the health, safety, or welfare of the vulnerable adult.

(C) The court shall determine what is in the best interest of the vulnerable adult when ruling on a petition for removal of the guardian ad litem.

Section 43-35-260. The Department of Social Services shall make available to the guardian ad litem all reports made and information collected relating to the vulnerable adult. Appropriate medical and dental care providers shall provide a guardian ad litem access to information upon request of the guardian ad litem and upon proof of appointment as the guardian ad litem for the vulnerable adult. Records must be made available to the guardian ad litem by any agency or any individual providing services to the vulnerable adult and financial records of the vulnerable adult including, but not limited to, state and federal tax records, banking and other financial institution records, and public benefits records.

Section 43-35-270. (A) All reports and information collected pursuant to this article maintained by the Vulnerable Adult Guardian ad Litem Program or by a guardian ad litem are confidential. These records must be maintained and destroyed in accordance with program policy.

(B) The Director of the Vulnerable Adult Guardian ad Litem Program, or the director's designee, may disclose to the media information contained in the vulnerable adult protective services records, if disclosure is limited to discussion of the program's activities in handling the case. The program may incorporate into its discussion of the handling of the case any information placed in the public domain by other public officials, a criminal prosecution, the alleged perpetrator or the attorney for the alleged perpetrator, and other public judicial proceedings. For the purposes of this subsection, information is considered placed in the public domain if it has been reported in the news media, is contained in public records of a law enforcement agency, is contained in public records of the court, or has been the subject of testimony in a public judicial proceeding.

Section 43-35-280. After participating in the Vulnerable Adult Guardian ad Litem Program training, an individual who is appointed to serve as a guardian ad litem and who serves without compensation is not liable for any civil damages for any personal injury as a result of any act or omission by the guardian ad litem in the discharge of the duties and responsibilities of a guardian ad litem if the guardian ad litem acts in good faith and is not guilty of gross negligence.

Section 43-35-290. The General Assembly shall provide the funds necessary for the Vulnerable Adult Guardian ad Litem Program to carry out the provisions of this article."

Appointment of attorney for lay guardian ad litem

SECTION 2. Section 43-35-45(C) of the 1976 Code, as added by Act 110 of 1993, is amended to read:

"(C) Within ten days following the filing of a petition pursuant to this section, the court shall appoint a guardian ad litem and an attorney for the vulnerable adult and an attorney for a lay guardian ad litem. A party may move to have the guardian ad litem relieved of his or her services if the party demonstrates that the vulnerable adult has the capacity to assist counsel in the protective services case. Within forty days of the filing of a petition, the court shall hold a hearing on the merits."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 163

(R175, S817)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23-3-47 SO AS TO

REQUIRE PERSONS SEEKING CERTAIN POSITIONS OR WHO VOLUNTEER OR SERVE IN A POSITION SUPPORTED, SPONSORED, OR ADMINISTERED BY THE SOUTH CAROLINA COMMISSION ON NATIONAL AND COMMUNITY SERVICE TO UNDERGO STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS AND TO PROVIDE PROCEDURES TO BE FOLLOWED AND FOR THE COSTS OF THE BACKGROUND CHECKS.

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

South Carolina Commission on National and Community Service, criminal background checks

SECTION 1. Article 1, Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Section 23-3-47. A person seeking a covered position, as defined in 45 C.F.R. 2540, or who otherwise volunteers or serves in a position supported, sponsored, or administered by the South Carolina Commission on National and Community Service (commission), must undergo a state criminal history background check, supported by fingerprints by the South Carolina Law Enforcement Division (SLED), and a national criminal history background check, supported by fingerprints by the Federal Bureau of Investigation (FBI), unless the commission determines that the background check requirement for that person has been satisfied through another process. The results of these criminal history background checks must be reported to the commission. SLED is authorized to retain the fingerprints for certification purposes and for notification of the commission regarding criminal charges. The cost of the state criminal history background check may not exceed eight dollars and must be paid by the commission upon application for the state check. The cost of the national criminal history background check is established by the FBI and must be paid by the commission upon application for the national check."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 164

(R177, S908)

AN ACT TO AMEND SECTION 38-9-310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING RISK-BASED CAPITAL, SO AS TO REVISE EXISTING DEFINITIONS AND DEFINE ADDITIONAL TERMS; TO AMEND SECTION 38-9-320, RELATING TO PREPARING AND SUBMITTING A RISK-BASED CAPITAL REPORT, SO AS TO PROVIDE FOR DETERMINING A HEALTH ORGANIZATION'S RISK-BASED CAPITAL REPORT AND TO PROVIDE THAT EACH RISK FOR A LIFE AND HEALTH INSURER, PROPERTY AND CASUALTY INSURER, AND A HEALTH ORGANIZATION MUST BE DETERMINED IN A CERTAIN MANNER; TO AMEND SECTION 38-9-330, AS AMENDED, RELATING TO COMPANY ACTION LEVEL EVENTS, SO AS TO ADD AN ADDITIONAL EVENT CONCERNING A HEALTH ORGANIZATION, AMONG OTHER THINGS; TO AMEND SECTION 38-9-360, RELATING TO THE ROLE OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE WHEN A MANDATORY CONTROL LEVEL EVENT OCCURS, SO AS TO ADD PROVISIONS CONCERNING HEALTH ORGANIZATIONS; TO AMEND SECTION 38-9-370, RELATING TO HEARINGS AVAILABLE TO A LICENSEE TO CHALLENGE A DETERMINATION OR ACTION BY THE DIRECTOR IN RESPONSE TO A MANDATORY CONTROL LEVEL EVENT, SO AS TO PROVIDE A LICENSEE MAY HAVE THE HEARING CONFIDENTIALLY, ON THE RECORD, AND BEFORE THE DIRECTOR UPON PROVISION OF CERTAIN NOTICE, AND TO PROVIDE THE DIRECTOR SHALL SET A DATE FOR THE HEARING IN A CERTAIN MANNER; TO AMEND SECTION 38-9-380, RELATING TO THE CONFIDENTIALITY OF RISK-BASED CAPITAL REPORTS AND ADJUSTED RISK-BASED CAPITAL REPORTS, SO AS

TO PROVIDE CIRCUMSTANCES IN WHICH THE DIRECTOR MAY SHARE, RECEIVE, AND USE CERTAIN RELATED INFORMATION THAT IS CONFIDENTIAL AND PRIVILEGED; TO AMEND SECTION 38-9-430, RELATING TO EXEMPTIONS FROM REPORTING REQUIREMENTS, SO AS TO ADD PROVISIONS CONCERNING DOMESTIC HEALTH ORGANIZATIONS; AND TO AMEND SECTION 38-9-340, SECTION 38-9-350, SECTION 38-9-365, SECTION 38-9-390, SECTION 38-9-400, SECTION 38-9-440, AND SECTION 38-9-460, ALL RELATING TO CAPITAL, SURPLUS, RESERVES, AND OTHER FINANCIAL MATTERS, SO AS TO MAKE CONFORMING CHANGES.

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

Definitions revised

SECTION 1. Section 38-9-310 of the 1976 Code is amended to read:

"Section 38-9-310. (1) 'Adjusted RBC Report' means a risk based capital report which has been adjusted by the director in accordance with Section 38-9-320(F).

(2) 'Capital and surplus' or 'capital' except when used in the term 'risk-based capital' or 'adjusted capital', means net worth of a health maintenance organization as defined in Section 38-33-100 and, for all other licensees, means surplus to policyholders as defined in Section 38-1-20.

(3) 'Corrective order' means an order issued by the director specifying corrective actions which the director has determined are required.

(4) 'Domestic health organization' means any health organization domiciled in this State.

(5) 'Domestic insurer' means an insurer domiciled in this State.

(6) 'Domestic licensee' means and includes a domestic insurer and a domestic health organization.

(7) 'Foreign health organization' means any health organization not domiciled in this State which is licensed in this State.

(8) 'Foreign insurer' means an insurer which is licensed to transact business within this State, but which is not domiciled in this State.

(9) 'Foreign licensee' means and includes a foreign insurer and a foreign health organization.

(10) 'Health organization' means an insurer which is required to use the NAIC's Annual Statement Blank-Health pursuant to the NAIC Annual Statement Instructions-Health and to file it as prescribed by Section 38-13-80 or a health maintenance organization, as defined in Section 38-33-20, which is required to use the NAIC's Annual Statement Blank-Health pursuant to the NAIC Annual Statement Instructions-Health and to file it as prescribed by Section 38-33-90.

(11) 'Licensee' means and includes a life and health insurer, a property and casualty insurer, and a health organization.

(12) 'Life and health insurer' means an insurer licensed to transact life and health insurance in this State and any licensed property and casualty insurer writing only accident and health insurance.

(13) 'NAIC' means the National Association of Insurance Commissioners.

(14) 'Negative trend' means a negative trend over a period of time, as determined in accordance with the Trend Test Calculation included within the NAIC RBC Instructions.

(15) 'Property and casualty insurer' means an insurer licensed to transact property and casualty insurance in this State. A 'property and casualty insurer' does not include monoline mortgage guaranty insurers, financial guaranty insurers, or title insurers.

(16) 'RBC' means risk-based capital.

(17) 'RBC Instructions' means the risk-based capital report including RBC Instructions adopted and amended by the NAIC.

(18) 'RBC Level' means a licensee's Company Action Level RBC, Regulatory Action Level RBC, Authorized Control Level RBC, or Mandatory Control Level RBC:

(a) 'Company Action Level RBC' means the product of 2.0 and its Authorized Control Level RBC;

(b) 'Regulatory Action Level RBC' means the Product of 1.5 and its Authorized Control Level RBC;

(c) 'Authorized Control Level RBC' means the number determined by the RBC formula in accordance with the RBC Instructions; and

(d) 'Mandatory Control Level RBC' means the product of .70 and the Authorized Control Level RBC.

(19) 'RBC Plan' means a comprehensive financial plan filed by a licensee containing the elements specified within Section 38-9-330(B). If the director rejects the RBC Plan and it is revised by the licensee, with or without the director's recommendation, then that plan must be called the 'Revised RBC Plan'.

(20) 'RBC Report' means the report required by Section 38-9-320.

(21) 'Total Adjusted Capital' means the sum of a licensee's statutory capital and surplus and any other items provided in the RBC Instructions."

Risk-based capital reports, determination methods revised

SECTION 2. Section 38-9-320 of the 1976 Code is amended to read:

"Section 38-9-320. (A) Every domestic licensee must, on or before each March first filing date, prepare and submit to the director an RBC Report of its RBC Levels as of the end of the preceding calendar year. That RBC Report must be filed in a form and must contain such information required by the RBC Instructions. In addition, every domestic licensee must file its RBC Report:

(1) with the NAIC in accordance with the RBC Instructions; and

(2) with the chief insurance regulatory officer in a state in which the licensee is authorized to transact business, if that chief insurance regulatory officer has notified the licensee in writing. The licensee must file its RBC Report with that chief insurance regulatory officer no later than fifteen days from its receipt of notice to file or the March first filing date.

(B)(1) A life and health insurer's RBC must be determined in accordance with the formula detailed in the RBC Instructions. The formula must be determined in each case by applying the factors in the manner detailed in the RBC Instructions and must take into account, and may adjust for the covariance between:

(a) risk with respect to assets;

(b) risk of adverse insurance experience with respect to liabilities and obligations;

(c) interest rate risk with respect to the insurer's business; and

(d) all other business risks and other relevant risks in the RBC Instructions.

(2) Each risk must be determined in each case by applying the factors in the manner set forth in the RBC Instructions.

(C)(1) A property and casualty insurer's RBC must be determined by applying the factors in the manner detailed in the RBC Instructions and must be determined in accordance with the formula detailed in the RBC Instructions. The formula must take into account, and may adjust for the covariance between:

(a) asset risk;

(b) credit risk;

(c) underwriting risk; and

(d) all other business risks and other relevant risks in the RBC Instructions.

(2) Each risk must be determined in each case by applying the factors in the manner set forth in the RBC Instructions.

(D)(1) A health organization's RBC must be determined by applying the factors in the manner detailed in the RBC Instructions and must be determined in accordance with the formula detailed in the RBC Instructions. The formula must be taken into account, and may adjust for the covariance between:

(a) asset risk;

(b) credit risk;

(c) underwriting risk; and

(d) all other business risks and other relevant risks in the RBC Instructions.

(2) Each risk must be determined in each case by applying the factors in the manner set forth in the RBC Instructions.

(E) An excess of capital over the amount produced by the RBC requirements, formulas, schedules, and instructions contained in this article is desirable. Licensees should seek to maintain capital above the required RBC levels. Additional capital is used and is useful in securing a licensee against various risks inherent in or affecting the business of insurance and not accounted for, or which only may be partially measured, by the RBC requirements contained in this article.

(F) If a domestic licensee files an RBC Report which, in the judgment of the director, is inaccurate, then the director must adjust the RBC Report to correct the inaccuracy and must notify the domestic licensee in writing of the adjustment. The notice must include the reasons for the adjustment."

Company action level events, health organizations added

SECTION 3. Section 38-9-330 of the 1976 Code, as last amended by Act 27 of 2009, is further amended to read:

"Section 38-9-330. (A) A 'Company Action Level Event' includes any of the following events:

(1) filing of an RBC Report which indicates that Total Adjusted Capital is greater than, or equal to, Regulatory Action Level RBC, but is less than Company Action Level RBC;

(2) filing of an RBC Report which indicates that a life and health insurer has Total Adjusted Capital which is greater than, or equal to, its

Company Action Level RBC, but is less than the product of its Authorized Control Level RBC and 2.5 and has a negative trend;

(3) filing of an RBC Report which indicates that a property and casualty insurer has Total Adjusted Capital which is greater than, or equal to, its Company Action Level RBC, but is less than the product of its Authorized Control Level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the NAIC Property and Casualty RBC instructions;

(4) filing of an RBC Report which indicates that a health organization has Total Adjusted Capital which is greater than, or equal to, its Company Action Level RBC, but less than the product of its Authorized Control Level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the NAIC Health RBC Instructions; or

(5) issuance of an Adjusted RBC Report that indicates the event in item (1), (2), (3), or (4), provided that the licensee does not challenge the Adjusted RBC Report pursuant to Section 38-9-370. If the licensee challenges an Adjusted RBC Report, then the Company Action Level Event occurs upon notification that an administrative law judge has rejected the challenge.

(B) In the event of a Company Action Level Event, the licensee must prepare and submit to the director an RBC Plan which must:

(1) identify the conditions which contributed to the Company Action Level Event;

(2) include proposals for corrective actions which will result in the elimination of the Company Action Level Event;

(3) provide projections of the licensee's financial results for the current year and for at least the four succeeding years if the licensee is a life and health insurer or a property and casualty insurer, or at least two succeeding years if the licensee is a health organization. The projections must consider both the absence of proposed corrective actions and the proposed corrective actions. The projections must include projections of statutory balance sheets, operating income, net income, capital and surplus, and RBC levels. The projections both for new and for renewal business may include separate projections for each major line of business and may separately identify each income, expense, and benefit component;

(4) identify key assumptions impacting upon the projections and detail the sensitivity of the projections to the assumptions; and

(5) identify the quality of, and any problems associated with, the licensee's business including, but not limited to, assets, anticipated

business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case.

(C) The RBC Plan must be submitted within forty-five days of the Company Action Level Event. If the licensee challenges an Adjusted RBC Report pursuant to Section 38-9-370, then the RBC Plan must be submitted within forty-five days after notification that an administrative law judge has rejected the challenge.

(D) Within sixty days after the submission of an RBC Plan, the director must notify the licensee stating whether the RBC Plan may be implemented or if the RBC Plan is unsatisfactory. If the director determines that the RBC Plan is unsatisfactory, then notification must set forth the reasons for that determination. The notification may set forth proposed revisions which will render the RBC Plan satisfactory. Upon receipt of notification, the licensee must prepare a Revised RBC Plan which may incorporate by reference any revisions proposed by the director. That Revised RBC Plan must be submitted to the director within forty-five days after the date of notification. If the licensee challenges the notification under Section 38-9-370, then the Revised RBC Plan must be submitted within forty-five days after notification that an administrative law judge has rejected the challenge.

(E) If the director notifies a licensee that its RBC Plan or its Revised RBC Plan is unsatisfactory, then the director, subject to the licensee's right to a public hearing pursuant to Section 38-9-370, may specify within the notification that it constitutes a Regulatory Action Level Event.

(F) Every domestic licensee that files an RBC Plan or Revised RBC Plan with the director must also file a copy of the RBC Plan or Revised RBC Plan with the chief insurance regulatory officer in any state in which that licensee is licensed to transact business if that state has RBC provisions substantially similar to Section 38-9-380, Section 38-9-390, and Section 38-9-400, and if that chief insurance regulatory officer has requested the filing in writing. The licensee must file a copy of the RBC Plan or Revised RBC Plan in that state no later than fifteen days after its receipt of the request to file or the date on which the RBC Plan or Revised RBC Plan is filed under Section 38-9-330(C) and (D)."

Regulatory action level events, conforming changes

SECTION 4. Section 38-9-340 of the 1976 Code is amended to read:

"Section 38-9-340. (A) A 'Regulatory Action Level Event' includes any one of the following events:

(1) filing of an RBC Report which indicates that Total Adjusted Capital is greater than, or equal to, Authorized Control Level RBC, but is less than Regulatory Action Level RBC;

(2) issuance of an Adjusted RBC Report that indicates the event in Section 38-9-340(A)(1), provided that the licensee does not challenge that Adjusted RBC Report pursuant to Section 38-9-370. If the licensee challenges an Adjusted RBC Report, then the Regulatory Action Level Event occurs upon notification that an administrative law judge has rejected the challenge;

(3) failure to file an RBC Report by the March first filing date, unless the licensee has filed an explanation for this failure that is satisfactory to the director and has cured the failure within ten days after the March first filing date;

(4) failure to timely submit an RBC Plan or Revised RBC Plan to the director;

(5) notification that the RBC Plan or Revised RBC Plan is, in the judgment of the director, unsatisfactory and that the notification constitutes a Regulatory Action Level Event, provided that the licensee does not challenge the determination under Section 38-9-370. If the licensee challenges a determination, then the Regulatory Action Level Event occurs upon notification that an administrative law judge has rejected the challenge;

(6) notification by the director that the licensee has failed to adhere to its RBC Plan or its Revised RBC Plan. However, notification must conclude that the failure has had substantial adverse effect upon the ability of the licensee to eliminate the Company Action Level Event in accordance with its RBC Plan or Revised RBC Plan, provided that the licensee has not challenged the determination pursuant to Section 38-9-370. If the licensee challenges a determination, then the Regulatory Action Level Event occurs upon notification that an administrative law judge has rejected the challenge.

(B) In the event of a Regulatory Action Level Event, the director must:

(1) require the licensee to prepare and submit an RBC Plan or a Revised RBC Plan;

(2) perform an examination or an analysis of the assets, liabilities, and operations of the licensee, including a review of the licensee's RBC Plan or its Revised RBC Plan; and

(3) issue a Corrective Order detailing corrective actions which the director determines are required.

(C) In determining corrective actions, the director may take into account factors which he considers relevant based upon his

examination or analysis. Those factors may include, but must not be limited to, the results of any sensitivity tests undertaken pursuant to the RBC Instructions.

(D) The RBC Plan or Revised RBC Plan must be submitted within forty-five days after the occurrence of the Regulatory Action Level Event. If the licensee challenges an Adjusted RBC Report or a Revised RBC Plan pursuant to Section 38-9-370, then the RBC Plan or Revised RBC Plan must be submitted within forty-five days after notification that an administrative law judge has rejected the challenge."

Authorized control level events, conforming changes

SECTION 5. Section 38-9-350 of the 1976 Code is amended to read:

"Section 38-9-350. (A) An 'Authorized Control Level Event' includes any of the following events:

(1) filing of an RBC Report which indicates that a licensee's Total Adjusted Capital is greater than, or equal to, its Mandatory Control Level RBC, but is less than its Authorized Control Level RBC;

(2) issuance of an Adjusted RBC Report that indicates the event in Section 38-9-350(A)(1), provided that the licensee does not challenge that Adjusted RBC Report pursuant to Section 38-9-370. If the licensee challenges that Adjusted RBC Report, then the Authorized Control Level Event occurs upon notification that an administrative law judge has rejected the challenge; or

(3) the failure of a licensee to respond to a Corrective Order in a manner satisfactory to the director, provided the licensee has not challenged the Corrective Order pursuant to Section 38-9-370. If the licensee has challenged a Corrective Order and an administrative law judge has rejected the challenge or has modified the Corrective Order, then the Authorized Control Level Event occurs upon the failure of the licensee to respond to that Corrective Order in a manner satisfactory to the director.

(B) In the event of an Authorized Control Level Event, the director may take action pursuant to Section 38-9-340 or, if the director considers it to be in the best interests of the policyholders and creditors of the licensee and of the public, he may take action necessary to place the licensee under regulatory control pursuant to Section 38-26-10, et seq., or to Section 38-27-10, et seq. The Authorized Control Level Event is sufficient grounds for the director to take that action, and the director has the rights, powers, and duties detailed within those provisions of law. If the director takes action, then the licensee is

entitled to the protections that are afforded under those provisions pertaining to summary proceedings."

Mandatory control level events, health organizations included

SECTION 6. Section 38-9-360 of the 1976 Code is amended to read:

"Section 38-9-360. (A) A 'Mandatory Control Level Event' includes any one of the following events:

(1) filing of an RBC Report which indicates that the licensee's Total Adjusted Capital is less than its Mandatory Control Level RBC;

(2) notification of an Adjusted RBC Report pursuant to Section 38-9-360(A)(1), provided the licensee does not challenge that Adjusted RBC Report pursuant to Section 38-9-370. If the licensee challenges an Adjusted RBC Report notification, then the Mandatory Control Event Level occurs upon notification that an administrative law judge has rejected the challenge.

(B) In the event of a Mandatory Control Level Event:

(1) For a life and health insurer, the director must take action necessary to place the insurer under regulatory control pursuant to Section 38-26-10, et seq., or Section 38-27-10, et seq. The Mandatory Control Level Event is sufficient grounds for the director to take that action, and the director has the rights, powers, and duties detailed within those provisions of law. If the director takes action, then the insurer is entitled to the protections afforded under those provisions pertaining to summary proceedings. The director, in his discretion, may forego action for up to ninety days after the Mandatory Control Level Event if the director finds that there is a reasonable expectation that the Mandatory Control Level Event will be eliminated within that period.

(2) For a property and casualty insurer, the director must take action necessary to place the insurer under regulatory control pursuant to Section 38-26-10, et seq., or Section 38-27-10, et seq. If the insurer is not writing business and is running off its existing business, then the director may allow the insurer to continue its run-off under his supervision. The Mandatory Control Level Event is sufficient grounds for the director to take either action, and the director has the rights, powers, and duties detailed within those provisions. If the director takes action, then the insurer is entitled to the protections afforded under those provisions pertaining to summary proceedings. The director, in his discretion, may forego action for up to ninety days after the Mandatory Control Level Event if the director finds that there is a

reasonable expectation that the Mandatory Control Level Event will be eliminated within that period.

(3) For a health organization, the director must take action necessary to place the health organization under regulatory control pursuant to Section 38-26-10, et seq., or Section 38-27-10, et seq. In that event, the Mandatory Control Level Event must be considered an indication of a hazardous financial condition which serves as sufficient grounds for the director to commence delinquency proceedings, and the receiver appointed in conjunction with the proceedings has the rights, powers, and duties with respect to the licensee as are set forth in Section 38-26-10, et seq., or Section 38-27-10, et seq., or an order of liquidation, rehabilitation, or conservation entered under it. If the director takes action, then the health organization is entitled to the protections afforded under those provisions pertaining to summary proceedings. The director, in his discretion, may forego action for up to ninety days after the Mandatory Control Level Event if the director finds that there is a reasonable expectation that the Mandatory Control Level Event will be eliminated within that period."

Retention of certain professionals and experts, conforming changes

SECTION 7. Section 38-9-365 of the 1976 Code is amended to read:

"Section 38-9-365. The director may retain actuaries, investment experts, attorneys, and other consultants whom he considers necessary to enforce the provisions of this article. The fees, costs, and expenses of those actuaries, experts, attorneys, and other consultants must be borne by the affected licensee or other related or affiliated parties as required by the director."

Confidential hearings, notice requirements

SECTION 8. Section 38-9-370 of the 1976 Code is amended to read:

"Section 38-9-370. (A) A licensee has the right to a confidential hearing, on a record before the director, at which the licensee may challenge a determination or action by the director, upon notification to a licensee by the director:

(1) of an Adjusted RBC Report;

(2) that the licensee's RBC Plan or Revised RBC Plan is unsatisfactory, and that this notification constitutes a Regulatory Action Level Event with respect to the licensee;

(3) that the licensee has failed to adhere to its RBC Plan or Revised RBC Plan and that this failure has a substantial adverse effect on the ability of the licensee to eliminate the Company Action Level Event with respect to the licensee in accordance with its RBC Plan or Revised RBC Plan; or

(4) of a corrective order with respect to the licensee.

(B) The licensee shall notify the director of its request for a hearing within five days after the notification by the director pursuant to subsection (A). Upon receipt of the licensee's request for a hearing, the director shall set a date for the hearing, which must be no less than ten days nor more than thirty days after the date of the licensee's request."

Confidentiality of reports, plans, and orders

SECTION 9. Section 38-9-380 of the 1976 Code is amended to read:

"Section 38-9-380. (A) All RBC Reports and Adjusted RBC Reports, to the extent the information contained within them is not required to be set forth in a publicly available annual statement schedule; all RBC Plans, including the results or report of an examination or analysis of a licensee performed pursuant to this article; and a Corrective Order issued by the director, including information that will be damaging to a licensee if any of them are made available to the licensee's competitors, must be kept confidential, by law, must not be made public, and are not subject to subpoena. The director may use these reports, plans, and orders for enforcement actions either pursuant to this article or pursuant to another insurance law of this State.

(B) Neither the director nor a person who received documents, materials, or other information while acting under the authority of the director can be permitted or required to testify in a private civil action concerning confidential documents, materials, or information subject to subsection (A).

(C) The director may:

(1) share documents, materials, or other information, including the confidential and privileged documents, materials or information subject to subsection (A), with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

(2) receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or

information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(3) enter into agreements governing sharing and use of information consistent with this subsection."

Prohibited use of information, conforming changes

SECTION 10. Section 38-9-390 of the 1976 Code is amended to read:

"Section 38-9-390. (A) The comparison of a licensee's Total Adjusted Capital to any of its RBC Levels is a regulatory tool for corrective action. It is not intended as a means to rank licensees. Therefore, except as otherwise specifically required under the provisions of this article, the making, publishing, disseminating, circulating, or placing before the public, or, causing to be directly or indirectly made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over a radio or television station, or in another way, an advertisement, announcement, or statement containing an assertion or representation with regard to the RBC Levels of a licensee or of a component derived in the calculations by a licensee or agent engaged in the business of insurance is considered misleading and is prohibited.

(B) If a materially false or inappropriate comparison of a licensee's Total Adjusted Capital to its RBC Levels or any RBC Level is published in any written publication and the licensee is able to demonstrate with substantial proof the falsity or the inappropriateness of the statement to the director, then the licensee may publish an announcement approved by the director in that written publication solely to rebut the materially false or inappropriate statement."

Limited use of certain documents, conforming changes

SECTION 11. Section 38-9-400 of the 1976 Code is amended to read:

"Section 38-9-400. RBC Instructions, RBC Reports, Adjusted RBC Reports, RBC Plans, and Revised RBC Plans are intended only for use by the director in monitoring the solvency of licensees and in monitoring the need for corrective action. They must not be used for ratemaking, considered, or introduced as evidence in a ratemaking proceeding, or used to calculate or to derive an element of an appropriate premium level or rate of return for a line of insurance that a licensee, an affiliated licensee, or a subsidiary insurer underwrites."

Exempt insurers, domestic health organizations added

SECTION 12. Section 38-9-430 of the 1976 Code is amended to read:

"Section 38-9-430. The director may exempt from the application of this article:

(1) a domestic property and casualty insurer that:

(a) writes direct business only in this State;

(b) writes direct annual written premiums of two million dollars or less; and

(c) assumes no reinsurance in excess of five percent of its direct written premium; and

(2) a domestic health organization that:

(a) writes direct business only in this State;

(b) assumes no reinsurance in excess of five percent of direct premium written; and

(c) writes direct annual premiums of one million dollars or less."

Foreign insurers, conforming changes

SECTION 13. Section 38-9-440 of the 1976 Code is amended to read:

"Section 38-9-440. (A) A foreign licensee, upon written request by the director, must submit an RBC Report as of the end of the preceding calendar year not later than the date that an RBC Report would be required to be filed by a domestic licensee under this article or fifteen days after that request is received by the foreign licensee. In addition, a foreign licensee, upon written request by the director, must promptly submit a copy of an RBC document that has been filed with the chief insurance regulatory officer of another state.

(B) In the event of a Company Action Level Event, Regulatory Action Level Event, or Authorized Control Level Event by a foreign licensee as determined under the RBC Laws in its state of domicile or, if no RBC Laws are in force in that state, as determined under the provisions of this article, if the chief insurance regulatory officer of the state of domicile of that foreign licensee fails to require the foreign licensee to file an RBC Plan in the manner specified under that state's RBC Laws or, if no RBC statute is in force in that state, under Section 38-9-330, then the director may require the foreign licensee to file an RBC Plan. The failure of the foreign licensee to file an RBC Plan with the director is grounds for the director to order the foreign licensee to cease and desist from writing new insurance business in this State.

(C) In the event of a Mandatory Control Level Event by a foreign licensee, if no domiciliary receiver has been appointed for the foreign licensee under the rehabilitation and liquidation laws of its state of domicile, then the director may petition the circuit court pursuant to Section 38-27-910, et seq., for the liquidation of its property in this State. The occurrence of the Mandatory Control Level Event must be considered grounds for the petition."

Transmission of certain notices, conforming changes

SECTION 14. Section 38-9-460 of the 1976 Code is amended to read:

"Section 38-9-460. All notices by the director which may result in regulatory action under this article must be transmitted by registered or certified mail. Those notices are effective upon the licensee's receipt."

Redesignations and deletions

SECTION 15. (A) Article 5, Chapter 9, Title 38, designated 'Risk Based Capital' is redesignated 'Risk-Based Capital'.

(B) Sections 38-9-400, 38-9-410, 38-9-420, 38-9-430, 38-9-440, 38-9-450, and 38-9-460 of the 1976 Code, which are designated as Article 5, Chapter 9, Title 38, are redesignated as part of Article 3, Chapter 9, Title 38, and Article 5, Chapter 9, Title 38 is deleted.

Severability

SECTION 16. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be

unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 17. This act takes effect January 1, 2015.

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 165

(R178, S913)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-9-675 SO AS TO PROVIDE FOR A PERMIT TO ENGAGE IN FALCONRY IN THIS STATE, THE FEE FOR THE PERMIT, AND THAT A PERSON HOLDING A VALID FEDERAL FALCONRY PERMIT ON JANUARY 1, 2014, MAY ENGAGE IN FALCONRY WITHOUT A SOUTH CAROLINA FALCONER'S PERMIT UNTIL THE FEDERAL PERMIT EXPIRES; AND BY ADDING SECTION 50-11-600 SO AS TO DEFINE THE TERM "FALCONRY", TO PROVIDE THAT IT IS UNLAWFUL TO USE BIRDS OF PREY TO TAKE WILDLIFE UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE A PENALTY FOR VIOLATIONS OF THIS SECTION, AND TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES MAY PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

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

Falconry

SECTION 1. Article 6, Chapter 9, Title 50 of the 1976 Code is amended by adding:

"Section 50-9-675. (A) For the privilege of engaging in falconry, in addition to a statewide hunting license, a person must obtain a falconry permit. The fee for the permit is one hundred dollars, and the permit expires three years from the date of its issuance.

(B) A person holding a valid federal falconry permit on January 1, 2014, may engage in falconry without a South Carolina falconer's permit until the federal permit expires."

Falconry

SECTION 2. Article 3, Chapter 11, Title 50 of the 1976 Code is amended by adding:

"Section 50-11-600. (A) Falconry is the hunting of wild quarry in its natural state and habitat by means of a trained bird of prey or raptor (Order Falconiformes or Order Strigiformes other than bald eagle).

(B) It is unlawful to use birds of prey to take any wildlife except as authorized in this section. Any person convicted of violating this section or regulations promulgated pursuant to this section is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than five hundred dollars or imprisoned up to thirty days, or both.

(C) The department may promulgate regulations to implement the provisions of this section."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 166

(R179, S983)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-1-617 SO AS TO DESIGNATE MARCH OF EACH YEAR AS "ENDOMETRIOSIS AWARENESS MONTH".

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

Endometriosis Awareness Month created

SECTION 1. Article 9, Chapter 1, Title 1 of the 1976 Code is amended by adding:

"Section 1-1-617. The month of March in every year is designated as 'Endometriosis Awareness Month'. South Carolinians are encouraged to sponsor and participate in relevant educational activities and events in the observance of 'Endometriosis Awareness Month'."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 167

(R180, S997)

AN ACT TO AMEND SECTION 40-67-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN THE SPEECH PATHOLOGISTS AND AUDIOLOGISTS PRACTICE ACT, SO AS TO ADD, REVISE, AND DELETE DEFINITIONS; TO AMEND SECTION 40-67-50, RELATING TO LICENSURE FEES, SO AS TO ADD, REVISE, AND DELETE FEES; TO AMEND SECTION 40-67-220, RELATING

TO LICENSURE REQUIREMENTS, SO AS TO REVISE THE REQUIREMENTS; TO AMEND SECTION 40-67-260, RELATING TO ANNUAL AUDITS OF LICENSURE RECORDS THAT THE BOARD MAY CONDUCT, SO AS TO PROVIDE THE BOARD MAY CONDUCT THESE AUDITS BIENNIALLY INSTEAD OF ANNUALLY; AND TO AMEND SECTION 40-67-280, RELATING TO ACTIVATION OF AN INACTIVE LICENSE, SO AS TO REQUIRE SUBMISSION OF A FORM DEVELOPED AND PROVIDED BY THE BOARD.

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

Definitions

SECTION 1. Section 40-67-20 of the 1976 Code, as added by Act 96 of 1997, is amended to read:

"Section 40-67-20. As used in this chapter:

(1) 'ASHA' means the American Speech-Language Hearing Association.

(2) 'Audiologist' means an individual who practices audiology.

A person represents himself to be an audiologist when he holds himself out to the public by any title or description of services which incorporates the words 'audiologist', 'audiology', 'acoustician', 'auditory integrative trainer', 'hearing clinician', 'hearing therapist', or any similar variation of these terms or any derivative term or uses terms such as 'hearing', 'auditory', 'acoustic', 'aural', or 'listening' in combination with words such as 'communicologist', 'correctionist', 'specialist', 'pathologist', 'therapist', 'conservationist', 'center', 'clinic', 'consultant', or 'otometrist' to describe a function or service he performs.

(3) 'Audiology' or 'audiology service' means screening, identifying, assessing, diagnosing, habilitating, and rehabilitating individuals with peripheral and central auditory and vestibular disorders; preventing hearing loss; researching normal and disordered auditory and vestibular functions; administering and interpreting behavioral and physiological measures of the peripheral and central auditory and vestibular systems; selecting, fitting, programming, and dispensing all types of amplification and assistive listening devices including hearing aids, and providing training in their use; providing aural habilitation, rehabilitation, and counseling to hearing impaired individuals and their families; designing, implementing, and

coordinating industrial and community hearing conservation programs; training and supervising individuals not licensed in accordance with this chapter who perform air conduction threshold testing in the industrial setting; designing and coordinating infant hearing screening and supervising individuals not licensed in accordance with this chapter who perform infant hearing screenings; performing speech or language screening, limited to a pass-fail determination; screening of other skills for the purpose of audiological evaluation; and identifying individuals with other communication disorders.

(4) 'Board' means the South Carolina State Board of Examiners in Speech-Language Pathology and Audiology.

(5) 'Director' means the Director of the Department of Labor, Licensing and Regulation.

(6) 'Intern' means an individual who has met the requirements for licensure as a speech-language pathology or audiology intern under this chapter and has been issued this license by the board.

(7) 'License' means an authorization to practice speech-language pathology or audiology issued by the board pursuant to this chapter and includes an authorization to practice as a speech-language pathology intern, an audiology intern, and a speech-language pathology assistant.

(8) 'Licensee' means an individual who has met the requirements for licensure under this chapter and has been issued a license for speech language pathology or audiology or for speech language pathology or audiology intern or speech-language pathology assistant.

(9) 'Person' means an individual, organization, or corporation, except that only individuals can be licensed under this chapter.

(10) 'The practice of audiology' means the rendering of or the offering to render any audiology service to an individual, group, organization, or the public.

(11) 'The practice of speech-language pathology' means the rendering of or the offering to render any speech-language pathology services to an individual, group, organization, or the public.

(12) 'Regionally accredited institution' means a school, college, or university which is a candidate for accreditation or is accredited by any accreditation body established to serve six defined geographic areas in the United States.

(13) 'Speech-language pathologist' means an individual who practices speech-language pathology.

A person represents himself to be a speech-language pathologist when he holds himself out to the public by any title or description of services incorporating the words 'speech pathologist', 'speech pathology', 'speech therapy', 'speech correction', 'speech

correctionist', 'speech therapist', 'speech clinic', 'speech clinician', 'language pathology', 'language pathologist', 'logopedics', 'logopedist', 'communicology', 'communicologist', 'aphasiologist', 'voice therapy', 'voice therapist', 'voice pathologist', 'voice pathology', 'voxologist', 'language therapist', 'phoniatrist', 'cognitive communication therapist clinician', or any similar variation of these terms or any derivative term, to describe a function or service he performs. 'Similar variations' include the use of words such as 'speech', 'voice', 'language', or 'stuttering' in combination with other words which imply a title or service relating to the practice of speech-language pathology.

(14) 'Speech-language pathology' or 'speech-language pathology service' means screening, identifying, assessing, interpreting, diagnosing, rehabilitating, researching, and preventing disorders of speech, language, voice, oral-pharyngeal function, and cognitive/communication skills; developing and dispensing augmentative and alternative communication systems and providing training in their use; providing aural rehabilitation and counseling services to hearing impaired individuals and their families; enhancing speech-language proficiency and communication effectiveness; screening of hearing, limited to a pass-fail determination; screening of other skills for the purpose of speech-language evaluation; and identifying individuals with other communication disorders.

(15) 'Speech-language pathology assistant' means an individual who provides speech-language pathology services as prescribed, directed, and supervised by a speech-language pathologist licensed under this chapter. A person represents himself to be a speech-language pathology assistant when he holds himself out to the public by any title or description of services incorporating the words 'speech aid', 'speech-language support personnel', 'speech assistant', 'communication aid', 'communication assistant', 'speech pathology technician', or any similar variation of these terms, to describe a function or service he performs.

(16) 'Supervised Professional Employment' or 'SPE' means a minimum of thirty hours a week of professional employment in speech-language pathology or audiology for at least nine months whether or not for wages or other compensation under the supervision of a speech-language pathologist or audiologist licensed under this chapter. The supervisor must have a minimum of three years of full-time work experience."

Fees

SECTION 2. Section 40-67-50(A) of the 1976 Code is amended to read:

"(A) These fees must be assessed, collected, and adjusted on behalf of the board by the Department of Labor, Licensing and Regulation in accordance with this chapter and Section 40-1-50(D):

(1) initial license fee - $220.00;

(2) initial intern license fee - $110.00;

(3) biennial license renewal fee - $220.00;

(4) reinstatement fee - $50.00 for renewals received after March thirty-first but before May first;

(5) replacement fee - $10.00 for replacing a license or wallet card;

(6) initial inactive license status fee - $100.00;

(7) biennial inactive license renewal fee - $100.00;

(8) roster (license list) fee - $10.00;

(9) initial speech-language pathology assistant fee - $50.00;

(10) biennial speech-language pathology assistant license renewal fee - $100.00;

(11) change in supervising Speech-Language Pathologist or Audiologist Intern fee - $25.00 for changes during the internship of a Speech-Language Pathologist or Audiologist completing the Supervised Professional Employment (SPE);

(12) reactivation of inactive license status fee - $120.00."

Licensure requirements

SECTION 3. Section 40-67-220 of the 1976 Code is amended to read:

"Section 40-67-220. (A) A license must be issued independently in either speech-language pathology or audiology. A license is valid for two years; however, an intern license only is valid for one year. A license application received after December thirty-first is valid for the next licensure period.

(B) To be licensed by the board as a speech-language pathologist or audiologist an individual must have:

(1)(a) earned a post-graduate degree in speech-language pathology or audiology from a school or program with regional accreditation determined by the board to be equivalent to those accredited by the Council of Academic Accreditation (CAA) for

Audiology and Speech-Language Pathology of the American Speech-Language Hearing Association (ASHA) or other board-approved authority;

(b) achieved a passing score on a national examination as approved by the board; and

(c) completed Supervised Professional Employment (SPE) as defined by the board in regulation; or

(2) met ASHA's Standards for Certificate of Clinical Competence, or its equivalent as approved by the board, in speech-language pathology or audiology in effect at the time of application; or

(3) a current ASHA Certificate of Clinical Competence or its equivalent as approved by the board.

(C) An applicant for active licensure in audiology with a master's in audiology degree awarded before January 1, 2007, must submit or cause to be submitted documented evidence of the following:

(1)(a) holding at least a master's degree in audiology or its equivalent from a school or program determined by the board to be equivalent to those accredited by the Council of Academic Accreditation (CAA) for Audiology and Speech-Language Pathology for the American Speech-Language Hearing Association (ASHA);

(b) successful completion of a supervised clinical practicum approved by the board; and

(c) successful completion of postgraduate professional experience approved by the board; or

(2) meeting ASHA's standards for Certificate of Clinical Competence or its equivalent as approved by the board.

(D) An applicant for active licensure in audiology with a doctorate in audiology degree awarded after January 1, 2007, must submit or cause to be submitted documented evidence of:

(1) holding a doctoral degree in audiology from a school or educational institution with regional accreditation determined by the board to be equivalent to those accredited by the Council of Academic Accreditation (CAA) for Audiology and Speech-Language Pathology of the American Speech-Language Hearing Association (ASHA); or

(2) meeting ASHA's standards for Certificate of Clinical Competence or its equivalent as approved by the board.

(E)(1) A speech-language pathology or audiology intern license must be issued to an applicant who has satisfied the requirement of subsection (B)(1)(a) and who has not passed the examination required by subsection (B)(1)(b) or who lacks the supervised professional employment as required by subsection (B)(1)(c), or both.

(2) A person who has been issued a license as an intern who has not met the requirement of subsection (B)(1)(b) must pass an examination approved by the board within twelve months of the issuance of the intern license.

(F) To be licensed as a speech-language pathology assistant, an applicant must have earned a bachelor's degree from a regionally accredited institution in speech-language pathology and must submit an application which includes a supervisory agreement and an on-the-job training plan, both of which must comply with requirements established by the board in regulation. Speech-language pathologists who use a speech-language pathology assistant in their practices must comply with guidelines promulgated by the board in regulation.

(G) A person requesting inactive licensure must demonstrate documented evidence of:

(1) holding a valid unrestricted license issued by this board at the time that inactive licensure is requested;

(2) agreeing not to practice speech-language pathology or audiology while holding an inactive license. An inactive license may be renewed for a maximum of four biennial renewal periods."

Audits of continuing education records

SECTION 4. Section 40-67-260(E) of the 1976 Code is amended to read:

"(E) Each licensee must maintain records of continuing education hours earned for a period of four years, and these records must be made available to the director or the director's designee upon request for audits that the board may conduct biennially."

Activation of inactive license

SECTION 5. Section 40-67-280 of the 1976 Code is amended to read:

"Section 40-67-280. To activate an inactive license an individual must submit a form approved by the board and evidence attesting to satisfactory completion of sixteen hours of approved continuing education for each two years inactive licensure."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 168

(R181, S1010)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 10 TO CHAPTER 3, TITLE 50 SO AS TO CREATE THE TOM YAWKEY WILDLIFE CENTER TRUST FUND.

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

Tom Yawkey Wildlife Center Trust Fund

SECTION 1. Chapter 3, Title 50 of the 1976 Code is amended by adding:

"Article 10

Tom Yawkey Wildlife Center Trust Fund

Section 50-3-1010. There is created the South Carolina Tom Yawkey Wildlife Center Trust Fund, the income and principal of which must be used only for the purposes of supporting the operation and maintenance and the acquisition of additional real property complementary to those tracts of real property owned by the South Carolina Department of Natural Resources in Georgetown County, South Carolina, including South Island and the greater parts of North Island and Cat Island, known collectively as the Tom Yawkey Wildlife Center. All gifts, grants, and contributions for this purpose must be accounted for separately from other assets of the fund. The State Treasurer is the custodian of the fund and shall invest its assets in an interest-bearing account pursuant to South Carolina law.

Section 50-3-1020. There is created the Board of Trustees of the Tom Yawkey Wildlife Center Trust Fund of the Department of Natural

Resources, with full authority over the administration of the fund, whose chairman and members, serving ex officio, are the chairman and members of the board of the Department of Natural Resources.

Section 50-3-1030. The assets of the fund may be derived from:

(1) appropriations of state general funds, federal funds, donations, gifts, bond-issue receipts, securities, and other monetary instruments of value;

(2) the proceeds of any gifts, grants, and contributions to the State which are designated specifically for inclusion;

(3) funds derived from the Yawkey Foundation, a charitable trust established under the will of Thomas A. Yawkey, deceased;

(4) funds received through sale, exchange, or otherwise, of products of the property including, but not limited to, timber;

(5) restricted interest income, contributions, and donations;

(6) other lawful sources; and

(7) the reimbursement for monies expended from this fund which must be redeposited into the fund.

Section 50-3-1040. The fund constitutes a special trust derived from a contractual relationship between the State and contributors to the fund, including members of the public. In recognition of the special trust, the following limitations and restrictions are placed on expenditures from the fund:

(1) Any limitations or restrictions specified by the donors on the uses of the income derived from the gifts, grants, and voluntary contributions are respected but are not binding.

(2) After applying income received and accruing from the investments of gifts, grants, and contributions, the board of trustees of the fund may liquidate and expend the principal of the fund.

(3) The assets of the fund, both principal and income received and accruing from the investments, must be spent only in furthering the operation and maintenance of the Tom Yawkey Wildlife Center and to acquire additional real property complementary to or protective of the Tom Yawkey Wildlife Center.

(4) Balances in this fund may be used to match available federal funds.

(5) Balances in this fund shall be retained and carried forward from year to year and do not revert to the General Fund of the State and may be used to match available federal funds.

Section 50-3-1050. Expenditure of the income derived from the fund must be made through the board in accordance with the provisions of the general appropriations act.

Section 50-3-1060. The fund and income do not take the place of state appropriations or department receipts placed in the fund and must be used in accordance with Section 50-3-1040(3).

Section 50-3-1070. If the board of the Department of Natural Resources is dissolved, the succeeding agency shall assume the trusteeship of the fund and is bound by all the limitations and restrictions placed by this article on expenditures from the fund."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 169

(R183, S1180)

AN ACT TO AMEND SECTION 7-7-530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VOTING PRECINCTS IN YORK COUNTY, SO AS TO DELETE FOUR PRECINCTS AND ADD TEN NEW VOTING PRECINCTS AND TO DESIGNATE THE MAP ON WHICH THE BOUNDARIES OF YORK COUNTY VOTING PRECINCTS AS REVISED BY THIS ACT MAY BE FOUND.

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

York County voting precincts revised

SECTION 1. Section 7-7-530 of the 1976 Code, as last amended by Act 143 of 2014, is further amended to read:

"Section 7-7-530. (A) In York County there are the following voting precincts:
Adnah
Airport
Allison Creek
Anderson Road
Baxter
Bethany
Bethel
Bethel School
Bowling Green
Bullocks Creek
Cannon Mill
Carolina
Catawba
Clover
Cotton Belt
Delphia
Dobys Bridge
Ebenezer
Ebinport
Edgewood
Fairgrounds
Ferry Branch
Fewell Park
Filbert
Fort Mill No. 1
Fort Mill No. 2
Fort Mill No. 3
Fort Mill No. 4
Fort Mill No. 5
Fort Mill No. 6
Friendship
Gold Hill
Hampton Mill
Harvest
Hickory Grove
Highland Park
Hollis Lakes
Hopewell
Independence
India Hook

Kanawha
Lakeshore
Lakewood
Larne
Laurel Creek
Lesslie
Manchester
McConnells
Mill Creek
Mt. Holly
Mt. Gallant
Nation Ford
Neelys Creek
New Home
Newport
Northside
Northwestern
Oakridge
Oakwood
Old Pointe
Ogden
Orchard Park
Palmetto
Pleasant Road
Pole Branch
River's Edge
River Hills
Riverview
Rock Creek
Rock Hill No. 2
Rock Hill No. 3
Rock Hill No. 4
Rock Hill No. 5
Rock Hill No. 6
Rock Hill No. 7
Rock Hill No. 8
Roosevelt
Rosewood
Sharon
Shoreline
Six Mile
Smyrna

Springdale
Springfield
Stateline
Steele Creek
Tega Cay
Tirzah
Tools Fork
University
Waterstone
Windjammer
Wylie
York No. 1
York No. 2

(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map on file with the Office of Research and Statistics of the State Budget and Control Board, or its successor agency, designated as document P-91-14a and as shown on copies provided to the Registration and Elections Commission for York County by the Office of Research and Statistics.

(C) The polling places for the precincts in subsection (A) must be determined by the Registration and Elections Commission for York County with the approval of a majority of the York County Legislative Delegation."

Time effective

SECTION 2. This act takes effect July 1, 2014.

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 170

(R187, H3098)

AN ACT TO AMEND SECTION 44-81-40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RIGHTS OF LONG-TERM CARE FACILITY RESIDENTS, SO AS TO REQUIRE A RESIDENT OR HIS REPRESENTATIVE TO

PROVIDE THE ADMINISTRATOR OF THE FACILITY FOURTEEN DAYS WRITTEN NOTICE OF VOLUNTARY RELOCATION TO ANOTHER FACILITY, TO ALLOW THE FACILITY TO CHARGE THE RESIDENT THE EQUIVALENT OF FOURTEEN DAYS OCCUPANCY FOR FAILURE TO GIVE THIS NOTICE, AND TO REQUIRE THE FACILITY TO CEASE CHARGING A RESIDENT FOURTEEN DAYS AFTER GIVING NOTICE OR WHEN THE BED IS FILLED.

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

Requirements for residents of long-term care facilities to give written notice to facility of voluntary relocation

SECTION 1. Section 44-81-40 of the 1976 Code is amended to read:

"Section 44-81-40. (A) Each resident or the resident's representative must be given by the facility a written and oral explanation of the rights, grievance procedures, and enforcement provisions of this chapter before or at the time of admission to a long-term care facility. Written acknowledgment of the receipt of the explanation by the resident or the resident's representative must be made a part of the resident's file. Each facility must have posted written notices of the residents' rights in conspicuous locations in the facility. The written notices must be approved by the department. The notices must be in a type and a format which is easily readable by residents and must describe residents' rights, grievance procedures, and the enforcement provisions provided by this chapter.

(B) Each resident and the resident's representative must be informed in writing, before or at the time of admission, of:

(1) available services and of related charges, including all charges not covered under federal or state programs, by other third party payers, or by the facility's basic per diem rate;

(2) the facility's refund policy which must be adopted by each facility and which must be based upon the actual number of days a resident was in the facility and any reasonable number of bed-hold days, except when the provisions of subsection (E) apply.

Each resident and the resident's representative must be informed in writing of any subsequent change in services, charges, or refund policy.

(C) Each resident or the resident's legal guardian has the right to:

(1) choose a personal attending physician;

(2) participate in planning care and treatment or changes in care and treatment;

(3) be fully informed in advance about changes in care and treatment that may affect the resident's well-being;

(4) receive from the resident's physician a complete and current description of the resident's diagnosis and prognosis in terms that the resident is able to understand;

(5) refuse to participate in experimental research.

(D) A resident may be transferred or discharged only for medical reasons, for the welfare of the resident or for the welfare of other residents of the facility, or for nonpayment and must be given written notice of not less than thirty days, except that when the health, safety, or welfare of other residents of the facility would be endangered by the thirty-day notice requirement, the time for giving notice must be that which is practicable under the circumstances. Each resident must be given written notice before the resident's room or roommate in the facility is changed.

(E)(1) If a community residential care facility resident or a resident's representative chooses to voluntarily relocate from the resident's current facility, the resident or the resident's representative must give the facility administrator written notice of this intent to relocate not less than fourteen days before the resident's relocation becomes effective. Voluntary relocation does not occur when a resident of a community residential care facility seeks to be discharged because a higher level of care is required or because the resident's health, safety, or welfare is endangered.

(2) If a community residential care facility resident or a resident's representative fails to give timely notice as required by this subsection, the facility administrator may charge the resident the equivalent of fourteen days occupancy from the earlier of the date of the relocation or the date the facility administrator received proper notice of the resident's intent to relocate. However, if the facility is able to fill the bed vacated by the resident, the facility shall cease charging the resident regardless of the notice given. The facility shall notify the previous resident in writing as soon as it fills the bed with a new resident.

(3) Residents participating in the Optional State Supplementation Program are excluded from the requirements of items (1) and (2).

(F) Each resident or the resident's representative may manage the resident's personal finances unless the facility has been delegated in writing to carry out this responsibility, in which case the resident must be given a quarterly report of the resident's account.

(G) Each resident must be free from mental and physical abuse and free from chemical and physical restraints except those restraints ordered by a physician.

(H) Each resident must be assured security in storing personal possessions and confidential treatment of the resident's personal and medical records and may approve or refuse their release to any individual outside the facility, except in the case of a transfer to another health care institution or as required by law or a third party payment contract.

(I) Each resident must be treated with respect and dignity and assured privacy during treatment and when receiving personal care.

(J) Each resident must be assured that no resident will be required to perform services for the facility that are not for therapeutic purposes as identified in the plan of care for the resident.

(K) The legal guardian, family members, and other relatives of each resident must be allowed immediate access to that resident, subject to the resident's right to deny access or withdraw consent to access at any time. Each resident without unreasonable delay or restrictions must be allowed to associate and communicate privately with persons of the resident's choice and must be assured freedom and privacy in sending and receiving mail. The legal guardian, family members, and other relatives of each resident must be allowed to meet in the facility with the legal guardian, family members, and other relatives of other residents to discuss matters related to the facility, so long as the meeting does not disrupt resident care or safety.

(L) Each resident may meet with and participate in activities of social, religious, and community groups at the resident's discretion unless medically contraindicated by written medical order.

(M) Each resident must be able to keep and use personal clothing and possessions as space permits unless it infringes on another resident's rights.

(N) Each resident must be assured privacy for visits of a conjugal nature.

(O) Married residents must be permitted to share a room unless medically contraindicated by the attending physician in the medical record.

(P) A resident or a resident's legal representative may contract with a person not associated with or employed by the facility to perform sitter services unless the services are prohibited from being performed by a private contractor by state or federal law or by the written contract between the facility and the resident. The person, being a private contractor, is required to abide by and follow the policies and

procedures of the facility as they pertain to sitters and volunteers. The person must be selected from an approved list or agency and approved by the facility. All residents or residents' legal representatives employing a private contractor must agree in writing to hold the facility harmless from any liability."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 171

(R188, H3125)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "MICROENTERPRISE DEVELOPMENT ACT" BY ADDING CHAPTER 55 TO TITLE 11 SO AS TO PROVIDE THAT THE DEPARTMENT OF COMMERCE SHALL ESTABLISH THE MICROENTERPRISE PARTNERSHIP PROGRAM TO PROMOTE AND FACILITATE THE DEVELOPMENT OF MICROENTERPRISES IN THIS STATE AND TO DEFINE "MICROENTERPRISE" AS A BUSINESS, WHETHER NEW OR EXISTING, INCLUDING STARTUP, HOME-BASED, AND SELF EMPLOYMENT, WITH FIVE OR FEWER EMPLOYEES; TO PROVIDE THAT THE DEPARTMENT SHALL AWARD GRANTS TO COMMUNITY ORGANIZATIONS TO MAKE LOANS AND DEVELOP LOAN SOURCES; TO ESTABLISH CRITERIA TO BE CONSIDERED IN AWARDING GRANTS; TO PROVIDE THAT AUTHORIZED FUNDS MAY BE AWARDED AS A GRANT TO MICROLOAN DELIVERY ORGANIZATIONS AND THAT SUCH GRANTS MUST BE MATCHED BY NONSTATE FUNDS; TO PROVIDE THE PURPOSE FOR WHICH GRANT FUNDS MAY BE EXPENDED; TO PROVIDE CERTAIN PROVISIONS THAT MUST BE IN A CONTRACT BETWEEN THE DEPARTMENT AND A

STATEWIDE MICROLENDING SUPPORT ORGANIZATION; TO REQUIRE THE STATE TO SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND GENERAL ASSEMBLY; TO ESTABLISH A CLEAN ENERGY INDUSTRY MANUFACTURING MARKET DEVELOPMENT ADVISORY COMMISSION TO ASSIST IN THE DEVELOPMENT OF CLEAN ENERGY TECHNOLOGY, MATERIALS, AND PRODUCTS IN THIS STATE, TO PROVIDE FOR THE MEMBERS OF THE COMMISSION AND THEIR POWERS AND DUTIES, INCLUDING, CONDUCTING AN ANALYSIS OF THE CURRENT STATUS OF THE CLEAN ENERGY MANUFACTURING INDUSTRY IN THE STATE AND OF THE MARKET AND EMPLOYMENT POTENTIAL, RECOMMENDING INCENTIVES FOR DEVELOPING CLEAN ENERGY MANUFACTURING AND FOR DEVELOPING CATEGORIES OF CLEAN ENERGY MARKETS, AND TO PROVIDE THAT THE COMMISSION SHALL ISSUE A FINAL REPORT BY SEPTEMBER 30, 2015, AT WHICH TIME THE COMMISSION IS DISSOLVED UNLESS OTHERWISE EXTENDED.

Whereas, there is a need to encourage microenterprise entrepreneurship for microenterprise development; and

Whereas, there is a need to create employment and employment opportunities in areas of chronic economic distress and in low-income urban and rural areas; and

Whereas, there is a need to build an environment conducive to business development and growth; and

Whereas, microenterprises, including self-employment and startup businesses, are important elements of the South Carolina economy and play a vital role in job production, entrepreneurial skill development, and enhancing the capacity of low-income households to become more self-sufficient; and

Whereas, microenterprises often do not have access to commercial sources of credit because of a lack of business experience or training, collateral to secure business loans, or business records to demonstrate their loan repayment potential; and

Whereas, community-based microenterprise programs have demonstrated cost-effective delivery methods for providing microenterprise training and microloans; and

Whereas, financial institutions are developing innovative ways to respond to this sector of the economy, including working with nonprofit community-based organizations; and

Whereas, local and state charitable and foundation support, various federal programs, and private sector support could be leveraged by a statewide program for the development of the microenterprise and self-employment sectors. Now, therefore,

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

Microenterprise Development Act

SECTION 1. A. Title 11 of the 1976 Code is amended by adding:

"CHAPTER 55

Microenterprise Development

Section 11-55-10. This chapter may be cited as the 'Microenterprise Development Act'.

Section 11-55-20. As used in this chapter:

(1) 'Department' means the Department of Commerce.

(2) 'Financial institution' means an organization authorized to do business under state or federal laws relating to financial institutions.

(3) 'Microenterprise' means any business, whether new or existing, with five or fewer employees, including startup, home-based, and self-employed businesses.

(4) 'Microloan' means any business loan up to twenty-five thousand dollars.

(5) 'Microloan delivery organization' means a community-based or nonprofit program that has developed a viable plan for providing training, access to financing, and technical assistance for microenterprises.

(6) 'Operating costs' means the costs associated with administering a loan or a loan guaranty, administering a revolving loan program, or

providing for business training and technical assistance to a microloan recipient.

(7) 'Program' means the Microenterprise Partnership Program.

(8) 'Statewide microlending support organization' means a community-based or nonprofit organization that has a demonstrated capacity and a plan for providing and administering grants or loans to microloan delivery organizations.

Section 11-55-30. The purposes of this chapter are to:

(1) better ensure that South Carolina's microenterprises are able to realize their full potential to create jobs, enhance entrepreneurial skills and activity, and increase the capacity of low-income households to become self-sufficient; and

(2) facilitate the development of a permanent infrastructure of statewide microlending support organizations to serve the microenterprise and self-employment sectors.

Section 11-55-40. The Department of Commerce shall establish the Microenterprise Partnership Program to coordinate and facilitate the development of microlending and microenterprises in this State and:

(1) shall secure funding to provide grants to microloan delivery organizations for the development and financing of microenterprises, including identifying and coordinating private and federal sources of funds that may be available to the department to enhance the State's ability to facilitate program grants;

(2) may engage in contractual relationships with statewide microlending support organizations to assist with the administration of this program, including awarding and overseeing grants.

Section 11-55-50. In developing criteria for awarding grants to microloan delivery organizations, the department shall consider the organization's:

(1) plan for providing business development services and microloans to microenterprises;

(2) plan for securing loan assistance from financial institutions;

(3) plan for coordinating the services and loans provided by the microloan delivery organization with loans from financial institutions;

(4) scope of services to be provided;

(5) ability to provide business development in areas of chronic economic distress and low-income regions of the State;

(6) area of the State to be served, with consideration being given to achieving equitable geographic distribution in awarding grants to areas

of the State in need, including rural and urban communities and neighborhoods;

(7) ability to provide business training and technical assistance to microenterprise clients;

(8) ability to monitor and provide financial oversight of microloan recipients; and

(9) sources and sufficiency of operating funds.

Section 11-55-60. Authorized funds may be awarded as a grant to a microloan delivery organization if:

(1) the authorized funds granted are matched by the microloan delivery organization with nonstate funds equivalent in money or in kind equal to one dollar for each one dollar of the grant funds requested. These matching funds may be secured from any nonstate source, including private foundations, federal or local government sources, quasigovernmental entities, or financial institutions or from any other entity whose funding source does not include funds appropriated by the General Assembly; and

(2) at least fifty percent of microloan funds are disbursed by the microloan delivery organization in microloans that do not exceed ten thousand dollars.

Section 11-55-70. A grant made by the department to a microloan delivery organization may be used to:

(1) satisfy matching fund requirements for other federal or private grants;

(2) establish a revolving loan fund from which the microloan delivery organization may make loans to microenterprises;

(3) establish a guaranty fund from which the microloan delivery organization may guarantee loans made by financial institutions to microenterprises; and

(4) provide funding for the operating costs of a microloan delivery organization.

Section 11-55-80. If the department enters into a contractual relationship with a statewide microlending support organization, the contract must state that:

(1) authorized funds granted to the statewide microlending support organization must be matched by the organization with nonstate funds equivalent in money or in kind equal to one dollar for each one dollar of the grant funds requested; these matching funds may be secured from any nonstate source, including private foundations, federal or

local government sources, quasigovernmental entities, or financial institutions or any other entity whose funding source does not include funds appropriated by the General Assembly;

(2) if awarding grants, the statewide microlending support organization shall award and administer the grants in accordance with the purposes of and in compliance with this chapter; and

(3) no greater than ten percent of authorized or contracted funds may be used for operating or administering the grant program.

Section 11-55-90. The department shall submit an annual report to the Governor and the General Assembly before January first of each year that must include, but is not limited to, the demand for grants and a description of the type of applicants who have sought grants from the Microenterprise Partnership Program, a list of the recipients, the amount of each grant awarded and the intended purpose of each grant, the impact of grants awarded, which may include information from previous years, a number and description of the partnerships between financial institutions and microloan delivery organizations that have resulted from grants made to microloan delivery organizations, and an evaluation of the program's performance based on the purposes of this chapter.

Section 11-55-100. The department shall promulgate regulations to carry out the provisions of this chapter."

B. This section takes effect January 1, 2014.

Clean Energy Industry Manufacturing Market Development Advisory Commission

SECTION 2. (A) There is established a Clean Energy Industry Manufacturing Market Development Advisory Commission to assist in the development of clean energy technology, materials, and products manufactured in this State.

(B) The commission is composed of fourteen members. The Secretary of the South Carolina Department of Commerce, or the secretary's designee, and the Director of the State Energy Office, or the director's designee, shall serve on the commission and the Secretary of Commerce shall appoint one member representative from each of the following:

(1) advanced vehicle technology industry;

(2) alternative transportation fuels industry;

(3) battery manufacturing industry;

(4) biomass energy industry;

(5) energy efficiency industry;

(6) higher education research institution's incubation and business development department;

(7) hydroelectric industry;

(8) hydrogen storage or fuel cell industry;

(9) solar manufacturing industry;

(10) S.C. Technical College System's clean energy workforce development department;

(11) utility industry; and

(12) wind components manufacturing industry.

(C) Appointed members serve at the pleasure of their appointing authority and without compensation or expenses.

(D) The commission must meet as soon as practicable after appointment and organize itself. The chairman must be designated by the Secretary of Commerce and the commission shall select its own vice chairman and adopt those procedures necessary for its operations. A majority of the members constitutes a quorum to do business. As necessary, the Secretary of Commerce may expend public funds and may solicit, receive, and expend private funds from any relevant sources and entities in order to carry out the commission's purposes. The Secretary of Commerce, on behalf of the commission, may utilize department staff or engage consultants as may be necessary and prudent to assist the commission in the performance of its duties and responsibilities; however, the Secretary of Commerce may not expend more than one hundred thousand dollars in the aggregate to engage consultants. Also, the Department of Commerce may seek the assistance of the staff of the State Energy Office, as necessary.

(E) Not later than December 31, 2014, the commission shall provide to the Governor and the General Assembly an initial report which must include, to the extent possible, the following:

(1) a description and analysis of this State's existing clean energy manufacturing industry;

(2) an analysis of job development potential for clean energy manufacturing in this State, including the expected composition of the jobs as full or part time, and the potential wages for such jobs;

(3) an analysis of market potential in this State, in other states, or in foreign countries for technology, materials, and products manufactured by a clean energy industry from this State;

(4) recommendations for actions which may be taken to provide incentives for manufacturing or operation of clean energy technology, materials, and products from this State. These recommendations must

contain an analysis of existing incentives, including, but not limited to, those incentives provided for in Sections 12-6-3377, 12-6-3588, 12-6-3600, and 12-6-3610, the effectiveness or lack thereof, and whether any incentives should be amended or repealed. If the commission recommends additional incentives, the commission must forward its recommendation to the Board of Economic Advisors to prepare a revenue impact statement;

(5) an analysis of incentives offered by neighboring and other states for the manufacturing or operation of clean energy technology, materials, and products;

(6) recommendations on categories of clean energy markets that should be developed in this State and benchmarks to increase clean energy manufacturing in this State; and

(7) recommendations for marketing and public education programs that should be implemented by economic development entities to provide information to the public and to business and industry on the benefits of investment in the clean energy manufacturing industry in this State. Any such recommendations shall include a fiscal impact statement from the Office of State Budget.

(F) The commission shall issue a final report by September 30, 2015. The final report must include all the items required by subsection (E) and any revisions to the initial report. Following the submission of its final report, and unless authorized by a further or subsequent enactment, the commission is dissolved. The General Assembly may extend the date by which the commission must provide its reports.

(G) The dissolution of the commission must not be construed so as to restrict the Secretary of Commerce from appointing an advisory council pursuant to Section 13-1-40 on matters similar to the jurisdiction of the Clean Energy Industry Manufacturing Market Development Advisory Commission.

Time effective

SECTION 3. Except as provided otherwise, this act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 172

(R189, H3561)

AN ACT TO AMEND SECTION 12-36-920, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TAX ON ACCOMMODATIONS, SO AS TO PROVIDE THAT CERTAIN OPTIONAL CHARGES ARE NOT SUBJECT TO THE TAX.

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

Applicability of accommodations tax on optional charges

SECTION 1. Section 12-36-920(A) and (B) of the 1976 Code is amended to read:

"(A) A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. This tax does not apply where the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the individual's place of abode. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety continuous days are not considered proceeds from transients. The tax imposed by this subsection (A) does not apply to additional guest charges as defined in subsection (B) or separately stated optional charges on a bill to a customer for amenities, entertainment, special items in promotional tourist packages, and other guest services.

(B) A sales tax of five percent is imposed on additional guest charges at any place where rooms, lodgings, or accommodations are furnished to transients for a consideration, unless otherwise taxed under this chapter. For purposes of this subsection, additional guest charges are limited to charges for:

(1) room service;
(2) laundering and dry cleaning services;
(3) in-room movies;
(4) telephone service; and

(5) rentals of meeting rooms."

Time effective

SECTION 2. This act takes effect July 1, 2014.

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 173

(R190, H3567)

AN ACT TO AMEND SECTION 44-7-130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF TERMS USED IN THE STATE CERTIFICATE OF NEED AND HEALTH FACILITY LICENSURE ACT, SO AS TO REVISE THE DEFINITION OF "CHILDREN AND ADOLESCENTS IN NEED OF MENTAL HEALTH TREATMENT" IN A RESIDENTIAL TREATMENT FACILITY BY REVISING THE TERM TO INCLUDE YOUNG ADULTS AND BY INCREASING THE ELIGIBILITY AGE FROM UNDER EIGHTEEN TO UNDER TWENTY-ONE.

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

Definition revised to include "young adults"

SECTION 1. Section 44-7-130(18) of the 1976 Code is amended to read:

"(18) 'Children, adolescents, and young adults in need of mental health treatment' in a residential treatment facility means a child, adolescent, or young adult under age twenty-one who manifests a substantial disorder of cognitive or emotional process, which lessens or impairs to a marked degree that child's, adolescent's, or young adult's capacity either to develop or to exercise age-appropriate or age-adequate behavior. The behavior includes, but is not limited to, marked disorders of mood or thought processes, severe difficulties with

self-control and judgment including behavior dangerous to self or others, and serious disturbances in the ability to care for and relate to others."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 174

(R191, H3939)

AN ACT TO AMEND SECTION 7-27-240, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BEAUFORT COUNTY BOARD OF ELECTIONS AND REGISTRATION, SO AS TO PROVIDE THAT MEMBERS OF THE BOARD SERVE UNTIL THEIR SUCCESSORS ARE APPOINTED AND CERTIFIED AND TO REMOVE THE PROHIBITION ON MEMBERS OF THE BOARD SERVING MORE THAN TWO TERMS OR EIGHT CONSECUTIVE YEARS.

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

Beaufort County Board of Elections and Registration

SECTION 1. Section 7-27-240(A) of the 1976 Code, as added by Act 312 of 2008, is amended to read:

"(A) There is created the Beaufort County Board of Elections and Registration. There are nine members of the board who must be appointed by the Governor, four of whom must be appointed upon the recommendation of the senators representing Beaufort County and the remaining upon the recommendation of a majority of the Beaufort County Legislative Delegation for terms of four years until their successors are appointed and certified. Except for those first appointed, five must be appointed for initial terms of two years each,

the initial terms of all members to be designated by the appointing authority."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 175

(R192, H4259)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-17-760 SO AS TO ENACT THE "SOUTH CAROLINA MILITARY SERVICE INTEGRITY AND PRESERVATION ACT", TO PROVIDE THAT A PERSON WHO, WITH THE INTENT OF SECURING A TANGIBLE BENEFIT, KNOWINGLY AND FALSELY REPRESENTS HIMSELF TO HAVE SERVED IN THE ARMED FORCES OF THE UNITED STATES OR TO HAVE BEEN AWARDED CERTAIN DECORATIONS, MEDALS, OR RIBBONS AUTHORIZED BY CONGRESS OR PURSUANT TO FEDERAL LAW FOR THE ARMED FORCES OF THE UNITED STATES, IS GUILTY OF A MISDEMEANOR.

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

South Carolina Military Service Integrity and Preservation Act

SECTION 1. Article 7, Chapter 17, Title 16 of the 1976 Code is amended by adding:

"Section 16-17-760. (A) This act may be cited as the 'South Carolina Military Service Integrity and Preservation Act'.

(B) A person who, with the intent of securing a tangible benefit, knowingly and falsely represents himself through a written or oral communication, including a resume, to have:

(1) served in the Armed Forces of the United States, is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both; or

(2) been awarded a Congressional Medal of Honor, a Distinguished-Service Cross, a Navy Cross, an Air Force Cross, a Silver Star, a Purple Heart, a Combat Infantryman's Badge, a Combat Action Badge, a Combat Medical Badge, a Combat Action Ribbon, or a Combat Action Medal as authorized by Congress or pursuant to federal law for the Armed Forces of the United States, is guilty of a misdemeanor, and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.

(C) For purposes of this section, 'tangible benefit' includes:

(1) a benefit relating to military service provided by the federal government or a state or local government;

(2) employment or personal advancement;

(3) financial remuneration;

(4) an effect on the outcome of a criminal or civil court proceeding; or

(5) an effect on an election which is presumed if the representation is made by a candidate for public office."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 176

(R193, H4467)

AN ACT TO AMEND SECTION 7-7-120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN BERKELEY COUNTY, SO AS TO REDESIGNATE VARIOUS EXISTING PRECINCTS, TO ADD ELEVEN PRECINCTS, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND

MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Berkeley County voting precincts revised

SECTION 1. Section 7-7-120 of the 1976 Code, as last amended by Act 91 of 2013, is further amended to read:

"Section 7-7-120. (A) In Berkeley County there are the following voting precincts:

Alvin
Bethera
Beverly Hills
Bonneau
Bonneau Beach
Central
Cainhoy
Cane Bay
Carnes Cross Road 1
Carnes Cross Road 2
Cordesville
Cross
Daniel Island 1
Daniel Island 2
Daniel Island 3
Daniel Island 4
Devon Forest 1
Devon Forest 2
Discovery
Eadytown
Foster Creek
Foxbank
Goose Creek 1
Goose Creek 2
Hanahan 1
Hanahan 2
Hanahan 3
Hanahan 4
Hanahan 5

Hilton Cross Roads
Howe Hall 1
Howe Hall 2
Huger
Jamestown
Lebanon
Liberty Hall
Macedonia
McBeth
Medway
Moncks Corner 1
Moncks Corner 2
Moncks Corner 3
Moncks Corner 4
Moultrie
Old 52
Pimlico
Pinopolis
Royle
Russellville
Sangaree 1
Sangaree 2
Sangaree 3
Seventy Eight
Shulerville
Stone Lake
St. Stephen 1
St. Stephen 2
Stratford 1
Stratford 2
Stratford 3
Stratford 4
Stratford 5
The Village
Wassamassaw 1
Wassamassaw 2
Westview 1
Westview 2
Westview 3
Westview 4
Whitesville 1
Whitesville 2

Yellow House

(B) The precinct lines defining the precincts provided in subsection (A) are as shown on the official map prepared by and on file with the Office of Research and Statistics of the State Budget and Control Board designated as document P-15-14 and as shown on copies provided to the Board of Elections and Voter Registration of Berkeley County.

(C) The polling places for the precincts provided in this section must be established by the Board of Elections and Voter Registration of Berkeley County subject to the approval of a majority of the Senators and a majority of the House members of the Berkeley County Delegation."

Time effective

SECTION 2. This act takes effect July 1, 2014.

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 177

(R194, H4482)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-1-691 SO AS TO DESIGNATE THE COLUMBIAN MAMMOTH AS THE OFFICIAL STATE FOSSIL.

Whereas, giant mammoths used to roam South Carolina; and

Whereas, scientists have identified the fossils of about six hundred and fifty species of vertebrates in South Carolina to date; and

Whereas, it has been recognized that fossilized mammoth teeth were discovered in a swamp in South Carolina in 1725; and

Whereas, this discovery has been credited as the first scientific identification of a North American vertebrate fossil. Now, therefore,

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

Official state fossil

SECTION 1. Article 9, Chapter 1, Title 1 of the 1976 Code is amended by adding:

"Section 1-1-691. The Columbian Mammoth is designated as the official State Fossil of South Carolina."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 178

(R195, H4561)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 20 TO TITLE 50 SO AS TO AUTHORIZE THE SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES TO ENTER INTO THE INTERSTATE BOATING VIOLATOR COMPACT.

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

Interstate Boating Violator Compact

SECTION 1. Title 50 of the 1976 Code is amended by adding:

"CHAPTER 20

Interstate Boating Violator Compact

Section 50-20-10. This chapter may be cited as the 'Interstate Boating Violator Compact'.

Section 50-20-20. The Interstate Boating Violator Compact is enacted into law and entered into with all other jurisdictions legally joining therein. The Department of Natural Resources shall execute all documents and perform all other acts necessary to carry out the provisions of the compact in a form substantially as follows:

Article I

Findings, Declaration of Policy, and Purpose

(A) The party states find that:

(1) Boating activities on public waters are managed by the respective states for the benefit of all residents and visitors.

(2) The benefits of boating activities on public waters can be materially affected by the degree of compliance with state statute, law, regulation, ordinance, or administrative rule relating to the management of those activities.

(3) The management of boating activities on public waters contributes immeasurably to the aesthetic, recreational, and economic aspects of the respective states.

(4) Boating activities on public waters are valuable without regard to political boundaries. Therefore, all persons should be required to comply with boating laws, ordinances, and administrative rules and regulations of all party states as a condition precedent to the privilege of operating watercraft on public waters.

(5) Violation of boating laws interferes with the management of boating activities on public waters and may endanger the safety of persons and property.

(6) The mobility of many boating law violators necessitates the maintenance of channels of communication among the respective states.

(7) In most instances, a person who is cited for a boating violation in a state other than the person's home state:

(a) must post collateral or bond to secure appearance for a trial at a later date;

(b) if unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(c) is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices described in item (7) is to ensure compliance with the terms of a boating citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.

(9) In most instances, a person receiving a boating citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and immediately to continue on the person's way after agreeing or being instructed to comply with the terms of the citation.

(10) The practice described in item (7) causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.

(11) The enforcement practices described in item (7) consume an undue amount of law enforcement time.

(B) It is the policy of the party states to:

(1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to boating activities on public waters in their respective states.

(2) Recognize the suspension of watercraft operating privileges or the watercraft operator's license of any person whose watercraft operating privileges or watercraft operator's license has been suspended by a party state and treat the suspension as if it had occurred in their state.

(3) Allow violators to accept a boating citation, except as provided in subsection (B) of Article III, and proceed on the violator's way without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate party state, as provided in the compact manual, any boating conviction recorded against a person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat boating convictions recorded for their residents which occurred in another party state as if they had occurred in the home state.

(6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a boating citation issued in one party state to a resident of another party state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of boating violations.

(C) The purposes of this compact are to:

(1) Provide a means through which the party states may participate in a reciprocal program to effectuate policies enumerated in subsection (B) in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of boating violators operating within party states in recognition of the person's right of due process and the sovereign status of a party state.

Article II

Definitions

Unless the context requires otherwise, the following definitions in this article apply through this compact and are intended only for the implementation of this compact:

(1) 'Boating activity' means any activity involving the operation of a watercraft on public waters.

(2) 'Boating violation' means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted to regulate the operation of watercraft on public waters.

(3) 'Citation' means any summons, complaint, ticket, penalty assessment, or other official document issued by a law enforcement officer for a boating violation containing an order which requires the person to respond.

(4) 'Collateral' means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a law enforcement officer of a citation for a boating violation.

(5) 'Compliance' with respect to a citation means the act of answering the citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.

(6) 'Conviction' means a conviction, including any court conviction, for an offense related to the operation of watercraft on public waters which is prohibited by state statute, law, regulation, ordinance, or administrative rule, or a forfeiture of bail, bond, or other

security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(7) 'Court' means any court of law, including magistrates court.

(8) 'Home state' means the state of primary residence of a person.

(9) 'Issuing state' means the party state which issues a boating citation to the violator.

(10) 'Officer' means any individual authorized by a party state to issue a citation for a boating violation.

(11) 'Boating authority' means the department or division within each party state which is authorized by law to regulate the operation of watercraft on public waters.

(12) 'Party state' means any state which enacts legislation to become a member of this boating compact.

(13) 'Personal recognizance' means an agreement by a person made at the time of issuance of the boating citation that the person will comply with the terms of that citation.

(14) 'State' means any state, territory, or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico.

(15) 'Suspension' means any revocation, denial, or withdrawal of any or all watercraft or water device operating privileges, or watercraft operator's license.

(16) 'Terms of the citation' means those conditions and options expressly stated upon the citation.

(17) 'Watercraft' means anything used or capable of being used as a means of transportation on the water including a boat, motorboat, personal watercraft, similar vessel, or paddle board. It does not include a seaplane regulated by the federal government, water skis, aquaplanes, surfboards, windsurfers, tubes, and similar devices or anything that does not meet construction or operational requirements of the state or federal government for watercraft.

(18)'Operate' means to navigate, steer, drive, or be in control of a watercraft.

(19) 'Boating law' means any statute, law, regulation, ordinance, or administrative rule developed and enacted to regulate boating activities on public waters.

Article III

Procedures for Issuing State

(A) When issuing a citation for a boating violation, an officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the issuing state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subsection (B) if the officer receives the person's personal recognizance that the person will comply with the terms of the citation.

(B) Personal recognizance is acceptable:

(1) if it is not prohibited by local law or the compact manual; and

(2) if the violator provides adequate proof of the violator's identification to the officer.

(C) Upon conviction or failure of a person to comply with the terms of a boating citation, the appropriate official shall report the conviction or failure to comply to the boating authority of the party state in which the boating citation was issued. The report must be made in accordance with procedures specified by the issuing state and shall contain the information specified in the compact manual as minimum requirements for effective processing by the home state.

(D) Upon receipt of the report of conviction or noncompliance required by subsection (C) the boating authority of the issuing state shall transmit to the boating authority in the home state of the violator the information in a form and content as contained in the compact manual.

Article IV

Procedures for Home State

(A) Upon receipt of a report of failure to comply with the terms of a citation from the boating authority of the issuing state, the boating authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state's suspension procedures, and shall suspend the violator's watercraft operating privileges, or watercraft operator's license until satisfactory evidence of compliance with the terms of the boating citation has been furnished by the issuing state to the home state boating authority. Due process safeguards shall be accorded.

(B) Upon receipt of a report of conviction from the boating authority of the issuing state, the boating authority of the home state shall enter the conviction in its records and shall treat the conviction as if it occurred in the home state for the purposes of the suspension of watercraft operating privileges or watercraft operator's license.

(C) The boating authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual.

Article V

Reciprocal Recognition of Suspension

(A) All party states shall recognize the suspension of watercraft operating privileges or the watercraft operator's license of any person by any state as if the violation on which the suspension is based occurred in their state and could have been the basis for suspension of watercraft operating privileges or the watercraft operator's license in their state.

(B) Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

Article VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing in it shall be construed to affect the right of any party state to apply any of its laws relating to watercraft operating privileges or watercraft operator's licenses to a person or circumstance or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning boating law enforcement.

Article VII

Compact Administrator Procedures

(A) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a Board of Boating Compact Administrators is established. The Board of Boating Compact

Administrators shall be composed of one representative from each of the party states to be known as the Boating Compact Administrator. The Boating Compact Administrator shall be appointed by the head of the boating authority of each party state and will serve and be subject to removal in accordance with the laws of the state the Boating Compact Administrator represents. A Boating Compact Administrator may provide for the discharge of the Boating Compact Administrator's duties and the performance of the Boating Compact Administrator's functions as a board member by an alternate. An alternate shall not be entitled to serve unless written notification of the alternate's identity has been given to the Board of Boating Compact Administrators.

(B) Each member of the Board of Boating Compact Administrators is entitled to one vote. No action of the Board of Boating Compact Administrators is binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action by the Board of Boating Compact Administrators shall be only at a meeting at which a majority of the party states are represented.

(C) The Board of Boating Compact Administrators shall elect annually, from its membership, a chair and vice chair.

(D) The Board of Boating Compact Administrators shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(E) The Board of Boating Compact Administrators may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the same.

(F) The Board of Boating Compact Administrators may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, corporation, or any private nonprofit organization or institution.

(G) The Board of Boating Compact Administrators shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to the Board of Boating Compact Administrators action must be contained in the compact manual.

Article VIII

Entry into Compact and Withdrawal

(A) This compact shall become effective when it has been adopted by at least two states.

(B)(1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the Chair of the Board of Boating Compact Administrators.

(2) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

(a) a citation of the authority by which the state is empowered to become a party to this compact;

(b) agreement to comply with the terms and provisions of the compact; and

(c) that compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying state, but shall not be less than sixty days after notice has been given by the Chair of the Board of Boating Compact Administrators or by the secretariat of the board to each party state that the resolution from the applying state has been received.

(C) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until ninety days after notice of withdrawal is given. The notice shall be directed to the Boating Compact Administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

Article IX

Amendments to the Compact

(A) This compact may be amended from time to time. Amendments shall be presented in resolution form to the Chair of the Board of Boating Compact Administrators and may be initiated by one or more party states.

(B) Adoption of an amendment shall require endorsement by all party states and shall become effective thirty days after the date of the last endorsement.

Article X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated in it. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability of it to any government, agency, individual, or circumstance is held invalid, the compact shall not be affected by it. If this compact is held contrary to the constitution of any party state to it, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 50-20-30. (A) The Director of the Department of Natural Resources shall appoint the Boating Compact Administrator for South Carolina. The Boating Compact Administrator shall serve at the pleasure of the Director of the Department of Natural Resources.

(B) The Department of Natural Resources must deny, suspend, or revoke the watercraft operating privileges or watercraft operator's license of any person in this State to the extent that the watercraft operating privileges or the watercraft operator's license have been denied, suspended, or revoked by another compact member under the provisions of this chapter.

(C) The Department of Natural Resources shall promulgate regulations necessary to carry out the purposes of this chapter.

(D) Any proposed amendment to the compact must be submitted to the General Assembly as an amendment to this act. In order to be endorsed by the State of South Carolina as provided by subsection (B) of Article IX of the compact, a proposed amendment to the compact must be enacted into law."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 179

(R196, H4578)

AN ACT TO AMEND SECTION 23-43-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS OF THE SOUTH CAROLINA MODULAR BUILDINGS CONSTRUCTION ACT, SO AS TO REVISE THE DEFINITION OF THE TERM "APPROVED INSPECTION AGENCY" TO REQUIRE THAT AN APPROVED INSPECTION AGENCY RETAIN A BUILDING CONSTRUCTION-ORIENTED ENGINEER OR ARCHITECT TO ENSURE COMPLIANCE; TO AMEND SECTION 23-43-90, RELATING TO INSPECTION AND CERTIFICATION OF A MODULAR BUILDING, SO AS TO PROVIDE THAT FINAL PLAN APPROVAL FOR A SINGLE FAMILY RESIDENTIAL MODULAR BUILDING BE PERFORMED BY AN APPROVED INSPECTION AGENCY, AND TO PROVIDE THAT FINAL APPROVAL FOR A COMMERCIAL MODULAR BUILDING BE PERFORMED BY THE DEPARTMENT OF LABOR, LICENSING AND REGULATION; AND TO AMEND SECTION 23-43-80, RELATING TO CERTIFICATION BY THE SOUTH CAROLINA BUILDING CODES COUNCIL, SO AS TO MAKE A CONFORMING CHANGE.

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

Modular Buildings Construction Act, definition revised

SECTION 1. Section 23-43-20(6) of the 1976 Code is amended to read:

"(6) 'Approved inspection agency' means an agency approved by the council to provide plan review and approval, evaluation, and inspection in addition to adequate follow-up services at the point of manufacture to insure that production units are in full compliance with

the provisions of this chapter. An approved inspection agency must retain a building construction-oriented South Carolina registered professional engineer or architect who must be responsible for compliance with this chapter and regulations of the council."

Modular Buildings Construction Act, final plan review procedures, approval by approved inspection agency

SECTION 2. Section 23-43-90 of the 1976 Code is amended to read:

"Section 23-43-90. (A) An approved inspection agency shall perform final plan review and approval, inspection, and certification of a single family residential modular building. Upon final plan review and approval by an approved inspection agency of a plan as meeting the requirements of this chapter and the regulations of the council, a copy of the approved plan must be filed with the Department of Labor, Licensing and Regulation. Upon filing of an approved plan with the department by an approved inspection agency, a manufacturer may request from the department certification labels for units manufactured to the approved plan. Each certification label must bear the serial number of the unit for which it is issued and only may be attached upon final inspection by an approved inspection agency.

(B) An approved inspection agency shall perform plan approval, inspection, and certification of commercial or multifamily modular buildings. Upon review by the approved inspection agency, the plans must be submitted to the Department of Labor, Licensing and Regulation for final plan review and approval."

Modular Buildings Construction Act, conforming change

SECTION 3. Section 23-43-80 of the 1976 Code is amended to read:

"Section 23-43-80. Modular buildings must be certified by the council, as complying with this chapter and the regulations promulgated by authority of this chapter, if they have been manufactured in accordance with approved building systems and passed inspection in accordance with an approved compliance assurance program in Section 23-43-90. Certification is evidenced by the attachment to each modular building, a label issued by the council. Certification labels can only be attached to a modular building by the manufacturer under the supervision of the approved inspection agency. A certified modular building may not be altered in any way prior to the

issuance of all permits required by local government without the council's approval."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 180

(R197, H4644)

AN ACT TO AMEND SECTION 40-60-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, AND SECTIONS 40-60-31, 40-60-33, 40-60-34, 40-60-35, AS AMENDED, 40-60-36, 40-60-37, 40-60-38, 40-60-80, AND 40-60-220, ALL RELATING TO THE SOUTH CAROLINA REAL ESTATE APPRAISERS LICENSE AND CERTIFICATION ACT, SO AS TO CONFORM TO CERTAIN REVISED NATIONAL UNIFORM STANDARDS, AND TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES.

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

Definitions

SECTION 1. Section 40-60-20 of the 1976 Code is amended to read:

"Section 40-60-20. As used in this chapter unless the context requires otherwise:

(1) 'Analysis' means a study of real estate or real property other than one estimating value.

(2) 'Appraisal', as a noun, means the act or process of developing an opinion of value; as an adjective, 'appraisal' means of or pertaining to appraising and related functions including, but not limited to, appraisal practice and appraisal services.

(3) 'Appraisal assignment' or 'valuation assignment' means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion that estimates the value of real estate.

(4) 'Appraisal Foundation' means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois, containing the Appraisal Standards Board (ASB), Appraiser Qualifications Board (AQB), a board of trustees, and other advisory bodies.

(5) 'Appraisal report' means any communication, written or oral, of an appraisal. The testimony of an individual dealing with the analyses, conclusions, or opinions concerning identified real estate or real property is considered to be an oral appraisal report.

(6) 'Appraisal subcommittee' means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. Section 3301, et seq.), as amended, as well as the Secretary of the Department of Housing and Urban Development, or his designee, under the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. Section 1708(e)).

(7) 'Appraiser' means a person who holds a permit, license, or certification issued by the board that allows the person to appraise real property.

(8) 'Apprentice appraiser' means an individual authorized by permit to assist a state certified appraiser in the performance of an appraisal if the apprentice is actively and personally supervised by the certified appraiser.

(9) 'Board' means the South Carolina Real Estate Appraisers Board established pursuant to the provisions of this chapter.

(10) 'Complex residential property appraisal' means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

(11) 'Evaluation' means an analysis, opinion, or conclusion that relates to the nature, quality, or utility of identified real estate and does not estimate value.

(12) 'Federally related transaction' means any real estate-related financial transaction which a federal financial institution regulatory agency engages in, contracts for, or regulates.

(13) 'Market analysis' means a study of real estate market conditions for a specific type of property.

(14) 'Mass appraisal' means the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.

(15) 'Mass appraiser' means any appraiser who is employed in the office of a tax assessor to appraise real property for ad valorem tax purposes and who is licensed or certified as a mass appraiser.

(16) 'Noncomplex residential property appraisal' means one in which the property to be appraised, the form of ownership, and market conditions are those which are typically found in the subject market.

(17) 'Person' means an individual, corporation, partnership, or association, foreign and domestic.

(18) 'Real estate' means an identified parcel or tract of land including improvements, if any.

(19) 'Real estate appraisal activity' means the act or process of valuing real estate or real property and preparing an oral or written report.

(20) 'Real property' means the interests, benefits, and rights inherent in the ownership of real estate.

(21) 'Residential appraisal' is an appraisal of a vacant or improved parcel of land that is devoted to or available for use as a one to four family abode including, but not limited to, a single family home, apartment, or rooming house.

(22) 'Specialized services' means services other than independent appraisal assignments which are performed by an appraiser. Specialized services may include marketing studies, financing studies, and feasibility studies, valuations, analyses, opinions, and conclusions given in connection with activities including, but not limited to, real estate brokerage, mortgage banking, real estate counseling, and real estate tax counseling.

(23) 'Standards of professional appraisal practice' or 'USPAP' means the National Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of the Appraisal Foundation and adopted by the board.

(24) 'State-certified general appraiser' means an appraiser authorized to engage in the appraisal of all types of real property.

(25) 'State-certified general mass appraiser' means an appraiser authorized to engage in all types of real estate mass appraisal activity for ad valorem purposes.

(26) 'State-certified residential appraiser' means an appraiser authorized to engage in the appraisal of one to four residential units without regard to transaction value or complexity and nonresidential

appraisals with a transaction value less than two hundred fifty thousand dollars.

(27) 'State-certified residential mass appraiser' means an appraiser authorized to engage in the mass appraisal of one to four residential units without regard to value or complexity and nonresidential appraisals with a transaction value less than two hundred fifty thousand dollars.

(28) 'State-licensed appraiser' means an appraiser authorized to engage in the appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units and nonresidential appraisals having a transaction value less than two hundred fifty thousand dollars.

(29) 'State-licensed mass appraiser' means an appraiser authorized to engage in the mass appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units and nonresidential appraisals having a transaction value less than two hundred fifty thousand dollars.

(30) 'Timberland' means forestland that is producing or is capable of producing timber as a crop.

(31) 'Valuation' means an estimate of the value of real estate or real property."

Qualifications

SECTION 2. Section 40-60-31 of the 1976 Code is amended to read:

"Section 40-60-31. To qualify as an appraiser, an applicant shall:

(1) have attained the age of eighteen years;

(2) satisfy educational requirements of having:

(a) graduated from high school or hold a certificate of equivalency to become an apprentice appraiser;

(b) an associate degree or its equivalent as promulgated by the board through regulation to become a licensed appraiser; or

(c) a bachelor's degree or its equivalent as promulgated by the board through regulation to become a state-certified residential appraiser or state-certified general appraiser;

(3) submit proof of completion of qualifying education and, if applicable, experience requirements as specified in this chapter;

(4) submit certificates of licensure from all jurisdictions where presently or previously certified;

(5) undergo a criminal background check in compliance with AQB requirements to be submitted by the applicant with his application; and

(6) pass an examination, if applicable. Effective July 1, 2014, an applicant who does not become licensed or certified within two years after passing the examination must retake the examination."

Education and experience requirements

SECTION 3. Section 40-60-33 of the 1976 Code is amended to read:

"Section 40-60-33. In addition to the requirements of Section 40-60-31, an applicant for a permit, license, or certification shall provide proof of having met the following educational and applicable experience requirements:

(1) To qualify as an apprentice appraiser, an applicant shall:

(a) furnish evidence that the applicant will be supervised by an appraiser who is state certified by the board;

(b) furnish evidence that the applicant has successfully completed within the past five years at least seventy-five hours of courses approved by the board; and

(c) attend a trainee/supervisor orientation conducted in compliance with AQB requirements.

(2) To qualify as a state-licensed appraiser, an applicant shall:

(a) furnish evidence that the applicant has successfully completed within the past five years one hundred fifty hours of education required for licensure by the board in approved appraisal courses;

(b) demonstrate two thousand hours of appraisal experience since January 1, 1992, but in not less than twenty-four months. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed forty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board; and

(c) pass an examination approved by the board. The prerequisites to sit for the examination are completion of the educational requirements and appraisal experience.

(3) To qualify as a state-certified residential appraiser, an applicant shall:

(a) furnish evidence that the applicant has successfully completed within the past five years two hundred hours of education required for residential certification by the board in approved appraisal courses;

(b) demonstrate two thousand five hundred hours of appraisal experience since January 1, 1992, but in not less than twenty-four months. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed forty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board; and

(c) pass an examination approved by the board. The prerequisites to sit for the examination are completion of the educational requirements and appraisal experience.

(4) To qualify as a state-certified general appraiser an applicant shall:

(a) furnish evidence that the applicant has successfully completed within the past five years three hundred hours of education required for general certification by the board in approved appraisal courses;

(b) demonstrate three thousand hours of appraisal experience since January 1, 1992, but in not less than thirty months and of which at least fifty percent must be in nonresidential appraisal work. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed forty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board; and

(c) pass an examination approved by the board. The prerequisites to sit for the examination are completion of the educational requirements and appraisal experience.

(5) To qualify as a licensed mass appraiser, state-certified residential mass appraiser, or state-certified general mass appraiser, the applicant shall satisfy the requirements enumerated in this section, and any other applicable provisions of this chapter to qualify, respectively, as a licensed appraiser, state-certified residential appraiser, and state-certified general appraiser, with the exception that one hundred percent of the required experience hours for the mass appraiser designations may be in the area of mass appraisals."

Appraisal apprentices and supervisors, responsibilities

SECTION 4. Section 40-60-34 of the 1976 Code is amended to read:

"Section 40-60-34. (A) The board shall prescribe the form of a permit, license, and certificate containing an identification number that the appraiser shall use when signing appraisal reports. When an appraiser advertises or executes contracts or other instruments, the appraiser's name, appraiser classification, and number assigned by the board must be printed or typed adjacent to the appraiser's signature.

(B) The apprentice appraiser performing fee appraisal work or seeking to establish experience for a state-licensed or state-certified designation shall:

(1) perform appraisal assignments only under the direct supervision of a state-certified appraiser;

(2) maintain, jointly with the supervising appraiser, a log containing the following for each assignment:

(a) type of property;

(b) date of report;

(c) address of appraised property;

(d) description of work performed by the trainee and scope of review and supervision of the supervising appraiser;

(e) number of actual work hours by the trainee on the assignment; and

(f) signature and state certification number of the supervising appraiser with a separate appraisal log maintained for each supervising appraiser, if applicable;

(3) sign or be given credit in all appraisal reports for which the apprentice acts as an appraiser;

(4) maintain or have access to complete copies of all appraisals.

(C) The apprentice appraiser performing mass appraisal work seeking to establish credit for a licensed or certified mass appraiser designation shall:

(1) perform appraisal assignments only under the direct supervision of a state-certified residential or state-certified general real estate appraiser, mass or otherwise;

(2) maintain a log on a form provided by the board.

(D) The appraiser supervising an apprentice fee appraiser shall:

(1) personally review appraisal reports prepared by the apprentice and sign and certify the report as being independently and impartially prepared in compliance with the National USPAP and applicable statutory requirements;

(2) provide a copy or access to final appraisal documents to any participating apprentice;

(3) directly supervise no more than three apprentice appraisers at any one given time;

(4) be certified for a minimum of three years and not subject to any disciplinary action within the immediately preceding three years; and

(5) attend a trainee/supervisor orientation conducted in compliance with AQB requirements.

(E) The appraiser supervising an apprentice appraiser performing mass appraisal work shall personally review and approve all work performed by the apprentice to ensure that the work is prepared in compliance with the National USPAP and applicable statutory requirements.

(F) The board may issue to an appraiser who is licensed or certified in another state a temporary permit, which is only effective for one specific appraisal assignment. If the appraisal is not completed within six months from the date of the permit, the board may grant an extension upon request from the appraiser. The appraiser shall place the following notation on all statements of qualification, contracts, or other instruments: 'Practicing in the State of South Carolina under Temporary Permit No.'.

(G) Licenses, certifications, and apprentice permits expire biennially on June thirtieth. As a condition of renewal, an appraiser shall provide evidence satisfactory to the board of having met the continuing education requirements established by this chapter. An apprentice appraiser may maintain the permit for five years provided continuing education requirements are satisfied.

(H) Permits, licenses, or certifications not renewed by date of expiration are no longer valid but may be reinstated within twelve months after expiration upon proper application, payment of renewal fee, a late penalty, as established in the fee schedule, and proof of having met continuing education requirements as prescribed.

(I) A permit, license, or certification that has expired and has not been reinstated by the last day of the twelfth month following expiration must be canceled. All qualifications and conditions that apply to individuals applying for a permit, license, or certification who have not been previously licensed must be met.

(J) A license or certification may be placed on inactive status by informing the board in writing and must be renewed in the same manner as provided for active renewal.

(K) A fee appraiser must retain for five years the original or exact copy of each appraisal report prepared or signed by the appraiser and all supporting data assembled and formulated by the appraiser in preparing each appraisal report. The five-year period for retention of records is applicable to each engagement of the services of the

appraiser and commences on the date of delivery of each appraisal report to the client. The appraiser must retain the work file for a period of at least two years after final disposition of appeals of all judicial proceedings in which the appraiser provided testimony related to the assignment, whichever period expires last.

(L) An appraiser who has had a permit, license, or certification revoked by the board must not be issued a new permit, license, or certification within two years after the date of the revocation or at any time thereafter except upon an affirmative vote of a majority of the board. A person seeking a permit, license, or certification after revocation shall meet all qualifications and conditions that apply to individuals applying for a permit, license, or certification who have not been previously permitted, licensed, or certified."

Continuing education requirements

SECTION 5. Section 40-60-35 of the 1976 Code, as last amended by Act 204 of 2010, is further amended to read:

"Section 40-60-35. (A)(1) For renewal of an active permit, license, or certification, an appraiser shall present evidence biennially of satisfactory completion by the applicant of twenty-eight hours of instruction in courses or seminars that have been approved by the board, of which seven hours must be the National USPAP update course current at the time of renewal.

(2) For renewal of an active license or certification, assessors and other staff responsible for the assessment of property for ad valorem taxation purposes shall receive seven hours of instruction each year in the laws applicable to assessment for ad valorem taxation, methods of valuing property, administration of the assessor's office and records of the assessor's office, and other functions related to the assessor's office. This instruction shall be received from the Department of Revenue or other providers or courses approved by the Department of Labor, Licensing and Regulation. This instruction shall satisfy fourteen of the twenty-eight hours required for renewal.

(B) A permit, license, or certification of an appraiser that has been suspended may not be reissued until the applicant presents evidence of completion of the continuing education required by this section.

(C) An appraiser who fails to complete the continuing education requirements by the date of license renewal may renew by submitting applicable fees but must immediately be placed on inactive status and may not engage in appraising while on inactive status. The appraiser

seeking to activate shall pay the applicable fee and meet the continuing education required by this section.

(D) Appraisers may request to receive credit for continuing education for a course that has not been preapproved by the board. However, credit may be granted only if the appraiser provides satisfactory proof of course qualification, and the board finds that the course meets the criteria set for continuing education courses with regard to subject matter, course length, instructor qualification, and student attendance.

(E) An approved instructor may receive up to one-half of his continuing education credit for the amount of continuing education courses he teaches, subject to board approval.

(F) A nonresident appraiser who successfully satisfies the continuing education requirements of the jurisdiction of their residence must be considered to satisfy the continuing education requirements of this State."

Approval of education coursework and instructors

SECTION 6. Section 40-60-36 of the 1976 Code is amended to read:

"Section 40-60-36. (A) The board shall establish and publish standards relevant to the approval and conduct of appraiser education required by this chapter.

(B) The board shall review, approve, and regulate educational courses required by this chapter and providers and instructors of these courses including, but not limited to, accredited colleges, universities, private business entities, organizations, schools, associations, individuals, and institutions.

(C) The board may deny, reprimand, fine, suspend, or revoke the approval of an education provider or instructor if the board finds that the education provider or instructor has violated or failed to satisfy the provisions of this chapter or the regulations and standards promulgated pursuant to this chapter.

(D) Application by providers seeking approval to offer and conduct educational instruction or application by instructors must be made on a form prescribed by the board and accompanied by applicable fees not less than sixty days before a course offering and must be approved by the board before the commencement of any instruction.

(E) If an application for provider, instructor, or course is not approved, the reason must be detailed, and the applicant must be given thirty days to respond.

(F) Upon approval, certificates must be issued to providers, courses, and instructors to be renewed biennially.

(G) Approved courses must be taught by approved instructors who are qualified and have demonstrated knowledge of the subject matter to be taught as well as the ability to teach.

(H) Approved instructors shall attend biennial instructor development workshops sponsored by the board whenever possible or provide evidence of equivalent hours of continuing education that increases their knowledge of either the subject content in their area of expertise or their teaching techniques."

Reciprocity

SECTION 7. Section 40-60-37(A) of the 1976 Code is amended to read:

"(A) The board may accept reciprocal applications from appraisers from other jurisdictions. These applicants may be given waivers of education, examination, and experience requirements if the board considers the education and examination requirements of another jurisdiction to be substantially equivalent to the requirements of this chapter."

National practice standards, adoption and conformity mandated

SECTION 8. Section 40-60-38 of the 1976 Code is amended to read:

"Section 40-60-38. The board shall adopt the standards and amendments to these standards of professional appraisal practice, as promulgated by the Appraisal Standards Board of the Appraisal Foundation. All apprentice appraisers and state licensed and certified appraisers shall conform their professional conduct to the National USPAP and its amendments, as promulgated by the Appraisal Standards Board."

Investigations, scope clarified

SECTION 9. Section 40-60-80(A) of the 1976 Code is amended to read:

"(A) The department shall investigate complaints and violations of this chapter as provided in this chapter and Section 40-1-80."

Grandfathering provisions

SECTION 10. Section 40-60-220 of the 1976 Code is amended to read:

"Section 40-60-220. A person who is licensed as a licensed appraiser, licensed mass appraiser, state-certified residential appraiser, state-certified residential mass appraiser, state-certified general appraiser, or state-certified general mass appraiser on December 31, 2014, may continue licensure in that category without meeting the requirements of Section 40-60-31 and Section 40-60-33, so long as the person is otherwise authorized to hold the license."

Time effective

SECTION 11. This act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 181

(R198, H4646)

AN ACT TO AMEND SECTION 59-48-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEMBERS OF THE BOARD OF TRUSTEES OF THE GOVERNOR'S SCHOOL FOR SCIENCE AND MATHEMATICS, SO AS TO PROVIDE THAT A PROVOST OR VICE PRESIDENT OF ACADEMIC AFFAIRS WHO MUST SERVE AS AN EX OFFICIO MEMBER MAY DESIGNATE A PERSON TO SERVE IN HIS PLACE IF HE INTENDS FOR THE DESIGNEE TO SERVE CONTINUOUSLY.

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

Members from research universities may serve through designee

SECTION 1. Section 59-48-20 of the 1976 Code, as last amended by Act 176 of 2012, is further amended to read:

"Section 59-48-20. (A)(1) The school is under the management and control of a board of trustees consisting of eleven members, as follows:

(a) one member from each congressional district appointed by the Governor;

(b) two members from this State at large appointed by the Governor;

(c) the State Superintendent of Education, ex officio, or his designee; and

(d) the Executive Director of the Commission on Higher Education, ex officio, or his designee.

(2) Members appointed by the Governor shall serve for four years and until their successors are appointed and qualify. Members shall receive mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

(3) In his appointments, the Governor shall seek to obtain the best qualified persons from the business, industrial, and educational communities, including mathematicians and scientists.

(B) The board of trustees also shall include the following six members:

(1) the President of the South Carolina Governor's School of Science and Mathematics Foundation, Inc., ex officio;

(2) the provost or vice president for academic affairs from each of the following higher education research institutions, ex officio, or his designee:

(a) Clemson University;

(b) the University of South Carolina; and

(c) the Medical University of South Carolina; and

(3) two members from the State at large appointed by the Governor to serve for terms of four years each and until their successors are appointed and qualify. Vacancies must be filled by appointment in the manner of original appointment for the remainder of the unexpired term.

(C) An ex officio member who is authorized to designate a person to serve on the board in his stead only may make the designation if he intends for the designee to serve continuously instead of intermittently with himself or another designee."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 182

(R200, H4993)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-125 SO AS TO DESIGNATE THE THIRD SATURDAY IN SEPTEMBER AS "AYNOR HARVEST HOE-DOWN FESTIVAL WEEKEND".

Whereas, in an effort to fund much needed community projects, the Pilot Club of Aynor created the Aynor Harvest Hoe-Down Festival at the suggestion of member Doris Koon in 1979; and

Whereas, in a state that enjoys a proud bond with agriculture, the Harvest Hoe-Down festival symbolizes the tradition of celebrating the harvest season and the bounty of its yield; and

Whereas, in the thirty-five years since its founding, the Aynor Harvest Hoe-Down has grown into a great South Carolina fall tradition, benefiting the community by providing funds for worthwhile projects while also providing a source of wholesome recreation for the citizens of Aynor and many others from the Palmetto State and beyond who join in the festivities; and

Whereas, it is altogether fitting and proper to honor this great South Carolina tradition and recognize its substantial cultural significance in the Palmetto State. Now, therefore,

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

Aynor Harvest Hoe-Down Festival Weekend

SECTION 1. Chapter 3, Title 53 of the 1976 Code is amended by adding:

"Section 53-3-125. The third Saturday in September of each year is designated 'Aynor Harvest Hoe-Down Festival Weekend' in South Carolina in recognition of the cultural significance of this tradition in Horry County."

Time effective

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

Ratified the 15th day of May, 2014.

Approved the 16th day of May, 2014.

No. 183

(R203, H5225)

AN ACT TO AMEND CHAPTER 23, TITLE 4, CODE OF LAWS OF 1976, RELATING TO JOINT COUNTY FIRE DISTRICTS BY ADDING ARTICLE 10 SO AS TO ESTABLISH THE WEST FLORENCE FIRE DISTRICT TO BE COMPOSED OF AREAS IN FLORENCE AND DARLINGTON COUNTIES, TO PROVIDE FOR A GOVERNING COMMISSION FOR THE DISTRICT AND ITS DUTIES, POWERS, AND FUNCTIONS, AND TO PROVIDE PENALTIES FOR CERTAIN VIOLATIONS.

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

West Florence Fire District creation

SECTION 1. Chapter 23, Title 4 of the 1976 Code is amended by adding:

"Article 10

West Florence Fire District in Florence and Darlington Counties

Section 4-23-1000. The General Assembly finds that a certain portion of Darlington County primarily consisting of Interstate 95 from the Florence County line northward to Exit 169 in Darlington County is presently served by fire departments in Florence County because no fire department in Darlington County provides service to this area. This therefore presents concerns for the safety and well-being of citizens residing and traveling in this area in addition to placing additional burdens on fire personnel in Florence County which are called on to provide fire service in this area. The General Assembly has therefore determined to create a joint county fire district in the same manner other joint county fire districts have been established pursuant to this chapter, consisting of areas in two counties, to solve this problem, and to provide fire service to all areas of the district on the most economically feasible basis possible.

Section 4-23-1005. There is created in Florence and Darlington counties the West Florence Fire District (district). It consists of areas of Florence and Darlington counties as follows:

(1) the unincorporated areas of the present West Florence Fire Subdistrict of the Florence County Fire District as established by Act 1817 of 1972;

(2) the area of Darlington County reflected in the rights of way for Interstate 95 beginning at the boundary line of Florence County and Darlington County and extending northward into Darlington County for approximately three miles to Exit 169. Additionally, areas described by the following Tax Map Sheet numbers in Darlington County also are included in the area of the district:

(a) TMS 218-14-01-013;
(b) TMS 219-03-01-001; and
(c) TMS 219-03-01-002.

Section 4-23-1010. (A) The district must be governed by a commission to be known as the West Florence Fire District Commission (commission). The commission shall consist of five resident electors of the district who shall be elected by the qualified electors of the district.

(B) The five commissioners shall be elected in a nonpartisan special election to be conducted on the first Tuesday following the first

Monday in September 2014, and thereafter in nonpartisan elections to be conducted at the same time as the general election every two or four years thereafter beginning in 2016, in a manner required by this article and other applicable provisions of law.

(C) The election shall be conducted by the Florence and Darlington County Election Commissions. The commissions shall give notice by publication sixty days prior to the election and a second notice two weeks after the first notice, in one or more newspapers with general circulation in the district. Filing for election to the commission opens on July 1, 2014 at noon to run for a period of fifteen days until noon on July 15, 2014. The election commissions in both counties shall certify the candidates receiving the highest number of votes as the election commissioners of the district as provided by this section. In order to stagger the terms, the terms of the three commissioners who receive the highest number of votes in 2014, shall serve initial terms of four years each and the two commissioners receiving the next highest number of votes in 2014, shall serve initial terms of two years each. At the expiration of these initial terms which shall expire at the time the commissioners elected in either 2016 or 2018 qualify and take office, all commissioners shall be elected for terms of four years. The results of the elections shall be determined in accordance with the nonpartisan plurality method provided in Section 5-15-61.

(D) Any vacancy occurring by reason of death, resignation, or otherwise must be filled by the Senators and members of the House of Representatives representing any portion of the district for the remainder of the unexpired term or until the next scheduled election if the remainder of the unexpired term runs past this date. Commissioners shall take office on the Monday following their election. Upon any commissioner moving out of the area of the district, his position shall become vacant.

(E) Any resident qualified elector of the district may be a candidate for the position of commissioner by filing with the election commission of the county in which he resides at least thirty days prior to the election.

(F) After taking office in 2014, the commissioners shall meet within ten days of their election to organize, select officers and determine the tax millage levy for 2014. The commission shall elect from among its membership a chairman, vice chairman and such other officers as they consider necessary.

Section 4-23-1015. (A) There is committed to the district the functions of constructing, operating, maintaining, improving, and

extending a fire protection and fire control district. To that end the commission is empowered as follows:

(1) have perpetual succession;

(2) sue and be sued;

(3) adopt, use, and alter a corporate seal;

(4) make bylaws for the management and regulations of its affairs;

(5) acquire, purchase, hold, use, lease, mortgage, sell, transfer, and dispose of any property, real, personal, or mixed, or any interest therein, and to acquire easements or other property rights necessary for the operation of its stated functions;

(6) enter into contracts for the purchase of water and for maintenance of water pipes, hydrants, valves, and all equipment necessary to provide water for protection against and control of fire;

(7) appoint officers, agents, employees, and servants, prescribe their duties, fix their compensation, and determine if and to what extent they must be bonded for the faithful performance of their duties;

(8) make contracts for construction, engineering, and other services;

(9) purchase that firefighting equipment as the commission deems necessary for controlling fires and furnishing fire protection in the district;

(10) select the sites or places within the area where the firefighting equipment must be kept;

(11) provide personnel, voluntary or otherwise, necessary to man this equipment;

(12) provide and supervise the training of any volunteers used in manning this equipment with the end that the equipment must be fully utilized for the protection and control of fire within the district;

(13) be responsible for the upkeep, maintenance, and repairs of the trucks and other firefighting equipment and to make regular inspection of all equipment and operations;

(14) promulgate those regulations as it considers necessary and proper to ensure that the equipment is utilized for the best advantage of the area;

(15) construct, if necessary, buildings to house the equipment provided for herein;

(16) borrow in anticipation of taxes on those terms and for such a period as the governing body of Florence and Darlington counties considers most beneficial. The indebtedness must be evidenced by a note or notes issued by the members of the commission and the county treasurers of Florence and Darlington counties. The full faith, credit,

and taxing power of the commission is hereby irrevocably pledged for the payment of the indebtedness; provided, that in no event shall the credit of Florence and Darlington counties be obligated for any indebtedness of the commission; and

(17) do all other acts necessary or convenient to carry out any function or power granted to the district.

(B) The commission is vested with the power to raise funds for discharging the duties vested in it by levying a tax for the benefit of the district. The commission shall notify the auditors and treasurers of Florence and Darlington counties of any desired tax not to exceed thirteen mills for the year 2014. Thereafter, the authorized millage levy for any year shall be at the discretion of the commission, subject to all applicable provisions of law. The millage levy shall be uniform throughout the district, and they shall assess and collect the tax as requested and the treasurers shall hold the funds and disburse them as directed by the commission. All such taxes shall constitute a lien upon the property against which the same are levied, on a parity with the lien of county taxes, and the provisions of law relating to penalties for the nonpayment or tardy payment of county taxes, and the provisions relating to sale of property for delinquent county taxes shall apply to taxes levied pursuant to this article.

(C) Notwithstanding the provisions of Section 6-1-320, the commission is authorized to impose a millage levy after 2014 it considers appropriate and necessary for the operation of the district above that permitted by Section 6-1-320 upon a favorable vote of the registered electors of the district in a referendum called for this purpose by the commission.

Section 4-23-1020. The property of and income of the district is exempt from all taxes levied by the State, county, or any municipality, division, subdivision, or agency thereof direct or indirect.

Section 4-23-1025. (A) So long as the district is indebted to any person on any bonds, notes, or other obligations issued pursuant to the authority of this article, the provisions of this article and the powers granted to the district and the commission may not be in any way diminished or restricted, and the provisions of this article are considered a part of the contract between the district and the holders of these obligations.

(B) The real and personal property of the present West Florence Fire Subdistrict of the Florence County Fire District now titled in the subdistrict's name shall be transferred to the new West Florence Fire

District created by this article. However, the district must assume a portion of the current indebtedness of the Florence County Fire District, if any, to be determined by agreement of the Florence County Fire District, the West Florence Fire District Commission, and the governing body of Florence County. The real property on Hoffmeyer Road in the county which the governing body of Florence County has acquired to construct a new fire station for the West Florence Fire Subdistrict also must be transferred to the new district established by this article with the consideration for it to be determined by agreement between the district commission and the governing body of Florence County.

Section 4-23-1030. The rates charged for services furnished by any revenue-producing facility of the district, as constructed, improved, enlarged or extended, shall not be subject to supervision or regulation of any state bureau, board, commission or other like instrumentality or agency of it.

Section 4-23-1035. The district commission is authorized and empowered to issue general obligation bonds of the district in the manner provided in Article 11 of this chapter.

Section 4-23-1040. Upon the establishment of the district, notwithstanding any other provisions of law, no other millage levy or uniform service fee may be imposed in the district by any other political subdivision or entity for the provision of fire services.

Section 4-23-1045. The district commission, upon agreement with another fire department or district not located in the service area of the district, may permit the other department or district to provide fire services in certain parts of the district if this is considered to be a more cost-effective solution to the provision of fire services in that particular location, and alternatively also may agree to provide fire services in parts of Florence or Darlington counties outside the service area of the district if this is considered to be a more cost-effective solution to the provision of fire services in that particular location.

Section 4-23-1050. The fire chief or equivalent official of the truck company to which the equipment is assigned shall have complete supervision over its usage and operation, and it is his responsibility to ensure that the equipment is readily available for use at all times.

Section 4-23-1055. Vehicles of the fire departments and vehicles of individual members of the fire departments in this district are designated and are considered emergency vehicles while traveling to fires.

Section 4-23-1060. It is unlawful in the fire district to park within five hundred feet of a place where fire apparatus or an emergency vehicle is stopped in answer to an emergency and no person shall cause any highway, road, either public or private, in the area of fire apparatus or emergency vehicles to be blocked by his vehicle in such a manner that fire apparatus or emergency vehicles will be hindered from reaching the scene of the emergency. It is also unlawful to drive a vehicle over any unprotected hose of a fire department without the consent of the fire department official in command on any street, road, or private driveway when the hose is being used for firefighting. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than ten dollars nor more than one hundred dollars.

Section 4-23-1065. All members of a truck company of the fire district, employees, or volunteers may direct and control traffic at the scene of any fire in the area of the district and enforce the laws of this State relating to the following of fire apparatus, the crossing of a fire hose, and interfering with firemen in the discharge of their duties in connection with a fire in the same manner as provided for the enforcement of these laws by law enforcement officers.

Section 4-23-1070. It is unlawful for any person to wilfully destroy or damage any facility of the district, or equipment used in the operation of a facility, to interfere with a member of a fire department in the discharge of his duties in the district or to interfere with any fire apparatus used by the fire department in the district. Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than thirty dollars nor more than one hundred dollars or be imprisoned not exceeding thirty days."

Time effective

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

Ratified the 28th day of May, 2014.

Approved the 28th day of May, 2014.

No. 184

(R206, S294)

AN ACT TO AMEND SECTION 6-4-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EXPENDITURE OF LOCAL ACCOMMODATIONS TAX REVENUES, SO AS TO CLARIFY THAT IN CERTAIN SITUATIONS, FUNDS MAY BE USED FOR BEACH RENOURISHMENT, AND TO ALLOW A MUNICIPALITY OR COUNTY, IN CERTAIN SITUATIONS, UPON A TWO-THIRDS VOTE OF THE MEMBERSHIP OF THE LOCAL GOVERNING BODY, TO HOLD THE FUNDS FOR MORE THAN TWO YEARS IF THE FUNDS ARE COMMITTED FOR THE CONTROL AND REPAIR OF WATERFRONT EROSION, INCLUDING BEACH RENOURISHMENT.

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

Accommodations tax revenue used for beach renourishment

SECTION 1. Section 6-4-10(4)(b) of the 1976 Code is amended to read:

"(b) The funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the county or municipality but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists.

'Tourism-related expenditures' include:

(i) advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;

(ii) promotion of the arts and cultural events;

(iii) construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;

(iv) the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;

(v) public facilities such as restrooms, dressing rooms, parks, and parking lots;

(vi) tourist shuttle transportation;

(vii) control and repair of waterfront erosion, including beach renourishment;

(viii) operating visitor information centers."

Accommodations tax revenue, extension for beach renourishment

SECTION 2. Section 6-4-10(4)(c) of the 1976 Code is amended to read:

"(c)(i) Allocations to the special fund must be spent by the municipality or county within two years of receipt. However, the time limit may be extended upon the recommendation of the local governing body of the county or municipality and approval of the oversight committee established pursuant to Section 6-4-35. An extension must include provisions that funds be committed for a specific project or program.

(ii) Notwithstanding the provisions of subsubitem (i), upon a two-thirds affirmative vote of the membership of the appropriate local governing body, a county or municipality may carry forward unexpended allocations to the special fund beyond two years provided that the county or municipality commits use of the funds exclusively to the control and repair of waterfront erosion, including beach renourishment. The county or municipality annually shall notify the oversight committee, established pursuant to Section 6-4-35, of the basic activity of the committed funds, including beginning balance, deposits, expenditures, and ending balance."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 185

(R208, S356)

AN ACT TO AMEND CHAPTER 1, TITLE 26, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NOTARIES PUBLIC, SO AS TO DEFINE TERMS, TO MAKE GRAMMATICAL CORRECTIONS, TO PROVIDE THAT TO BE QUALIFIED FOR A NOTARIAL COMMISSION, A PERSON MUST BE REGISTERED TO VOTE AND READ AND WRITE IN THE ENGLISH LANGUAGE, TO AUTHORIZE AND PROHIBIT CERTAIN ACTS OF A NOTARY PUBLIC, TO PROVIDE THE MAXIMUM FEE A NOTARY MAY CHARGE, TO PROVIDE THE PROCESS FOR GIVING A NOTARIAL CERTIFICATE, TO SPECIFY CHANGES FOR WHICH A NOTARY MUST NOTIFY THE SECRETARY OF STATE, TO PROVIDE THE ELEMENTS AND PENALTIES OF CERTAIN CRIMES RELATING TO NOTARIAL ACTS, AND TO PROVIDE THE FORM FOR A NOTARIZED DOCUMENT SENT TO ANOTHER STATE, AMONG OTHER THINGS.

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

Notaries public

SECTION 1. Chapter 1, Title 26 of the 1976 Code is amended to read:

"CHAPTER 1

Notaries Public

Section 26-1-5. For purposes of this chapter:

(1) 'Acknowledgment' means a notarial act in which a notary certifies that, at a single time and place, all of the following occurred:

(a) an individual appeared in person before the notary and presented a record;

(b) the individual was personally known to the notary or identified by the notary through satisfactory evidence; and

(c) the individual signed the record while in the physical presence of the notary and while being personally observed signing the record by the notary.

(2) 'Affirmation' means a notarial act which is legally equivalent to an oath and in which a notary certifies that, at a single time and place, all of the following occurred:

(a) an individual appeared in person before the notary;

(b) the individual was personally known to the notary or identified by the notary through satisfactory evidence; and

(c) the individual made a vow of truthfulness on penalty of perjury, based on personal honor and without invoking a deity or using a form of the word 'swear'.

(3) 'Attest' or 'attestation' means the completion of a certificate by a notary who has performed a notarial act.

(4) 'Commission' means the empowerment to perform notarial acts and the written evidence of authority to perform those acts.

(5) 'Credible witness' means an individual who is personally known to the notary and whom the notary reasonably believes to be honest and reliable for the purpose of confirming to the notary the identity of another individual and the notary believes is not a party to or beneficiary of the transaction.

(6) 'Jurat' means a notary's certificate evidencing the administration of an oath or affirmation.

(7) 'Moral turpitude' means conduct contrary to expected standards of honesty, morality, or integrity.

(8) 'Notarial act', 'notary act', and 'notarization' mean acts that the laws and regulations of this State authorize notaries public of this State to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents.

(9) 'Notarial certificate' and 'certificate' mean the portion of a notarized record that is completed by the notary, bears the notary's signature and seal, and states the facts attested by the notary in a particular notarization.

(10) 'Notary public' and 'notary' mean a person commissioned to perform notarial acts pursuant to this chapter. A notary is a public officer of the State of South Carolina and shall act in full and strict compliance with this chapter.

(11) 'Oath' means a notarial act that is legally equivalent to an affirmation and in which a notary certifies that at a single time and place all of the following occurred:

(a) an individual appeared in person before the notary;

(b) the individual was personally known to the notary or identified by the notary through satisfactory evidence; and

(c) the individual made a vow of truthfulness on penalty of perjury while invoking a deity or using a form of the word 'swear'.

(12) 'Official misconduct' means a notary's performance of a prohibited act or failure to perform a mandated act set forth in this chapter or other law in connection with notarization.

(13) 'Personal appearance' and 'appear in person before a notary' means an individual and a notary are in the physical presence of one another so that they may freely see and communicate with one another and exchange records back and forth during the notarization process.

(14) 'Personal knowledge' or 'personally known' means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate any reasonable doubt that the individual has the identity claimed.

(15) 'Principal' means:

(a) in the case of an acknowledgment, the individual whose identity and due execution of a record is being certified by the notary;

(b) in the case of a verification or proof, the individual other than a subscribing witness whose identity and due execution of the record are being proven or signature is being identified as genuine; and

(c) in the case of an oath or affirmation, the individual who makes a vow of truthfulness on penalty of perjury.

(16) 'Record' means information that is inscribed on a tangible medium and called a traditional or paper record. Record also may mean information that is inscribed on a tangible medium or that is stored in an electronic or other medium.

(17) 'Satisfactory evidence' means identification of an individual based on either:

(a) a current identification document issued by a federal or state government agency bearing a photographic image of the individual's face, signature, and a physical description, except that a current passport without a physical description is acceptable; or

(b) upon the oath or affirmation of a credible witness personally known to the notary public or of two witnesses who present an identification document as described in subitem (a).

(18) 'Seal' or 'stamp' means a device for affixing on a paper record an image containing a notary's name, the words 'notary public', and the words 'State of South Carolina'. The device may be in the form of an ink stamp or an embosser.

(19) 'Secretary' means the South Carolina Secretary of State or the Secretary's designee.

(20) 'Subscribing witness' means a person who signs a record for the purpose of being a witness to the principal's execution of the record or to the principal's acknowledgment of his execution of the record.

(21) 'Verification' or 'proof' means a notarial act in which a notary certifies that:

(a) an individual appeared in person before the notary;

(b) the individual was personally known to the notary or identified by the notary through satisfactory evidence;

(c) the individual was not a party to or beneficiary of the transaction; and

(d) the individual took an oath or gave an affirmation and testified that he is a subscribing witness and as such (i) witnessed the principal who signed the record, or (ii) received the acknowledgement of the principal's signature from the principal who signed the record.

Section 26-1-10. The Governor may appoint from the qualified electors as many notaries public throughout the State as the public good requires, to hold their offices for a term of ten years. A commission must be issued to each notary public so appointed and the record of the appointment must be filed in the Office of the Secretary of State.

Section 26-1-15. A person qualified for a notarial commission:

(1) must be a registered voter in this State;

(2) shall read and write the English language; and

(3) shall submit an application containing no significant misstatement or omission of fact. The application form must be provided by the Secretary and must include the signature of the applicant written with pen and ink, and the signature must be acknowledged as the applicant's by a person authorized to administer oaths.

Section 26-1-20. (A) Each county legislative delegation shall determine whether the endorsement of notaries public must be by:

(1) one-half of the members of the legislative delegation representing the county in which the applicant resides; or

(2) endorsement by the senator and representative in whose district the applicant resides, without other endorsers.

(B) Each county legislative delegation shall notify the Secretary of State in writing if it chooses to utilize subsection (A)(2) within the individual county. If the county legislative delegation chooses to utilize subsection (A)(2), the applicant, senator, and representative shall indicate their respective districts on the application provided to the Secretary of State. If the office of senator or representative from that district is vacant at the time the application is submitted, the notary public may be appointed upon the endorsement of a majority of the legislative delegation representing the county in which the applicant resides.

Section 26-1-25. (A) In addition to the methods of endorsement of applications for notary public commissions provided in Section 26-1-20, a legislator may provide for the endorsement of these applications by authorizing either the member serving as chairman or the member serving as secretary of the legislative delegation of the county in which the applicant resides to sign on the legislator's behalf.

(B) A copy of the resolution adopting any or all of these endorsement methods for a county must be forwarded to the Secretary of State, after which the method or methods of endorsement shall continue to apply in the county unless rescinded by a later delegation resolution.

Section 26-1-30. The fee for the issuance or renewal of a commission is twenty-five dollars, collected by the Secretary of State as other fees.

Section 26-1-40. A notary public shall take the oath of office prescribed by the Constitution, and a certified copy of the written oath must be recorded in the office of the Secretary of State.

Section 26-1-50. Within fifteen days after he has been commissioned, a notary public must exhibit his commission to the clerk of the court of the county in which he resides and be enrolled by the clerk.

Section 26-1-60. A notary public shall have a seal of office, which must be affixed to his notarial acts. He shall indicate below his signature the date of expiration of his commission. The absence of the seal of office or date of expiration does not render his notarial acts invalid if his official title is affixed to it.

Section 26-1-70. Reserved.

Section 26-1-80. The jurisdiction of notaries public extends throughout the State.

Section 26-1-90. (A) A notary public may perform the following acts:

(1) acknowledgments;
(2) oaths and affirmations;
(3) attestations and jurats;
(4) signature witnessing;
(5) verifications of fact; and
(6) any other acts authorized by law.

(B) A notarial act must be attested by the:

(1) signature of the notary, exactly as shown on the notary's commission;

(2) legible appearance of the notary's name exactly as shown on the notary's commission. The legible appearance of the notary's name may be ascertained from the notary's typed or printed name near the notary's signature or from elsewhere in the notarial certificate or from the notary's seal if the name is legible; and

(3) statement of the date the notary's commission expires. The statement of the date that the notary's commission expires may appear in the notary's stamp or seal or elsewhere in the notarial certificate.

(C) A notary may not perform a notarial act if the:

(1) principal or subscribing witness is not in the notary's presence at the time the notarial act is performed;

(2) principal or subscribing witness is not personally known to the notary or identified by the notary through satisfactory evidence;

(3) notary is a signer of, party to, or beneficiary of the record that is to be notarized. A disqualification pursuant to this item does not apply to an employee of a court within the unified judicial system, a notary who is named in a record solely as the trustee in a deed of trust, the drafter of the record, the person to whom a registered document must be mailed or sent after recording, or the attorney for a party to the

record, so long as the notary is not also a party to the record individually or in some other representative or fiduciary capacity; or

(4) notary will receive directly from a transaction connected with the notarial act any commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees specified in Section 26-1-100, other than fees or other consideration paid for services rendered by a licensed attorney, a licensed real estate broker or salesperson, a motor vehicle dealer, or a banker.

(D) A notary shall not notarize a signature:

(1) on a blank or incomplete document; or

(2) on a document without notarial certificate wording.

(E) A notary shall not certify or authenticate a photograph or photocopy.

(F) A notary may certify the affixation of a signature by mark on a record presented for notarization if:

(1) the mark is affixed in the presence of the notary;

(2) the notary writes below the mark: 'Mark affixed by (name of signer by mark) in presence of undersigned notary'; and

(3) the notary notarizes the signature by performing an acknowledgment, oath or affirmation, jurat, or verification or proof.

(G) If a principal is physically unable to sign or make a mark on a record presented for notarization, that principal may designate another person, who must be a disinterested party, as his designee, to sign on the principal's behalf pursuant to the following procedure:

(1) the principal directs the designee to sign the record in the presence of the notary and two witnesses, who are either personally known to the notary or identified by the notary through satisfactory evidence, and who are unaffected by the record;

(2) the designee signs the principal's name in the presence of the principal, the notary, and the two witnesses;

(3) both witnesses sign their own names to the record near the principal's signature;

(4) the notary writes below the principal's signature: 'Signature affixed by designee in the presence of (names and addresses of principal and witnesses)'; and

(5) the notary notarizes the signature through an acknowledgment, oath or affirmation, jurat, or verification or proof.

(H) A notary may sign the name of a principal physically unable to sign or make a mark on a document presented for notarization if:

(1) the principal directs the notary to sign the record in the presence of two witnesses unaffected by the record;

(2) the notary signs the principal's name in the presence of the principal and the witnesses;

(3) both witnesses sign their own names to the record near the principal's signature;

(4) the notary writes below the principal's signature: 'Signature affixed by the notary at the direction of (name of principal unable to sign or make a mark) and also in the presence of (names and addresses of witnesses)'; and

(5) the notary notarizes the signature through an acknowledgment, oath or affirmation, jurat, or verification or proof.

(I) A notary public who is not an attorney licensed to practice law in this State and who advertises his services as a notary public in a language other than English, by radio, television, signs, pamphlets, newspapers, other written communication, or in another manner, shall post or otherwise include with the advertisement the notice set forth in this subsection in English and in the language used for the advertisement. The notice must be of conspicuous size, if in writing, and must state: 'I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF SOUTH CAROLINA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.' The notice must provide the fees for notarial acts specified in Section 26-1-100. If the advertisement is by radio or television, the statement may be modified but must include substantially the same message.

(J) A notary public who is not an attorney licensed to practice law in this State may not render a service that constitutes the unauthorized practice of law. A nonattorney notary may not assist another person in drafting, completing, selecting, or understanding a record or transaction requiring a notarial act. This subsection does not prohibit an employee of any court within the unified judiciary system, acting within the scope of his employment, from assisting an individual with filing a document with the court, provided that the assistance does not constitute the unauthorized practice of law.

(K) A notary may not claim to have powers, qualifications, rights, or privileges that the office of notary does not provide, including the power to counsel on immigration matters.

(L) A notary may not use the term 'notario publico' or any equivalent non-English term in any business card, advertisement, notice, or sign.

(M) A notary may not execute a certificate that is not written in the English language. A notary may execute a certificate written in the English language that accompanies a record written in another

language, which record may include a translation of the notarial certificate into the other language. In that instance, the notary shall execute only the English language certificate.

Section 26-1-100. (A) The maximum fees that may be charged by a notary for a notarial act is:

(1) for an acknowledgment, five dollars per signature;

(2) for an oath or affirmation without a signature, five dollars per person;

(3) for a jurat, five dollars per signature;

(4) for a signature witnessing, five dollars per signature; and

(5) for a verification of fact, five dollars per certificate.

(B) A notary who charges a fee for his notarial services shall display conspicuously in his place of business, or present to each principal outside his place of business, an English language schedule of fees for notarial acts.

(C) A notary may charge a travel fee when traveling to perform a notarial act if:

(1) the notary and the person requesting the notarial act agree upon the travel fee in advance of the travel; and

(2) the notary explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee prescribed by subsection (A) and is neither specified nor mandated by law.

(D) Nothing in this chapter compels a notary to charge a fee.

Section 26-1-110. When notarizing a paper record, a notary shall sign by hand in ink on the notarial certificate. The notary shall comply with the requirements of Section 26-1-90(B)(1) and (2). The notary shall affix the official signature only after the notarial act is performed. The notary may not sign a paper record using the facsimile stamp or an electronic or other printing method; except that a notary with a disability may use a signature stamp that depicts the notary's signature in a clear and legible manner, upon prior approval of the Secretary.

Section 26-1-120. (A) A notary may not make or give a notarial certificate unless the notary has either personal knowledge or satisfactory evidence of the identity of the principal and, if applicable, the subscribing witness.

(B) By making or giving a notarial certificate, regardless of whether it is stated in the certificate, a notary certifies that:

(1) at the time the notarial act was performed and the notarial certificate was signed by the notary, the notary was lawfully

commissioned, the notary's commission had neither expired nor been suspended, the notarial act was performed within the geographic limits of the notary's commission, and the notarial act was performed in accordance with the provisions of this chapter;

(2) if the notarial certificate is for an acknowledgment or the administration of an oath or affirmation, the person whose signature was notarized did not appear in the judgment of the notary to be incompetent, lacking in understanding of the nature and consequences of the transaction requiring the notarial act, or to be acting involuntarily, under duress, or undue influence; and

(3) the notary was not prohibited from acting pursuant to this chapter.

(C) The inclusion of additional information in a notarial certificate, including the representative or fiduciary capacity in which a person signed or the means a notary used to identify a principal, does not invalidate an otherwise sufficient notarial certificate.

(D) A notarial certificate for the acknowledgment must comply with Chapter 3, Title 26, the Uniform Recognition of Acknowledgments Act.

(E) A notarial certificate for the verification or proof of the signature of a principal by a subscribing witness taken by a notary is sufficient and must be accepted in this State if it is substantially in a form otherwise prescribed by the laws of this State, or if it:

(1) identifies the state and county in which the verification or proof occurred;

(2) names the subscribing witness who appeared in person before the notary;

(3) names the principal whose signature on the record is to be verified or proven;

(4) indicates that the subscribing witness certified to the notary under oath or by affirmation that the subscribing witness is not a party to or beneficiary of the transaction, signed the record as a subscribing witness, and either (i) witnessed the principal sign the record, or (ii) witnessed the principal acknowledge the principal's signature on the record;

(5) states the date of the verification or proof;

(6) contains the signature of the notary who took the verification or proof; and

(7) states the notary's commission expiration date.

(F) A notarial certificate for an oath or affirmation taken by a notary is sufficient and must be accepted in this State if it is

substantially in a form otherwise prescribed by the laws of this State, or if it:

(1) names the principal who appeared in person before the notary unless the name of the principal otherwise is clear from the record itself;

(2) indicates that the principal who appeared in person before the notary signed the record in question and certified to the notary under oath or by affirmation as to the truth of the matters stated in the record;

(3) states the date of the oath or affirmation;

(4) contains the signature of the notary who took the oath or affirmation; and

(5) states the notary's commission expiration date.

(G) A notarial certificate made in another jurisdiction is sufficient in this State if it is made in accordance with federal law or the laws of the jurisdiction where the notarial certificate was made.

(H) On records to be filed, registered, recorded, or delivered in another state or jurisdiction of the United States, a South Carolina notary may complete a notarial certificate that is required in that other state or jurisdiction.

Section 26-1-130. (A) Within forty-five days after the following changes in a notary's status, the notary must notify the Office of the Secretary of State the:

(1) change of a notary's residence, business, or a mailing address or telephone number. The notary's term expires at the same time as the original term;

(2) legal change of a notary's name. A notary with a new name may continue to use the former name in performing notarial acts until the notary receives a confirmation of Notary's Name Change Form from the Secretary. Upon receipt of the confirmation of the Notary's Name Change Form from the Secretary, the notary shall use the new name, and shall destroy or deface all notary seals bearing the former name so that they may not be misused. The notary's term expires at the same time as the original term; and

(3) change of a notary's county of residence. A notary who has moved to another county in South Carolina remains commissioned until the current commission expires, is not required to obtain a new seal, and may continue to notarize without changing his seal.

(B) Notifications to the Office of the Secretary of State required by this section, must be made on a Change in Status Form, accompanied by a fee of ten dollars, and in a form and manner that is prescribed by the Secretary.

Section 26-1-140. (A) A notary who resigns the notary's commission shall submit to the Secretary a Change in Status Form indicating the effective date of resignation.

(B) A notary who ceases to reside in this State, or who becomes permanently unable to perform his notarial duties, shall resign his commission and submit to the Secretary a Change in Status Form indicating the effective date of resignation.

(C) A notary who resigns his commission shall destroy or deface all notary seals so that they may not be misused.

Section 26-1-150. If a notary dies during the term of commission, the notary's personal representative shall:

(1) notify the Secretary of State of the death in writing; and

(2) as soon as reasonably practicable, destroy or deface all notary seals so that they may not be misused.

Section 26-1-160. (A) Except as otherwise permitted by law, a person who commits one of the following acts is guilty of a misdemeanor:

(1) holding one's self out to the public as a notary if the person does not have a commission;

(2) performing a notarial act if the person's commission has expired or been suspended or restricted; or

(3) performing a notarial act before the person had taken the oath of office.

(B) A notary is guilty of a misdemeanor if the notary takes:

(1) an acknowledgment or administers an oath or affirmation without the principal appearing in person before the notary;

(2) a verification or proof without the subscribing witness appearing in person before the notary;

(3) an acknowledgment or administers an oath or affirmation without personal knowledge or satisfactory evidence of the identity of the principal;

(4) a verification or proof without personal knowledge or satisfactory evidence of the identity of the subscribing witness; or

(5) an acknowledgment or a verification or proof or administers an oath or affirmation if the notary knows it is false or fraudulent.

(C) It is a misdemeanor for a person to perform notarial acts in this State with the knowledge that he is not commissioned pursuant to this chapter.

(D) A person who without authority obtains, uses, conceals, defaces, or destroys the seal or notarial records of a notary is guilty of a misdemeanor.

(E) A person who knowingly solicits, coerces, or in a material way influences a notary to commit official misconduct is guilty of aiding and abetting and is subject to the same level of punishment as the notary.

(F) The sanctions and remedies of this chapter supplement other sanctions and remedies provided by law.

(G) A notary public convicted under the provisions of this section must forfeit his commission and must not be issued another commission. The court in which the notary public is convicted shall notify the Secretary of State within ten days after conviction.

(H) A person who violates the provisions of subsections (A), (B), (C), (D), or (E) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days.

Section 26-1-170. A notary public has no power or jurisdiction in criminal cases.

Section 26-1-180. An attorney at law who is a notary public may exercise all his powers as a notary, notwithstanding the fact that he may be interested as counsel or attorney at law in a matter with respect to which he may exercise the power, and may probate in any court in this State in which he may be counsel.

Section 26-1-190. A notary public who is a stockholder, director, officer, or employee of a corporation may perform a notarial act for that corporation, unless the notary public is individually a party to the instrument or record that is the subject of the notarial act.

Section 26-1-200. On a notarized document sent to another state or nation, evidence of the authenticity of the official seal and signature of a notary of this State, if required, shall be in the form of:

(1) a certificate of authority from the Secretary of State or designated local official, authenticated as necessary by additional certificates from the United States or foreign government agencies; or

(2) in the case of a notarized document to be used in a nation that has signed and ratified the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961, an Apostille from the federally designated official in the form

prescribed by the Convention, with no additional authenticating certificates required.

Section 26-1-210. A certificate of authority evidencing the authenticity of the official seal and signature of a notary of this State shall be substantially in the following form:
'Certificate of Authority for Notarial Act
I, _____(name of Secretary of State), South Carolina Secretary of State, certify that _____ (name of notary), the person named in the seal and signature on the attached document, was a Notary Public for the State of South Carolina and authorized to act as such at the time of the document's notarization.

To verify this Certificate of Authority for a Notarial Act, I have affixed below my signature and seal of office this _____ day of_____, 20___.'

(Signature and seal of commissioning official)

Section 26-1-220. The Secretary of State may charge a reasonable fee for issuing a certificate of authority or an Apostille.

Section 26-1-230. (A) The Secretary shall not issue a certificate of authority or an Apostille for a document if the Secretary has cause to believe that the certificate is desired for an unlawful or improper purpose. The Secretary may examine not only the document for which a certificate is requested, but also any documents to which the previous seals or other certifications may have been affixed by other authorities. The Secretary may request any additional information that may be necessary to establish that the requested certificate will serve the interests of justice and is not contrary to public policy, including a certified or notarized English translation of document text in a foreign language.

(B) The Secretary shall not issue a certificate of authority or an Apostille if:

(1) a seal or signature cannot be authenticated by either the Secretary or another official;

(2) the seal or signature is of a foreign official; or

(3) the document is a facsimile, photocopy, photographic, or other reproduction of a signature or seal.

(C) The Secretary may not include within the certificate of authority or Apostille any statement that is not within the Secretary's power or

knowledge to authenticate. The Secretary may not certify that a document has been executed or certified in accordance with the law of any particular jurisdiction or that a document is a valid document in a particular jurisdiction.

Section 26-1-240. Nothing in this act shall be construed to contradict the requirements of Section 62-2-503."

Severability

SECTION 2. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 186

(R209, S440)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63-19-1435 SO AS TO PROVIDE THAT THE USE OF RESTRAINTS ON JUVENILES APPEARING IN COURT ARE PROHIBITED UNLESS THE RESTRAINTS ARE NECESSARY TO PREVENT THE JUVENILE FROM HARMING HIMSELF OR OTHERS OR IF

THE JUVENILE IS A FLIGHT RISK AND THERE ARE NO LESS RESTRICTIVE ALTERNATIVES AVAILABLE; TO GIVE A JUVENILE'S ATTORNEY THE RIGHT TO BE HEARD BEFORE THE COURT ORDERS THE USE OF RESTRAINTS; AND IF RESTRAINTS ARE ORDERED, TO REQUIRE THE COURT TO MAKE FINDINGS OF FACT IN SUPPORT OF THE ORDER; AND BY ADDING SECTION 24-13-425 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO KNOWINGLY, WITHOUT AUTHORITY, TO REMOVE, DESTROY, OR CIRCUMVENT THE OPERATION OF AN ELECTRONIC MONITORING DEVICE USED FOR DETENTION, A CONDITION OF BOND, PRETRIAL RELEASE, PROBATION, OR PAROLE OR TO REQUEST ANOTHER PERSON TO REMOVE, DESTROY, OR CIRCUMVENT THE OPERATION OF SUCH DEVICES AND TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS.

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

Use of restraints on juveniles in court

SECTION 1. Article 13, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-1435. (A) If a juvenile appears before the court wearing instruments of restraint, such as handcuffs, chains, irons, or straightjackets, the court in any proceeding may not continue with the juvenile required to wear instruments of restraint unless the court first finds that:

(1) the use of restraints is necessary due to one of the following factors:

(a) the juvenile poses a threat of serious harm to himself or others;

(b) the juvenile has a demonstrable recent record of disruptive courtroom behavior that has placed others in potentially harmful situations; or

(c) there is reason to believe the juvenile is a flight risk; and

(2) there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the juvenile or another person, including, but not limited to, court personnel, law enforcement officers, or bailiffs.

(B) The court shall provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall make findings of fact in support of the order."

Unlawful to remove electronic monitoring devices used on defendants, penalty for violation

SECTION 2. Article 5, Chapter 13, Title 24 of the 1976 Code is amended by adding:

"Section 24-13-425. (A) For the purposes of this section:

(1) 'Electronic monitoring device' includes any device ordered by a court or pursuant to any statute that is utilized to track the location of a person.

(2) 'Person' includes any public or private agency or entity providing electronic monitoring services.

(B) It is unlawful for any person to knowingly and without authority remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purpose of monitoring a person who is:

(1) complying with the Home Detention Act as set forth in Article 15, Title 24;

(2) wearing an electronic monitoring device as a condition of bond or pretrial release;

(3) wearing an electronic monitoring device as a condition of probation, parole, or community supervision; or

(4) wearing an electronic monitoring device as required by any other provision of law.

(C) It shall be unlawful for any person to knowingly and without authority request or solicit any other person to remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purposes described in subsection (B).

(D) Any person who violates the provisions of this section shall be guilty of the misdemeanor offense of tampering with the operation of an electronic monitoring device and shall be imprisoned for not more than three years, or fined up to three thousand dollars, or both."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 187

(R211, S495)

AN ACT TO AMEND SECTION 23-3-115, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FEES FOR CRIMINAL RECORD SEARCHES, SO AS TO CLARIFY THE DEFINITION OF CHARITABLE ORGANIZATIONS WHICH PAY A REDUCED FEE TO INCLUDE LOCAL PARK AND RECREATION VOLUNTEERS THROUGH A COMMISSION, MUNICIPALITY, COUNTY, OR THE SOUTH CAROLINA DEPARTMENT OF PARKS, RECREATION AND TOURISM.

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

Criminal record searches, reduced fees for certain local park and recreation volunteers

SECTION 1. Section 23-3-115(B) of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

"(B) The fee allowed in subsection (A) is fixed at eight dollars if the criminal record search is conducted for a charitable organization, a bona fide mentor, or for the use of a charitable organization. An organization that is authorized to receive the reduced fee shall not charge the volunteer, mentor, member, or employee more than eight dollars or any additional fee that is not required by the State Law Enforcement Division. All criminal record searches conducted pursuant to this subsection must be for a volunteer, mentor, member, or employee performing in an official capacity of the organization and must not be resold. The division shall develop forms on which a mentor or charitable organization shall certify that the criminal record search is conducted for the use and benefit of the charitable organization or mentor. For purposes of this subsection, the phrase 'charitable organization' means:

(1) an organization which has been determined to be exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended;

(2) a bona fide church, including an institution such as a synagogue or mosque;

(3) an organization which has filed a statement of registration or exemption under the Solicitation of Charitable Funds Act, Chapter 56, Title 33; or

(4) local parks and recreation volunteers through a commission, municipality, county, or the South Carolina Department of Parks, Recreation and Tourism."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 188

(R212, S503)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 6 TO CHAPTER 1, TITLE 6 SO AS TO ENACT THE "BEACH PRESERVATION ACT", TO ALLOW A QUALIFIED COASTAL MUNICIPALITY TO IMPOSE A FEE NOT TO EXCEED ONE PERCENT ON THE GROSS PROCEEDS DERIVED FROM THE RENTAL OR CHARGES FOR ACCOMMODATIONS FURNISHED TO TRANSIENTS SUBJECT TO THE MUNICIPALITY'S LOCAL ACCOMMODATIONS TAX, TO PROVIDE THAT THE MUNICIPALITY MAY IMPOSE THE FEE ONLY AFTER ITS APPROVAL IN A REFERENDUM HELD IN THE MUNICIPALITY, TO PROVIDE THAT THE FEE IS IN ADDITION TO ALL OTHER LOCAL ACCOMMODATIONS TAXES IMPOSED AND MUST NOT BE DEEMED CUMULATIVE TO OTHER LOCAL ACCOMMODATIONS TAXES IMPOSED BY THE MUNICIPALITY, TO PROVIDE

USES FOR WHICH THE FEE REVENUE MUST BE APPLIED, TO PROVIDE FOR REPORTING AND FOR REMITTANCE OF THESE FEES, AND TO PROVIDE DEFINITIONS.

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

Beach Preservation Act

SECTION 1. Chapter 1, Title 6 of the 1976 Code is amended by adding:

"Article 6

Beach Preservation Act

Section 6-1-610. This article may be cited as the 'Beach Preservation Act'.

Section 6-1-620. As used in this article:

(1) 'Beach preservation fee' means a fee imposed on the gross proceeds derived from the rental or charges for accommodations furnished to transients for consideration within the jurisdiction of the governing body which are subject to the tax imposed pursuant to Section 12-36-920(A).

(2) 'Governing body' means the governing body of a qualified coastal municipality.

(3) 'Qualified coastal municipality' means a municipality bordering on the Atlantic Ocean that has a public beach within its corporate limits and which imposes a local accommodations tax pursuant to Section 6-1-520 that does not exceed one and one-half percent pursuant to the limitations imposed pursuant to Section 6-1-540.

Section 6-1-630. (A) The governing body of a qualified coastal municipality by ordinance, subject to a referendum, may impose a beach preservation fee not to exceed one percent.

(B) Upon the adoption of an ordinance calling for a referendum, the county election commission shall conduct a referendum at the time specified in the ordinance on the question of implementing a one percent beach preservation fee. The state election laws apply to the referendum, mutatis mutandis. The county election commission shall publish the results of the referendum to certify them to the governing body. The beach preservation fee must not be imposed unless a

majority of the qualified electors residing in the municipality voting in the referendum vote in favor of the referendum.

(C)(1) The ballot must read substantially as follows:

'Must an additional one percent beach preservation fee be added to the accommodations tax for the purpose of nourishment, renourishment, maintenance, erosion mitigation, and monitoring of beaches, dune restoration and maintenance, including planting of grass, sea oats, or other vegetation useful in preserving the dune system, and maintenance of public beach accesses within the corporate limits of _____.

Yes ☐

No ☐'

(2) If the question is not approved at the initial referendum, the governing body may, by an ordinance meeting the requirements of this section, call for another referendum on the question. However, following the initial referendum, a referendum for this purpose must not be held more often than once in a twenty-four month period on the Tuesday following the first Monday in November in even-numbered years.

(3) Once a week for the four weeks immediately preceding the referendum, the governing body of the municipality shall publish notice in a newspaper of general circulation within the jurisdiction a description of and the specific uses for the beach preservation fee. The governing body also must publish notice on its website in the same manner.

(D) The fee authorized by this article is in addition to all other local accommodations taxes imposed pursuant to Section 6-1-520 and must not be deemed cumulative with the local accommodations tax or fee rate for the purposes of Section 6-1-540.

(E) All proceeds from the beach preservation fee must be kept in a separate fund segregated from the governing body's general fund. All interest generated by the beach preservation fee fund must be credited to the beach preservation fee fund.

Section 6-1-640. The revenue generated by the beach preservation fee must be used exclusively for the following purposes:

(1) nourishment, renourishment, maintenance, erosion mitigation, and monitoring of the beaches within the corporate limits of the qualified coastal municipality;

(2) dune restoration and maintenance, including planting of grass, sea oats, or other vegetation useful in preserving the dune system within the corporate limits of the qualified coastal municipality; and

(3) maintenance of public beach accesses within the corporate limits of the qualified coastal municipality.

Section 6-1-650. Real estate agents, brokers, corporations, or listing services required to remit fees under this section must notify the appropriate governing body if rental property, previously listed by them, is dropped from their listings.

Section 6-1-660. The fee provided for pursuant to this article must be remitted to the local governing body on a monthly basis when the estimated amount of the average of the total of the tax imposed pursuant to Article 5 of this chapter and this article is more than fifty dollars a month, on a quarterly basis when the estimated amount of such average is twenty-five dollars to fifty dollars a month, and on an annual basis when the estimated amount of such average is less than twenty-five dollars a month."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 189

(R213, S560)

AN ACT TO AMEND SECTION 58-15-870, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE WILFULL AND MALICIOUS INJURY TO A RAILROAD OR ELECTRIC RAILWAY, SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO WILFULLY AND MALICIOUSLY CUT,

MUTILATE, DEFACE, OR OTHERWISE INJURE A RAILROAD OR ELECTRIC RAILWAY, INCLUDING ANYTHING APPERTAINING TO THE RAILROAD OR ELECTRIC RAILWAY OR ANY MATERIAL OR INSTRUMENT FOR THE CONSTRUCTION OF THE RAILROAD OR ELECTRIC RAILWAY, TO PROVIDE A TIER OF PENALTIES FOR VIOLATIONS INCLUDING THOSE VIOLATIONS WHERE SPECIFIED CIRCUMSTANCES ARE PRESENT, AND TO ALSO PROVIDE THAT EXCEPT IN THE CASE OF AN ELECTRIC RAILWAY, THE PERSON COMMITTING THE VIOLATION SHALL FORFEIT TO THE RAILROAD COMPANY FOR EACH OFFENSE TREBLE THE DAMAGES PROVED TO HAVE BEEN SUSTAINED TO BE RECOVERED IN A TORT ACTION IN THE RAILROAD COMPANY'S NAME; AND BY ADDING SECTION 58-15-875 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO PURCHASE, SELL, OR TRANSPORT RAILROAD TRACK MATERIALS FOR THE PURPOSE OF RECYCLING, TO REQUIRE A SPECIFIED METHOD OF PAYMENT FOR RAILROAD TRACK MATERIALS, TO PROVIDE EXCEPTIONS, AND TO PROVIDE A TIER OF PENALTIES FOR VIOLATIONS.

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

Injury to railroad or electric railway, penalties

SECTION 1. Section 58-15-870 of the 1976 Code is amended to read:

"Section 58-15-870. (A) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure a railroad or electric railway, including anything appertaining to the railroad or electric railway or any material or instrument for the construction of the railroad or electric railway.

(B) A person who violates this section is guilty of a misdemeanor, and, upon conviction, must be fined not less than one thousand dollars, or imprisoned not more than five years, or both.

(C) A person who violates this section resulting in the endangerment of another person's life or great bodily injury to another person is guilty of a felony, and, upon conviction, must be imprisoned not more than twenty years. 'Great bodily injury' means bodily injury which creates a substantial risk of death or which causes serious,

permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(D) A person who violates this section resulting in the death of another person is guilty of a felony, and, upon conviction, must be imprisoned not more than thirty years.

(E) In addition to the penalties provided by subsections (B), (C), and (D), except in the case of an electric railway, the person shall forfeit to the railroad company for each offense treble the damages proved to have been sustained to be recovered in a tort action in the railroad company's name."

Purchase, sell, or transport unlawful, method of payment, penalties

SECTION 2. Article 9, Chapter 15, Title 58 of the 1976 Code is amended by adding:

"Section 58-15-875. (A) It is unlawful to purchase, sell, or transport railroad track materials for the purpose of recycling.

(B) This section does not apply to:

(1) a railroad company or a railroad company's authorized agent;

(2) a business that owns a railroad spur;

(3) an independent railroad contractor; or

(4) a person or business with a letter of authorization from a special agent of a railroad company class 1 or shortline. An entity removing or authorizing the removal of railroad track materials from private property must obtain a letter of authorization from the railroad company servicing the property.

(C) Payment for railroad track materials only must be made to the railroad company or the company's principals, the business that owns the railroad spur or the businesses' principals, the independent railroad contractor or the contractor's principals, or the person or business authorized by the railroad company or the businesses' principals.

(D) A person who violates this section:

(1) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred and fifty dollars, or imprisoned not more than one year, or both;

(2) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five hundred dollars, or imprisoned not more than three years, or both; and

(3) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than one thousand dollars, or imprisoned not more than five years, or both."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 190

(R214, S561)

AN ACT TO AMEND SECTION 16-17-680, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PURCHASING, SELLING, AND TRANSPORTING OF NONFERROUS METALS, SO AS TO DEFINE THE TERM "COIL"; TO PROVIDE THAT A SECONDARY METALS RECYCLER MUST NOT PURCHASE OR OTHERWISE ACQUIRE A COIL AND PROVIDE A PENALTY FOR PRESENTMENT OF A FALSIFIED BILL OF SALE; TO RESTRICT A SECONDARY METALS RECYCLER FROM ENTERING INTO CASH TRANSACTIONS IN PAYMENT FOR THE PURCHASE OF COPPER, CATALYTIC CONVERTERS, OR BEER KEGS WHICH TOTAL TWENTY-FIVE DOLLARS OR MORE AND PROHIBIT A SECONDARY METALS RECYCLER FROM ENTERING INTO MORE THAN ONE CASH TRANSACTION PER DAY PER SELLER FOR THESE PURCHASES; AND TO CLARIFY SELLERS FOR WHOM THE PROVISIONS OF THE SECTION DO NOT APPLY UNDER CERTAIN CIRCUMSTANCES.

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

Nonferrous metals, definition of "coil"

SECTION 1. Section 16-17-680(A) of the 1976 Code, as last amended by Act 242 of 2012, is further amended to read:

"(A) For purposes of this section:

(1) 'Coil' means a copper, aluminum, or aluminum-copper condensing coil or evaporation coil. The term includes, but is not limited to, coil from a commercial or residential heating or air-conditioning system. The term does not include coil from a window air-conditioning system, if the coil is contained within the system, or coil from an automobile condenser.

(2) 'Fixed site' means a site occupied by a secondary metals recycler as the owner of the site or as a lessee of the site under a lease or other rental agreement providing for occupation of the site by a secondary metals recycler for a total duration of not less than three hundred sixty-four days.

(3) 'Nonferrous metals' means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, cooper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, steel propane gas tanks, and stainless steel beer kegs or containers.

(4) 'Secondary metals recycler' means a person or entity who is engaged, from a fixed site or otherwise, in the business of paying compensation for nonferrous metals that have served their original economic purpose, whether or not the person is engaged in the business of performing the manufacturing process by which nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value."

Nonferrous metals, coils, falsified bill of sale, penalty

SECTION 2. Section 16-17-680(I) of the 1976 Code, as last amended by Act 242 of 2012, is further amended to read:

"(I) A secondary metals recycler shall not purchase or otherwise acquire:

(1) an iron or steel manhole cover;

(2) an iron or steel drainage grate; or

(3) a coil, unless the seller is an exempted entity pursuant to subsection (J)(1)(e) or the seller presents a bill of sale from a company licensed pursuant to Chapter 11, Title 40 indicating that the seller acquired the coil as the result of a unit replacement or repair. The bill of sale is sufficient proof of ownership and serves the same purpose as a permit to transport and sell nonferrous metals. A person who presents a falsified bill of sale is guilty of a misdemeanor, and, upon

conviction, must be fined in the discretion of the court or imprisoned not more three years, or both."

Nonferrous metals, cash transactions restricted

SECTION 3. Section 16-17-680(D)(4) of the 1976 Code, as last amended by Act 242 of 2012, is further amended to read:

"(4) A secondary metals recycler shall not enter into a cash transaction in payment for the purchase of copper, catalytic converters, or beer kegs, which totals twenty-five dollars or more. Payment for the purchase of copper, catalytic converters, or beer kegs, which totals twenty-five dollars or more must be made by check alone issued and made payable to the seller. A secondary metals recycler shall neither cash a check issued pursuant to this item nor use an automated teller machine (ATM) or other cash card system in lieu of a check. A secondary metals recycler shall not enter into more than one cash transaction per day per seller in payment for the purchase of copper, catalytic converters, or beer kegs."

Nonferrous metals, exceptions

SECTION 4. Section 16-17-680(J) of the 1976 Code, as last amended by Act 242 of 2012, is further amended to read:

"(J)(1) Except as provided in item (2), the provisions of this section do not apply to:

(a) the purchase or sale of aluminum cans;

(b) a transaction between a secondary metals recycler and another secondary metals recycler;

(c) a governmental entity;

(d) a manufacturing or industrial vendor that generates or sells regulated metals in the ordinary course of its business;

(e) a seller who is a holder of a retail license, an authorized wholesaler, an automobile demolisher as defined in Section 56-5-5810(d), a contractor licensed pursuant to Chapter 11, Title 40, a real estate broker or property manager licensed pursuant to Chapter 57, Title 40, a residential home builder licensed pursuant to Chapter 59, Title 40, a demolition contractor, a provider of gas service, electric service, communications service, water service, plumbing service, electrical service, climate conditioning service, core recycling service,

appliance repair service, automotive repair service, or electronics repair service; or

(f) a seller that is an organization, a corporation, or an association registered with the State as a charitable organization or a nonprofit corporation.

(2) An exempted entity listed in item (1) is subject to the provisions of subsection (C)(10) and subsection (G)(5).

A secondary metals recycler shall maintain a record of transactions involving exempted entities listed in item (1) pursuant to subsection (D) and is subject to the penalty provisions of subsection (D)(6). Any item of nonferrous metals acquired from an exempted entity listed in item (1) is subject to a hold notice pursuant to subsection (F)."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 191

(R215, S569)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "COMPETITIVE INSURANCE ACT"; TO AMEND SECTION 38-3-110, RELATING TO DUTIES OF THE CHIEF INSURANCE COMMISSIONER, SO AS TO PROVIDE THAT THE DIRECTOR MUST ENGAGE IN CERTAIN EFFORTS TO PROVIDE MARKET ASSISTANCE AND PROMOTE CONSUMER EDUCATION TO COASTAL RESIDENTIAL PROPERTY INSURANCE CONSUMERS, AND TO PROVIDE THE DIRECTOR ANNUALLY MUST SUBMIT A REPORT REGARDING THE STATUS OF THE COASTAL PROPERTY INSURANCE MARKET TO CERTAIN MEMBERS OF THE GENERAL ASSEMBLY AND POST THIS REPORT ON THE INTERNET WEBSITE OF THE DEPARTMENT OF INSURANCE; TO AMEND SECTION 38-7-200, RELATING TO

CREDITS AGAINST A PREMIUM TAX, SO AS TO DELETE A PROVISION APPLYING THE SECTION TO ALL NEW POLICIES ISSUED WITH AN EFFECTIVE DATE AFTER DECEMBER 31, 2007; TO AMEND SECTION 38-75-755, RELATING TO NOTIFICATION OF APPLICANTS OR RENEWING POLICYHOLDERS OF AVAILABLE CREDITS, DISCOUNTS, AND DEDUCTIONS, SO AS TO PROVIDE THAT ALL INSURERS SHALL NOTIFY APPLICANTS OR POLICYHOLDERS OF CERTAIN DISCLOSURES AT THE ISSUANCE OF NEW PERSONAL LINES RESIDENTIAL PROPERTY INSURANCE POLICIES AND AT EACH RENEWAL OF THESE POLICIES, TO PROVIDE THE DIRECTOR OR HIS DESIGNEE SHALL PRESCRIBE THE FORM AND MANNER FOR INSURER NOTICES OR DISCLOSURES, TO PROVIDE THESE DISCLOSURES ARE FOR INFORMATIONAL PURPOSES ONLY AND ARE NOT ADMISSIBLE IN RELATED LITIGATION EXCEPT IN CERTAIN CIRCUMSTANCES, AND TO DELETE A PROVISION APPLYING THIS SECTION TO POLICIES ISSUED OR RENEWED AFTER DECEMBER 31, 2007; AND TO PROVIDE THE DEPARTMENT SHALL CONDUCT A STUDY TO ASSESS THE FEASIBILITY OF CREATING A HURRICANE MODEL BY THE STATE WITH EMPHASIS ON THE ASSOCIATED COSTS AND CERTAIN LOGISTICAL REQUIREMENTS, AMONG OTHER THINGS, AND TO REQUIRE THE DEPARTMENT SHALL PROVIDE A SUMMARY OF ITS FINDINGS TO CERTAIN COMMITTEES OF THE GENERAL ASSEMBLY BEFORE JANUARY 1, 2015.

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

Department of Insurance duties, market assistance and consumer education

SECTION 1.A. Section 38-3-110(5) of the 1976 Code, as added by Act 78 of 2007, is amended to read:

"(5)(a) The director must hold a public hearing at least annually at a location within the seacoast area, as defined in Section 38-75-310(7), to provide the public with information and an opportunity to discuss and offer input concerning the rates, territory, and other pertinent issues regarding the South Carolina Wind and Hail Underwriting Association.

The director must provide publicized notice of the hearing at least thirty days before the date of the public hearing.

(b) The director must engage in efforts to provide market assistance and promote consumer education to South Carolina residential property insurance consumers. These efforts may include, but are not limited to:

(i) posting on its website information to assist consumers in understanding the general provisions of homeowners insurance policies;

(ii) providing information on the mitigation discounts and credits available pursuant to Section 38-73-1095(C), including a summary of those offered by the twenty largest homeowners property insurance issuers by premium volume;

(iii) providing premium comparison information;

(iv) providing information to assist consumers in identifying insurers writing property insurance coverage in their area;

(v) providing a listing of licensed property and casualty producers in their area; and

(vi) providing information on catastrophe savings accounts available pursuant to Article 11, Chapter 6, Title 12.

(c) The director must submit a report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Banking and Insurance Committee, and the Chairman of the House Labor, Commerce and Industry Committee by January thirty-first of each year regarding the status of the coastal property insurance market. The report shall be posted in an electronic format on the department's website within five days of its submission. The report shall include, but not be limited to, the following:

(i) status of the South Carolina Wind and Hail Underwriting Association, including any recommended modifications to statutory or regulatory law regarding the operation of the South Carolina Wind and Hail Underwriting Association and its territory;

(ii) status of operations and grants issued under the South Carolina Hurricane Damage Mitigation Program as provided for in Section 38-75-485;

(iii) availability and affordability of coverage in the coastal area as defined in Section 38-75-310(5), including any portion of the area as it may be expanded pursuant to Section 38-75-460;

(iv) consumer outreach and education efforts relating to coastal property insurance issues, including, but not limited to:

(a) summary of the annual meeting as required pursuant to item (5)(a); and

(b) specific projects and efforts undertaken pursuant to item (5)(b)."

B. The provisions of this section take effect sixty days after the effective date of this act.

Credit against premium tax, applicability date revised

SECTION 2. Section 38-7-200 of the 1976 Code, as added by Act 78 of 2007, is amended to read:

"Section 38-7-200. (A) A licensed insurer providing full property and casualty coverage, to specifically include wind and hail coverage, to property owners within the area defined in Section 38-75-310(5), including any portion of the area as it may be expanded from time to time pursuant to Section 38-75-460, may claim as a nonrefundable credit against the premium tax imposed by Sections 38-7-20 and 38-7-40 in an amount equal to twenty-five percent of the tax that otherwise is due on the premium written for the property owners for the taxable year.

(B) The credit allowed by this section is available only to an insurer licensed or authorized to do business in this State with respect to a property and casualty insurance policy providing full coverage as defined in subsection (A).

(C) A licensed insurer who claims the credit allowed by this section shall provide information required by the Department of Insurance to demonstrate that the taxpayer is eligible for the credit and that the amount paid for premiums for which the credit is claimed was not excluded from the licensed insurer's gross income for the taxable year.

(D) The tax credit allowed under this section for a taxable year may be claimed only once for any one structure, regardless of the number of policies written on the structure.

(E) The department shall take the action necessary to monitor and examine the use of the credits claims under this section."

Personal lines residential property insurance policy renewals

SECTION 3.A. Section 38-75-755 of the 1976 Code, as added by Act 78 of 2007, is amended to read:

"Section 38-75-755. (A) All insurers, at the issuance of a new policy and at each renewal, clearly shall notify the applicant or

policyholder of a personal lines residential property insurance policy of the availability and the range of each premium discount, credit, other rate differential, or reduction in deductibles for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented, including information related to catastrophe savings accounts. The notice must describe generally what measures the policyholders may take to reduce their windstorm premium.

(B)(1) All insurers, at the issuance of a new policy and at each renewal, shall notify the applicant or policyholder of a personal lines residential property insurance policy of the following:

(a) whether or not the insured has coverage for flood or mold. The disclosure also shall state that insurance is available through the National Flood Insurance Program and that excess flood insurance may be available through an additional policy;

(b) a distinction between replacement cost for losses and actual cash value, the use of depreciation in determining payment for losses, and that the policy may contain time limitations for repairs to be completed in order to receive full replacement cost for the losses;

(c) that the policy determines the process for providing the insurer with a notification of a loss and the requirements of Section 38-59-10;

(d) that the insured may have the option to increase the deductible and thus lower the potential premium cost paid;

(e) whether a separate deductible is required for hurricane, wind, or named storm damage, as opposed to some other type of loss, and if so, include an example which illustrates how the deductible functions for a policy valued at one hundred thousand dollars and this illustration will include a clear explanation of the event which will trigger the deductible to the requirements of South Carolina Code of Regulations 69-56.

(2) The director or his designee shall prescribe the form and manner for insurer notices or disclosures issued pursuant to this subsection.

(3) Any disclosure provided pursuant to this section shall be for informational purposes only and shall not amend, extend, or alter coverage provided in a policy. Any notice or disclosure provided shall not be admissible in any action brought concerning a policy except for the sole purpose of showing that the notice was or was not provided pursuant to this section.

(C) All insurers, at the issuance of a new policy and at each renewal of a commercial property insurance policy, shall include a notice that

advises the policyholder that a reduction in premium may be available if the policyholder has taken steps to prevent or reduce damage from windstorm and that the policyholder may contact its agent, broker, or insurer for additional information."

B. The provisions of this section apply to policies issued or renewed after December 31, 2014.

Feasibility study

SECTION 4. The Department of Insurance shall conduct a study to assess the feasibility of the creation of a hurricane model by the State, with particular emphasis on the associated costs and physical/logistical requirements. The study also must assess the benefits to consumers of a South Carolina-produced model, including an evaluation of whether it would yield more accurate assessments of risk and better rates. The department shall summarize its findings in a written report that it must provide to the Senate Banking and Insurance Committee and the House Labor, Commerce and Industry Committee before January 1, 2015.

Time effective

SECTION 5. Unless otherwise provided, this act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 192

(R216, S657)

AN ACT TO AMEND SECTION 22-2-190, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MAGISTRATES COURT JURY AREAS IN EACH COUNTY, SO AS TO REVISE AND UPDATE THE TERRITORIAL DESCRIPTIONS OF THE JURY AREAS AND PROVIDE REFERENCES TO PUBLIC MAPS SHOWING THE JURY AREAS.

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

Magistrates courts jury areas revised

SECTION 1. Section 22-2-190 of the 1976 Code, as last amended by Act 201 of 2012, is further amended to read:

"Section 22-2-190. The following jury areas for magistrates courts in the various counties of the State are established:

(1) Abbeville County

(a)(1) Abbeville
(2) Calhoun Falls
(3) Lowndesville
(4) Antreville
(5) Due West
(6) Donalds

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-01-13, and on copies filed with the Abbeville County magistrates offices, and available on the Abbeville County website.

(2) Aiken County

(a)(1) North Augusta
(2) Langley
(3) Aiken
(4) New Ellenton
(5) Wagner/Monetta

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-03-13, and on copies filed with the Aiken County magistrates offices, and available on the Aiken County website.

(c) Each magistrate's office must be maintained at a place designated by the Aiken County Legislative Delegation.

(3) Allendale County

One jury area countywide.

(4) Anderson County

One jury area countywide.

(5) Bamberg County

One jury area countywide.

(6) Barnwell County

(a) The boundaries for the magistrates jury areas in Barnwell are defined by the boundaries of the Barnwell school districts.

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-11-13, and on copies filed with the Barnwell County magistrates offices, and available on the Barnwell County website.

(7) Beaufort County

(a)(1) Sheldon
(2) Bluffton
(3) Daufuskie
(4) Hilton Head
(5) Beaufort
(6) St. Helena

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-13-13, and on copies filed with the Beaufort County magistrates offices, and available on the Beaufort County website.

(8) Berkeley County

(a)(1) Goose Creek
(2) Jamestown
(3) St. Stephen
(4) Moncks Corner
(5) Summerville

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-15-13, and on copies filed with the Berkeley County magistrates offices, and available on the Berkeley County website.

(9) Calhoun County

One jury area countywide.

(10) Charleston County

(a)(1) Jury Area No. 1: St. Paul's/Edisto
(2) Jury Area No. 2: West Ashley
(3) Jury Area No. 3: Charleston
(4) Jury Area No. 4: North Charleston

(5) Jury Area No. 5: Mount Pleasant
(6) Jury Area No. 6: St. Andrews
(7) Jury Area No. 7: McClellanville

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-19-13, and on copies filed with the Charleston County magistrates offices, and available on the Charleston County website.

(c) Notwithstanding any other provision of law, magistrates in Charleston County shall reside in the following jury areas:

(1) Three magistrates shall reside in Jury Area No. 1, one of whom shall reside on Edisto Island.

(2) Three magistrates shall reside in Jury Area No. 2, one of whom shall reside on each of the following islands: Johns Island, James Island and Wadmalaw Island.

(3) Two magistrates shall reside in Jury Area No. 3.
(4) Three magistrates shall reside in Jury Area No. 4.
(5) One magistrate shall reside in Jury Area No. 5.
(6) One magistrate shall reside in Jury Area No. 6.
(7) One magistrate shall reside in Jury Area No. 7.

(d) The magistrate system in Charleston County must be so organized in order to provide for centralized magistrates courts for the purpose of facilitating and expediting civil and criminal matters as hereinafter provided:

(1) The centralized magistrates courts have concurrent jurisdiction for civil and criminal matters with the existing magistrates of Charleston County. Plaintiffs in civil matters have the right to commence a case in either a central magistrates court or in a magistrates court within a defined jury area. The defendant in a magisterial civil matter may remove the case either from a central magistrates court to the defined jury area in which the defendant resides or the defendant may remove the case from the defined jury area in which he resides to a central magistrates court. This removal must be by notification to the court of origin and no cause for removal must be shown.

(2) The centralized magistrates courts have jurisdiction over any type or form of civil or criminal matter, including any procedural or substantive matter or preliminary hearing or examination or bond or bail hearing or any other criminal proceeding.

(3) The fees and charges for the central magistrates courts are the same as those prevailing in all magistrates courts whether central or in a defined jury area.

(4) Upon the effective date of this paragraph a central magistrates court must be established in the City of Charleston.

(5) Six months after the effective date of this paragraph a central magistrates court must be established in the City of North Charleston. However, if the central magistrates court in the City of North Charleston is not funded and established as required by this subsubitem, then the central magistrates court in the City of Charleston established pursuant to subsubitem (4) must cease to exist until the time the central magistrates court in the City of North Charleston is so funded and established.

(6) A third central magistrates court must be established at the time and in the location which a majority of the members of the General Assembly residing in Charleston County determines. In addition to those magistrates assigned to the seven jury areas, there must be appointed one magistrate from the county at large without regard to residence in a particular jury area who must serve as the magistrate of the central magistrates court in the City of Charleston. Six months after the effective date of this paragraph a second magistrate must be appointed from the county at large without regard to residence in a particular jury area who must serve as the magistrate of the central magistrates court in the City of North Charleston. A third magistrate also must be appointed at the time as provided in this subsubitem from the county at large without regard to residence in a particular jury area who, when appointed, must serve as the magistrate of the central magistrates court established pursuant to this subsubitem.

(11) Cherokee County

One jury area countywide.

(12) Chester County

(a)(1) Baton Rouge

(2) Chester

(3) Fort Lawn

(4) Great Falls

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-23-13, and on copies filed with the Chester County magistrates offices, and available on the Chester County website.

(13) Chesterfield County

One jury area countywide.

(14) Clarendon County

One jury area countywide.

(15) Colleton County

One jury area countywide.

(16) Darlington County

(a)(1) Society Hill

(2) Darlington

(3) Lamar

(4) Lydia

(5) Hartsville.

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-31-13, and on copies filed with the Darlington County magistrates offices, and available on the Darlington County website.

(17) Dillon County

(a)(1) Hamer

(2) Dillon

(3) Lake View

(4) Latta

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-33-13, and on copies filed with the Dillon County magistrates offices, and available on the Dillon County website.

(18) Dorchester County

(a)(1) St. George

(2) Summerville

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-35-13, and on copies filed with the Dorchester County magistrates offices, and available on the Dorchester County website.

(c) Criminal cases and traffic offenses shall be tried in the jury area where the offense was committed, notwithstanding the creation of any uniform court for the trial of certain offenses.

(19) Edgefield County

One jury area countywide.

(20) Fairfield County

One jury area countywide.

(21) Florence County

(a)(1) Florence
(2) Timmonsville
(3) Evergreen
(4) Olanta
(5) Coward
(6) Pamplico
(7) Lake City
(8) Hannah
(9) Johnsonville

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-41-13, and on copies filed with the Florence County magistrates offices, and available on the Florence County website.

(22) Georgetown County

(a)(1) Andrews
(2) Georgetown
(3) Pleasant Hill
(4) Pawleys Island
(5) Murrells Inlet

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-43-13, and on copies filed with the Georgetown County magistrates offices, and available on the Georgetown County website.

(23) Greenville County

(a)(1) Tigerville
(2) Greenville
(3) Taylors
(4) Simpsonville

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-45-13, and on copies filed with the Greenville County magistrates offices, and available on the Greenville County website.

(24) Greenwood County
One jury area countywide.
(25) Hampton County
(a)(1) North
(2) South
(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-49-13, and on copies filed with the Hampton County magistrates offices, and available on the Hampton County website.
(26) Horry County
(a)(1) Aynor
(2) Conway
(3) Myrtle Beach
(4) Little River
(5) Simpson Creek
(6) Bayboro
(7) Green Sea
(8) Floyd
(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-51-13, and on copies filed with the Horry County magistrates offices, and available on the Horry County website.
(27) Jasper County
One jury area countywide.
(28) Kershaw County
One jury area countywide.
(29) Lancaster County
One jury area countywide.
(30) Laurens County
One jury area countywide.
(31) Lee County
(a)(1) No. 1--Lucknow
(2) No. 2--Stokes Bridge
(3) No. 3--Cypress
(4) No. 4--Bishopville
(5) No. 5--Ionia
(6) No. 6--Spring Hill
(7) No. 7--Ashwood

(8) No. 8--St. Charles
(9) No. 9--Lynchburg

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-61-13, and on copies filed with the Lee County magistrates offices, and available on the Lee County website.

(32) Lexington County

(a)(1) Irmo/Chapin
(2) Lexington
(3) Cayce/West Columbia
(4) South Congaree
(5) Bateburg/Leesville
(6) Swansea

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-63-13, and on copies filed with the Lexington County magistrates offices, and available on the Lexington County website.

(33) Marion County

(a)(1) Marion
(2) Mullins
(3) Nichols
(4) Legette
(5) Britton's Neck

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-67-13, and on copies filed with the Marion County magistrates offices, and available on the Marion County website.

(34) Marlboro County

(a)(1) Bennettsville
(2) McColl
(3) Clio
(4) Brownsville

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-69-13, and on copies filed with the

Marlboro County magistrates offices, and available on the Marlboro County website.

(35) McCormick County

One jury area countywide.

(36) Newberry County

One jury area countywide.

(37) Oconee County

One jury area countywide.

(38) Orangeburg County

(a)(1) West

(2) Central

(3) East

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-75-13, and on copies filed with the Orangeburg County magistrates offices, and available on the Orangeburg County website.

(39) Pickens County

One jury area countywide.

(40) Richland County

(a)(1) Blythewood

(2) Columbia

(3) Dentsville

(4) Dutch Fork

(5) Eastover

(6) Hopkins

(7) Lykesland

(8) Olympia

(9) Pontiac

(10) Upper Township

(11) Waverly

(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-79-12, and on copies filed with the Richland County Department of Planning and Development Services, and available on the Richland County website.

(c) Notwithstanding the provisions of subitem (a), for the Richland County Magistrates Centralized Court:

One jury area countywide.

(41) Saluda County
One jury area countywide.
(42) Spartanburg County
One jury area countywide.
(43) Sumter County
One jury area countywide.
(44) Union County
(a)(1) Jonesville
(2) Pinckney
(3) Bogansville
(4) Union
(5) Santuc
(6) Cross Keys
(7) Goshen Hill
(8) Fishdam
(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-87-13, and on copies filed with the Union County magistrates offices, and available on the Union County website.
(45) Williamsburg County
(a)(1) Kingstree
(2) Hemingway
(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-89-13, and on copies filed with the Williamsburg County magistrates offices, and available on the Williamsburg County website.
(46) York County
(a)(1) Clover
(2) Fort Mill
(3) Rock Hill
(4) Western York County
(5) York
(b) The lines defining the magistrates jury areas provided in subitem (a) are as shown on the official map on file with the Office of Research and Statistics of the South Carolina Budget and Control Board designated as document M-91-12, and on copies filed with the York County Management Information Systems Department, and available on the York County website.

(c) Notwithstanding the provisions of subitem (a), for the York County Centralized DUI Court:
One jury area countywide."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 193

(R217, S687)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "SOUTH CAROLINA BLIND PERSON'S RIGHT TO PARENT ACT" BY ADDING ARTICLE 4 TO CHAPTER 15, TITLE 63 SO AS TO PROVIDE THAT A COURT MAY NOT MAKE A DECISION ON GUARDIANSHIP, CUSTODY, OR VISITATION BASED UPON A SOLE CONSIDERATION OF THE BLINDNESS OF A CHILD'S PARENT OR GUARDIAN, AND THAT A DECISION CONCERNING ADOPTION MAY NOT BE BASED UPON THE SOLE CONSIDERATION THAT THE PERSON SEEKING TO ADOPT A CHILD IS BLIND.

Whereas, all blind South Carolinians have the right to establish a family, to freely and responsibly decide on the number and spacing of their children, and to retain the custody of their offspring on an equal basis with others. This right to parent is rooted in the due process clause of the Fourteenth Amendment of the United States Constitution; however, blind people are often stripped of these constitutional rights when state statutes, judicial decisions, and child welfare practices are based on the presumption that blindness automatically means parental incompetence; and

Whereas, the presumption that blindness automatically means parental incompetence is a misconception and that, given the proper tools and

education, blindness can be reduced to a physical nuisance. Because many sighted people do not understand the techniques that blind people use to accomplish everyday tasks, sighted judges, social workers, and state officials assume that those tasks cannot be completed by a blind person. Using alternative techniques, blind people are capable of living independent, productive lives, which include providing safe and loving homes for their children. For example, blind people put small tactile dots over markers on stoves, washing machines, and other flat surfaces so that they can independently operate those devices. Specific to raising children, blind parents may have their young children wear a small bell on their shoes so the child's location can be known to the parents. Blind parents will also pull a stroller behind them rather than push the stroller in front of them so their long white cane or guide dog will find obstacles or enter an intersection before the child and stroller; and

Whereas, when sighted parents are involved in a guardianship, custody, or visitation proceeding, their parental capabilities and how those capabilities affect the best interest of the child are thoroughly evaluated through a careful review of evidence. Too often, however, judges summarily dismiss a blind parent's capabilities under the misconception that blind people are incapable of most anything, despite evidence on record proving otherwise. Blind parents involved in these proceedings must first overcome any bias or low expectations of the judge and then also provide evidence negating those misconceptions above and beyond the normal burden placed on sighted parents; and

Whereas, widespread misconceptions about blindness often trigger a state agency to act, unsolicited, against the wishes of a blind parent. One of many countless, devastating reports of discrimination occurred in 2010, when the state of Missouri wrongfully deemed a blind couple unable to care for their two-day-old daughter, who remained in protective custody until the family was reunited after a fifty-seven-day battle. These parents had done nothing to demonstrate parental incompetence other than happening to have had a child and been blind, and yet the agency solely considered their blindness and decided to take action. In fact, in the Missouri case and many others, the parents had voluntarily contacted social service officials themselves in order to seek advice and assistance and to ensure that all of their child's needs were being met but instead found themselves stripped of custody. Thus, hasty actions on the part of state social welfare officials can

discourage blind parents from seeking services and assistance for which they and their children are eligible; and

Whereas, during custody proceedings in cases of divorce, where one parent is blind and the other parent is sighted, the sighted parent will often try to use the other parent's blindness as a tool to deny the blind parent custodial rights. Because custody proceedings related to a divorce are often hostile, the court should demand that each party demonstrate evidence of the other party's incompetence. However, courts often assume that the sighted party is accurate in portraying the blind parent as incompetent, and make custody and visitation decisions based solely on the fact that one parent is blind. These decisions can range from limiting or denying visitation unless a sighted person is present at all times to simply denying the blind parent all custodial rights. This is not only discriminatory, it denies the blind parent a fair chance at custody and opens courts to manipulation. Now, therefore,

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

Creation of Blind Person's Right to Parent Act

SECTION 1. This act may be cited as the "South Carolina Blind Person's Right to Parent Act".

Prohibits guardianship, custody, visitation, and adoption decisions to be based solely on a person's blindness

SECTION 2. Chapter 15, Title 63 of the 1976 Code is amended by adding:

"Article 4

South Carolina Blind Person's Right to Parent Act

Section 63-15-400. In making decisions on guardianship, custody, or visitation where a party to the action is blind, the court may not deny the party guardianship, custody, or visitation of a child solely because the party is blind. The blindness of a party only must be used to determine whether or not granting guardianship, custody, or visitation to the party would be in the best interest of the child.

Section 63-15-410. (A) When the Department of Social Services, a guardian, or a child placement agency considers an adoption petition, the department, guardian, or child placement agency may not deny the petition solely because the petitioner is blind.

(B) In making a determination of adoption where the petitioner is blind, the court may not deny the petition solely because the petitioner is blind. The blindness of the petitioner only must be used to determine whether or not granting the adoption would be in the best interest of the child.

Section 63-15-420. Within one year of the adoption of this act, the Department of Social Services shall promulgate regulations prohibiting a local department from removing a child from a home and placing the child in foster care solely because the child's parent or guardian is blind.

Section 63-15-430. For purposes of this act, the term 'blind' or 'blindness' means:

(A) vision that is 20/200 or less in the best corrected eye; or

(B) vision that subtends an angle of not greater than twenty degrees in the best corrected eye."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 194

(R218, S779)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-19-60 SO AS TO PROVIDE THAT CERTAIN SOCIAL TILES, CARDS, AND DICE GAMES ARE NOT UNLAWFUL UNDER CERTAIN CIRCUMSTANCES.

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

Gambling and lotteries, certain social games of tiles, cards, and dice not unlawful under certain circumstances

SECTION 1. Chapter 19, Title 16 of the 1976 Code is amended by adding:

"Section 16-19-60. Notwithstanding any other provision of law to the contrary, it is not unlawful for persons who are members of a club or other social organization to gather for the purpose of engaging in games of tiles, cards, or dice including, but not limited to, canasta, mahjong, and bridge, where the games are played among members in a private residence, home, or community clubhouse or similar structure; no mechanical or electronic devices or machines of any kind, slot machines, pull tabs, punch boards, pull boards, or video games, devices, or machines of any kind are used or incorporated in any way; no person or entity of any kind receives any direct or indirect economic, financial, or monetary benefit of any kind; the host of the game or owner or lessee of the location in which the games are played does not receive any direct or indirect economic, financial, or monetary benefit of any kind; there is no betting, wagering, or gambling of any kind; a bona fide social relationship among the participants exists; and, except for the advantage of skill or luck, the risks of losing or winning are the same for all parties."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 195

(R219, S812)

AN ACT TO AMEND SECTION 11-50-50, AS AMENDED, SECTIONS 11-50-60, 11-50-90, AND 11-50-160, CODE OF LAWS

OF SOUTH CAROLINA, 1976, ALL RELATING TO THE SOUTH CAROLINA RURAL INFRASTRUCTURE AUTHORITY, SO AS TO UPDATE THE LIST OF COUNTIES IN WHICH A BOARD MEMBER MAY RESIDE OR REPRESENT, TO REMOVE THE AUTHORITY FROM THE JURISDICTION OF THE ADMINISTRATIVE PROCEDURES ACT, AND TO NO LONGER REQUIRE THE AUTHORITY TO OBTAIN REVIEW AND APPROVAL OF THE JOINT BOND REVIEW COMMITTEE BEFORE PROVIDING FINANCIAL ASSISTANCE, BUT TO REQUIRE THE AUTHORITY TO SUBMIT AN ANNUAL REPORT TO THE JOINT BOND REVIEW COMMITTEE REGARDING LOANS AND OTHER FINANCIAL ASSISTANCE.

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

Board of directors, residency and representation

SECTION 1. Section 11-50-50(1) of the 1976 Code, as last amended by Act 149 of 2012, is further amended to read:

"(1) six members who reside in or represent all or some portion of the counties designated as distressed or least developed pursuant to Section 12-6-3360 for 2009 or a county designated as such at the time of appointment; one appointed by the President Pro Tempore of the Senate, one appointed by the Speaker of the House of Representatives, one appointed by the Chairman of the Senate Finance Committee, one appointed by the Chairman of the House Ways and Means Committee, and two appointed by the Governor. Notwithstanding the provisions of Section 8-13-770, the members appointed pursuant to this item (1) by the President Pro Tempore of the Senate, Speaker of the House of Representatives, Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee may be members of the General Assembly and, if so appointed, shall serve ex officio; and"

Administrative Procedures Act inapplicable

SECTION 2. Section 11-50-60 of the 1976 Code, as added by Act 171 of 2010, is amended to read:

"Section 11-50-60. In addition to the powers contained elsewhere in this chapter, the authority has all power necessary, useful, or appropriate to fund, operate, and administer the authority, and to perform its other functions including, but not limited to, the power to:

(1) have perpetual succession;

(2) adopt, promulgate, amend, and repeal bylaws, not inconsistent with provisions in this chapter for the administration of the authority's affairs and the implementation of its functions including the right of the board to select qualifying projects and to provide loans and other financial assistance;

(3) sue and be sued in its own name;

(4) have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of the authority;

(5) make loans to qualified borrowers to finance the eligible costs of qualified projects and to acquire, hold, and sell loan obligations at prices and in a manner as the board determines advisable;

(6) provide qualified borrowers with other financial assistance necessary to defray eligible costs of a qualified project;

(7) enter into contracts, arrangements, and agreements with qualified borrowers and other persons and execute and deliver all financing agreements and other instruments necessary or convenient to the exercise of the powers granted in this chapter;

(8) enter into agreements with eligible entities of this State for the purpose of planning and providing for the financing of qualified projects;

(9) establish policies and procedures for the making and administering of loans and other financial assistance, and establish fiscal controls and accounting procedures to ensure proper accounting and reporting by the authority and eligible entities;

(10) acquire by purchase, lease, donation, or other lawful means and sell, convey, pledge, lease, exchange, transfer, and dispose of all or any part of its properties and assets of every kind and character or any interest in it to further the public purpose of the authority;

(11) procure insurance, guarantees, letters of credit, and other forms of collateral or security or credit support from any public or private entity, including any department, agency, or instrumentality of this State, for the payment of any bonds issued by it, including the power to pay premiums or fees on any insurance, guarantees, letters of credit, and other forms of collateral or security or credit support;

(12) collect or authorize the trustee under any trust indenture securing any bonds to collect amounts due under any loan obligations owned by it, including taking the action required to obtain payment of any sums in default;

(13) unless restricted under any agreement with holders of bonds, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any loan obligations owned by it;

(14) borrow money through the issuance of bonds and other forms of indebtedness as provided in this chapter;

(15) expend funds to obtain accounting, management, legal, financial consulting, and other professional services necessary to the operations of the authority;

(16) expend funds credited to the authority as the board determines necessary for the costs of administering the operations of the authority;

(17) establish advisory committees as the board determines appropriate, which may include individuals from the private sector with banking and financial expertise;

(18) procure insurance against losses in connection with its property, assets, or activities including insurance against liability for its acts or the acts of its employees or agents or to establish cash reserves to enable it to act as a self-insurer against any and all such losses;

(19) collect fees and charges in connection with its loans or other financial assistance;

(20) apply for, receive and accept from any source, aid, grants, and contributions of money, property, labor, or other things of value to be used to carry out the purposes of this chapter subject to the conditions upon which the aid, grants, or contributions are made;

(21) enter into contracts or agreements for the servicing and processing of financial agreements; and

(22) do all other things necessary or convenient to exercise powers granted or reasonably implied by this chapter."

Loans without Joint Bond Review Committee approval

SECTION 3. Section 11-50-90(A) of the 1976 Code, as added by Act 171 of 2010, is amended to read:

"(A) The authority may provide loans and other financial assistance to an eligible entity to pay for all or part of the eligible cost of a qualified project. The term of the loan or other financial assistance

must not exceed the useful life of the project. The authority may require the eligible entity to enter into a financing agreement in connection with its loan obligation or other financial assistance. The authority shall determine the form and content of loan applications, financing agreements, and loan obligations including the term and rate or rates of interest on a financing agreement."

Annual loan report to Joint Bond Review Committee

SECTION 4. Section 11-50-160 of the 1976 Code, as added by Act 171 of 2010, is amended to read:

"Section 11-50-160. Following the close of each state fiscal year, the authority shall submit an annual report of its activities for the preceding year to the Governor and to the General Assembly. Also, the authority shall submit an annual report of any loans or other financial assistance, excluding grants, to the Joint Bond Review Committee. An independent certified public accountant shall perform an audit of the books and accounts of the authority at least once in each state fiscal year."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 196

(R220, S815)

AN ACT TO AMEND SECTION 7-3-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SELECTION AND DUTIES OF THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION, SO AS TO REQUIRE THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION TO SUPERVISE, REVIEW, AND AUDIT THE CONDUCT AND PERFORMANCE OF THE

COUNTY BOARDS OF VOTER REGISTRATION AND ELECTIONS; BY ADDING SECTION 7-3-25 SO AS TO PROVIDE REMEDIAL PROCEDURES WHEN THE STATE ELECTION COMMISSION DETERMINES THAT A COUNTY BOARD OF VOTER REGISTRATION AND ELECTIONS HAS FAILED TO COMPLY WITH APPLICABLE STATE OR FEDERAL LAW; TO AMEND SECTION 7-5-10, AS AMENDED, RELATING TO THE APPOINTMENT AND REMOVAL OF MEMBERS OF COUNTY BOARDS OF REGISTRATION, SO AS TO ESTABLISH COUNTY BOARDS OF VOTER REGISTRATION AND ELECTIONS AND TO PROVIDE FOR THEIR COMPOSITION, TERMS, AND DUTIES; TO AMEND SECTION 7-5-20, RELATING TO DEPUTY MEMBERS OF COUNTY BOARDS OF REGISTRATION, SO AS TO PROVIDE THAT COUNTY BOARDS OF VOTER REGISTRATION AND ELECTIONS MAY APPOINT DEPUTY MEMBERS; TO AMEND SECTION 7-5-30, RELATING TO THE DUTIES AND TERMS OF MEMBERS OF COUNTY BOARDS OF REGISTRATION, SO AS TO DELETE REFERENCES TO THE MEMBERS' TERMS; TO AMEND SECTION 7-11-30, AS AMENDED, RELATING TO PARTY CONVENTION NOMINATION OF CANDIDATES, SO AS TO PROVIDE THAT A PARTY MAY CHOOSE TO CHANGE FROM NOMINATION OF CANDIDATES BY PRIMARY TO A METHOD TO NOMINATE CANDIDATES BY CONVENTION AND TO CLARIFY THAT A POLITICAL PARTY THAT HAS NOMINATED CANDIDATES BY CONVENTION IN THE PREVIOUS ELECTION CYCLE IS NOT REQUIRED TO HOLD A PRIMARY IN ORDER TO CONTINUE USING THE CONVENTION METHOD TO NOMINATE CANDIDATES; TO REPEAL SECTION 7-5-35 RELATING TO COMBINED COUNTY ELECTION AND REGISTRATION COMMISSIONS, SECTION 7-13-70 RELATING TO THE APPOINTMENT, REMOVAL, AND TRAINING OF COUNTY ELECTION COMMISSIONERS, AND CHAPTER 27, TITLE 7 RELATING TO COUNTY BOARDS OF REGISTRATION AND ELECTION COMMISSIONS; AND TO AMEND SECTION 7-3-20, AS AMENDED, RELATING TO THE SELECTION AND DUTIES OF THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION, SO AS TO REQUIRE THE STATE ELECTION COMMISSION TO PUBLISH ON THE COMMISSION'S

WEBSITE CERTAIN CHANGES TO VOTING PROCEDURES ENACTED BY STATE OR LOCAL GOVERNMENTS.

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

Executive Director of State Election Commission

SECTION 1. Section 7-3-20(C) of the 1976 Code, as last amended by Act 265 of 2012, is further amended to read:

"(C) The executive director shall:

(1) supervise the conduct of county board of elections and voter registration, as established pursuant to Article 1, Chapter 5, which administer elections and voter registration in the State and ensure those boards' compliance with the requirements with applicable state or federal law or State Election Commission policies and procedures with regard to the conduct of elections or the voter registration process by all persons involved in the elections process;

(2) conduct reviews, audits, or other postelection analysis of county board of elections and voter registration, as established pursuant to Article 1, Chapter 5, to ensure those boards' compliance with the requirements with applicable state or federal law or State Election Commission policies and procedures with regard to the conduct of elections or the voter registration process by all persons involved in the elections process;

(3) maintain a complete master file of all qualified electors by county and by precincts;

(4) delete the name of any elector:

(a) who is deceased;

(b) who is no longer qualified to vote in the precinct where currently registered;

(c) who has been convicted of a disqualifying crime;

(d) who is otherwise no longer qualified to vote as may be provided by law; or

(e) who requests in writing that his name be removed;

(5) enter names on the master file as they are reported by the county registration boards;

(6) furnish each county registration board with a master list of all registered voters in the county, together with a copy of all registered voters in each precinct of the county, at least ten days prior to each election. The precinct copies shall be used as the official list of voters;

(7) maintain all information furnished his office relating to the inclusion or deletion of names from the master file for four years;

(8) purchase, lease, or contract for the use of such equipment as may be necessary to properly execute the duties of his office, subject to the approval of the State Election Commission;

(9) secure from the United States courts and federal and state agencies available information as to persons convicted of disqualifying crimes;

(10) obtain information from any other source which may assist him in carrying out the purposes of this section;

(11) perform such other duties relating to elections as may be assigned him by the State Election Commission;

(12) furnish at reasonable price any precinct lists to a qualified elector requesting them;

(13) serve as the chief state election official responsible for implementing and coordinating the state's responsibilities under the National Voter Registration Act of 1993;

(14) serve as the chief state election official responsible for implementing and enforcing the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), as set forth in the U.S.C., Title 42, Section 1973ff, et seq.; and

(15) establish and maintain a statewide voter registration database that shall be administered by the commission and made continuously available to each board of elections and to other agencies as authorized by law."

Noncompliant county boards of voter registration and elections

SECTION 2. Chapter 3, Title 7 of the 1976 Code is amended by adding:

"Section 7-3-25. (A) In the event that the State Election Commission, acting through its executive director, determines that a county board of elections and voter registration has failed to comply with applicable state or federal law or State Election Commission policies and procedures with regard to the conduct of the election or voter registration process, the State Election Commission, acting through its executive director or other designee, must supervise, pursuant to Section 7-3-20(C)(1), the county board to the extent necessary to:

(1) identify the failure to comply with state or federal law or State Election Commission policies and procedures;

(2) establish a plan to correct the failure; and

(3) implement the plan to correct the failure. The officials and employees of the State Election Commission and the county board must work together, in good faith, to remedy the failure of the county board to adhere to state or federal law. In the event of a difference of policy or opinion between a county election official or employee and the State Election Commission or its designee, pertaining to the manner in which particular functions must be performed, the policy or opinion of the State Election Commission shall control.

(B) If a county board of voter registration and elections does not or cannot determine and certify the results of an election or referendum for which it is responsible by the time set for certification by applicable law, the responsibility to determine and certify the results is devolved upon the State Election Commission.

(C) If the State Election Commission determines that an official or an employee of a county board of voter registration and elections has negligently failed to comply with applicable state or federal law or State Election Commission policies and procedures with regard to the election or voter registration process or fails to comply with or cooperate with the corrective plan established by the State Election Commission or its designee under the provisions of subsection (A), the commission may order the decertification of that official or employee and if decertified the commission shall require that official to participate in a retraining program approved by the commission prior to recertification. If the commission finds that the failure to comply with state or federal law or State Election Commission policies and procedures by an official is wilful, it shall recommend the termination of that official to the Governor or it shall recommend termination of a staff member to the director of the appropriate county board of voter registration and elections."

Appointment and removal of members of county boards of voter registration and elections

SECTION 3. Section 7-5-10 of the 1976 Code, as last amended by Act 100 of 2007, is further amended to read:

"Section 7-5-10. (A)(1) The Governor shall appoint, upon the recommendation of the legislative delegation of the counties, competent and discreet persons in each county, who are qualified electors of that county and who must be known as the 'Board of Voter Registration and Elections of _____ County'. The total number of

members on the board must not be less than five nor more than nine persons. At least one appointee on the board shall be a member of the majority political party represented in the General Assembly and at least one appointee shall be a member of the largest minority political party represented in the General Assembly.

(2) After their appointment, the board members must take and subscribe, before any officer authorized to administer oaths, the following oath of office prescribed by Section 26, Article III of the Constitution: 'I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected (or appointed), and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. So help me God.'

(3) The oath must be filed immediately in the office of the clerk of court of common pleas of the county in which the commissioners are appointed, or if there is no clerk of court, in the office of the Secretary of State.

(4) The Governor shall notify the State Election Commission in writing of the appointments. The members appointed are subject to removal by the Governor for incapacity, misconduct, or neglect of duty.

(B)(1) The Governor shall appoint the initial appointees within six months of the effective date of this section. Four of the initial appointees shall serve two-year terms, and the remaining initial appointees shall serve four-year terms. Upon expiration of the terms of those members initially appointed, the term of office for the members of the board is four years, and until their successors are appointed and qualify. Members may succeed themselves.

(2) A member must be present at a meeting in order to vote.

(3) If a member misses three consecutive meetings of the board, the chairman or his designee immediately shall notify the Governor who shall then remove the member from office.

(4) In case of a vacancy on the board, the vacancy must be filled in the same manner as an original appointment, as provided in this section, for the unexpired term.

(5) The board shall elect from among its members a chairman and such other officers as it may consider desirable. The board shall then notify the State Election Commission in writing of the name of the persons elected as chairman and officers of the board. Each officer shall be elected for a term of two years.

(6) The board must hire a director. The director is responsible for hiring and managing the staff. Staff positions are subject to the personnel system policies and procedures by which all county employees are regulated, except that the director serves at the pleasure of the board. A member of the board must not be hired or serve as a member of the staff while serving as a board member.

(7) Members of the board and its staff shall receive compensation as may be appropriated by the governing body of the county.

(C) The previous offices of county election commissions, voter registration boards, or combined boards are abolished. The powers and duties of the county election commissions, voter registration boards, or combined boards are devolved upon the board of voter registration and elections for each county created in subsection (A). Those members currently serving on the county election commissions, voter registration boards, or combined boards shall continue to serve in a combined governing capacity until at least five members of the successor board members established under this section are appointed and qualify.

(D)(1) Each member, and each staff person designated by the board, must complete, within eighteen months after a member's initial appointment or his reappointment following a break in service, or within eighteen months after a staff person's initial employment or reemployment following a break in service, a training and certification program conducted by the State Election Commission. When a member or staff person has successfully completed the training and certification program, the State Election Commission must issue the member or staff person a certification, whether or not the member or staff person applies for the certification.

(2) If a member does not fulfill the training and certification program as provided in this section, the Governor, upon notification, must remove that member from the board unless the Governor grants the member an extension to complete the training and certification program based upon exceptional circumstances.

(3) Following completion of the training and certification program required in item (1), each board member, and each staff person designated by the board or commission, must take at least one training course each year."

Deputy members of county boards of voter registration and elections

SECTION 4. Section 7-5-20 of the 1976 Code is amended to read:

"Section 7-5-20. The board of voter registration and elections of each county may appoint deputy members of the board, in numbers as may be necessary, whose terms shall be for a period of time as determined by the boards. The deputy members shall have the same powers and duties as regular members of the board. The clerk to each board may be made a deputy member of the board for the purpose of taking applications."

Duties of county boards of voter registration and elections

SECTION 5. Section 7-5-30 of the 1976 Code is amended to read:

"Section 7-5-30. Such boards shall register and conduct the registration of the electors who shall apply for registration in their respective counties as herein required. Their office shall be at the county seat, and they shall keep a record of all their official acts and proceedings. Provided, that nothing herein shall be construed as prohibiting the boards of registration from taking their registration books across adjoining county lines to register qualified electors of their respective county whose regular place of employment is in an adjoining county or who are otherwise unable to get to the county seat during office hours to register. One member of the board shall constitute a quorum for the purpose of registering or refusing to register applications for registration."

Convention nomination of candidates

SECTION 6. Section 7-11-30 of the 1976 Code, as last amended by Act 61 of 2013, is further amended to read:

"Section 7-11-30. (A) A party may choose to change from nomination of candidates by primary to a method to nominate candidates by convention for all offices including, but not limited to, Governor, Lieutenant Governor, United States Senator, United States House of Representatives, Circuit Solicitor, State Senator, and members of the State House of Representatives if:

(1) there is a three-fourths vote of the total membership of the convention to use the convention nomination process; and

(2) a majority of voters in that party's next primary election approve the use of the convention nomination process.

(B) A party may not choose to nominate by party convention for an election cycle in which the filing period for candidates has begun.

(C) A political party nominating candidates by party convention shall nominate the party candidates and make the nominations public not later than the time for certifying candidates to the authority charged by law with preparing ballots for the general or special election.

(D) Nothing in this section requires a political party that has nominated candidates by convention in the previous election cycle to hold a primary in order to continue using the convention method to nominate candidates."

Repeal

SECTION 7. Section 7-5-35, Section 7-13-70, and Chapter 27, Title 7 of the 1976 Code are repealed.

Code Commissioner directed to make conforming changes

SECTION 8. The code commissioner is directed to change all references in Title 7 to county election commissions or commissioners or county boards of voter registration to the "Board of Voter Registration and Elections of County" and board members as appropriate.

Severability

SECTION 9. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Publication of voting procedure changes

SECTION 10. Section 7-3-20(C) of the 1976 Code, as last amended by Act 265 of 2012, is further amended by adding an appropriately numbered item at the end to read:

"( ) The State Election Commission shall publish on the commission's website each change to voting procedures enacted by state or local governments. State and local governments shall file notice of all changes in voting procedures, including, but not limited to, changes to precincts with the State Election Commission within five days after adoption of the change or thirty-five days prior to the implementation, whichever is earlier. All voting procedure changes must remain on the commission's website at least through the date of the next general election. However, if changes are made within three months prior to the next general election, then the changes shall remain on the commission's website through the date of the following general election."

Time effective

SECTION 11. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 197

(R221, S826)

AN ACT TO AMEND SECTION 38-73-500, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RANDOM DRUG AND ALCOHOL TESTING PROCEDURES CONCERNING MERIT RATING FOR WORKERS' COMPENSATION INSURANCE, SO AS TO PROVIDE THAT A SINGLE SAMPLE MAY BE USED FOR THE FIRST AND SECOND TESTS IF A SECOND TEST IS ADMINISTERED.

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

Use of random drug and alcohol test samples

SECTION 1. Section 38-73-500(C) of the 1976 Code is amended to read:

"(C) The testing procedure established by the insurer, employer, or his designee, or, approved by the director, must include a provision for random sampling of all persons who receive wages and compensation in any form from the employer. If a second test is administered, the testing procedure may allow for a single sample to be split for use in the first and second tests. Positive test results must be provided in writing to the employee within twenty-four hours of the time the employer receives the test results. Each employer must keep records of each test for up to one year."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 198

(R247, H3134)

AN ACT TO AMEND SECTION 29-3-330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO METHODS BY WHICH CERTAIN PARTIES MAY CANCEL, DISCHARGE, OR SATISFY A MORTGAGE, SO AS TO DEFINE NECESSARY TERMS, TO EXPAND APPLICABILITY TO INCLUDE WRITTEN INSTRUMENTS SECURING THE PAYMENT OF MONEY AND BEING A LIEN UPON REAL PROPERTY, TO REVISE RELATED PROCEDURES AND FORMS, AND TO MAKE CONFORMING CHANGES.

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

Applicability expanded, definitions, conforming changes

SECTION 1. Section 29-3-330 of the 1976 Code, as last amended by Act 19 of 2011, is further amended to read:

"Section 29-3-330. (A) In this section these words shall have the following meaning:

(1) 'Mortgage' means a lien against real property that is granted to secure the payment of money; a deed of trust must be given the same meaning as a 'mortgage'.

(2) 'Register' means the official, including the register of deeds, register of mense conveyances or clerk of court charged with the recording and indexing duties in Chapter 5, Title 30.

(3) 'Release' means an instrument releasing all real property encumbered from the lien of the mortgage.

(4) 'Satisfaction' means a discharge signed by the mortgagee of record, the trustee of a deed of trust, or by an agent or officer, legal representative, or attorney-in-fact under a written instrument duly recorded, of either of the foregoing indicating that the property subject to the security instrument is released.

(5) 'Security instrument' means any mortgage, deed of trust, or other written instrument securing the payment of money and being a lien upon real property.

(B) A security instrument may be satisfied or released by any of the following methods:

(1) The mortgagee of record, the owner or holder of the mortgage, the trustee of a deed of trust, or the legal representative, agent or officer, or attorney-in-fact, under a written instrument duly recorded of any of the foregoing, may exhibit the security instrument to the register who has charge of the recording of the security instrument and then in the presence of the register write across the face of the record of the security instrument the words 'The debt secured is paid in full and the lien of this instrument is satisfied', 'The lien of this instrument has been released', or words of like meaning and date the notation and sign it. The signature must be witnessed by the register.

(2) The satisfaction or release of the security instrument may be written upon or attached to the original security instrument and executed by any person above named in the presence of two witnesses and acknowledged, in which event the satisfaction or release must be recorded across the face of the record of the original instrument.

(3) The mortgagee of record, the trustee of a deed of trust, or an agent or officer, legal representative, or attorney-in-fact, under a written instrument duly recorded, of either of the foregoing, may execute a satisfaction or release of a mortgage or deed of trust. Any person executing such satisfaction or release which is false is guilty of perjury and subject to Section 16-9-10 and must be liable for damages that any person may sustain as a result of the false affidavit, including reasonable attorney's fees incurred in connection with the recovery of such damages. This satisfaction or release must be signed in the presence of two witnesses, acknowledged, and must be in substantially the same form as follows:

'STATE OF SOUTH CAROLINA MORTGAGE/DEED OF TRUST SATISFACTION

PURSUANT TO SECTION 29-3-330(B)(3) OF THE SOUTH CAROLINA CODE OF LAWS, 1976

The undersigned being the mortgagee of record, the trustee of a deed of trust, or the legal representative, agent or officer, or attorney-in-fact of the mortgagee of record or the trustee of the trust, under a written agreement duly recorded, of either of the foregoing, certifies:

The debt secured by the mortgage/deed of trust recorded in the office of the Clerk of Court or Register of Deeds of _____ County in book _____ at page _____ is:

[ ] paid in full and the lien or the foregoing instrument has been released; or

[ ] the lien of the foregoing instrument has been released.

The Clerk of Court or Register of Deeds may enter this cancellation into record.

Under penalties of perjury, I declare that I have examined this affidavit this ___day of _____ and, to the best of my knowledge and belief, it is true, correct, and complete.

WITNESS my/our hand this ___ day of ____, 20 ___.

_____
(Signature)

_____
(Witness Signature)

_____
(Witness Signature)

State of _____

County of _____

This instrument was acknowledged before me this (date) by (name of officer/authorized signer, title of officer/authorized signer), of (name

of corporation/entity acknowledging), a (type of entity and state or place of incorporation/formation), on behalf of the corporation/entity.

Signature of Notary _____

Notary Public, State of _____

Printed Name of Notary _____

My Commission Expires: _____'

This notary acknowledgment form does not preclude the use of any other form of acknowledgment permitted by South Carolina law. The filing of this satisfaction shall satisfy or release the lien of the mortgage or deed of trust. Upon presentation, the register shall record this satisfaction or release pursuant to Section 29-3-330(B)(3) and mark the mortgage or deed of trust satisfied or released of record.

(4) If the security instrument was recorded in counterparts, the original security instrument need not be presented and the satisfaction or release of it may be evidenced by an instrument of satisfaction or release, which may be executed in counterparts, by the mortgagee, the holder of the mortgage, the legal representative, agent or officer, or the attorney-in-fact under a written instrument duly recorded. Upon presentation of the instrument of satisfaction or release, or a counterpart of it, the register shall record the same.

(5) Any licensed attorney admitted to practice in the State of South Carolina who can provide proof of payment of funds by evidence of payment made payable to the mortgagee, holder of record, servicer, or other party entitled to receive payment may record, or cause to be recorded, an affidavit, in writing, duly executed in the presence of two witnesses and acknowledged pursuant to the Uniform Recognition of Acknowledgments Act in Chapter 3, Title 26, which states that full payment of the balance or payoff amount of the security instrument has been made and that evidence of payment from the mortgagee, assignee, or servicer exists. This affidavit, duly recorded in the appropriate county, shall serve as notice of satisfaction of the mortgage and release of the lien upon the real property. The filing of the affidavit must be sufficient to satisfy or release the lien. Upon presentation of the instrument of satisfaction or release, the register must record the same. This section may not be construed to require an attorney to record an affidavit pursuant to this item or to create liability for failure to file such affidavit. The licensed attorney signing any such instrument which is false is guilty of perjury and subject to Section 16-9-10 and shall be liable for damages that any person may sustain as a result of the false affidavit, including reasonable attorney's fees incurred in connection with the recovery of such damages. The affidavit referred to in this item shall be as follows:

'STATE OF SOUTH CAROLINA MORTGAGE LIEN
COUNTY OF _____ SATISFACTION AFFIDAVIT
PURSUANT TO SECTION 29-3-330
OF SC CODE OF LAWS, 1976
FOR BOOK ____ PAGE _____

The undersigned on oath, being first duly sworn, hereby certifies as follows:

1. The undersigned is a licensed attorney admitted to practice in the State of South Carolina.

2. That with respect to the mortgage or deed of trust given by _____ to _____ dated _____ and recorded in the offices of the Clerk of Court or Register of Deeds in book _____ at page _____:

a. [ ]That the undersigned was given written payoff information and made such payoff and is in possession of a canceled check or other evidence of payment to the mortgagee, holder of record, or representative servicer.

b. [ ] That the undersigned was given written payoff information and made such payoff by wire transfer or other electronic means to the mortgagee, holder of record, or representative servicer and has confirmation from the undersigned's bank of the transfer to the account provided by the mortgagee, holder of record, or representative servicer.

Under penalties of perjury, I declare that I have examined this affidavit this ___ day of ____ and, to the best of my knowledge and belief, it is true, correct, and complete.

_____
(Witness) (Signature)

_____
(Witness) (Name--Please Print)

_____
_____(Attorney's S.C. Bar number)

STATE OF SOUTH CAROLINA ACKNOWLEDGEMENT
COUNTY OF _____

The foregoing instrument was acknowledged before me this ___ day of _____ by _____.

_____
Notary Public for South Carolina
My Commission Expires: _____'

Upon presentation to the office of the Register of Deeds, the register is directed to record pursuant to Section 29-3-330(B)(3) and mark the mortgage or deed of trust satisfied or released of record."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 199

(R251, H3626)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 61-4-515 SO AS TO PROVIDE THAT THE OWNER OF A "MOTORSPORTS ENTERTAINMENT COMPLEX" OR A "TENNIS SPECIFIC COMPLEX" LOCATED IN THIS STATE OR HIS DESIGNEE MAY APPLY FOR AND BE ISSUED A BIENNIAL LICENSE WHICH AUTHORIZES THE PURCHASE, SALE, AND CONSUMPTION OF BEER AND WINE AT ANY OCCASION HELD ON THE GROUNDS OF THE COMPLEX YEAR ROUND ON ANY DAY OF THE WEEK, TO PROVIDE FOR THE TERMS AND CONDITIONS FOR THIS BIENNIAL LICENSE, INCLUDING THE FEE, AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE ADMINISTRATION OF AND QUALIFICATIONS FOR THIS LICENSE AND APPLICABLE ALCOHOLIC BEVERAGE CONTROL LAWS IN CONNECTION WITH THE USE OF THIS LICENSE; AND BY ADDING SECTION 61-6-2016 SO AS TO PROVIDE THAT THE OWNER OF A "MOTORSPORTS ENTERTAINMENT COMPLEX" OR A "TENNIS SPECIFIC COMPLEX", OR HIS DESIGNEE, ALSO MAY BE ISSUED, UPON APPLICATION, AN ANNUAL LICENSE THAT AUTHORIZES THE PURCHASE, SALE, AND CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK AT ANY OCCASION HELD ON THE GROUNDS OF THE COMPLEX UNDER THE SAME SPECIFIED TERMS AND CONDITIONS AS PROVIDED FOR BEER AND WINE PERMITS.

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

Beer and wine permit for on-premises consumption authorized

SECTION 1. Article 5, Chapter 4, Title 61 of the 1976 Code is amended by adding:

"Section 61-4-515. (A) In addition to the permits authorized pursuant to the provisions of this article, the department also may issue a biennial permit to the owner, or his designee, of a motorsports entertainment complex or tennis specific complex located in this State, which authorizes the purchase and sale for on-premises consumption of beer and wine at any occasion held on the grounds of the complex year round on any day of the week. The nonrefundable filing fee and the fees for the motorsports or tennis complex biennial permit are the same as for other biennial permits for on-premises consumption of beer and wine, with the revenue therefrom used for the purposes provided in Section 61-4-510. Notwithstanding another provision of this article, the issuance of this permit authorizes the permit holder to purchase beer and wine from licensed wholesalers in the same manner that a person with appropriate licenses issued pursuant to this title purchases beer and wine from licensed wholesalers. The department in its discretion may specify the terms and conditions of the permit, pursuant to the provisions of Chapter 4, Title 61, and other applicable provisions under Title 61.

(B) The department may require such proof of qualifications for the issuance of these permits as it considers necessary, pursuant to the provisions of Chapter 4, Title 61, and these permits may be issued whether or not the motorsports entertainment complex or tennis specific complex is located in a county or municipality which pursuant to Section 61-6-2010 successfully has held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty-four hours.

(C) The owner or designee of the motorsports entertainment complex or the tennis specific complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume beer and wine provided at their own expense or at the expense of the sponsor of the private function.

(D) For purposes of this section:

(1) 'Motorsports entertainment complex' has the same meaning as provided in Section 12-21-2425.

(2) 'Tennis specific complex' means a tennis facility, and its ancillary grounds and facilities, which satisfies all of the following:

(a) has at least ten thousand fixed seats for tennis patrons;

(b) hosted one Women's Tennis Association Premier tournament in 2013 and continues to host at least one Women's Tennis Association Premier tournament in each year, or any successor Women's Tennis Association tournament; and

(c) engages in tourism promotion."

Alcoholic liquor license for on-premises consumption authorized

SECTION 2. Subarticle 5, Article 5, Chapter 6, Title 61 of the 1976 Code is amended by adding:

"Section 61-6-2016. (A) In addition to the other provisions of this chapter, the owner, or his designee, of a motorsports entertainment complex or tennis specific complex that is located in this State may be issued, upon application, a biennial license that authorizes the purchase and sale for on-premises consumption of alcoholic liquors by the drink at any occasion held on the grounds of the complex under the same terms and conditions provided in Section 61-4-515, and the nonrefundable filing fee and license fee are the same as for other biennial licenses issued by the department for on-premises consumption of alcoholic liquors by the drink. In the event that the owner or his designee applies for both a permit to purchase and sell for on-premises consumption beer and wine and a license to purchase and sell for on-premises consumption alcoholic liquors by the drink, only one fee is required, which is the same as the fee for the fifty-two week local option permit under Section 61-6-2010 with the revenue therefrom used for the same purposes as provided in Section 61-6-2010.

(B) The department may require such proof of qualifications for the issuance of these licenses as it considers necessary, pursuant to the provisions of Chapter 6, Title 61, and these licenses may be issued whether or not the motorsports entertainment complex or tennis specific complex is located in a county or municipality, which pursuant to Section 61-6-2010 has successfully held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty-four hours.

(C) The owner or designee of the motorsports entertainment complex or the tennis specific complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume alcoholic liquors by the drink provided at their own expense or at the expense of the sponsor of the private function.

(D) For purposes of this section:

(1) 'Motorsports entertainment complex' has the same meaning as provided in Section 12-21-2425.

(2) 'Tennis specific complex' means a tennis facility, and its ancillary grounds and facilities, that satisfies all of the following:

(a) has at least ten thousand fixed seats for tennis patrons;

(b) hosted one Women's Tennis Association Premier tournament in 2013 and continues to host at least one Women's Tennis Association Premier tournament in each year, or any successor Women's Tennis Association tournament; and

(c) engages in tourism promotion."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 200

(R252, H3893)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-1-490 SO AS TO CREATE THE SOUTH CAROLINA DEPARTMENT OF EDUCATION USE AND GOVERNANCE POLICY; BY ADDING SECTION 59-18-355 SO AS TO PROVIDE STATE CONTENT STANDARDS MAY NOT BE REVISED, ADOPTED, OR IMPLEMENTED WITHOUT APPROVAL BY THE EDUCATION OVERSIGHT COMMITTEE AND THE GENERAL ASSEMBLY, AND TO PROVIDE EXCEPTIONS

AND REQUIRE NOTIFICATION BE GIVEN TO THE GOVERNOR; TO AMEND SECTION 59-18-325, RELATING TO ASSESSMENTS REQUIRED OF HIGH SCHOOL STUDENTS, SO AS TO REQUIRE PROCUREMENT OF A SUMMATIVE ASSESSMENT, TO REQUIRE THE SUMMATIVE ASSESSMENT OF CERTAIN GRADE LEVELS, TO SPECIFY CONTENT AND OTHER REQUIREMENTS, TO REQUIRE PROCUREMENT OF A COLLEGE AND CAREER READINESS ASSESSMENT, TO REQUIRE THE ASSESSMENT OF CERTAIN STUDENTS, TO PROVIDE FOR A SPECIAL ASSESSMENT PANEL AND FOR ITS COMPOSITION AND FUNCTIONS; TO AMEND SECTION 59-18-350, AS AMENDED, RELATING TO CYCLICAL REVIEW BY ACADEMIC AREAS OF STATE STANDARDS AND ASSESSMENTS, SO AS TO MAKE A CONFORMING CHANGE AND MANDATE A SPECIFIC REVIEW; AND TO PROVIDE THAT ON THE EFFECTIVE DATE OF THIS ACT, SOUTH CAROLINA WILL NO LONGER BE A GOVERNING OR ADVISORY STATE IN THE SMARTER BALANCE CONSORTIUM AND MAY NOT ADOPT OR ADMINISTER THE SMARTER BALANCE ASSESSMENT.

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

Data Use and Governance Policy

SECTION 1. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

"Section 59-1-490. (A) The provisions of this section must be known and may be cited as the 'South Carolina Department of Education Data Use and Governance Policy'.

(B) The policy of the State Department of Education with respect to use and governance of student data is to ensure that all data collected, managed, stored, transmitted, used, reported, and destroyed by the department is done so in a way to preserve and protect individual and collective privacy rights and ensure confidentiality and security of collected data. In developing this policy, the State strives to:

(1) maintain compliance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g, at a minimum; and

(2) be mindful that the appropriate use of data is essential to accelerating student learning, program and financial effectiveness and efficiency, and policy development.

(C) The State Department of Education shall not collect individual student data directly from students or families, except as required to meet its obligations under the Individuals with Disabilities Education Act. Each student is assigned a unique student identifier upon enrollment into the student management system to ensure compliance with the privacy rights of the student and his parents or guardians. No personally identifiable individual student data may be shared in federally required reporting.

(D) All data elements collected and transferred from the South Carolina State Department of Education to the United States Department of Education must be based on the reporting requirements contained in EDFacts as provided by the United States Department of Education, or other federal laws and regulations, and only may include aggregated data with no personally identifiable data.

(E) Data collected by the State Department of Education must be maintained within a secure infrastructure environment. Access to this data must be limited to preidentified staff who are granted clearance related to their job responsibilities of federal reporting, state financial management, program assessment, and policy development. Training in data security and student privacy laws must be provided to these specific individuals on a regular basis in order to maintain their data use clearance along with a signed Data Use Policy assurance of confidentiality and privacy.

(F) The State Department of Education shall maintain a managed external data request procedure managed through a Data Governance Committee. Each external data request is measured against a predetermined set of qualifiers that includes, but must not be limited to, applicability to the goals of the State Board of Education, data availability, report format ability, cost of report development, and adherence to FERPA requirements.

(G) Each school district in this State shall adopt, maintain, and comply with a locally adopted student records governance and use policy. These policies and their implementation shall be monitored by the State Department of Education in a manner prescribed by the department through policy."

Content standards revisions, approval by Education Oversight Committee and General Assembly required

SECTION 2. Article 3, Chapter 18, Title 59 of the 1976 Code is amended by adding:

"Section 59-18-355. (A)(1) A revision to a state content standard recommended pursuant to Section 59-18-350(A), as well as a new standard or a change in a current standard that the State Board of Education otherwise considers for approval as an accountability measure, may not be adopted and implemented without the:

(a) advice and consent of the Education Oversight Committee; and

(b) approval by a Joint Resolution of the General Assembly.

(2) General Assembly approval required by item (1)(b) does not apply to a revision recommended pursuant to Section 59-18-350(A), other approval of a new standard, and other changes to an old standard if the revision, new standard, or changed standard is developed by the State Department of Education.

(B) A revision to an assessment recommended pursuant to Section 59-18-350(A), as well as a new assessment or a change in a current assessment that the State Board of Education otherwise considers for approval as an accountability measure, may not be adopted and implemented without the advice and consent of the Education Oversight Committee.

(C) Upon initiating a change to an existing standard, including a cyclical review, the Education Oversight Committee and the Department of Education shall provide notice of their plans and intent to the General Assembly and the Governor.

(D) Nothing in this section may be interpreted to prevent the Department of Education, Board of Education, and Education Oversight Committee from considering best practices in education standards and assessments while developing its own standards and assessments."

Readiness assessments, conforming changes

SECTION 3. Section 59-18-325 of the 1976 Code, as added by Act 155 of 2014, is amended by adding an appropriately lettered subsection at the end to read:

"(C)(1) To maintain a comprehensive and cohesive assessment system that signals a student's preparedness for the next educational level and ultimately culminates in a clear indication of a student's preparedness for postsecondary success in a college or career and to satisfy federal and state accountability purposes, the Executive Director of the State Budget and Control Board, with the advice and consent of the special assessment panel, shall direct the procurement of a summative assessment system for the 2014-2015 school year, and subsequent years as provided in item (3). The procurement must be completed before September 30, 2014. The summative assessment must be administered to all students in grades three through eight, and if funds are available, administered to students in grades nine and ten. The summative assessment must assess students in English/language arts and mathematics, including those students as required by the federal Individuals with Disabilities Education Act and by Title I of the Elementary and Secondary Education Act. For purposes of this subsection, 'English/language arts' includes English, reading, and writing skills as required by existing state standards. The assessment must be a rigorous, achievement assessment that measures student mastery of the state standards, that provides timely reporting of results to educators, parents, and students, and that measures each student's progress toward college and career readiness. Therefore, the assessment or assessments must meet all of the following minimum requirements:

(a) compares performance of students in South Carolina to other students' performance on comparable standards in other states with the ability to link the scales of the South Carolina assessment to the scales from other assessments measuring those comparable standards;

(b) be a vertically scaled, benchmarked, standards-based system of summative assessments;

(c) measures a student's preparedness for the next level of their educational matriculation and individual student performance against the state standards in English/language arts, reading, writing, and mathematics and student growth;

(d) documents student progress toward national college and career readiness benchmarks derived from empirical research and state standards;

(e) establishes at least four student achievement levels;

(f) includes various test questions including, but not limited to, multiple choice, constructed response, and selected response, that require students to demonstrate their understanding of the content;

(g) be administered to students in a paper-based format in 2014-2015, in either a paper-based form or computer-based format in 2015-2016, and to all students in a computer-based format by school year 2016-2017; and

(h) assists school districts and schools in aligning assessment, curriculum, and instruction.

(2) Additionally, the Executive Director of the State Budget and Control Board, with the advice and consent of the special assessment panel, also must direct the procurement of a college and career readiness assessment that meets the requirements of subsection (A). The procurement must be completed before September 30, 2014. In addition to WorkKeys, the assessment must be administered to all students entering the eleventh grade for the first time in the 2014-2015 school year.

(3) In school years 2014-2015, 2015-2016, and 2016-2017, the department must administer the assessments procured by the State Budget and Control Board in English/language arts and mathematics in grades three through eight, and if funds are available, in grades nine and ten. The department also must administer the state-developed and adopted assessments in science and social studies to all students in grades four through eight, and the college readiness assessment and WorkKeys assessment to all students in grade eleven. If the Education Oversight Committee approves of the assessments pursuant to Section 59-18-320 after the 2016-2017 assessment, the assessments also may be administered in 2017-2018 and 2018-2019. Formative assessments must continue to be adopted, selected, and administered pursuant to Section 59-18-310.

(4)(a) The special assessment panel must be composed of the following individuals or their designee:

(i) the Chairman of the State Board of Education;

(ii) the Chairman of the Education Oversight Committee;

(iii) the Chairman of the Board of Directors for the South Carolina Chamber of Commerce;

(iv) the Chairman of the South Carolina Commission on Higher Education;

(v) the Chairman of the South Carolina Technical College System Board; and

(vi) the State Superintendent of Education.

(b) A panel member who is authorized to designate a person to serve on the board in his stead only may make the designation if he intends for the designee to serve continuously instead of intermittently with himself or another designee.

(c) The assessment panel must receive input from educators, parents, higher education officials, and business and community leaders on the components of a comprehensive and cohesive assessment system. The assessment panel must convene within two weeks of the effective date of this act, at the request of the Executive Director of the State Budget and Control Board. The panel must complete its duties in a timely manner which enables the Executive Director of the State Budget and Control Board to procure the assessments by September 30, 2014. Upon the procurement of a summative assessment system, the special assessment panel is dissolved.

(5)(a) The cost of procuring the assessments pursuant to items (1) and (2), and any costs associated with the performance of the special assessment panel's duties must be borne by the Department of Education.

(b) Staff support to the Executive Director of the State Budget and Control Board and the special assessment panel must be provided by the Department of Education, Division of Accountability, Office of Assessment. In addition, if requested by the Executive Director of the State Budget and Control Board or the special assessment panel, the Department of Education, the Education Oversight Committee, the State Board for Technical and Comprehensive Education, and the Commission on Higher Education, must provide assistance to implement the provisions of this subsection.

(6) Within thirty days after providing student performance data to the school districts as required by law, the department must provide to the Education Oversight Committee student performance results on assessments authorized in this subsection and end-of-course assessments in a format agreed upon by the department and the Oversight Committee. The Education Oversight Committee must use the results of these assessments in school years 2014-2015 and 2015-2016 to report on student academic performance in each school and district pursuant to Section 59-18-900. The committee may not determine state ratings for schools or districts, pursuant to Section 59-18-900, using the results of the assessments required by this subsection until after the conclusion of the 2015-2016 school year; provided, however, state ratings must be determined by the results of these assessments beginning in the 2016-2017 school year. The Oversight Committee also must develop and recommend a single accountability system that meets federal and state accountability requirements by the Fall of 2016.

(7) The Department of Education must submit a plan for approval and implementation to the Board of Education to mitigate the impact that changes in assessments are projected to have on teacher evaluation systems. If such an impact can be reasonably mitigated by delaying evaluations, the department shall seek a waiver if necessary for federal approval.

(8) When standards are subsequently revised, the Department of Education, the State Board of Education, and the Education Oversight Committee shall approve assessments pursuant to Section 59-18-320."

Cyclical review of standards and assessments

SECTION 4. Section 59-18-350 of the 1976 Code, as last amended by Act 282 of 2008, is further amended to read:

"Section 59-18-350. (A) The State Board of Education, in consultation with the Education Oversight Committee, shall provide for a cyclical review by academic area of the state standards and assessments to ensure that the standards and assessments are maintaining high expectations for learning and teaching. At a minimum, each academic area should be reviewed and updated every seven years. After each academic area is reviewed, a report on the recommended revisions must be presented to the Education Oversight Committee and the State Board of Education for consideration. The previous content standards shall remain in effect until the recommended revisions are adopted pursuant to Section 59-18-355. As a part of the review, a task force of parents, business and industry persons, community leaders, and educators, to include special education teachers, shall examine the standards and assessment system to determine rigor and relevancy.

(B) For the purpose of developing new college and career readiness English/language arts and mathematics state content standards, a cyclical review must be performed pursuant to subsection (A) for English/language arts and mathematics state content standards not developed by the South Carolina Department of Education. The review must begin on or before January 1, 2015, and the new college and career readiness state content standards must be implemented for the 2015-2016 school year.

(C) The State Department of Education annually shall convene a team of curriculum experts to analyze the results of the assessments, including performance item by item. This analysis must yield a plan for disseminating additional information about the assessment results and

instruction and the information must be disseminated to districts not later than January fifteenth of the subsequent year."

Smarter Balance, withdrawal from consortium, prohibition of assessment

SECTION 5. On the effective date of this act, South Carolina will no longer be a governing or advisory state in the Smarter Balanced Assessment Consortium. Furthermore, South Carolina may not adopt or administer the Smarter Balanced Assessment.

Ratified the 29th day of May, 2014.

Approved the 30th day of May, 2014.

No. 201

(R253, H3904)

AN ACT TO AMEND SECTION 56-3-2340, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEPARTMENT OF MOTOR VEHICLES ALLOWING LICENSED MOTOR VEHICLE DEALERS TO ISSUE FIRST TIME MOTOR VEHICLE REGISTRATION AND LICENSE TAGS DIRECTLY FROM THEIR DEALERSHIPS, SO AS TO MAKE A TECHNICAL CHANGE, TO PROVIDE THAT THE DEPARTMENT MAY CERTIFY THIRD-PARTY PROVIDERS TO PROCESS TITLES, LICENSE PLATES, TEMPORARY LICENSE PLATES, AND VEHICLE REGISTRATION TRANSACTIONS ON BEHALF OF THE DEPARTMENT, TO PROVIDE THAT THE DEPARTMENT AND THIRD-PARTY PROVIDERS MAY COLLECT TRANSACTION FEES FROM ENTITIES WHO TRANSMIT OR RETRIEVE CERTAIN DATA FROM THE DEPARTMENT; AND TO AMEND SECTION 56-19-265, AS AMENDED, RELATING TO LIENS RECORDED AGAINST MOTOR VEHICLES AND MOBILE HOMES BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT LIEN RECORDINGS MAY BE ELECTRONICALLY TRANSMITTED TO THE DEPARTMENT, TO PROVIDE THAT THE OWNERS

OF MOTOR VEHICLES OR MOBILE HOMES MAY RETAIN THE ELECTRONIC COPY OF THE VEHICLE'S TITLE WITH THE DEPARTMENT ONCE ALL LIENS ARE SATISFIED, TO PROVIDE THAT THE DEPARTMENT MAY CONVENE A WORKING GROUP TO DEVELOP PROGRAM SPECIFICATIONS RELATING TO GOVERNING THE TRANSMISSION OF ELECTRONIC LIEN INFORMATION, AND TO SUBSTITUTE THE TERM "STATE TREASURER" FOR THE TERM "COMPTROLLER GENERAL".

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

Issuance of first time motor vehicle registrations and license plates

SECTION 1. Section 56-3-2340 of the 1976 Code is amended to read:

"Section 56-3-2340. (A) The Department of Motor Vehicles or its designated agent may allow licensed motor vehicle dealers to issue first time motor vehicle registrations and license plates directly from the dealership. A dealership shall apply to the department upon forms approved and provided by the department. The department may request information necessary to ensure the integrity of the current licensing system. The department may allow or refuse a dealership the right to issue motor vehicle registrations or license plates based upon criteria established by the department. If a dealership previously is denied the privilege to issue registrations and license plates, upon meeting the established criteria, the dealership may be allowed to issue registrations or license plates. If in the opinion of the department a bond is necessary to ensure the payment of fees associated with the registering and licensing of a vehicle, the department may require a bond not to exceed the estimated value of new license plates and validation stickers held by the dealership or the department's designated agent.

(B) The department may certify third-party providers to process titles, temporary license plates as provided in Section 56-3-210, license plates, and vehicle registration transactions on behalf of the department. The department shall develop program standards and specifications that would be required for certification. Third parties requesting certification must agree to the program terms, conditions, standards, and specifications in order to participate.

(C) The department is authorized to collect a transaction fee from entities who either transmit or retrieve data from the department

pursuant to this section. The fee must not exceed the fee authorized in Section 56-19-265(B) for each transaction. These fees must be placed by the State Treasurer into a special restricted account to be used by the department to pay for the development and maintenance of the program."

Liens recorded against motor vehicles and mobile homes

SECTION 2. Section 56-19-265 of the 1976 Code, as last amended by Act 290 of 2008, is further amended to read:

"Section 56-19-265. (A) Notwithstanding a requirement in this chapter that a lien on a motor vehicle or mobile home must be noted on the face of the certificate of title, if there are one or more liens or encumbrances on the motor vehicle or mobile home, the Department of Motor Vehicles shall transmit, electronically or by paper certificate, the lien to the first lienholder and notify the first lienholder of additional liens. Lien recordings and subsequent lien satisfactions may be electronically transmitted to the department and shall include the name and address of the person satisfying the lien. Electronic transmission of liens and lien satisfaction does not require a certificate of title until the last lien is satisfied and a clear certificate of title is issued to the owner of the motor vehicle or mobile home. The owner has the option to retain the electronic copy of the title with the department once all liens are satisfied. When a motor vehicle or mobile home is subject to an electronic lien, the certificate of title for the motor vehicle or mobile home is considered to be physically held by the lienholder for purposes of compliance with state or federal odometer disclosure requirements, and a duly certified copy of the department's electronic record of the lien is admissible in any civil, criminal, or administrative proceeding in this State as evidence of the existence of the lien. The lienholder shall have the option to receive a paper certificate of title and to receive notices of subsequent liens and satisfaction of liens by the United States Postal Service.

(B) The department is authorized to convene a working group chaired by the director of the department or his designee for the purpose of assisting in the development of program specifications governing the transmission of electronic lien information between lienholders and the department, and maximize the use of the program by various lien stakeholders. The working group will be composed of members of the lienholder community, representing applicable industries. The director is authorized to appoint members of the

working group to ensure that all stakeholders are represented. The working group will be a standing group convened on a regular basis until all specifications have been developed. The department also is charged with promulgating regulations pursuant to the specifications and standards for lien recording and releasing developed by the working group.

(C) All entities submitting lien information electronically under this program are required to comply with all regulations.

(D) The department is authorized to collect a transaction fee from commercial entities who either transmit or retrieve data from the department pursuant to this section. The fee must not exceed five dollars for each transaction and must be agreed to as part of the program specifications developed by the working group. These fees must be placed by the State Treasurer into a special restricted account to be used by the department to defray the expenses of this program.

(E) Commercial entities and lenders who either transmit or retrieve data from the department pursuant to this section, notwithstanding Sections 37-2-202 and 37-3-202, may collect transaction fees from owners of the vehicles or mobile homes not to exceed a fee of five dollars for each transaction which must be agreed to as part of the program specifications developed by the working group."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 202

(R255, H4383)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 136 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MAY ISSUE "SOUTH CAROLINA STANDS WITH ISRAEL" SPECIAL LICENSE PLATES.

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

Special license plate

SECTION 1. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 136

South Carolina Stands with Israel Special License Plates

Section 56-3-13610. (A) The Department of Motor Vehicles may issue 'South Carolina Stands with Israel' special motor vehicle license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The requirements for production, collection, and distribution of fees for this license plate are those set forth in Section 56-3-8100. Any portion of the fees collected pursuant to this article, not set aside by the Comptroller General to defray the expenses associated with producing and administering the distribution of the license plate, must be distributed to Chabad of Charleston, Inc."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 203

(R256, H4408)

AN ACT TO AMEND SECTION 63-11-1930, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE

CHILD FATALITY ADVISORY COMMITTEE, SO AS TO ADD THREE MEMBERS TO THE COMMITTEE, TO CHANGE QUORUM REQUIREMENTS, AND TO MAKE TECHNICAL CORRECTIONS.

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

Child Fatality Advisory Committee revisions

SECTION 1. Section 63-11-1930 of the 1976 Code is amended to read:

"Section 63-11-1930. (A) There is created a State Child Fatality Advisory Committee composed of:

(1) the Director of the South Carolina Department of Social Services;

(2) the Director of the South Carolina Department of Health and Environmental Control;

(3) the State Superintendent of Education;

(4) the Executive Director of the South Carolina Criminal Justice Academy;

(5) the Chief of the State Law Enforcement Division;

(6) the Director of the Department of Alcohol and Other Drug Abuse Services;

(7) the Director of the State Department of Mental Health;

(8) the Director of the Department of Disabilities and Special Needs;

(9) the Director of the Department of Juvenile Justice;

(10) the Chief Executive Officer of the Children's Trust of South Carolina;

(11) one senator to be appointed by the President Pro Tempore of the Senate;

(12) one representative to be appointed by the Speaker of the House of Representatives;

(13) an attorney with experience in prosecuting crimes against children;

(14) a county coroner or medical examiner;

(15) a board certified or eligible for board certification child abuse pediatrician, appointed from recommendations submitted by the State Chapter of the American Academy of Pediatrics;

(16) a solicitor;

(17) a forensic pathologist; and

(18) two members of the public at large, one of whom shall represent a private nonprofit organization that advocates children services.

(B) Those members in items (1)-(12) shall serve ex officio and may appoint a designee to serve in their place from their particular departments or agencies who have administrative or program responsibilities for children and family services. The Governor shall appoint the remaining members, including the coroner or medical examiner and solicitor who shall serve ex officio for terms of four years and until their successors are appointed and qualify.

(C) The committee shall elect a chairman and vice chairman by a majority vote of the membership, each for a term of two years.

(D) The committee shall hold meetings at least quarterly. A majority of the committee, excluding the committee members in subsection (A)(11) and (12) or their designees, constitutes a quorum.

(E) Each ex officio member shall provide sufficient staff and administrative support to carry out the responsibilities of this article."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 204

(R257, H4527)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-195 SO AS TO ESTABLISH "A DAY OF RECOGNITION FOR VETERANS' SPOUSES AND FAMILIES" ON THE DAY AFTER THANKSGIVING DAY EACH YEAR.

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

A Day of Recognition for Veterans' Spouses and Families

SECTION 1. Chapter 3, Title 53 of the 1976 Code is amended by adding:

"Section 53-3-195. In gratitude and acknowledgment of the many and varied contributions of the spouses and families of this country's veterans and their sacrifices for the benefit of the freedom we so richly enjoy, the Friday after Thanksgiving Day each year is designated as 'A Day of Recognition for Veterans' Spouses and Families' in South Carolina."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 205

(R258, H4551)

AN ACT TO AMEND SECTION 50-5-1705, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CATCH LIMITS FOR CERTAIN SPECIES OF FISH, SO AS TO PROVIDE THAT IT IS UNLAWFUL TO TAKE OR POSSESS A GREAT WHITE SHARK (CARCHARODON CARCHARIAS), AND TO PROVIDE THAT ANY GREAT WHITE SHARK THAT IS CAUGHT MUST BE RELEASED IMMEDIATELY AND MUST REMAIN COMPLETELY IN THE WATER AT ALL TIMES WHILE BEING RELEASED.

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

Catch limits, great white shark prohibition

SECTION 1. Section 50-5-1705(L) of the 1976 Code, as last amended by Act 7 of 2013, is further amended to read:

"(L) It is unlawful to take or possess a great white shark (Carcharodon carcharias). Any great white shark that is caught must be released immediately and must remain completely in the water at all times while being released.

(M) The possession limits do not apply to the possession or sale of properly identified fish imported by seafood dealers or produced by permitted mariculture operations, or to possession as allowed under permit authorized by this chapter."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 206

(R259, H4630)

AN ACT TO AMEND SECTION 23-23-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EXPIRATION OR LAPSE OF THE LAW ENFORCEMENT CERTIFICATION OF AN OFFICER UPON HIS DISCONTINUANCE OF EMPLOYMENT, SO AS TO PROVIDE AN EXEMPTION WHEN THE EMPLOYMENT IS DISCONTINUED BECAUSE OF HIS ABSENCE FROM WORK DUE TO A DISABILITY HE SUSTAINED IN THAT EMPLOYMENT FOR WHICH HE RECEIVES WORKERS' COMPENSATION BENEFITS AND FROM WHICH HE HAS NOT BEEN AUTHORIZED TO RETURN TO WORK WITHOUT RESTRICTION TO REQUIRE HE SATISFY CONTINUING EDUCATION REQUIREMENTS OF THIS PERIOD; AND TO MAKE THESE PROVISIONS RETROACTIVE TO JANUARY 1, 2013.

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

Expiration for work discontinuance, workers' compensation exception

SECTION 1. Section 23-23-60(C) of the 1976 Code, as added by Act 317 of 2006, is amended to read:

"(C)(1) A certificate as a law enforcement officer issued by the department will expire three years from the date of issuance or upon discontinuance of employment by the officer with the employing entity or agency.

(2) Notwithstanding the provisions of item (1), a certificate may not expire if employment is discontinued because of the officer's absence from work due to a disability he sustained in that employment for which he receives workers' compensation benefits and from which he has not been authorized to return to work without restriction; provided, however, that before he may resume employment for which the certificate is required, he must complete all continuing education requirements for the period of time in which he was receiving workers' compensation benefits and had not been authorized to return to work. Additionally, the three-year duration of a certificate is tolled during such an absence from employment, and begins running when the officer is authorized to return to work without restriction.

(3) Prior to the expiration of the certificate, the certificate may be renewed upon application presented to the director on a form prescribed by the director. The application for renewal must be received by the director at least forty-five days prior to the expiration of the certificate.

(4) If the officer's certificate has lapsed, the department may reissue the certificate after receipt of an application and if the director is satisfied that the officer continues to meet the requirements of subsections (B)(1) through (B)(9)."

Time effective

SECTION 2. The provisions of this act take place upon approval by the Governor and are retroactive to January 1, 2013.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 207

(R260, H4643)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTIONS 40-11-50 AND 40-67-50 RELATING TO CERTAIN PROFESSIONAL LICENSING FEES.

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

Professional license fee provisions repealed

SECTION 1. Sections 40-11-50 and 40-67-50 of the 1976 Code are repealed.

Time effective

SECTION 2. This act takes effect July 1, 2014.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 208

(R262, H4871)

AN ACT TO AMEND SECTION 59-40-140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VARIOUS PROVISIONS PERTAINING TO CHARTER SCHOOLS INCLUDING A PROVISION EXEMPTING ALL EARNINGS OR PROPERTY OF CHARTER SCHOOLS FROM STATE OR LOCAL TAXATION, EXCEPT FOR THE SALES TAX, SO AS TO CLARIFY THAT PROPERTY OF CHARTER SCHOOLS EXEMPT FROM SUCH TAXATION INCLUDES OWNED OR LEASED PROPERTY.

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

Earnings on property exempt from state and local tax, sales tax exempted

SECTION 1. Section 59-40-140(K) of the 1976 Code, as last amended by Act 164 of 2012, is further amended to read:

"(K) Charter schools are exempt from state and local taxation, except the sales tax, on their earnings and property whether owned or leased. Instruments of conveyance to or from a charter school are exempt from all types of taxation of local or state taxes and transfer fees."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 209

(R263, H4916)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-72-66 SO AS TO PROVIDE SPECIFIC NOTICE REQUIREMENTS OF AN INSURER BEFORE IT MAY CONSIDER A LONG-TERM CARE INSURANCE POLICY THAT IT HAS WRITTEN TO BE TERMINATED AT THE REQUEST OF THE POLICYHOLDER OR CERTIFICATE HOLDER OR LAPSED OR TERMINATED FOR NONPAYMENT OF PREMIUM, AND TO PROVIDE FOR REINSTATEMENTS.

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

Required notice to avoid unintentional cancellations or lapse, reinstatement

SECTION 1. Chapter 72, Title 38 of the 1976 Code is amended by adding:

"Section 38-72-66. Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following:

(1)(a)(i) No individual long-term care policy or certificate may be issued until the insurer has received from the applicant either a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation must not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The designation must include each person's *full name* and *home address*. In the case of an applicant who elects not to designate an additional person, the waiver must state: 'Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty (30) days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice.' The insurer shall notify the insured of the right to change this written designation no less often than once every two years.

(ii) For existing long-term care policies, the insurer must provide written notice to the insured that they may make a written designation of a least one person, in addition to the insured, who is to receive notice of lapse or termination of the policy or certificate. The notice called for in this subsection must be provided to the insured within ninety days of the effective date of this section. As provided in this subitem, the insurer shall notify the insured of the right to change this written designation no less often than once every two years.

(b) When the policyholder or certificate holder pays a premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in subsubitem (i) of subitem (a) need not be met until sixty days after the policyholder or certificate holder is no longer on such a payment plan. The application

or enrollment form for such policies or certificates must clearly indicate the payment plan selected by the applicant.

(c) Lapse or termination for nonpayment of a premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of a premium unless the insurer, at least thirty days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to subsubitem (i) of subitem (a), at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice must be given by first class United States mail, postage prepaid, and notice may not be given until thirty days after a premium is due and unpaid. Notice must be considered to have been given as of five days after the date of mailing.

(2) In addition to the requirement in item (1), a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage in the event of lapse or termination if the insurer is provided proof that the policyholder or certificate holder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option must be available to the insured if requested within five months after termination and must allow for the collection of the past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity must not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 210

(R264, H4922)

AN ACT TO AMEND SECTION 1-13-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO UNLAWFUL

EMPLOYMENT PRACTICES AND EXCEPTIONS, SO AS TO PROVIDE THAT IT IS NOT AN UNLAWFUL EMPLOYMENT PRACTICE FOR A PRIVATE EMPLOYER TO GIVE HIRING PREFERENCES TO A VETERAN, AND TO EXTEND THE PREFERENCE TO THE VETERAN'S SPOUSE IF THE VETERAN HAS A SERVICE-CONNECTED PERMANENT AND TOTAL DISABILITY.

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

Employment preference for veterans allowed

SECTION 1. Section 1-13-80(I) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

"( ) It is not an unlawful employment practice for a private employer to give preference in employment to a veteran. This preference is also extended to the veteran's spouse if the veteran has a service-connected permanent and total disability. A private employer who gives a preference in employment provided by this item does not violate any other provision of this chapter by virtue of giving the preference. For purposes of this item, 'veteran' has the same meaning as provided in Section 25-11-40."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 211

(R265, H4945)

AN ACT TO AMEND SECTION 50-5-1705, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CATCH LIMITS IMPOSED ON THE TAKING OF CERTAIN FISH, SO AS TO IMPOSE CATCH LIMITS FOR

TAKING OR POSSESSING IN ANY ONE DAY A COMBINATION OF SPOT, WHITING, AND ATLANTIC CROAKER TAKEN BY HOOK AND LINE.

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

Catch limits

SECTION 1. Section 50-5-1705 of the 1976 Code, as last amended by Act 72 of 2013, is further amended to read:

"Section 50-5-1705. (A) As used in this article, a day means sunrise on one day to sunrise on the following day.

(B) The limits established in this article apply to all state waters.

(C) It is unlawful for a person to take or have in possession more than ten spotted seatrout in any one day.

(D) It is unlawful for a person to take or have in possession more than three red drum in any one day.

(E) It is unlawful for a person to take or possess more than one tarpon in any one day or a tarpon of less than seventy-seven inches in fork length.

(F) It is unlawful for a person to take or have in possession more than five black drum (Pogonias cromis) in any one day.

(G) It is unlawful for a person to take or possess more than fifteen flounder (Paralichthys species) taken by means of gig, spear, hook and line, or similar device in any one day, not to exceed thirty flounder in any one day on any boat.

(H) It is unlawful for a person to take or have in possession more than one weakfish (Cynoscion regalis) in any one day.

(I) It is unlawful for a person to take or possess more than ten sheepshead (Archosargus probatocephalus) in any one day, not to exceed thirty sheepshead in any one day on any boat.

(J) It is unlawful for a person to take or possess in any one day more than fifty of a combination of the following: spot (Leiostomus xanthurus), whiting (Menticirrhus spp.), and Atlantic croaker (Micropogonias undulatus) taken by hook and line.

(K) It is unlawful to take or possess hardhead catfish (Ariopsis felis) or gafftopsail catfish (Bagre marinus).

(L) It is unlawful to gig for spotted seatrout or red drum from December first through the last day of February, inclusive.

(M) The possession limits do not apply to the possession or sale of properly identified fish imported by seafood dealers or produced by

permitted mariculture operations, or to possession as allowed under permit authorized by this chapter."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 212

(R266, H5159)

AN ACT TO AMEND SECTION 7-7-170, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN CHESTER COUNTY, SO AS TO CONSOLIDATE CERTAIN PRECINCTS, AND TO DESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Chester County voting precincts revised

SECTION 1. Section 7-7-170 of the 1976 Code, as last amended by Act 92 of 2013, is further amended to read:

"Section 7-7-170. (A) In Chester County there are the following voting precincts:

Baldwin Mill
Baton Rouge
Beckhamville
Blackstock
Edgemoor
Eureka Mill
Fort Lawn

Halsellville
Hazelwood
Lando/Lansford
Lowrys
Richburg
Rodman
Rossville
Wilksburg
Great Falls
Chester, Ward 1
Chester, Ward 2
Chester, Ward 3
Chester, Ward 4
Chester, Ward 5

(B) The precinct lines defining the precincts provided in subsection (A) are as shown on the official map prepared by and on file with the Office of Research and Statistics of the State Budget and Control Board designated as document P-23-14 and as shown on copies of the official map provided to the Registration and Election Commission of Chester County by the Office of Research and Statistics.

(C) The polling places for the above precincts must be determined by the Registration and Election Commission of Chester County with the approval of a majority of the Chester County Legislative Delegation."

Time effective

SECTION 2. This act takes effect July 1, 2014.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 213

(R207, S343)

AN ACT TO AMEND CHAPTER 7, TITLE 36, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ARTICLE 7 OF THE UNIFORM COMMERCIAL CODE, SO AS TO REVISE

THE CHAPTER IN ITS ENTIRETY IN ORDER TO PROVIDE FOR THE USE OF ELECTRONIC DOCUMENTS OF TITLE; AND TO AMEND CHAPTER 1, TITLE 36, SECTIONS 36-2-103, 36-2-104, 36-2-202, 36-2-310, 36-2-323, 36-2-401, 36-2-503, 36-2-505, 36-2-506, 36-2-509, 36-2-605, 36-2-705, 36-2A-103, 36-2A-501, 36-2A-514, 36-2A-518, 36-2A-519, 36-2A-527, 36-2A-528, 36-3-103, 36-4-104, 36-4-210, 36-4A-105, 36-4A-106, 36-4A-204, 36-5-103, 36-8-102, 36-9-102, 36-8-103, 36-9-203, 36-9-207, 36-9-208, 36-9-301, 36-9-310, 36-9-312, 36-9-313, 36-9-314, 36-9-317, 36-9-338, 36-9-601, ALL RELATING TO THE UNIFORM COMMERCIAL CODE, SO AS TO MAKE CONFORMING CHANGES; TO REPEAL SECTION 36-2-208 RELATING TO THE COMMERCIAL CODE GOVERNING CERTAIN SALES AND SECTION 36-2A-207 RELATING TO THE COMMERCIAL CODE GOVERNING LEASES; TO PROVIDE FINDINGS THAT THE PROVISIONS OF THIS ACT RELATE TO ONE SUBJECT; TO STATE THAT PROVISIONS OF THIS ACT ARE SEVERABLE; TO PROVIDE FOR THE PROSPECTIVE APPLICATION OF THIS ACT; AND TO PROVIDE FOR THE EFFECTIVE DATE OF THIS ACT.

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

General provisions, conforming changes

SECTION 1. Chapter 1, Title 36 of the 1976 Code is amended to read:

"CHAPTER 1

Commercial Code-General Provisions

Part 1

Short Title, Construction, Application
and Subject Matter of the Act

Section 36-1-101. (1) This title shall be known and may be cited as the Uniform Commercial Code.

(2) This chapter may be cited as Uniform Commercial Code-General Provisions.

Section 36-1-102. This chapter applies to a transaction to the extent that it is governed by another chapter of this title, known as the Uniform Commercial Code.

Section 36-1-103. (a) This title must be liberally construed and applied to promote its underlying purposes and policies, which are:

(1) to simplify, clarify, and modernize the law governing commercial transactions;

(2) to permit the continued expansion of commercial practices through custom, usage, and agreement of the parties;

(3) to make uniform the law among the various jurisdictions.

(b) Unless displaced by the particular provisions of this title, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause shall supplement its provisions.

SOUTH CAROLINA REPORTER'S COMMENTS

With minor stylistic changes, revised Section 36-1-103 combines former Section 36-1-102(1) and (2). Subsection (1) of former Section 36-1-102 provided that '[t]his act shall be liberally construed and applied to promote its underlying purposes and policies' and subsection (2) identified those purposes and policies. Except for changing the references to 'this act' in the former statute to 'the Uniform Commercial Code' and making 'minor stylistic changes,' the language of subsection (a) is the same as former Section 1-102(1) and (2).

Section 36-1-104. The Uniform Commercial Code, being a general enactment of chapters under Title 36, intended as a unified coverage of its subject matter, no part of it shall be considered to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

SOUTH CAROLINA REPORTER'S COMMENTS

With the exception of changing the reference from 'this act' to 'the Uniform Commercial Code,' revised Section 36-1-104 is identical to former Section 36-1-104. In Atlas Food Systems and Services, Inc. v. Crane National Vendors Division of Unidynamics Corp., 319 S.C. 556, 462 S.E.2d 858 (1995), the court held that under former Section 36-1-104, a 1988 amendment to S.C. Code Ann. Section 15-3-530(1) reducing the general contract statute of limitations to three years, did not repeal, by implication, the preexisting six year statute of limitations

for breach of contract obligations under Article 2 of the Uniform Commercial Code, now codified at S.C. Code Ann. Section 36-2-725(1) (2003).

Section 36-1-105. If any provision or clause of this title or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this title that can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.

SOUTH CAROLINA REPORTER'S COMMENTS
Except for changing references from 'this act' to 'the Uniform Commercial Code,' revised Section 36-1-105 is identical to former Section 36-1-108. Neither the appellate courts of South Carolina nor the federal courts have interpreted former Section 36-1-108.

Section 36-1-106. In the Uniform Commercial Code, unless the statutory context otherwise requires:

(a) words in the singular number include the plural, and those in the plural include the singular; and

(b) words of any gender also refer to any other gender.

SOUTH CAROLINA REPORTER'S COMMENTS
With the exception of minor stylistic changes, revised Section 36-1-106 is identical to former Section 36-1-102(5). Neither the appellate courts of South Carolina nor the federal courts have interpreted former Section 36-1-102(5).

Section 36-1-107. Section captions are part of the Uniform Commercial Code, with the exception of the subsection headings of Chapter 9, Title 36, which are not part of the provisions. The Official Comments, prepared by the Uniform Law Commission with the intent of aiding the user in understanding the provisions of each chapter, are to be included by the Code Commissioner in the annotated versions of this title, but are not considered part of the provisions of this title and do not indicate legislative intent.

SOUTH CAROLINA REPORTER'S COMMENTS
Section captions are part of the Uniform Commercial Code, but neither the Official Comments nor the South Carolina Reporter's Comments are part of the Uniform Commercial Code. Moreover, the Official

Comments should not be relied upon as legislative history in interpreting provisions of the statute.

Section 36-1-108. This title modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., except that nothing in this title modifies, limits, or supersedes Section 7001(c) of that act or authorizes electronic delivery of any of the notices described in Section 7003(b) of that act.

SOUTH CAROLINA REPORTER'S COMMENTS
Revised Section 36-1-108 is an 'E-Sign Shield' provision drafted to exempt revised Article 1 from the effect of Section 7001 of the Federal Electronic Signatures in Global and National Commerce Act ['E-Sign'], 15 U.S.C. Section 7001. As a general rule, in transactions affecting interstate or foreign commerce, Section 7001 preempts any statute that denies legal effect, validity, or enforceability to a signature, contract, or other record solely because it is in electronic form. However, 15 U.S.C. Section 7002(a) empowers the states to exempt state law from the provisions of Section 7001. Under Section 7002(a)(1), a state can supersede the provisions of Section 7001 by enacting the 1999 Official Text of the Uniform Electronic Transactions Act [UETA]. In the alternative, a state can supersede the provisions of Section 7001 by enacting a statute that meets the requirements of Section 7002(a)(2). The Drafters assert that revised Article 1, including revised Section 1-108 meets the requirements of Section 7002(a)(2), and exempts revised Article 1 from preemption. *See* Revised Section 1-108, Official Comment 1.

Part 2

General Definitions and Principles of Interpretation

Section 36-1-201. (a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other chapters of the Uniform Commercial Code that apply to particular chapters or parts thereof, have the meanings stated.

(b) Subject to definitions contained in other chapters of this title that apply to particular chapters or parts thereof:

(1) 'Action', in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity, and any other proceeding in which rights are determined.

(2) 'Aggrieved party' means a party entitled to pursue a remedy.

(3) 'Agreement', as distinguished from 'contract', means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in Section 36-1-303.

(4) 'Bank' means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.

(5) 'Bearer' means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, a negotiable tangible document of title, or certificated security that is payable to bearer or indorsed in blank.

(6) 'Bill of lading' means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt.

(7) 'Branch' includes a separately incorporated foreign branch of a bank.

(8) 'Burden of establishing' a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence.

(9) 'Buyer in ordinary course of business' means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in the ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Chapter 2 may be a buyer in the ordinary course of business. 'Buyer in ordinary course of business' does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) 'Conspicuous', with reference to a term, means so written, displayed, or presented that a reasonable person against which it is to operate ought to have noticed it. Whether a term is 'conspicuous' or

not is a decision for the court. Conspicuous terms include the following:

(A) a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

(11) 'Consumer' means an individual who enters into a transaction primarily for personal, family, or household purposes.

(12) 'Contract', as distinguished from 'agreement', means the total legal obligation that results from the parties' agreement as determined by the Uniform Commercial Code as supplemented by any other applicable laws.

(13) 'Creditor' includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(14) 'Defendant' includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.

(15) 'Delivery', with respect to an electronic document of title means voluntary transfer of control, and with respect to an instrument, a tangible document of title, or chattel paper means voluntary transfer of possession.

(16) 'Document of title' means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession that are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A

tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.

(17) 'Fault' means a default, breach, or wrongful act or omission.

(18) 'Fungible goods' means:

(A) goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(B) goods that by agreement are treated as equivalent.

(19) 'Genuine' means free of forgery or counterfeiting.

(20) 'Good faith', except as otherwise provided in Chapter 5, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(21) 'Holder' means:

(A) the person in possession of a negotiable instrument that is payable either to bearer or an identified person that is the person in possession;

(B) the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) the person in control of a negotiable electronic document of title.

(22) 'Insolvency proceeding' includes an assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) 'Insolvent' means:

(A) having generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide dispute;

(B) being unable to pay debts as they become due; or

(C) being insolvent within the meaning of Federal Bankruptcy Law.

(24) 'Money' means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries.

(25) 'Organization' means a person other than an individual.

(26) 'Party', as distinguished from 'third party', means a person that has engaged in a transaction or made an agreement subject to the Uniform Commercial Code.

(27) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(28) 'Present value' means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

(29) 'Purchase' means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(30) 'Purchaser' means a person that takes by purchase.

(31) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(32) 'Remedy' means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(33) 'Representative' means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate.

(34) 'Right' includes remedy.

(35) 'Security interest' means an interest in personal property or fixtures, which secures payment or performance of an obligation. 'Security interest' includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Chapter 9. 'Security interest' does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 36-2-401, but a buyer also may acquire a 'security interest' by complying with Chapter 9. Except as otherwise provided in Section 36-2-505, the right of a seller or lessor of goods under Chapter 2 or 2A to retain or acquire possession of the goods is not a 'security interest', but a seller or lessor also may acquire a 'security interest' by complying with Chapter 9. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under Section 36-2-401 is limited in effect to a reservation of a 'security interest'. Whether a transaction in the form of a lease creates a 'security interest' is determined pursuant to Section 36-1-203.

(36) 'Send' in connection with a writing, record, or notice means:

(A) to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an

instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or

(B) in any other way, to cause to be received any records or notice within the time it would have arrived if properly sent.

(37) 'Signed' includes using any symbol executed or adopted with present intention to adopt or accept a writing.

(38) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(39) 'Surety' includes a guarantor or other secondary obligor.

(40) 'Term' means a portion of an agreement that relates to a particular matter.

(41) 'Unauthorized signature' means a signature made without actual, implied or apparent authority. The term includes a forgery.

(42) 'Warehouse receipt' means a document of title issued by a person engaged in the business of storing goods for hire.

(43) 'Writing' includes printing, typewriting or any other intentional reduction to tangible form. 'Written' has a corresponding meaning.

SOUTH CAROLINA REPORTER'S COMMENTS

1. Definitions Deleted: The 2014 amendments to Article 1 delete the definitions of 'honor' and 'telegram,' terms that were defined in former Section 36-1-201(21) and (41).

2. Definitions Reformulated as substantive provisions and codified in separate sections of Article 1:

a. Notice, Knowledge, Notifications, Receiving Notice: Former Section 36-1-201(25)–(27) defined notice, knowledge, notification, and related terms. The 2014 amendment deleted those definitions from revised Section 36-1-201, and codified them in revised Section 36-1-202.

b. Presumption: Former Section 36-1-201(31) defined the term presumption. The 2014 amendments to Article 1 delete that definition from revised Section 36-1-201. However, the 2014 amendments codify, as revised Section 36-1-206, the definition of presumption in former Section 36-1-201(31), making only changes of style.

c. Value: Former Section 36-1-201(44) defined the term 'value'. The 2014 amendments to Article 1 do not include value among the terms defined in revised Section 36-1-201(b). However, the amendments codified, without substantive change, the definition in former Section 36-1-201(44) in revised Section 36-1-204.

d. Distinguishing a lease from a security interest: In 2001, the definition of security interest in former Section 36-1-201(37) was amended to include rules for determining whether a transaction in the form of a lease creates an Article 9 security interest. The 2014 amendments delete those rules from the definition of security interest in revised Section 36-1-201(35), but codify them in substantively identical form in revised Section 36-1-203.

2. New definitions and terms added by the 2014 amendments to the list of definitions in revised Section 36-1-201(b):

a. Consumer—Section 36-1-201(b)(11): The 2014 amendments add consumer to terms defined in revised Section 36-1-201(b). Revised Section 36-1-201(b)(11) defines consumer as an individual entering into a transaction primarily for personal family or household purposes. The definition is consistent with the use of the term under Article 9. *See* S.C. Code Section 36-9-102(a)(22)–(26).

b. Present Value—Section 36-1-201(b)(28): Although present value was not separately defined in former Section 36-1-201, the rules for distinguishing leases from security interests were codified in former Section 36-1-201(37), under the definition of 'security interest.' The 2014 amendments define 'Present value' in revised Section 36-1-201(28). The 2014 amendments delete the rules for distinguishing leases from security interests from the revised definition of security interest, but codify them in revised Section 36-1-203.

c. Record—Section 36-1-201(b)(31): The 2014 amendments to former Section 36-1-201 add 'record' to the list of defined terms. Revised Section 36-1-201(b)(31) provides that record means information that is inscribed on a tangible medium or stored in an electronic or other medium and is retrievable in perceivable form. The term encompasses both written and electronic communications. Although new to Article 1, in 2001, the provisions of Article 9 were revised to include a substantively identical definition of record. *See* Section 36-9-102(a)(70).

d. State—Section 36-1-201(b)(38): The 2014 amendments add the definition of 'State' that is used in all acts prepared by the National Conference on Uniform State Laws or its successor, the Uniform Laws Commission.

3. Substantive changes to the definitions or terms defined in both former Section 36-1-201 and revised Section 36-1-201(b) in the 2014 amendments:

a. Bearer—Section 36-1-201(b)(5): The definition of bearer is amended to include a person in control of negotiable electronic documents of title as well as a person in possession of a negotiable

tangible document of title. The amendment, equating control of a negotiable electronic document of title with possession of negotiable tangible document of title, is one of a set of provisions drafted to facilitate the recognition of electronic documents.

b. Bill of Lading—Section 36-1-201(b)(6): The 2014 amendments delete the reference to 'airbills' from the definition of a bill of lading because it is no longer necessary. In addition, the revised Section 36-1-201(b)(6) expressly states that the definition of a bill of lading does not include a warehouse receipt.

c. Buyer in Ordinary Course of Business—Section 36-1-201(b)(9): The 2014 amendments make two significant revisions to the definition of buyer in ordinary course of business. First, revised Section 36-1-201(b)(9) provides some guidelines for determining when a person buys goods 'in the ordinary course.' Under the revised definition, a buyer buys in the ordinary course if the sale 'comports with the usual or customary practices in the kind of business in which the seller is engaged' or with the 'seller's own usual or customary practices.' Second, to qualify as a buyer in ordinary course of business, under the revised definition, a buyer must have possession of the goods or the right to recover the goods from the seller under Article 2. *See* S.C. Code Sections 36-2-501, 36-2-502, and 36-2-716.

d. Delivery—Section 36-1-201(b)(15): The definition of delivery is amended to include the voluntary transfer of control of an electronic document of title as well as the voluntary transfer of possession of a tangible document of title. This amendment is one of a set of related provisions designed to facilitate the recognition of electronic documents of title.

e. Document of Title—Section 36-1-201(b)(16): The revised definition of document of title explicitly makes the obligation or designation of a bailee essential to a document of title. Revised Section 36-1-201(b)(16) also defines 'electronic document of title' and 'tangible document of title.' An electronic document of title is a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title is a document of title evidenced by a record consisting of information inscribed on a tangible medium. Note that the term 'record,' used in defining both electronic and tangible documents of title, is defined in revised Section 36-1-201(b)(31) as 'information that is inscribed on a tangible medium or stored in an electronic or other medium and is retrievable in perceivable form.'

f. Good Faith—36-1-201(b)(20): The definition of good faith in Article 1 is amended to require observance of reasonable commercial standards of fair dealing as well as honesty in fact.

g. Holder—Section 36-1-201(b)(21): The 2014 amendments restructures and substantively revises the definition of holder. Subsection (A) applies to negotiable instruments and revises the definition of holder to conform to the use of the term in the revision of Article 3 that became effective in 2008. Subsection (B) governs negotiable tangible documents of title and provides that a person is a holder, if the person has possession of the document and the goods covered are deliverable either to the bearer or to the order of the person in possession of the document. Subsection (C) applies to negotiable electronic documents of title and provides that the person in control of the document is a holder.

h. Security Interest—Section 36-1-201(b)(35): In addition to deleting the rules for distinguishing a lease from security interest from the definition of a security interest, the 2014 amendments further revise the definition to reflect changes in the scope of Article 9. Under revised Section 36-1-201(b)(35), the definition includes the interest of an Article 9 consignor, as well as rights acquired by a buyer of accounts, chattel paper, payment intangibles, or promissory notes. *See* Section 36-9-109(a)(3) & (4).

i. Signed—Section 36-1-201(b)(37) : The definition of signed adopts the standard used in Article 9 to define the term 'authenticate.' However, under the definition in revised Section 36-1-201(b)(37), only records in writing can be signed.

j. Warehouse Receipt—Section 36-1-201(b)(42): The definition of warehouse receipt is revised to state expressly that a warehouse receipt is a document of title.

4. Definitions of the following terms that are defined in both former Section 36-1-201 and revised Section 36-1-201(b) as clarified by the 2014 amendments:

a. Agreement—Section 36-1-201(b)(3): The revised definition of agreement emphasizes the distinction between an agreement and a contract. The amendment also cites revised Section 36-1-303 as the basis for inferring terms of an agreement from course of performance, course of dealing, and usage of trade.

b. Bank—Section 36-1-201(b)(4): Revised Section 36-1-201(b)(4) adopts the definition of bank currently codified in Section 36-4-105(1).

c. Conspicuous—Section 36-1-201(b)(10): The definition of conspicuous is amended to provide more specific examples of terms that are conspicuous.

d. Contract—Section 36-1-201(b)(12): The revised definition emphasizes the distinction between an agreement and a contract.

e. Fungible Goods—Section 36-1-201(b)(18): The revised definition eliminates a reference to securities because Article 8 no longer uses the term fungible to describe securities.

f. Insolvent—Section 36-1-201(b)(23): The revised definition clarifies that there are three alternative tests to determine whether a person is insolvent.

g. Money—Section 36-1-201(b)(24): The revised definition provides that a medium of exchange constitutes money only if it is currently authorized by a government. The revised definition also includes a monetary unit of account established by an intergovernmental organization or an agreement between two or more governments.

h. Purchase—Section 36-1-201(b)(29): The revised definition of purchase includes taking an interest in property by lease.

i. Surety—Section 36-1-201(b)(39): The revised definition includes not only guarantors, but also other secondary obligors.

4. Definitions from the former Section 36-1-201adopted and included in revised Section 36-1-201(b) without substantive changes:

a. Action
b. Aggrieved party
c. Branch
d. Burden of establishing
e. Creditor
f. Fault
g. Genuine
h. Insolvency Proceeding
i. Organization
j. Party
k. Person
l. Purchaser
m. Remedy
n. Representative
o. Right
p. Send
q. Term
r. Unauthorized Signature

Section 36-1-202. (a) Subject to subsection (f), a person has 'notice' of a fact if the person:

(1) has actual knowledge of it;

(2) has received a notice or notification of it;

(3) from all the facts and circumstances known to the person at the time in question, has reason to know that it exists.

(b) 'Knowledge' means actual knowledge. 'Knows' has a corresponding meaning.

(c) 'Discover', 'learn', or words of similar import refer to knowledge rather than to reason to know.

(d) A person 'notifies' or 'gives' a notice or notification to another person by taking such steps as may be reasonably required to inform the other person in ordinary course, whether or not the other person actually comes to know of it.

(e) Subject to subsection (f), a person 'receives' a notice or notification when:

(1) it comes to that person's attention; or

(2) it is duly delivered in a form reasonable under the circumstances at the place of business through which the contract was made or at another location held out by that person as the place for receipt of such communications.

(f) Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

SOUTH CAROLINA REPORTER'S COMMENTS

This section is derived from former Sections 36-1-201(25)–(27). Subsection (a), specifying when a person has notice of a fact, is identical to former Section 36-1-201(25)(a)–(c). Subsection (b), defining 'knowledge' and 'knows' is adopted without substantive changes from the second paragraph of former Section 36-1-201(25). Subsection (c), defining 'discover' and 'learn,' is also substantively identical to the second paragraph of former Section 36-1-201(25). Subsection (d), specifying when a person 'notifies' or gives 'notice or notification,' is substantively identical to the first sentence of former

Section 36-1-201(26). Subsection (e), specifying when a person receives notice, is substantively identical to the second sentence of former Section 36-1-201(26), but unlike the former statute, subsection (e) expressly states that the receipt of notice or notification by a person is subject to the rules of determining when notification received by an organization is effective. Subsection (f), specifying when notification received by an organization is effective, is substantially identical Section 36-1-201 (27).

NOTE: Former Section 36-1-202 provided that a document in due form purporting to be a bill of lading or any other document authorized or required to be issued by a third party was prima facie evidence of its own authority, genuineness, and of the facts stated in the document by a third party. With minor stylistic changes, former Section 36-1-202 is codified in revised Section 36-1-307.

Section 36-1-203. (a) Whether a transaction in the form of a lease creates a lease or security interest is determined by the facts of each case.

(b) A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and;

(1) the original term of the lease is equal to or greater than the remaining economic life of the goods;

(2) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(3) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement; or

(4) the lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement.

(c) A transaction in the form of a lease does not create a security interest merely because:

(1) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(2) the lessee assumes risk of loss of the goods;

(3) the lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording, or registration fees, or service or maintenance costs;

(4) the lessee has an option to renew the lease or to become the owner of the goods;

(5) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(6) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(d) Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:

(1) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(2) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

(e) The 'remaining economic life of the goods' and 'reasonably predictable' fair market rent, fair market value, or cost of performing under the lease agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into.

SOUTH CAROLINA REPORTER'S COMMENTS

With one exception, this section is substantively identical to the portion of former Section 36-1-201(37) that provided the rules and process for distinguishing between a lease and a transaction creating a security interest. The exception is that revised Section 36-1-203 does not include the definition of present value , which is codified in revised Section 36-1-201(b)(28).

NOTE: Former Section 36-1-203 imposed the obligation of good faith in the performance and enforcement of contract within the scope of the code. The obligation of good faith is now imposed under revised Section 36-1-304.

Section 36-1-204. Except as otherwise provided in Chapters 3, 4, 4A, 5, and 6 of this title, a person gives value for rights if the person acquires them:

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection; or

(b) as security for, or in total or partial satisfaction of, a preexisting claim; or

(c) by accepting delivery under a preexisting contract for purchase; or

(d) in return for any consideration sufficient to support a simple contract.

SOUTH CAROLINA REPORTER'S COMMENTS
The definition of value in revised Section 36-1-204 is unchanged from former Section 36-1-201(44).

NOTE: Former Section 36-1-204 defined the terms 'reasonable time' and 'seasonably.' Those terms are now defined in revised Section 36-1-205.

Section 36-1-205. (a) Whether a time for taking an action required by the Uniform Commercial Code is reasonable depends on the nature, purpose, and circumstances of the action.

(b) An action is taken seasonably if it is taken at or within the time agreed or, if no time is agreed, at or within a reasonable time.

SOUTH CAROLINA REPORTER'S COMMENTS
Revised Section 36-1-205 is based upon former Section 36-1-205(2)-(3) and provides the same standards for determining a 'reasonable time' within which to take an action required by the Uniform Commercial Code and whether an action is taken 'seasonably'. The revised statute, however, does not include a provision comparable to former Section 36-1-204(1), addressing agreements to define a reasonable time.

NOTE: Former Section 36-1-205 defined 'course of dealing' and 'usage of trade' and provided standards under which evidence of a course of dealing or usage of trade were used to interpret, supplement, and qualify the express terms of an agreement. The substance of former Section 36-1-205 is now codified in revised Section 36-1-303.

Section 36-1-206. Whenever the provisions of this title create a 'presumption' with respect to a fact, or provide that a fact is 'presumed', the trier of fact must find the existence of the fact unless and until evidence is introduced that supports a finding of its nonexistence.

SOUTH CAROLINA REPORTER'S COMMENTS
This section defines the terms presumption and presumed when the Uniform Commercial Code creates a presumption with respect to a fact or provides that a fact is presumed. The section is based upon the definition of presumption in former Section 36-1-201(31). A presumption under both the former and revised definitions imposes an obligation upon the party against whom the presumption is made to come forward with evidence to rebut the existence of the presumed fact. The definitions do not shift the burden of persuasion.

NOTE: Former Section 36-1-206 constituted a general statute of frauds for contracts for the sale of personal property, but that provision is now deleted, as it was determined by the drafters that such a provision was better imposed by a state law and was not necessary under a uniform commercial provision.

Part 3

Territorial Applicability and General Rules

Section 36-1-301. (a) Except as otherwise provided in this section, when a transaction bears a reasonable relation to this State and also to another state or nation, the parties may agree that the law either of this State or of such other state or nation shall govern their rights and duties.

(b) In the absence of an agreement effective under subsection (a), and except as provided in subsection (c), the Uniform Commercial Code applies to transactions bearing an appropriate relation to this State.

(c) If one of the following provisions of the Uniform Commercial Code specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by law so specified:

(1) Section 36-2-402;

(2) Sections 36-2A-105 and 36-2A-106;

(3) Section 36-4-102;
(4) Section 36-4A-507;
(5) Section 36-5-116;
(6) Section 36-8-110;
(7) Sections 36-9-301 through 36-9-307.

SOUTH CAROLINA REPORTER'S COMMENTS
This section is substantively identical to former Section 36-1-105.

Section 36-1-302. (a) Except as otherwise provided in subsection (b) or elsewhere in the Uniform Commercial Code, the effect of provisions of the Uniform Commercial Code may be varied by agreement.

(b) The obligations of good faith, diligence, reasonableness, and care prescribed by the Uniform Commercial Code may not be disclaimed by agreement. The parties, by agreement, may determine the standards by which the performance of those obligations is to be measured if those standards are not manifestly unreasonable. Whenever the Uniform Commercial Code requires an action to be taken within a reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.

(c) The presence in certain provisions of the Uniform Commercial Code of the phrase 'unless otherwise agreed', or words of similar import, does not imply that the effect of other provisions may not be varied by agreement under this section.

SOUTH CAROLINA REPORTER'S COMMENTS
This section combines the rules from former Sections 36-1-102(3) (variation by agreement), 36-1-102(4) (provisions not including phrase 'unless otherwise provided' may be varied by agreement), and Section 36-1-204(1) (fixing reasonable time by agreement). This section makes no substantive changes from those provisions.

Section 36-1-303. (a) A 'course of performance' is a sequence of conduct between the parties to a particular transaction that exists if:

(1) the agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and

(2) the other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the performance or acquiesces in it without objection.

(b) A 'course of dealing' is a sequence of conduct concerning previous transactions between the parties to a particular transaction that

is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(c) A 'usage of trade' is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage must be proved as facts. If it is established that such a usage is embodied in a trade code or similar record, the interpretation of the record is a question of law.

(d) A course of performance or course of dealing between the parties or usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware is relevant in ascertaining the meaning of the parties' agreement, may give particular meaning to specific terms of the agreement, and may supplement or qualify the terms of the agreement. A usage of trade applicable in the place in which part of the performance under the agreement is to occur may be so utilized as to that part of the performance.

(e) Except as otherwise provided in subsection (f), the express terms of an agreement and any applicable course of performance, course of dealing, or usage of trade must be construed whenever reasonable as consistent with each other. If such a construction is unreasonable:

(1) express terms prevail over course of performance, course of dealing, and usage of trade;

(2) course of performance prevails over course of dealing and usage of trade; and

(3) course of dealing prevails over usage of trade.

(f) Subject to Section 36-2-209, a course of performance is relevant to show a waive or modification of any term inconsistent with the course of performance.

(g) Evidence of a relevant usage of trade offered by one party is not admissible unless that party has given the other party notice that the court finds sufficient to prevent unfair surprise to the other party.

SOUTH CAROLINA REPORTER'S COMMENTS

Subsections (a)–(c) define 'course of performance,' 'course of dealing,' and 'usage of trade,' based upon Section 36-2-208(1) (course of performance), former Section 36-1-205(1) (course of dealing) and former Section 36-1-205(2) (usage of trade). Subsection (d) is based upon Section 36-2-208 and former Section 36-1-205(3) and provides that a course of performance, course of dealing, and usage of trade are relevant in ascertaining the meaning of the parties' agreement and may supplement or qualify the terms of the agreement. Subsection (e) is

based upon Section 36-2-208(2) and former Section 36-1-205(4) and provides the hierarchy of express terms and terms implied from course of performance, course of dealing, and usage of trade in determining the terms of an agreement. Subsection (f) is based upon Section 36-2-208(3) and provides that a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

Section 36-1-304. Every contract or duty within the Uniform Commercial Code imposes an obligation of good faith in its performance and enforcement.

SOUTH CAROLINA REPORTER'S COMMENTS
This section is substantively identical to former Section 36-1-203.

Section 36-1-305. (a) The remedies provided by the Uniform Commercial Code must be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed, but neither consequential or special damages nor penal damages may be had except as specifically provided in the Uniform Commercial Code or by other rule of law.

(b) Any right or obligation declared by the Uniform Commercial Code is enforceable by action unless the provision declaring it specifies a different and limited effect.

SOUTH CAROLINA REPORTER'S COMMENTS
This section is substantively identical to former Section 36-1-106.

Section 36-1-306. A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in an authenticated record.

SOUTH CAROLINA REPORTER'S COMMENTS
This section replaces former Section 36-1-107, which at the time of its enactment in 1966 was inconsistent with the Official Text of former Section 1-107. The Official Text of former Section 1-107 provided that a claim for breach of contract could be discharged without consideration by a written waiver or renunciation signed and delivered by the aggrieved party. Former Section 36-1-207 did not condition the discharge of a claim for breach upon the aggrieved party signing and delivering a written waiver or renunciation of the claim. Under revised Section 36-1-306, a claim for breach may be discharged without

consideration by agreement of the aggrieved party in an authenticated record. The revision effects two changes to former Section 36-1-107. First, revised Section 36-1-306 makes it clear that the discharge of a claim for breach requires the aggrieved party's agreement. Second, that agreement must be evidenced by a record authenticated by the aggrieved party. The authenticated record requirement may be satisfied either by a signed writing or an authentic electronic record.

Section 36-1-307. A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party is prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.

SOUTH CAROLINA REPORTER'S COMMENTS
This section is substantively identical to former Section 36-1-202.

Section 36-1-308. (a) A party that with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as 'without prejudice', 'under protest', or the like are sufficient.

(b) Subsection (a) does not apply to an accord and satisfaction.

SOUTH CAROLINA REPORTER'S COMMENTS
Subsection (a) is substantively identical to former Section 36-1-207. Subsection (b) provides that subsection (a) does not apply to an accord and satisfaction. The rules governing accord and satisfaction are codified in Section 36-3-311.

Section 36-1-309. A term providing that one party or that party's successor in interest may accelerate payment or performance or require collateral or additional collateral 'at will' or when the party 'deems itself insecure', or words of similar import, means that the party has power to do so only if that party in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against which the power has been exercised.

SOUTH CAROLINA REPORTER'S COMMENTS
This section is substantively identical to former Section 36-1-208.

Section 36-1-310. An obligation may be issued as subordinated to performance of another obligation of the person obligated, or a creditor may subordinate its right to performance of an obligation by agreement with either the person obligated or another creditor of the person obligated. Subordination does not create a security interest as against either the common debtor or a subordinated creditor.

SOUTH CAROLINA REPORTER'S COMMENTS
This section is based upon former Section 1-209, an optional provision proposed in 1966, but never enacted in South Carolina. The purpose of the provision is to make it clear that a subordination agreement does not create a security interest unless so intended."

Documents of title, use of electronic documents permitted

SECTION 2. Chapter 7, Title 36 of the 1976 Code is amended to read:

"CHAPTER 7

Commercial Code-Warehouse Receipts, Bills of Lading and Other Documents of Title

PART 1

General

Section 36-7-101. This chapter must be known and may be cited as Uniform Commercial Code-Documents of Title.

Section 36-7-102. (a) In this chapter, unless the context otherwise requires:

(1) 'Bailee' means the person who by a warehouse receipt, bill of lading or other document of title acknowledges possession of goods and contracts to deliver them.

(2) 'Carrier' means a person who issues a bill of lading.

(3) 'Consignee' means the person named in a bill of lading to whom or to whose order the bill promises delivery.

(4) 'Consignor' means the person named in a bill of lading as the person from whom the goods have been received for shipment.

(5) 'Delivery order' means a record that contains an order to deliver goods directed to a warehouse, carrier or other person that in

the ordinary course of business issues warehouse receipts or bills of lading.

(6) 'Document' means document of title as defined in the general definitions in Chapter 1 of this title.

(7) 'Reserved.'

(8) 'Goods' means all things that are treated as movable for the purposes of a contract for storage or transportation.

(9) 'Issuer' means a bailee who issues a document of title or, in the case of an unaccepted delivery order, the person who orders the possessor of goods to deliver. The term includes a person for whom an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed, or in any other respect the agent or employee violated the issuer's instructions.

(10) 'Person entitled under the document' means the holder, in the case of a negotiable document of title, or the person to whom delivery of the goods is to be made by the terms of, or pursuant to, instructions in a record under, a negotiable document of title.

(11) 'Reserved.'

(12) 'Sign' means, with present intent to authenticate or adopt a record, to:

(A) execute or adopt a tangible symbol; or

(B) attach to or logically associate with the record an electronic sound, symbol, or process.

(13) 'Shipper' means a person that enters into a contract of transportation with a carrier.

(14) 'Warehouseman' or 'Warehouse' means a person engaged in the business of storing goods for hire.

(b) Definitions in other chapters applying to this chapter and the sections in which they appear are:

(1) 'Contract for sale' Section 36-2-106;

(2) 'Lessee in the ordinary course of business' Section 36-2A-103; and

(3) 'Receipt of goods' Section 36-2-103.

(c) In addition, Chapter 1 of this title contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SOUTH CAROLINA REPORTER'S COMMENTS

The 2014 amendments include a set of new definitions that were drafted to provide a framework for the development of electronic

documents of title and to facilitate the electronic mediums for the storage and communications. Some of these new definitions are codified in revised Article 1 and others appear as amendments to the provisions of Article 7. Four of the new definitions in the 2014 amendments that provide the basic foundation and essential framework for the further development of electronic documents of title are codified in revised Article 1. The definition of document of title in revised Section 36-1-201(b)(16) includes a definition of an electronic document of title as 'a document of title evidenced by a record consisting of information stored in an electronic medium.' Moreover, new definitions of the terms 'bearer', 'delivered', and 'holder,' codified in revised Section 36-1-201(b)(5), (15) and (21)(c), provide a framework for the process of negotiating electronic documents provided for in the 2014 amendments and codified in revised Section 36-7-501(b). The 2014 amendments also include new definitions of terms in Article 7 that were drafted to facilitate electronic mediums. The definition of 'Record' in revised Section 36-1-201(b)(37) and the new definition of 'Signed' in Section 36-7-102(a)(12) serve this function. Moreover, the amendment substituting the term 'record' for the term 'written order' in the definition of 'Delivery order' in Section 36-7-102(a)(5) facilitates the use of electronic mediums for the storage and communication of information. The 2014 amendments include new definitions of the terms 'carrier' and 'shipper.' Section 36-7-102(a)(2) defines carrier as a person who issues a bill of lading and Section 36-7-102(a) defines shipper as a person who enters into a contract of transportation with a carrier. The 2014 amendments remove the definition the definition of the 'person entitled under the document' from Section 36-7-403 and includes it in Section 36-7-102 as subsection (a)(10).

Section 36-7-103. (a) This chapter is subject to any treaty or statute of the United States or regulatory statute of this State, or lawfully published tariff, to the extent the treaty, statute, regulatory statute or tariff is applicable.

(b) This chapter does not modify or repeal any law prescribing the form or content of a document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a bailee's business in any respect not specifically treated in this chapter. However, violation of such a law does not affect the status of a document of title that otherwise is within the definition of a document of title.

(c) This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15

U.S.C. Section 7001, et. seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)).

(d) To the extent there is a conflict between the Uniform Electronics Act and this chapter, this chapter governs.

Section 36-7-104. (a) Except as provided in subsection (c), a warehouse receipt, bill of lading, or other document of title is negotiable if by its terms the goods are to be delivered to bearer or to the order of a named person.

(b) A document of title other than one described in subsection (a) is nonnegotiable. A bill of lading stating that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against an order in a record signed by the same or another named person.

(c) A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable.

SOUTH CAROLINA REPORTER'S COMMENTS

The 2014 amendments added subsection (c), which provides that, notwithstanding subsection (a), a document of title is nonnegotiable if at the time it was issued it had a conspicuous legend stating that it is nonnegotiable.

Section 36-7-105. (a) Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:

(1) the person entitled under the electronic document surrenders control of the document to the issuer; and

(2) the tangible document when issued contains a statement that it is issued in substitution for the electronic document.

(b) Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subsection (a):

(1) the electronic document ceases to have any effect or validity; and

(2) the person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document

when the warrantor surrendered control of the electronic document to the issuer.

(c) Upon request of a person entitled under a tangible document of title, the issuer of the tangible document may issue an electronic document of title as a substitute for the tangible document if:

(1) the person entitled under the tangible document surrenders possession of the document to the issuer; and

(2) the electronic document when issued contains a statement that it is issued in substitution for the tangible document.

(d) Upon issuance of an electronic document of title in substitution for a tangible document of title in accordance with subsection (c):

(1) the tangible document ceases to have any effect or validity; and

(2) the person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer.

SOUTH CAROLINA REPORTER'S COMMENTS

This section provides a process under which a person entitled under a document of title issued in one medium may request the issuer to issue a document of title in a different medium. For example, if the person in control of an electronic negotiable document of title and therefore the person entitled under that document, requests that the issuer of the electronic document issue a tangible document as a substitute for the electronic, revised Section 36-7-105(a) allows the issuer to issue a tangible document as a substitute for the electronic document, provided the holder surrenders control of the electronic document to the issuer and the tangible record, when issued, states that it was issued in substitution for an electronic document. A person entitled under a tangible negotiable record can invoke the same process to obtain an electronic document in substitution for the tangible record. Note that the issuer is not obligated to issue a substitute document in the other medium in response to the request of the person entitled. Nevertheless, providing a process to convert a document of title issued in one medium for a document in the other medium provides flexibility that may result in greater use and acceptance of electronic documents.

Section 36-7-106. (a) A person has control of an electronic document of title if a system employed for evidencing the transfer of

interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(b) A system satisfies subsection (a), and a person is deemed to have control of an electronic document of title, if the document is created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in items (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as:

(A) the person to which the document was issued; or

(B) if the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

SOUTH CAROLINA REPORTER'S COMMENTS

Control of an electronic document of title is the legal equivalent of indorsement and possession of a tangible document of title. For transactions utilizing electronic documents of title to function efficiently, all parties to the transaction must be able to readily and reliably identify the person who has control of an electronic document. Revised Section 36-7-106 provides the standard that a system evidencing transfers of electronic documents must meet to establish control.

PART 2

Warehouse Receipts: Special Provisions

Section 36-7-201. (a) A warehouse receipt may be issued by any warehouse.

(b) If goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against

withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods is deemed to be a warehouse receipt even though issued by a person that is the owner of the goods and is not a warehouse.

Section 36-7-202. (a) A warehouse receipt need not be in any particular form.

(b) Unless a warehouse receipt provides for each of the following, the warehouse is liable for damages caused to a person injured by its omission:

(1) a statement of the location of the warehouse facility where the goods are stored;

(2) the date of issue of the receipt;

(3) the unique identification code of the receipt;

(4) a statement whether the goods received will be delivered to the bearer, to a named person, or the person's order;

(5) the rate of storage and handling charges, unless goods are stored under a field warehousing arrangement, in which case a statement of that fact is sufficient on a nonnegotiable receipt;

(6) a description of the goods or of the packages containing them;

(7) the signature of the warehouse, or its agent;

(8) if the receipt is issued for goods that the warehouse owns, either solely, jointly, or in common with others, a statement of the fact of that ownership; and

(9) a statement of the amount of advances made and of liabilities incurred for which the warehouse claims a lien or security interest pursuant to Section 36-7-209. If the precise amount of advances made or liabilities incurred is, at the time of the issue of the receipt, unknown to the warehouse or to its agent that issued the receipt, a statement of the fact that advances have been made or liabilities incurred and the purpose of the advances or liabilities is sufficient.

(c) A warehouse may insert in its receipt any terms that are not contrary to the provisions of this title and do not impair its obligation of delivery pursuant to Section 36-7-403 or its duty of care pursuant to Section 36-7-204. Any contrary provision is ineffective.

Section 36-7-203. A party to or purchaser for value in good faith of a document of title other than a bill of lading that relies upon the description of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

(1) the document conspicuously indicates that the issuer does not know whether all or part of the goods in fact were received or conform to the description, such as the case in which the description is in terms of marks or labels or kind, quantity or condition, or the receipt or description is qualified by 'contents, condition and quality unknown,' 'said to contain' or words of similar import, if the indication is true; or

(2) the party or purchaser otherwise has notice of the nonreceipt or misdescription.

Section 36-7-204. (a) A warehouse is liable for damages for loss of or injury to the goods caused by its failure to exercise care with regard to the goods that a reasonably careful person would exercise under similar circumstances. Unless otherwise agreed, the warehouse is not liable for damages that could not have been avoided by the exercise of that care.

(b) Damages may be limited by a term in the warehouse receipt, storage agreement, or tariff limiting the amount of liability in case of loss or damage beyond which the warehouse is not liable. This limitation is not effective with respect to the liability of the warehouse for conversion to its own use. On request of the bailor in a record at the time of signing the storage agreement or within a reasonable time after receipt of the warehouse receipt, the liability of the warehouse may be increased on part or on all of the goods covered by the storage agreement or the warehouse receipt. In this event, increased rates may be changed based on an increased valuation of the goods.

(c) Reasonable provisions as to the time and manner or presenting claims and commencing actions based on the bailment may be included in the warehouse receipt, storage agreement, or tariff.

SOUTH CAROLINA REPORTER'S COMMENTS
Section 36-7-204(a) revises the requirements for an effective agreement to limit a warehouse's liability in order to conform to modern business practices.

Section 36-7-205. A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouse that also is in the business of buying and selling such goods takes the goods free of any claim under a warehouse receipt even if the receipt is negotiable and has been duly negotiated.

Section 36-7-206. (a) A warehouse,by giving notice to the person on whose account the goods are held and any other person known to

claim an interest in the goods, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document of title, or, if a period is not fixed, within a stated period not less than thirty days after the warehouse gives notice. If the goods are not removed before the date specified in the notice, the warehouse may sell them pursuant to Section 36-7-210.

(b) If a warehouse in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of its lien within the time provided in subsection (a) and Section 36-7-210, the warehouse may specify in the notice given under subsection (a) any reasonable shorter time for removal of the goods and, if the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.

(c) If, as a result of a quality or condition of the goods of which the warehouse did not have notice at the time of deposit, the goods are a hazard to other property or to the warehouse or to persons, the warehouse may sell the goods at public or private sale without advertisement or posting on reasonable notification to all persons known to claim an interest in the goods. If the warehouse, after a reasonable effort, is unable to sell the goods it may dispose of them in any lawful manner and does not incur liability by reason of that disposition.

(d) The warehouse must deliver the goods to any person entitled to the goods under this chapter upon due demand made at any time before sale or other disposition under this section.

(e) The warehouse may satisfy its lien from the proceeds of any sale or disposition under this section but must hold the balance for delivery on the demand of any person to which the warehouse would have been bound to deliver the goods.

Section 36-7-207. (a) Unless the warehouse receipt otherwise provides, a warehouse shall keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods. However, different lots of fungible goods may be commingled.

(b) If different lots of fungible goods are commingled, the goods are owned in common by the persons entitled to them and the warehouse is severally liable to each owner for the share of that owner. If, because of overissue, a mass of fungible goods is insufficient to meet all the receipts which the warehouse has issued against it, the persons entitled include all holders to which overissued receipts have been duly negotiated.

Section 36-7-208. If a blank in a negotiable tangible warehouse receipt has been filled in without authority, a good-faith purchaser for value and without notice of the lack of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any tangible or electronic warehouse receipt enforceable against the issuer according to its original tenor.

Section 36-7-209. (a) A warehouse has a lien against the bailor on the goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in its possession for charges for storage or transportation, including demurrage and terminal charges, insurance, labor, or other charges, present or future in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for similar charges or expenses in relation to other goods whenever deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for charges and expenses in relation to other goods, the warehouse also has a lien against the goods covered by the warehouse receipt or storage agreement or on the proceeds of them in its possession for those charges and expenses, whether or not the other goods have been delivered by the warehouse. However, as against a person to whom a negotiable warehouse receipt is duly negotiated, a warehouse's lien is limited to charges in an amount or at a rate specified on the receipt or, if no charges are so specified, then to a reasonable charge for storage of the specific goods covered by the receipt subsequent to the date of the receipt.

(b) A warehouse also may reserve a security interest against the bailor for a maximum amount specified on the receipt for charges other than those specified in subsection (a), such as for money advanced and interest. The security interest is governed by the chapter on secured transactions (Chapter 9).

(c) A warehouse's lien for charges and expenses under subsection (a) or a security interest under subsection (b) is also effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by the bailor to a good-faith purchaser for value would have been valid. However, the lien or security interest is not effective against a person that before issuance of a document of title had a legal interest or a perfected security interest in the goods and that did not:

(1) deliver or entrust the goods or any document of title covering the goods to the bailor or the nominee of the bailor with:

(A) actual or apparent authority to ship, store, or sell;

(B) power to obtain delivery under Section 36-7-403; or

(C) power of disposition under Sections 36-2-403, 36-2A-304(2), 36-2A-305(2), 36-9-320, or 36-9-321(c), or other statute of rule of law; or

(2) acquiesce in the procurement of the bailor or its nominee of any document.

(d) The lien of a warehouse on household goods for charges and expenses in relation to the goods under subsection (a) also is effective against all other persons if the depositor was the legal possessor of the goods at the time of the deposit. In this subsection, the term 'household goods' means furniture, furnishings, or personal effects used by the depositor in a dwelling.

(e) A warehouse loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

Section 36-7-210. (a) Except as provided in subsection (b), a warehouse's lien may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms which are commercially reasonable, after notifying all persons known to claim an interest in the goods. This notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the warehouse is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The warehouse sells in a commercially reasonable manner if the warehouse sells the goods in the usual manner in any recognized market for the goods it sells at the price current in that market at the time of the sale, or otherwise sells the goods in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

(b) A warehouse may enforce its lien on goods, other than goods stored by a merchant in the course of its business, only if the following requirements are satisfied:

(1) All persons known to claim an interest in the goods must be notified.

(2) The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than ten days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

(3) The sale must conform to the terms of the notification.

(4) The sale must be held at the nearest suitable place to where the goods are held or stored.

(5) After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account they are being held, and the time and place of the sale. The sale must take place at least fifteen days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least ten days before the sale in not less than six conspicuous places in the neighborhood of the proposed sale.

(c) Before any sale pursuant to this section any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying pursuant to this section. In that event the goods must not be sold, but must be retained by the warehouseman subject to the terms of the receipt and this chapter.

(d) A warehouse may buy at any public sale held pursuant to this section.

(e) A purchaser in good faith of goods sold to enforce a warehouseman's lien takes the goods free of any rights of persons against whom the lien was valid, despite noncompliance by the warehouseman with the requirements of this section.

(f) A warehouse may satisfy its lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to any person to which the warehouse would have been bound to deliver the goods.

(g) The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(h) If a lien is on goods stored by a merchant in the course of his business the lien may be enforced in accordance with either subsection (a) or (b).

(i) A warehouse is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

PART 3

Bills of Lading: Special Provisions

Section 36-7-301. (a) A consignee of a nonnegotiable bill of lading which has given value in good faith, or a holder to which a negotiable bill has been duly negotiated, relying in either case upon the description of the goods in the bill or upon the date shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the bill of lading indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, such as in a case in which the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by 'contents or condition of contents of packages unknown,' 'said to contain,' 'shipper's weight, load and count' or words of similar import, if that indication is true.

(b) If goods are loaded by the issuer of a bill of lading:

(1) the issuer shall count the packages of goods if shipped in packages and ascertain the kind and quantity if shipped in bulk; and

(2) words such as 'shipper's weight, load and count' or other words of similar import indicating that the description was made by the shipper are ineffective except as to goods concealed by packages.

(c) If bulk goods are loaded by a shipper that makes available to the issuer of a bill of lading adequate facilities for weighing those goods, the issuer shall ascertain the kind and quantity within a reasonable time after receiving the shipper's request in a record to do so. In that case 'shipper's weight' or words of similar import are ineffective.

(d) The issuer of a bill of lading, by including in the bill the words 'shipper's weight, load and count' or of similar import, may indicate that the goods were loaded by the shipper, and if that statement is true, the issuer is not liable for damages caused by the improper loading. However, omission of those words does not imply liability for damages caused by improper loading.

(e) A shipper guarantees to e an issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition and weight, as furnished by the shipper; and the shipper shall indemnify the issuer against damage caused by inaccuracies in those particulars. This right of indemnity does not limit the issuer's responsibility or liability under the contract of carriage to any person other than the shipper.

Section 36-7-302. (a) The issuer of a through bill of lading or other document of title embodying an undertaking to be performed in part by a person acting as its agent or by a performing carrier is liable to anyone entitled to recover on the bill or other document for any breach by the other person or by the performing carrier of its obligation under the bill or other document. However, to the extent that the bill covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other party or the performing carrier may be varied by agreement of the parties.

(b) If goods covered by a through bill of lading or other document of title embodying an undertaking to be performed in part by a person other than the issuer are received by that person, the person is subject, with respect to its own performance while the goods are in its possession, to the obligation of the issuer. The person's obligation is discharged by delivery of the goods to another person pursuant to the bill or other document, and does not include liability for breach by any other persons or by the issuer.

(c) The issuer of a through bill of lading or other document of title described in subsection (a) is entitled to recover from the performing carrier or other person in possession of the goods when the breach of the obligation under the bill or other document occurred:

(1) the amount it may be required to pay to any person entitled to recover on the bill or other document for the breach, as may be evidenced by any receipt, judgment, or transcript of judgment; and

(2) the amount of any expense reasonably incurred by the issuer in defending any action commenced by any person entitled to recover on the bill or other document for the breach.

Section 36-7-303. (a) Unless the bill of lading otherwise provides, a carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, without liability for misdelivery, on instructions from:

(1) the holder of a negotiable bill;

(2) the consignor on a nonnegotiable bill, even if the consignee has given contrary instructions;

(3) the consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the tangible bill or in control of the electronic bill; or

(4) the consignee on a nonnegotiable bill, if the consignee is entitled as against the consignor to dispose of the goods.

(b) Unless instructions described in subsection (a) are included in a negotiable bill of lading, a person to which the bill is duly negotiated may hold the bailee according to the original terms.

Section 36-7-304. (a) Except as customary in international transportation, a tangible bill of lading shall not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

(b) If a tangible bill of lading is lawfully issued in a set of parts, each of which contains an identification code and is expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitutes one bill.

(c) If a tangible bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to which the first due negotiation is made prevails as to both the document of title and the goods even if any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrender of its part.

(d) A person that negotiates or transfers a single part of a tangible bill of lading issued in a set is liable to holders of that part as if it were the whole set.

(e) The bailee shall deliver in accordance with Part 4 of this chapter against the first presented part of a tangible bill of lading lawfully issued in a set. Delivery in this manner discharges the bailee's obligation on the whole bill.

Section 36-7-305. (a) Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier, at the request of the consignor, may procure the bill to be issued at destination or at any other place designated in the request.

(b) Upon request of any person entitled as against a carrier to control the goods while in transit and on surrender of possession or control of any outstanding bill of lading or other receipt covering the goods, the issuer, subject to Section 36-7-105, may procure a substitute bill to be issued at any place designated in the request.

Section 36-7-306. An unauthorized alteration or filling in of a blank in a bill of lading leaves the bill enforceable according to its original tenor.

Section 36-7-307. (a) A carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of the carrier's receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. However, against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges stated in the bill or the applicable tariffs or, if no charges are stated, then to a reasonable charge.

(b) A lien for charges and expenses under subsection (a) on goods that the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to those charges and expenses. Any other lien under subsection (a) is effective against the consignor and any person that permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked authority.

(c) A carrier loses its lien on any goods that it voluntarily delivers or unjustifiably refuses to deliver.

Section 36-7-308. (a) A carrier's lien on goods may be enforced by public or private sale of the goods, in bulk or in packages, at any time or place and on any terms that are commercially reasonable, after notifying all persons known to claim an interest in the goods. The notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a method different from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. The carrier sells goods in a commercially reasonable manner if the carrier sells the goods in the usual manner in any recognized market therefor, sells at the price current in that market at the time of the sale, or otherwise sells in conformity with commercially reasonable practices among dealers in the type of goods sold. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

(b) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred in complying with this section. In that event, the goods shall not be sold, but must be retained by the carrier, subject to the terms of the bill and this chapter.

(c) A carrier may buy at any public sale pursuant to this section.

(d) A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against which the lien was valid, despite the carrier's noncompliance with this section.

(e) A carrier may satisfy its lien from the proceeds of any sale pursuant to this section but must hold the balance, if any, for delivery on demand to any person to which the carrier would have been bound to deliver the goods.

(f) The rights provided by this section are in addition to all other rights allowed by law to a creditor against a debtor.

(g) A carrier's lien may be enforced pursuant to either subsection (a) or the procedure set forth in subsection (b) of Section 36-7-210.

(h) A carrier is liable for damages caused by failure to comply with the requirements for sale under this section, and in case of wilful violation, is liable for conversion.

Section 36-7-309. (a) A carrier that issues a bill of lading, whether negotiable or nonnegotiable, shall exercise the degree of care in relation to the goods which a reasonably careful person would exercise under similar circumstances. This subsection does not affect any statute, regulation, or rule of law that imposes liability upon a common carrier for damages not caused by its negligence.

(b) Damages may be limited by a term in the bill of lading or in a transportation agreement that the carrier's liability shall not exceed a value stated in the bill or transportation agreement if the carrier's rates are dependent upon value and the consignor is afforded an opportunity to declare a higher value and the consignor is advised of the opportunity. However, such a limitation is not effective with respect to the carrier's liability for conversion to its own use.

(c) Reasonable provisions as to the time and manner of presenting claims and commencing actions based on the shipment may be included in a bill of lading or a transportation agreement.

PART 4

Warehouse Receipts and Bill of Lading: General Obligations

Section 36-7-401. The obligations imposed by this chapter on an issuer apply to a document of title even if:

(1) the document does not comply with the requirements of this chapter or of any other statute, rule, or regulation regarding its issue, form or content;

(2) the issuer violated laws regulating the conduct of its business;

(3) the goods covered by the document were owned by the bailee when the document was issued; or

(4) the person issuing the document is not a warehouse but the document purports to be a warehouse receipt.

Section 36-7-402. A duplicate or any other document of title purporting to cover goods already represented by an outstanding document of the same issuer does not confer any right in the goods, except as provided in the case of tangible bills of lading in a set of parts, overissue of documents for fungible goods, substitutes for lost, stolen or destroyed documents, or substitute documents issued pursuant to Section 36-7-105. The issuer is liable for damages caused by its overissue or failure to identify a duplicate document as such by conspicuous notation.

Section 36-7-403. (a) A bailee shall deliver the goods to a person entitled under a document of title if the person complies with subsections (b) and (c), unless and to the extent that the bailee establishes any of the following:

(1) delivery of the goods to a person whose receipt was rightful as against the claimant;

(2) damage to or delay, loss, or destruction of the goods for which the bailee is not liable;

(3) previous sale or other disposition of the goods in lawful enforcement of a lien or on a warehouse's lawful termination of storage;

(4) the exercise by a seller of its right to stop delivery pursuant to Section 36-2-705 or by a lessor of its right to stop delivery pursuant to Section 36-2A-526;

(5) a diversion, reconsignment, or other disposition pursuant to Section 36-7-303;

(6) release, satisfaction or any other personal defense against the claimant; or

(7) any other lawful excuse.

(b) A person claiming goods covered by a document of title shall satisfy the bailee's lien if the bailee so requests or if the bailee is prohibited by law from delivering the goods until the charges are paid.

(c) Unless a person claiming the goods is a person against which the document of title does not confer a right under Section 36-7-503 (a):

(1) the person claiming under a document shall surrender possession or control of any outstanding negotiable document covering the goods for cancellation or indication of partial deliveries and;

(2) the bailee shall cancel the document or conspicuously indicate in the document the partial delivery or the bailee is liable to any person to which the document is duly negotiated.

Section 36-7-404. A bailee that in good faith has received goods and delivered or otherwise disposed of the goods according to the terms of a document of title or pursuant to this chapter is not liable for the goods even if:

(1) the person from which the bailee received the goods did not have authority to procure the document or to dispose of the goods; or

(2) the person to which the bailee delivered the goods did not have authority to receive the goods.

PART 5

Warehouse Receipts and Bills of Lading: Negotiation and Transfer

Section 36-7-501. (a) The following rules apply to a negotiable tangible document of title:

(1) If the document's original terms run to the order of a named person, the document is negotiated by the named person's indorsement and delivery. After the named person's indorsement in blank or to bearer, any person may negotiate the document by delivery alone.

(2) If the document's original terms run to bearer, it is negotiated by delivery alone.

(3) If the document's original terms run to the order of a named person and it is delivered to the named person, the effect is the same as if the document had been negotiated.

(4) Negotiation of the document after it has been indorsed to a named person requires indorsement by the named person and delivery.

(5) A document is 'duly negotiated' if it is negotiated in the manner stated in this section to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.

(b) The following rules apply to a negotiable electronic document of title:

(1) If the document's original terms run to the order of a named person or bearer, the document is negotiated by delivery of the document to another person. Indorsement by the named person is not required to negotiate the document.

(2) If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.

(3) A document is 'duly negotiated' if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.

(c) Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.

(d) The naming in a negotiable bill of lading of a person to be notified of the arrival of the goods does not limit the negotiability of the bill or constitute notice to a purchaser of the bill of any interest of that person in the goods.

SOUTH CAROLINA REPORTER'S COMMENTS

The 2014 amendment added the requirements for negotiation and due negotiation of a negotiable electronic document of title that are codified at Section 36-7-501(b).

Section 36-7-502. (a) Subject to Section 36-7-503, a holder to which a negotiable document of title has been duly negotiated acquires thereby:

(1) title to the document;

(2) title to the goods;

(3) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(4) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the issuer except those arising under the terms of the document or under this chapter, but in the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(b) Subject to Section 36-7-503, title and rights acquired by due negotiation are not defeated by any stoppage of the goods represented by the document of title or by surrender of the goods by the bailee, and are not impaired even if:

(1) the due negotiation or any prior due negotiation constituted a breach of duty;

(2) any person has been deprived of possession of a negotiable tangible document or control of a negotiable electronic document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion; or

(3) a previous sale or other transfer of the goods or document has been made to a third person.

Section 36-7-503. (a) A document of title confers no right in goods against a person that before issuance of the document had a legal interest or a perfected security interest in the goods and that did not:

(1) deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:

(A) actual or apparent authority to ship, store or sell;

(B) power to obtain delivery under Section 36-7-403; or

(C) power of disposition under Section 36-2-403, 36-2A-304(2), 36-2A-305(2), 36-9-320, or 36-9-321(c), or other statute or rule of law; or

(2) acquiesce in the procurement by the bailor or the bailor's nominee of any document.

(b) Title to goods based upon an unaccepted delivery order is subject to the rights of any person to which a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. That title may be defeated under Section 36-7-504 to the same extent as the rights of the issuer or a transferee from the issuer.

(c) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of any person to which a bill issued by the freight forwarder is duly negotiated. However, delivery by the carrier in accordance with Part 4 of this chapter pursuant to its own bill of lading discharges the carrier's obligation to deliver.

Section 36-7-504. (a) A transferee of a document of title, whether negotiable or nonnegotiable, to which the document has been delivered but not duly negotiated, acquires the title and rights that its transferor had or had actual authority to convey.

(b) In the case of a transfer of a nonnegotiable document of title, until but not after the bailee receives notice of the transfer, the rights of the transferee may be defeated:

(1) by those creditors of the transferor which could treat the transfer as void under Section 36-2-402 or Section 36-2A-308;

(2) by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of the buyer's rights;

(3) by a lessee from the transferor in ordinary course of business if the bailee has delivered the goods to the lessee or received notification of the lessee's rights; or

(4) as against the bailee, by good faith dealings of the bailee with the transferor.

(c) A diversion or other change of shipping instructions by the consignor in a nonnegotiable bill of lading that causes the bailee not to deliver to the consignee defeats the consignee's title to the goods if the goods have been delivered to a buyer in ordinary course of business or lessee in ordinary course of business and, in any event, defeats the consignee's rights against the bailee.

(d) Delivery of the goods pursuant to a nonnegotiable document may be stopped by a seller under Section 36-2-705 or a lessor under Section 36-2A-526, subject to the requirements of due notification in those sections. A bailee honoring the seller's or lessor's instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.

Section 36-7-505. The indorsement of a tangible document of title issued by a bailee does not make the indorser liable for any default by the bailee or by previous indorsers.

Section 36-7-506. The transferee of a negotiable tangible document of title has a specifically enforceable right to have its transferor supply any necessary indorsement, but the transfer becomes a negotiation only as of the time the indorsement is supplied.

Section 36-7-507. If a person negotiates or delivers a document of title for value, otherwise than as a mere intermediary under Section 36-7-508, then unless otherwise agreed the transferor, in addition to any warranty made in selling or leasing the goods, warrants to its immediate purchaser only that:

(1) the document is genuine;

(2) the transferor does not have knowledge of any fact that would impair the document's validity or worth; and

(3) the negotiation or delivery is rightful and fully effective with respect to the title to the document and the goods it represents.

Section 36-7-508. A collecting bank or other intermediary known to be entrusted with documents of title on behalf of another or with collection of a draft or other claim against delivery of documents warrants by the delivery of the documents only its own good faith and authority even if the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.

Section 36-7-509. Whether a document of title is adequate to fulfill the obligations of a contract for sale, a contract for lease, or the conditions of a letter of credit is determined by the chapters on sales (Chapter 2), leases (Chapter 2A), and on letters of credit (Chapter 5).

PART 6

Warehouse Receipts and Bills of Lading: Miscellaneous Provisions

Section 36-7-601. (a) If a document of title is lost, stolen or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with the order. If the document was negotiable, a court may not order delivery of the goods or issuance of a substitute document without the claimant's posting security unless it finds that any person that may suffer loss as a result of nonsurrender of possession or control of the document is adequately protected against the loss. If the document was nonnegotiable, the court may require security. The court also may order payment of the bailee's reasonable costs and attorney's fees in any action under this subsection.

(b) A bailee that, without a court order, delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby. If the delivery is not in good faith, the bailee is liable for conversion. Delivery in good faith is not conversion if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery that files a notice of claim within one year after the delivery.

Section 36-7-602. Unless a document of title was originally issued upon delivery of the goods by a person that did not have power to dispose of them, a lien does not attach by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless possession or control of the document is first surrendered to the bailee or the document's negotiation is enjoined. The bailee shall not be compelled to deliver the goods pursuant to process until possession or control of the document is surrendered to the bailee or to the court. A purchaser of the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.

Section 36-7-603. If more than one person claims title to or possession of the goods, the bailee is excused from delivery until the bailee has a reasonable time to ascertain the validity of the adverse claims or to commence an action for interpleader. The bailee may assert an interpleader either in defending an action for nondelivery of the goods, or by original action."

Sales, conforming changes

SECTION 3. Section 36-2-103(1) of the 1976 Code is amended to read:

"(1) In this chapter unless the context otherwise requires:
(a) 'Buyer' means a person who buys or contracts to buy goods.
(b) [Reserved].
(c) 'Receipt' of goods means taking physical possession of them.
(d) 'Seller' means a person who sells or contracts to sell goods."

Sales, conforming changes

SECTION 4. Section 36-2-103(3) of the 1976 Code is amended to read:

"(3) 'Control' as provided in Section 36-7-106 and the following definitions in other chapters of Title 36 apply to this chapter:
'Check' Section 36-3-104.
'Consignee' Section 36-7-102.
'Consignor' Section 36-7-102.
'Consumer goods' Section 36-9-102.

'Dishonor' Section 36-3-507.
'Draft' Section 36-3-104."

Sales, conforming changes

SECTION 5. Section 36-2-104(2) of the 1976 Code is amended to read:

"(2) 'Financing agency' means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany or are associated with the draft. 'Financing agency' includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (Section 36-2-707)."

Sales, conforming changes

SECTION 6. Section 36-2-202 of the 1976 Code is amended to read:

"Section 36-2-202. Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) by course of performance, course of dealing, or usage of trade (Section 36-1-303) ; and

(b) by evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement."

Sales, conforming changes

SECTION 7. Section 36-2-310(c) of the 1976 Code is amended to read:

"(c) if delivery is authorized and made by way of documents of title otherwise than by subsection (b) then payment is due regardless of where the goods are to be received (i) at the time and place at which the buyer is to receive delivery of the tangible documents or (ii) at the time the buyer is to receive delivery of the electronic documents and at the seller's place of business or if none, the seller's residence; and"

Sales, conforming changes

SECTION 8. Section 36-2-323(2) of the 1976 Code is amended to read:

"(2) Where in a case within subsection (1) a tangible bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set:

(a) due tender of a single part is acceptable within the provisions of this chapter on cure of improper delivery (subsection (1) of Section 36-2-508); and

(b) even though the full set is demanded, if the documents are sent from abroad the person tendering an incomplete set may nevertheless require payment upon furnishing an indemnity which the buyer in good faith deems adequate."

Sales, conforming changes

SECTION 9. Section 36-2-401(3) of the 1976 Code is amended to read:

"(3) Unless otherwise explicitly agreed where delivery is to be made without moving the goods,

(a) if the seller is to deliver a tangible document of title, title passes at the time when and the place where he delivers such documents and if the seller is to deliver an electronic document of title, title passes when the seller delivers the document; or

(b) if the goods are at the time of contracting already identified and no documents of title are to be delivered, title passes at the time and place of contracting."

Sales, conforming changes

SECTION 10. Section 36-2-503(4) and (5) of the 1976 Code is amended to read:

"(4) Where goods are in the possession of a bailee and are to be delivered without being moved:

(a) tender requires that the seller either tender a negotiable document of title covering such goods or procure acknowledgment by the bailee of the buyer's right to possession of the goods; but

(b) tender to the buyer of a nonnegotiable document of title or of a record directing the bailee to deliver is sufficient tender unless the buyer seasonably objects, and except as otherwise provided in Chapter 9 receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the nonnegotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.

(5) Where the contract requires the seller to deliver documents:

(a) he must tender all such documents in correct form, except as provided in this chapter with respect to bills of lading in a set (subsection (2) of Section 36-2-323); and

(b) tender through customary banking channels is sufficient and dishonor of a draft accompanying or associated with the documents constitutes nonacceptance or rejection."

Sales, conforming changes

SECTION 11. Section 36-2-505(1)(b) and (2) of the 1976 Code is amended to read:

"(b) a nonnegotiable bill of lading to himself or his nominee reserves possession of the goods as security but except in a case of conditional delivery (subsection (2) of Section 36-2-507) a nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession or control of the bill of lading.

(2) When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section (Section

36-2-504) but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document of title."

Sales, conforming changes

SECTION 12. Section 36-2-506(2) of the 1976 Code is amended to read:

"(2) The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular."

Sales, conforming changes

SECTION 13. Section 36-2-509(2) of the 1976 Code is amended to read:

"(2) Where the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the buyer:

(a) on his receipt of possession or control of a negotiable document of title covering the goods; or

(b) on acknowledgment by the bailee of the buyer's right to possession of the goods; or

(c) after his receipt of possession or control of a nonnegotiable document of title or other direction to deliver in a record, as provided in subsection (4)(b) of Section 36-2-503."

Sales, conforming changes

SECTION 14. Section 36-2-605(2) of the 1976 Code is amended to read:

"(2) Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent in the documents."

Sales, conforming changes

SECTION 15. Section 36-2-705(3)(c) of the 1976 Code is amended to read:

"(c) If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of possession or control of the document."

Leases, conforming changes

SECTION 16. Section 36-2A-103(1)(a) and (o) of the 1976 Code is amended to read:

"(a) 'Buyer in ordinary course of business' means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. 'Buying' may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(o) 'Lessee in ordinary course of business' means a person who in good faith and without knowledge that the lease to the person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. 'Leasing' may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt."

Leases, conforming changes

SECTION 17. Section 36-2A-103(3) of the 1976 Code is amended to read:

"(3) The following definitions in other chapters apply to this chapter:

'Account' Section 36-9-102.
'Between merchants' Section 36-2-104(3).
'Buyer' Section 36-2-103(1)(a).
'Chattel paper' Section 36-9-102.
'Consumer goods' Section 36-9-102.
'Document' Section 36-9-102.
'Entrusting' Section 36-2-403(3).
'General intangibles' Section 36-9-102(a)(42).
'Instrument' Section 36-9-102.
'Merchant' Section 36-2-104(1).
'Mortgage' Section 36-9-102.
'Pursuant to commitment' Section 36-9-102.
'Receipt' Section 36-2-103(1)(c).
'Sale' Section 36-2-106(1).
'Sale on approval' Section 36-2-326.
'Sale or return' Section 36-2-326.
'Seller' Section 36-2-103(1)(d)."

Leases, conforming changes

SECTION 18. Section 36-2A-501(4) of the 1976 Code is amended to read:

"(4) Except as otherwise provided in Section 36-1-305(a) or this chapter or the lease agreement, the rights and remedies referred to in subsections (2) and (3) are cumulative."

Leases, conforming changes

SECTION 19. Section 36-2A-514(2) of the 1976 Code is amended to read:

"(2) A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent in the documents."

Leases, conforming changes

SECTION 20. Section 36-2A-518(2) of the 1976 Code is amended to read:

"(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 36-2A-504) or otherwise determined pursuant to agreement of the parties (Sections 36-1-302 and 36-2A-503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (i) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (ii) any incidental or consequential damages, less expenses saved in consequence of the lessor's default."

Leases, conforming changes

SECTION 21. Section 36-2A-519(1) of the 1976 Code is amended to read:

"(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 36-2A-504) or otherwise determined pursuant to agreement of the parties (Sections 36-1-302 and 36-2A-503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under Section 36-2A-518(2), or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default."

Leases, conforming changes

SECTION 22. Section 36-2A-527(2) of the 1976 Code is amended to read:

"(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 36-2A-504) or otherwise

determined pursuant to agreement of the parties (Sections 36-1-302 and 36-2A-503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (i) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (ii) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (iii) any incidental damages allowed under Section 36-2A-530, less expenses saved in consequence of the lessee's default."

Leases, conforming changes

SECTION 23. Section 36-2A-528(1) of the 1976 Code is amended to read:

"(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 36-2A-504) or otherwise determined pursuant to agreement of the parties (Sections 36-1-302 and 36-2A-503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under Section 36-2A-527(2), or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in Section 36-2A-523(1) or 36-2A-523(3)(a), or, if agreed, for other default of the lessee, (i) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (ii) the present value as of the date determined under clause (i) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (iii) any incidental damages allowed under Section 36-2A-530, less expenses saved in consequence of the lessee's default."

Negotiable instruments, conforming changes

SECTION 24. Section 36-3-103(a)(6) and (13) of the 1976 Code, as last amended by Act 204 of 2008, is further amended to read:

"(6) '[Reserved]'.

(13) 'Prove' with respect to a fact means to meet the burden of establishing the fact (Section 36-1-201(b)(8))."

Bank deposits and collections, conforming changes

SECTION 25. Section 36-4-104(c) of the 1976 Code, as last amended by Act 204 of 2008, is further amended to read:

"(c) 'Control' as provided in Section 36-7-106 and the following definitions in other chapters apply to this chapter:

'Acceptance' Section 36-3-409.
'Alteration' Section 36-3-407.
'Cashier's check' Section 36-3-104.
'Certificate of deposit' Section 36-3-104.
'Certified check' Section 36-3-409.
'Check' Section 36-3-104.
'Holder in due course' Section 36-3-302.
'Instrument' Section 36-3-104.
'Notice of dishonor' Section 36-3-503.
'Order' Section 36-3-103.
'Ordinary care' Section 36-3-103.
'Person entitled to enforce' Section 36-3-301.
'Presentment' Section 36-3-501.
'Promise' Section 36-3-103.
'Prove' Section 36-3-103.
'Record' Section 36-3-103.
'Remotely-created consumer item' Section 36-3-103.
'Teller's check' Section 36-3-104.
'Unauthorized signature' Section 36-3-403."

Bank deposits and collections, conforming changes

SECTION 26. Section 36-4-210(c) of the 1976 Code, as last amended by Act 204 of 2008, is further amended to read:

"(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or possession or control of the accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Chapter 9, but:

(1) no security agreement is necessary to make the security interest enforceable (Section 36-9-203(b)(3)(A));

(2) no filing is required to perfect the security interest; and

(3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds."

Fund transfers, conforming changes

SECTION 27. Section 36-4A-105(a)(6) and (7) of the 1976 Code is amended to read:

"(6) [Reserved].

(7) 'Prove' with respect to a fact means to meet the burden of establishing the fact (Section 36-1-201(b)(8))."

Fund transfers, conforming changes

SECTION 28. Section 36-4A-106(a) of the 1976 Code is amended to read:

"(a) The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in Section 36-1-202. A receiving bank may fix a cut-off time or times on a funds-transfer business day for the receipt and processing of payment orders and communications canceling or amending payment orders. Different cut-off times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cut-off time may apply to senders generally or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cut-off time on a funds-transfer business day, the receiving bank may treat the payment

order or communication as received at the opening of the next funds-transfer business day."

Fund transfers, conforming changes

SECTION 29. Section 36-4A-204(b) of the 1976 Code is amended to read:

"(b) Reasonable time under subsection (a) may be fixed by agreement as stated in Section 36-1-302(b), but the obligation of a receiving bank to refund payment as stated in subsection (a) may not otherwise be varied by agreement."

Letters of credit, conforming changes

SECTION 30. Section 36-5-103(c) of the 1976 Code is amended to read:

"(c) With the exception of this subsection, subsections (a) and (d), Sections 36-5-102(a)(9) and (10), 36-5-106(d), and 36-5-114(d), and except to the extent prohibited in Sections 36-1-302 and 36-5-117(d), the effect of this chapter may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this chapter."

Investment securities, conforming changes

SECTION 31. Section 36-8-102(a)(10) of the 1976 Code is amended to read:

"(10) [Reserved]."

Investment securities, conforming changes

SECTION 32. Section 36-8-103 of the 1976 Code is amended by adding subsection (g) at the end to read:

"(g) A document of title is not a financial asset unless Section 36-8-102(a)(9)(iii) applies."

Secured transactions, conforming changes

SECTION 33. Section 36-9-102(a)(30) and (43) of the 1976 Code, as last amended by Act 96 of 2013, is further amended to read:

"(30) 'Document' means a document of title or a receipt of the type described in Section 36-7-201(b).

(43) [Reserved]."

Secured transactions, conforming changes

SECTION 34. Section 36-9-102(b) of the 1976 Code, as last amended by Act 96 of 2013, is further amended to read:

"(b) 'Control' as provided in Section 36-7-106 and the following definitions in other chapters apply to this chapter:

'Applicant' Section 36-5-102.
'Beneficiary' Section 36-5-102.
'Broker' Section 36-8-102.
'Certificated security' Section 36-8-102.
'Check' Section 36-3-104.
'Clearing corporation' Section 36-8-102.
'Contract for sale' Section 36-2-106.
'Customer' Section 36-4-104.
'Entitlement holder' Section 36-8-102.
'Financial asset' Section 36-8-102.
'Holder in due course' Section 36-3-302.
'Issuer' (with respect to a letter of credit or letter-of-credit right) Section 36-5-102.
'Issuer' (with respect to a security) Section 36-8-201.
'Issuer' (with respect to documents of title) Section 36-7-102.
'Lease' Section 36-2A-103.
'Lease agreement' Section 36-2A-103.
'Lease contract' Section 36-2A-103.
'Leasehold interest' Section 36-2A-103.
'Lessee' Section 36-2A-103.
'Lessee in ordinary course of business' Section 36-2A-103.
'Lessor' Section 36-2A-103.
'Lessor's residual interest' Section 36-2A-103.
'Letter of credit' Section 36-5-102.
'Merchant' Section 36-2-104.

'Negotiable instrument' Section 36-3-104.
'Nominated person' Section 36-5-102.
'Note' Section 36-3-104.
'Proceeds of a letter of credit' Section 36-5-114.
'Sale' Section 36-2-106.
'Securities account' Section 36-8-501.
'Securities intermediary' Section 36-8-102.
'Security' Section 36-8-102.
'Security certificate' Section 36-8-102.
'Security entitlement' Section 36-8-102.
'Uncertificated security' Section 36-8-102."

Secured transactions, conforming changes

SECTION 35. Section 36-9-203(b)(3)(D) of the 1976 Code is amended to read:

"(D) the collateral is deposit accounts, electronic chattel paper, investment property, letter-of-credit rights, or electronic documents and the secured party has control under Section 36-7-106, 36-9-104, 36-9-105, 36-9-106, or 36-9-107 pursuant to the debtor's security agreement."

Secured transactions, conforming changes

SECTION 36. Section 36-9-207(c) of the 1976 Code is amended to read:

"(c) Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under Section 36-7-106, 36-9-104, 36-9-105, 36-9-106, or 36-9-107:

(1) may hold as additional security any proceeds, except money or funds, received from the collateral;

(2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) may create a security interest in the collateral."

Secured transactions, conforming changes

SECTION 37. Section 36-9-208(b)(4) and (5) of the 1976 Code is amended to read:

"(4) a secured party having control of investment property under Section 36-8-106(d)(2) or 36-9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;

(5) a secured party having control of a letter-of-credit right under Section 36-9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party; and

(6) a secured party having control of an electronic document shall:

(A) give control of the electronic document to the debtor or its designated custodian;

(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party."

Secured transactions, conforming changes

SECTION 38. Section 36-9-301(3) of the 1976 Code is amended to read:

"(3) Except as otherwise provided in item (4), while tangible negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(A) perfection of a security interest in the goods by filing a fixture filing;

(B) perfection of a security interest in timber to be cut; and

(C) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral."

Secured transactions, conforming changes

SECTION 39. Section 36-9-310(b) of the 1976 Code is amended to read:

"(b) The filing of a financing statement is not necessary to perfect a security interest:

(1) that is perfected under Section 36-9-308(d), (e), (f), or (g);

(2) that is perfected under Section 36-9-309 when it attaches;

(3) in property subject to a statute, regulation, or treaty described in Section 36-9-311(a);

(4) in goods in possession of a bailee which is perfected under Section 36-9-312(d)(1) or (2);

(5) in certificated securities, documents, goods, or instruments which are perfected without filing, control, or possession under Section 36-9-312(e), (f), or (g);

(6) in collateral in the secured party's possession under Section 36-9-313;

(7) in a certificated security which is perfected by delivery of the security certificate to the secured party under Section 36-9-313;

(8) in deposit accounts, electronic chattel paper, electronic documents, investment property, or letter-of-credit rights which is perfected by control under Section 36-9-314;

(9) in proceeds which is perfected under Section 36-9-315; or

(10) that is perfected under Section 36-9-316."

Secured transactions, conforming changes

SECTION 40. Section 36-9-312(e) of the 1976 Code is amended to read:

"(e) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession or control for a period of twenty days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement."

Secured transactions, conforming changes

SECTION 41. Section 36-9-313(a) of the 1976 Code is amended to read:

"(a) Except as otherwise provided in subsection (b), a secured party may perfect a security interest in tangible negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under Section 36-8-301."

Secured transactions, conforming changes

SECTION 42. Section 36-9-314(a) and (b) of the 1976 Code is amended to read:

"(a) A security interest in investment property, deposit accounts, letter-of-credit rights, electronic chattel paper, or electronic documents may be perfected by control of the collateral under Section 36-7-106, 36-9-104, 36-9-105, 36-9-106, or 36-9-107.

(b) A security interest in deposit accounts, electronic chattel paper, letter-of-credit rights, or electronic documents is perfected by control under Section 36-7-106, 36-9-104, 36-9-105, or 36-9-107 when the secured party obtains control and remains perfected by control only while the secured party retains control."

Secured transactions, conforming changes

SECTION 43. Section 36-9-317(b), (c), and (d) of the 1976 Code, as last amended by Act 96 of 2013, is further amended to read:

"(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper,tangible documents, goods, instruments, or a certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, electronic documents, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or

buyer gives value without knowledge of the security interest and before it is perfected."

Secured transactions, conforming changes

SECTION 44. Section 36-9-338(2) of the 1976 Code is amended to read:

"(2) a purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of tangible chattel paper, tangible documents, goods, instruments, or a security certificate, receives delivery of the collateral."

Secured transactions, conforming changes

SECTION 45. Section 36-9-601(b) of the 1976 Code is amended to read:

"(b) A secured party in possession of collateral or control of collateral under Section 36-7-106, 36-9-104, 36-9-105, 36-9-106, or 36-9-107 has the rights and duties provided in Section 36-9-207."

Repeal

SECTION 46. Sections 36-2-208 and 36-2A-207 of the 1976 Code are repealed.

One subject findings

SECTION 47. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution, 1895, in that each provision relates directly to or in conjunction with other sections within the subject of the Uniform Commercial Code, as stated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

Code commissioner directives

SECTION 48. After enactment of the provisions of this act, the Code Commissioner is instructed to insert the Official Comments, as amended, available from the Uniform Law Commission at http://uniformlaws.org, into the annotated versions of the provisions of this act, as contained in the South Carolina Code of Laws, after the appropriate provision and before the S.C. Reporter's Comments, to the extent that S.C. Reporter's Comments follow a provision. The Official Comments, prepared by the Uniform Law Commission with the intent of aiding the user in understanding the provisions to the Uniform Commercial Code, are not considered part of this act and do not indicate legislative intent.

Severability

SECTION 49. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Prospective application

SECTION 50. The provisions of this act apply prospectively. To the extent that issues arise based upon rights or obligations that arise prior to the effective date of this act, prior law applies to resolve those issues. Transactions, documents of title, or bailment validly entered into before the effective date of this act and the rights, duties, and interests arising from them remain valid thereafter and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by this act, as though the repeal or amendment had not occurred.

Time effective

SECTION 51. This act becomes effective on October 1, 2014. It applies to transactions entered into and events occurring after that date.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 214

(R210, S446)

AN ACT TO RATIFY AN AMENDMENT TO SECTION 8, ARTICLE IV OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE ELECTION, QUALIFICATIONS, AND TERM OF THE LIEUTENANT GOVERNOR, SO AS TO PROVIDE THAT THE LIEUTENANT GOVERNOR MUST BE ELECTED JOINTLY WITH THE GOVERNOR IN A MANNER PRESCRIBED BY LAW; BY ADDING SECTION 37 TO ARTICLE III SO AS TO PROVIDE THAT THE SENATE SHALL ELECT FROM AMONG ITS MEMBERS A PRESIDENT TO PRESIDE OVER THE SENATE AND TO PERFORM OTHER DUTIES AS PROVIDED BY LAW; TO AMEND ARTICLE IV, RELATING TO THE EXECUTIVE DEPARTMENT, BY DELETING SECTIONS 9 AND 10, SO AS TO ELIMINATE PROVISIONS RELATING TO THE PRESIDING OFFICER OF THE SENATE MADE OBSOLETE BY THE AMENDMENTS RATIFIED BY THIS ACT; TO AMEND SECTION 11, ARTICLE IV, RELATING TO THE REMOVAL OF THE LIEUTENANT GOVERNOR FROM OFFICE BY IMPEACHMENT, DEATH, RESIGNATION, DISQUALIFICATION, DISABILITY, OR REMOVAL FROM THE STATE, SO AS TO PROVIDE THAT THE GOVERNOR SHALL APPOINT, WITH THE ADVICE AND CONSENT OF THE SENATE, A SUCCESSOR TO FULFILL THE UNEXPIRED TERM; AND TO AMEND SECTION 12, ARTICLE IV, RELATING TO THE DISABILITY OF THE GOVERNOR, SO AS TO CHANGE REFERENCES TO THE PRESIDING

OFFICER OF THE SENATE TO CONFORM TO AMENDMENTS RATIFIED BY THIS ACT.

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

Amendments ratified

SECTION 1. A. The amendment to Article IV of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 289 of 2012, having been submitted to the qualified electors at the General Election of 2012 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 8 of Article IV is amended to read:

"Section 8. (A) A Lieutenant Governor must be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the Governor.

(B) Beginning with the General Election of 2018, a person seeking the office of Governor in any manner that a person's name may appear on the ballot as a candidate for that office, and before that person's name is certified to appear on the ballot for the general election, shall select a qualified elector to serve as Lieutenant Governor.

(C) All candidates for the offices of Governor and Lieutenant Governor must be elected jointly in a manner prescribed by law so that each voter casts a single vote to elect a candidate for the office of Governor and Lieutenant Governor.

(D) The General Assembly shall provide by law the manner in which a candidate for Lieutenant Governor is selected."

B. The amendment to Article III of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 289 of 2012, having been submitted to the qualified electors at the General Election of 2012 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 37 as added to Article III reads:

"Section 37. The Senate shall, as soon as practicable after the convening of the General Assembly in 2019 and every four years thereafter, elect from among the members thereof a President to preside over the Senate and to perform other duties as provided by law."

C. The amendment to Article IV of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 289 of 2012, having been submitted to the qualified electors at the General Election of 2012 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 9, Article IV is amended to read:

"Section 9. (Reserved)."

D. The amendment to Article IV of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 289 of 2012, having been submitted to the qualified electors at the General Election of 2012 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 10, Article IV is amended to read:

"Section 10. (Reserved)."

E. The amendment to Article IV of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 289 of 2012, having been submitted to the qualified electors at the General Election of 2012 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 11, Article IV is amended to read:

"Section 11. In the case of the removal of the Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the Lieutenant Governor shall be Governor. In case the Governor be impeached, the Lieutenant Governor shall act in his stead and have his powers until judgment in the case shall have been pronounced. In the case of the temporary disability of the Governor and in the event of the temporary absence of the Governor from the State, the Lieutenant Governor shall have full authority to act in an emergency. In the case of the removal of the Lieutenant Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the Governor shall appoint, with the advice and consent of the Senate, a successor to fulfill the unexpired term."

F. The amendment to Article IV of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 289 of 2012, having been submitted to the qualified electors at the General Election of 2012 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a favorable vote having been received on the amendment, is ratified and declared to be a part of the Constitution so that Section 12, Article IV is amended to read:

"Section 12. (1) Whenever the Governor transmits to the President of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as acting Governor.

(2) Whenever a majority of the Attorney General, the Secretary of State, the Comptroller General, and the State Treasurer, or of such other body as the General Assembly may provide, transmits to the President of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall forthwith assume the powers and duties of the office as acting Governor.

Thereafter, if the Governor transmits to the President of the Senate and the Speaker of the House of Representatives his written declaration that no such inability exists, he shall forthwith resume the powers and duties of his office unless a majority of the above members or of such other body, whichever the case may be, transmits within four days to the President of the Senate and the Speaker of the House of Representatives their written declaration that the Governor is unable to discharge the powers and duties of his office. Thereupon, the General Assembly shall forthwith consider and decide the issue, and if not in session, it shall assemble within forty-eight hours for the sole purpose of deciding such issue. If the General Assembly, within twenty-one days, excluding Sundays, after the first day it meets to decide the issue, determines by two-thirds vote of each House that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall continue to discharge the same as acting Governor; otherwise, the Governor shall resume the powers and duties of his office."

Ratified the 29th day of May, 2014.

No. 215

(R222, S828)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-41-75 SO AS TO EXEMPT CERTAIN BOND REIMBURSEMENT REQUIREMENTS IF A CONVENTION AND TRADE SHOW CENTER IS SOLD AND IS TO BE REPLACED WITH A NEW CONVENTION AND TRADE SHOW CENTER, AND TO SET FORTH EXEMPTION REQUIREMENTS; AND TO AMEND SECTION 11-41-70, AS AMENDED, RELATING TO REQUIREMENTS FOR ECONOMIC DEVELOPMENT BONDS, SO AS TO MAKE A CONFORMING CHANGE.

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

Economic development bonds for convention and trade show, reimbursement provisions not applicable if sold and replaced with similar facility

SECTION 1. Chapter 41, Title 11 of the 1976 Code is amended by adding:

"Section 11-41-75. (A) Notwithstanding the provisions of Section 11-41-70(2)(d), the provisions requiring the reimbursement of bond proceeds, plus interest, upon the sale of the meeting and exhibit space, are not applicable if:

(1) the proceeds of the sale of meeting and exhibit space is for its true value as described in Section 12-37-930;

(2) the sale proceeds are used in their entirety for a new meeting and exhibit space as defined in Section 11-41-30(2)(e); and

(3) if there are outstanding bonds on the existing meeting and exhibit space, the state agency, instrumentality, or political subdivision provides to the State Treasurer a tax opinion from a nationally recognized bond counsel that the sale and proposed new qualifying purpose or use will not adversely affect the federal income tax

treatment of the interest on the bonds issued by the State to finance the meeting and exhibit space.

(B) The exemption from the reimbursement requirements only applies so long as:

(1) the land for the new meeting and exhibit space is owned by the state agency, instrumentality, or political subdivision at the time of the sale or is purchased within eighteen months of the sale;

(2) construction of the new meeting and exhibit space begins within five years of the sale; and

(3) the project is completed within ten years of the sale.

If a state agency, instrumentality, or political subdivision avails itself of the provisions of subsection (A), but then fails to meet the requirements of this subsection, then the reimbursement requirements of Section 11-41-70(2)(d) apply as of the day of the sale.

(C) If the new meeting and exhibit space is subsequently sold, the reimbursement requirements of Section 11-41-70(2)(d) apply as of the day of the sale of the new meeting and exhibit space, unless the provisions of this section again apply.

(D) Prior to the sale of the meeting and exhibit space, any state agency, instrumentality, or political subdivision desiring to avail itself of the provisions of this section must submit its plans to the Joint Bond Review Committee for review and comment. The submission must include proof of eligibility or plans to become eligible pursuant to the standards set forth in subsection (A) and a projected plan as to how it will remain eligible pursuant to subsection (B). To the fullest extent possible at the time, the submission also must include a comparison between the meeting and exhibit space that is for sale and the proposed replacement meeting and exhibit space."

Economic development bonds for convention and trade show, conforming change

SECTION 2. Section 11-41-70(2)(d) of the 1976 Code, as last amended by Act 73 of 2013, is further amended to read:

"(d) subject to the provisions of Section 11-41-75, in the case of a national and international convention and trade show center, partial payment of costs for infrastructure associated with a meeting and exhibit space as defined in Section 11-41-30(2)(e), owned by the State or any agency, instrumentality, or political subdivision thereof for which project there has been executed an agreement between the State and the state agency, instrumentality, or political subdivision owning

such meeting and exhibit space providing that, upon either the sale of the meeting and exhibit space partially financed with proceeds of bonds issued pursuant to this chapter or the failure of the state agency, instrumentality, or political subdivision to (1) purchase land within eighteen months of the effective date of this item (d), (2) begin construction within five years of the effective date of this item (d) of a meeting and exhibit space as defined in Section 11-41-30(2)(e), or (3) complete the project within fifteen years of the effective date of this item (d), then the state agency, instrumentality, or political subdivision owning such meeting and exhibit space will reimburse the amount of bond proceeds to the General Fund of the State, plus interest thereon from the date of expenditure to the date of such reimbursement at a rate equal to the total interest cost rate on the issuance of bonds used to make such expenditure. The state agency, instrumentality, or political subdivision must notify the State Treasurer immediately upon the sale of any land acquired with proceeds of bonds issued pursuant to this chapter. The state agency, instrumentality, or political subdivision also must provide sufficient proof to the State Treasurer that the deadlines to purchase land, begin construction, and complete the project imposed pursuant to this item have been met. If the state agency, instrumentality, or political subdivision sells the land or fails to meet any of these deadlines, then the State Treasurer shall take the appropriate action necessary to recover all bond proceeds and interest disbursed to the state agency, instrumentality, or political subdivision to finance the project;"

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 216

(R223, S839)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 55 TO TITLE 46 SO

AS TO PROVIDE THAT IT IS LAWFUL TO GROW INDUSTRIAL HEMP IN THIS STATE, THAT INDUSTRIAL HEMP IS EXCLUDED FROM THE DEFINITION OF MARIJUANA, TO PROHIBIT THE GROWING OF INDUSTRIAL HEMP AND MARIJUANA ON THE SAME PROPERTY OR OTHERWISE GROWING MARIJUANA IN CLOSE PROXIMITY TO INDUSTRIAL HEMP TO DISGUISE THE MARIJUANA GROWTH, TO DEFINE CERTAIN TERMS, AND TO PROVIDE PENALTIES.

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

Findings

SECTION 1. The General Assembly finds that:

(1) Hemp is a fiber and oilseed crop with a wide variety of uses, including twine, rope, paper, construction materials, carpeting, and clothing, and has the potential for use as a cellulosic ethanol biofuel.

(2) Hemp seeds have been used in making industrial oils, cosmetics, medicines, and food.

(3) Hemp and marijuana are genetically different cultivars of the same plant species and are scientifically distinguishable from each other.

(4) Hemp is grown for scientific, economic, and environmental uses while marijuana is grown for narcotic use.

(5) Research and development related to hemp has the potential to provide a cash crop for South Carolina's farmers with broad commercial application that will enhance the economic diversity and stability of our state's agricultural industry.

Industrial hemp cultivation

SECTION 2. Title 46 of the 1976 Code is amended by adding:

"CHAPTER 55

Industrial Hemp Cultivation

Section 46-55-10. For the purposes of this chapter:

(1) 'Industrial hemp products' means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and

seed oil for consumption, and seed for cultivation if the seeds originate from industrial hemp varieties.

(2) 'Industrial hemp' means all parts and varieties of the plant cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain of no more tetrahydrocannabinol concentration than adopted by federal law in the Controlled Substances Act, 21 U.S.C. 801, et seq.

(3) 'Tetrahydrocannabinol' means the natural or synthetic equivalents or substances contained in the plant, or in the resinous extractives of cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

Section 46-55-20. It is lawful for an individual to cultivate, produce, or otherwise grow industrial hemp in this State to be used for any lawful purpose, including, but not limited to, the manufacture of industrial hemp products, and scientific, agricultural, or other research related to other lawful applications for industrial hemp.

Section 46-55-30. Industrial hemp is excluded from the definition of marijuana in Section 44-53-110.

Section 46-55-40. An individual who manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than three thousand dollars, or both. The penalty provided for in this section may be imposed in addition to any other penalties provided by law."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 217

(R224, S998)

AN ACT TO AMEND SECTION 56-16-140, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF MOTORCYCLE DEALER AND WHOLESALER LICENSES BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO PROVIDE FOR THE ISSUANCE OF A DEALER'S EXHIBITION LICENSE THAT ALLOWS A HOLDER TO EXHIBIT MOTORCYCLES AND THEIR RELATED PRODUCTS AT FAIRS, RECREATIONAL OR SPORTS SHOWS, VACATION SHOWS, AND OTHER SIMILAR EVENTS OR SHOWS.

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

Motorcycle dealer exhibition license

SECTION 1. Section 56-16-140(A) of the 1976 Code is amended to read:

"(A)(1) Before engaging in business as a motorcycle dealer or wholesaler in this State, every person must first make application to the Department of Motor Vehicles for a license. Every license issued expires twelve months from the date of issue and must be prominently displayed at the established place of business. The fee for the license is fifty dollars. The license applies to only one place of business of the applicant and is not transferable to any other person or place of business, except as provided in item (2).

(2)(a) A licensed dealer may exhibit motorcycles and their related products at fairs, recreational or sports shows, vacation shows, and other similar events or shows upon obtaining a dealer's exhibition license. Before exhibiting motorcycles and their related products as provided in this item, the dealer shall first apply to the department for an exhibition license. The applicant shall provide the department with the name, location, and dates of the particular exhibition for which he is seeking an exhibition license.

(b) A dealer must hold a valid dealer's license pursuant to this section to be issued an exhibition license. Exhibition licenses are valid for a period not to exceed ten consecutive days, must be prominently

displayed at the exhibition site, apply to only the licensee, and may not be transferred to another dealer or exhibition location. A dealer may not purchase more than six exhibition licenses in any licensing period."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 218

(R226, S1007)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 29-3-625 SO AS TO PROVIDE A PROCESS FOR EXPEDITING MORTGAGE FORECLOSURES AND TO DEFINE NECESSARY TERMINOLOGY.

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

Expedited mortgage foreclosures for abandoned property

SECTION 1. Article 7, Chapter 3, Title 29 of the 1976 Code is amended by adding:

"Section 29-3-625. (A) For the purposes of this section, 'abandoned property' means real property subject to a mortgage where either:

(1) the mortgaged property is not occupied and at least two of the following conditions exist:

(a) windows or entrances to the property are boarded up or closed off or multiple window panes are damaged, broken, or unrepaired;

(b) doors to the property are smashed through, broken off, unhinged, or continuously unlocked;

(c) hazardous, noxious, or unhealthy substances or materials have accumulated on the property;

(d) gas, electric, or water utility services have been terminated by the utility for at least thirty days due to failure to pay by the property owner;

(e) a risk to the health, safety, or welfare of the public exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;

(f) an uncorrected violation of a building, housing, or similar code during the preceding year that the property owner has received notice to correct and has failed to do so;

(g) an order by governmental authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;

(h) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;

(i) written statements of neighbors, delivery persons, or governmental employees indicating that the property is abandoned; or

(j) any other indicia of abandonment; or

(2) the mortgaged property is vacant, unimproved land and is in need of maintenance, repair, or securing;

(3) a showing under items (1) or (2) of this section must be proven by clear and convincing evidence.

(B) For the purposes of this section, real property must not be considered 'abandoned' if, on the property, there is:

(1) an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations, and statutes;

(2) a building occupied on a seasonal basis, but otherwise secure;

(3) a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute; or

(4) a building owned by a property owner who is deceased and the heirs can be identified. The mortgage holder must submit proof that efforts were made to identify and contact heirs.

(C) A mortgagee or successor in interest to a mortgagee may move the court for an expedited judgment of foreclosure and sale of real property that is considered 'abandoned' pursuant to this section. The motion must be a motion to expedite foreclosure and sale, which:

(1) must be supported by affidavit and must set forth the facts pursuant to subsection (A) demonstrating that the mortgaged property is abandoned; and

(2) may be filed by the mortgagee at the time the Order of Reference is filed or any time thereafter.

(D) In addition to any notices required to be served by law or the South Carolina Rules of Civil Procedure, a mortgagee shall, in a motion to proceed pursuant to this section or with any rule to show cause served as original service of process, serve a notice on each defendant that the mortgagee is seeking an entry of a judgment and decree of foreclosure on the date fixed by the court or on the return date of the rule to show cause.

(E) A motion to expedite foreclosure and sale may be heard by the master-in-equity or special referee, or in those counties without a master-in-equity, by a circuit judge.

(F) A motion to expedite a foreclosure action is designated as a priority matter pursuant to the South Carolina Rules of Civil Procedure and should be heard by the court as quickly as possible.

(G) The court, after a hearing, shall grant the motion to expedite foreclosure and sale and enter a judgment of foreclosure and sale upon a finding by clear and convincing evidence that:

(1) the mortgaged property is abandoned as defined under subsection (A); and

(2) the pleadings, documents filed with the court, and testimony supports the entry of a final judgment of foreclosure and sale.

(H) The court shall not grant the motion to expedite foreclosure and sale or enter a judgment of foreclosure and sale if the court finds that:

(1) the mortgaged property is not abandoned; or

(2) the mortgagor or any other defendant has filed an answer, appearance, or other written objection that is not withdrawn and the defenses or objections asserted provide cause to preclude the entry of a judgment of foreclosure and sale.

(I) If a motion to expedite foreclosure and sale is denied, the court may direct that the foreclosure action continue pursuant to standard procedure under South Carolina law for mortgage foreclosure actions for properties that are not abandoned.

(J) Nothing in this section may be construed to supersede or limit procedures adopted by the South Carolina Supreme Court to resolve residential mortgage foreclosure actions."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 219

(R227, S1032)

AN ACT TO AMEND SECTION 48-39-320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE'S COMPREHENSIVE BEACH MANAGEMENT PLAN, SO AS TO AUTHORIZE THE BOARD OR THE OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO ALLOW THE USE OF PILOT PROJECTS TO ADDRESS BEACH OR DUNE EROSION AND TO ALLOW CONTINUED USE OF THESE PROJECTS UNDER CERTAIN CIRCUMSTANCES.

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

Authorization to allow use of pilot projects to address beach and dune erosion

SECTION 1. Section 48-39-320 of the 1976 Code is amended by adding:

"(C) Notwithstanding any other provision of law contained in this chapter, the board, or the Office of Ocean and Coastal Resource Management, may allow the use in a pilot project of any technology, methodology, or structure, whether or not referenced in this chapter, if it is reasonably anticipated that the use will be successful in addressing an erosional issue in a beach or dune area. If success is demonstrated, the board, or the Office of Ocean and Coastal Resource Management, may allow the continued use of the technology, methodology, or structure used in the pilot project location and additional locations."

Time effective

SECTION 2. This act takes effect upon approval by the Governor; however, Section 48-39-130, as amended, remains subject to the repeal provision pursuant to Section 5, Act 41 of 2011.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 220

(R228, S1033)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-2-110 SO AS TO PROVIDE THAT AN OUT-OF-STATE BUSINESS OR EMPLOYEE THAT PERFORMS DISASTER OR EMERGENCY-RELATED WORK IN THIS STATE IS EXEMPT FROM CERTAIN LICENSING AND TAXING PROVISIONS DURING THE DISASTER PERIOD, TO DEFINE TERMS, AND TO PROVIDE NOTICE REQUIREMENTS.

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

Out-of-state business performing disaster or emergency-related work exempt from certain licensing and taxing requirements

SECTION 1. Chapter 2, Title 12 of the 1976 Code is amended by adding:

"Section 12-2-110. (A) For purposes of this section:

(1) 'Registered business in this State' or 'registered business' means a business entity that is registered to do business in this State before the declared state disaster or emergency.

(2) 'Out-of-state business' means a business entity that has no presence in the State and conducts no business in this State whose services are requested by a registered business or by a state or local government for purposes of performing disaster or emergency-related work in this State. This term includes a business entity that is affiliated

with the registered business in this State solely through common ownership. The out-of-state business must have no registrations or tax filings or nexus in the State before the declared state disaster or emergency.

(3) 'Out-of-state employee' means an employee who does not reside in or work in the State, except for disaster or emergency-related work during the disaster period.

(4) 'Infrastructure' means property and equipment owned or used by communications networks, electric generation, transmission and distribution systems, gas distribution systems, water pipelines, and public roads and bridges and related support facilities that services multiple customers or citizens including, but not limited to, real and personal property such as buildings, offices, lines, poles, pipes, structures, and equipment.

(5) 'Declared state disaster or emergency' means a disaster or emergency event:

(a) for which a Governor's state of emergency proclamation has been issued;

(b) for which a presidential declaration of a federal major disaster or emergency has been issued; or

(c) other disaster or emergency event within this State for which a good faith response effort is required, and for which the Director of the South Carolina Department of Revenue designates the event as a disaster or emergency and thereby invokes this section.

(6) 'Disaster period' means a period that begins within ten days of the first day of the Governor's proclamation, the President's declaration, or designation by the Director of the Department of Revenue, whichever occurs first, and that extends for a period of sixty calendar days after the end of the declared state disaster or emergency period, or any longer period authorized by the designated state official or agency.

(7) 'Disaster or emergency-related work' means repairing, renovating, installing, building, rendering services or other business activities that relate to infrastructure that has been damaged, impaired, or destroyed by the event precipitating the declared state disaster or emergency.

(B)(1)(a) An out-of-state business that performs disaster or emergency-related work within this State related to a declared state disaster or emergency during a disaster period must not be considered to have established a level of presence that would require that business to register, file, and remit state or local taxes or that would require that business or its out-of-state employees to be subject to any state

licensing or registration requirements or any combination of these actions. Except as provided in subsection (B)(1)(b), this exemption includes all state or local business licensing or registration requirements or state and local taxes or fees including, but not limited to, unemployment insurance, state or local occupational licensing fees, sales and use tax, or property tax on equipment used or consumed during the disaster period, and includes South Carolina Public Service Commission and Secretary of State licensing and regulatory requirements. For purposes of a state or local tax on or measured by, in whole or in part, net or gross income or receipts, all activity of the out-of-state business resulting from its performance of disaster or emergency-related work within this State related to a declared state disaster or emergency during a disaster period, must be disregarded with respect to any filing requirements for that tax including the filing required for a unitary or combined group of which the out-of-state business may be a part.

(b) An out-of-state employee is not considered to have established residency or a presence in the State that would require that person or that person's employer to file and pay income taxes or to be subjected to tax withholdings or to file and pay any other state or local tax or fee resulting from his performance of disaster or emergency-related work within this State related to a declared state disaster or emergency during a disaster period. This includes any related state or local employer withholding and remittance obligations.

(2) Out-of-state businesses and out-of-state employees are not exempted by this section from transaction taxes and fees including, but not limited to, fuel taxes and fuel user fees or sales and use taxes on materials or services subject to sales and use tax, accommodations taxes, car rental taxes or fees that the out-of-state affiliated business or out-of-state employee purchases for use or consumption in this State during the disaster period, unless the taxes or fees are otherwise exempted during a disaster period.

(3) An out-of-state business or out-of-state employee that remains in the State after the disaster period becomes subject to the state's normal standards for establishing presence, residency, or doing business in this State and the resulting requirements.

(C)(1)(a) The out-of-state business that enters this State upon request, shall provide to the Department of Revenue a notification statement that it is in this State for purposes of responding to the disaster or emergency, which statement must include the business' name, state of domicile, principal business address, federal tax identification number, date of entry, and contact information.

(b) A registered business in this State, upon request, shall provide the information required in item (1)(a) for an affiliate that enters this State that is an out-of-state business. The notification also must include contact information for the registered business in this State.

(2) An out-of-state business or an out-of-state employee that remains in this State after the disaster period shall notify the Department of Revenue and shall comply with state and local registration, licensing, and filing requirements that ensue as a result of establishing the requisite business presence or residency in this State."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 221

(R229, S1035)

AN ACT TO AMEND SECTION 44-53-110, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS APPLICABLE TO NARCOTICS AND CONTROLLED SUBSTANCES, SO AS TO CHANGE THE DEFINITION FOR "MARIJUANA" AND TO MAKE TECHNICAL CHANGES TO EXISTING DEFINITIONS; BY ADDING ARTICLE 18 TO CHAPTER 53, TITLE 44 SO AS TO CREATE JULIAN'S LAW, TO AUTHORIZE THE ESTABLISHMENT OF STATEWIDE INVESTIGATION OF NEW DRUG APPLICATIONS APPROVED BY THE FEDERAL DRUG ADMINISTRATION THAT ALLOW TREATMENT OF PATIENTS WITH CERTAIN FORMS OF EPILEPSY WITH CANNABIDIOL AS PART OF CLINICAL TRIALS, TO PROVIDE IMMUNITY FROM ARREST, PROSECUTION, AND OTHER PENALTIES; TO REPEAL SECTION 44-53-150 RELATING TO A REVIEW OF CRIMINAL PENALTIES FOR SALE AND USE OF MARIJUANA; AND TO CREATE A

STUDY COMMITTEE TO DEVELOP A PLAN FOR THE SALE AND USE OF MEDICAL MARIJUANA.

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

Definitions

SECTION 1. Section 44-53-110 of the 1976 Code, as last amended by Act 127 of 2005, is further amended to read:

"Section 44-53-110. As used in this article and Sections 44-49-10, 44-49-40, and 44-49-50:

(1) 'Administer' means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) a practitioner (or, in his presence, by his authorized agent); or

(b) the patient or research subject at the direction and in the presence of the practitioner.

(2) 'Agent' means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser, except that this term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman, when acting in the usual or lawful course of the carrier's or warehouseman's business.

(3) 'Bureau' means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency.

(4) 'Commission' means the South Carolina Department of Alcohol and Other Drug Abuse Services.

(5) 'Confidant' means a medical practitioner, a pharmacist, a pharmacologist, a psychologist, a psychiatrist, a full-time staff member of a college or university counseling bureau, a guidance counselor or a teacher in an elementary school or in a junior or senior high school, a full-time staff member of a hospital, a duly ordained and licensed member of the clergy, accredited Christian Science practitioner, or any professional or paraprofessional staff member of a drug treatment, education, rehabilitation, or referral center who has received a communication from a holder of the privilege.

(6) 'Controlled substance' means a drug, substance, or immediate precursor in Schedules I through V in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270.

(7) 'Controlled substance analogue' means a substance that is intended for human consumption and that either has a chemical structure substantially similar to that of a controlled substance in Schedules I, II, or III or has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to that of a controlled substance in Schedules I, II, or III. Controlled substance analogue does not include a controlled substance; any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et seq.; any substance for which there is an approved new drug application; or, with respect to a particular person, any substance if an exemption is in effect for investigational use for that person under Section 505 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 355.

(8) 'Counterfeit substance' means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who, in fact, manufactured, distributed, or dispensed such substance and which, thereby, falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(9) 'Cocaine base' means an alkaloidal cocaine or freebase form of cocaine, which is the end product of a chemical alteration whereby the cocaine in salt form is converted to a form suitable for smoking. Cocaine base is commonly referred to as 'rock' or 'crack cocaine'.

(10) 'Deliver' or 'delivery' means the actual, constructive, or attempted transfer of a controlled drug or paraphernalia whether or not there exists an agency relationship.

(11) 'Department' means the State Department of Health and Environmental Control.

(12) 'Depressant or stimulant drug' means:

(a) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid, or any derivative of barbituric acid which has been designated as habit forming by the appropriate federal agency or by the department;

(b) a drug which contains any quantity of amphetamine or any of its optical isomers, any salt of amphetamine or any salt of any optical isomer of amphetamine, or any other substance which the appropriate federal agency or the department, after investigation, has found to be capable of being, and by regulation designated as, habit

forming because of its stimulant effect on the central nervous system; or

(c) lysergic acid diethylamide or mescaline, or any other substance which the appropriate federal agency or the department, after investigation, has found to have, and by regulation designates as having a potential for abuse because of its stimulant or depressant effect on the central nervous system or its hallucinogenic effect.

(13) 'Detoxification treatment' means the dispensing, for a period not in excess of twenty-one days, of a narcotic drug in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within this period.

(14) 'Director' means the Director of the Department of Narcotics and Dangerous Drugs under the South Carolina Law Enforcement Division.

(15) 'Dispense' means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for the delivery.

(16) 'Dispenser' means a practitioner who delivers a controlled substance to the ultimate user or research subject.

(17) 'Distribute' means to deliver (other than by administering or dispensing) a controlled substance.

(18) 'Distributor' means a person who so delivers a controlled substance.

(19) 'Drug' means a substance:

(a) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man and animals;

(c) other than food intended to affect the structure or any function of the body of man and animals; and

(d) intended for use as a component of any substance specified in subitem (a), (b), or (c) of this paragraph but does not include devices or their components, parts, or accessories.

(20) 'Drug problem' means a mental or physical problem caused by the use or abuse of a controlled substance.

(21) 'Holder of the privilege' means a person with an existing or a potential drug problem who seeks counseling, treatment, or therapy regarding such drug problem.

(22) 'Imitation controlled substance' means a noncontrolled substance which is represented to be a controlled substance and is packaged in a manner normally used for the distribution or delivery of an illegal controlled substance.

(23) 'Immediate precursor' means a substance which the appropriate federal agency or the department has found to be and by regulation has designated as being, or can be proven by expert testimony as being, the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, or is a reagent, solvent, or catalyst used in the manufacture of controlled substances, the control of which is necessary to prevent, curtail, or limit such manufacture.

(24) 'Maintenance treatment' means the dispensing, for a period in excess of twenty-one days, of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs.

(25) 'Manufacture' means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(a) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(26) 'Manufacturer' means any person who packages, repackages, or labels any container of any controlled substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer.

(27)(a) 'Marijuana' means:

(i) all species or variety of the marijuana plant and all parts thereof whether growing or not;

(ii) the seeds of the marijuana plant;

(iii) the resin extracted from any part of the marijuana plant; or

(iv) every compound, manufacture, salt, derivative, mixture, or preparation of the marijuana plant, marijuana seeds, or marijuana resin.

(b) 'Marijuana' does not mean:

(i) the mature stalks of the marijuana plant or fibers produced from these stalks;

(ii) oil or cake made from the seeds of the marijuana plant, including cannabidiol derived from the seeds of the marijuana plant;

(iii) any other compound, manufacture, salt, derivatives, mixture, or preparation of the mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks;

(iv) the sterilized seed of the marijuana plant which is incapable of germination;

(v) for persons participating in a clinical trial or in an expanded access program related to administering cannabidiol for the treatment of severe forms of epilepsy pursuant to Article 18, Chapter 53, Title 44, a drug or substance approved for the use of those participants by the federal Food and Drug Administration; or

(vi) for persons, or the persons' parents, legal guardians, or other caretakers, who have received a written certification from a physician licensed in this State that the person has been diagnosed by a physician as having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as 'severe myoclonic epilepsy of infancy', or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, the substance cannabidiol, a nonpsychoactive cannabinoid, or any compound, manufacture, salt, derivative, mixture, or preparation of any plant of the genus cannabis that contains nine-tenths of one percent or less of tetrahydrocannabinol and more than fifteen percent of cannabidiol.

(c) For purposes of this item, written certification means a document dated and signed by a physician stating that the patient has been diagnosed with Lennox-Gastaut Syndrome, Dravet Syndrome, also known as 'severe myoclonic epilepsy of infancy', or any other severe form of epilepsy that is not adequately treated by traditional medical therapies and the physician's conclusion that the patient might benefit from the medical use of cannabidiol.

(d) A physician is not subject to detrimental action, including arrest, prosecution, penalty, denial of a right or privilege, civil penalty, or disciplinary action by a professional licensing board for providing

written certification for the medical use of cannabidiol to a patient in accordance with this section.

(28) 'Methamphetamine' includes any salt, isomer, or salt of an isomer, or any mixture or compound containing amphetamine or methamphetamine. Methamphetamine is commonly referred to as 'crank', 'ice', or 'crystal meth'.

(29) 'Narcotic drug' means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium, coca leaves, and opiates;

(b) a compound, manufacture, salt, derivative or preparation of opium, coca leaves, or opiates;

(c) a substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subitem (a) or (b). This term does not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

(30) 'Noncontrolled substance' means any substance of chemical or natural origin which is not included in the schedules of controlled substances set forth in this article or included in the federal schedules of controlled substances set forth in Title 21, Section 812 of the United States Code or in Title 21, Part 1308 of the Code of Federal Regulations.

(31) 'Opiate' means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under this article, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include racemic and levorotatory forms.

(32) 'Opium poppy' means the plant of the species Papaver somniferum L., except the seed thereof.

(33) 'Paraphernalia' means any instrument, device, article, or contrivance used, designed for use, or intended for use in ingesting, smoking, administering, manufacturing, or preparing a controlled substance and does not include cigarette papers and tobacco pipes but includes, but is not limited to:

(a) metal, wooden, acrylic, glass, stone, plastic, or ceramic marijuana or hashish pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) water pipes designed for use or intended for use with marijuana, hashish, hashish oil, or cocaine;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips;

(f) separation gins designed for use or intended for use in cleaning marijuana;

(g) cocaine spoons and vials;

(h) chamber pipes;

(i) carburetor pipes;

(j) electric pipes;

(k) air-driven pipes;

(l) chilams;

(m) bongs;

(n) ice pipes or chillers.

(34) 'Peyote' means all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or extracts.

(35) 'Poppy straw' means all parts, except the seeds, of the opium poppy, after mowing.

(36) 'Practitioner' means:

(a) a physician, dentist, veterinarian, podiatrist, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this State;

(b) a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this State.

(37) 'Production' includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(38) 'Ultimate user' means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administration to an animal owned by him or a member of his household."

Julian's Law created, allows for FDA approved clinical trials to treat patients who have certain forms of epilepsy with cannabidiol

SECTION 2. Chapter 53, Title 44 is amended by adding:

"Article 18

Julian's Law

Section 44-53-1810. As used in this article:

(1) 'Academic medical center' means a research hospital that operates a medical residency program for physicians and conducts research that involves human subjects, and other hospital research programs conducting research as a subrecipient with the academic medical center as the prime awardee.

(2) 'Approved source' means a provider approved by the United States Food and Drug Administration which produces cannabidiol that:

(a) has been manufactured and tested in a facility approved or certified by the United States Food and Drug Administration or similar national regulatory agency in another country which has been approved by the United States Food and Drug Administration; and

(b) has been tested in animals to demonstrate preliminary effectiveness and to ensure that it is safe to administer to humans.

(3) 'Cannabidiol' means a finished preparation containing, of its total cannabinoid content, at least 98 percent cannabidiol and not more than 0.90 percent tetrahydrocannabinol by volume that has been extracted from marijuana or synthesized in a laboratory.

(4) 'Designated caregiver' means a person who provides informal or formal care to a qualifying patient, with or without compensation, on a temporary or permanent or full-time or part-time basis and includes a relative, household member, day care personnel, and personnel of a public or private institution or facility.

(5) 'Pharmacist' means an individual health care provider licensed by this State to engage in the practice of pharmacy.

(6) 'Physician' means a doctor of medicine or doctor of osteopathic medicine licensed by the South Carolina Board of Medical Examiners.

(7) 'Qualifying patient' means anyone who suffers from Lennox-Gastaut Syndrome, Dravet Syndrome, also known as severe myoclonic epilepsy of infancy, or any other form of refractory epilepsy that is not adequately treated by traditional medical therapies.

Section 44-53-1820. (A) A statewide investigational new drug application may be established in this State, if approved by the United States Food and Drug Administration to conduct expanded access clinical trials using cannabidiol on qualifying patients with severe forms of epilepsy.

(B) Any physician who is board certified and practicing in an academic medical center in this State and treating patients with severe forms of epilepsy may serve as the principal investigator for such clinical trials if such physician:

(1) applies to and is approved by the United States Food and Drug Administration as the principal investigator in a statewide investigational new drug application; and

(2) receives a license from the United States Drug Enforcement Administration.

(C) Such physician, acting as principal investigator, may include subinvestigators who are also board certified and who practice in an academic medical center in this State and treat patients with severe forms of epilepsy. Such subinvestigators shall comply with subsection (B)(2) of this section.

(D) The principal investigator and all subinvestigators shall adhere to the rules and regulations established by the relevant institutional review board for each participating academic medical center and by the United States Food and Drug Administration, the United States Drug Enforcement Administration, and the National Institute on Drug Abuse.

(E) Nothing in this article prohibits a physician licensed in South Carolina from applying for Investigational New Drug authorization from the United States Food and Drug Administration.

Section 44-53-1830. (A) Expanded access clinical trials conducted pursuant to a statewide investigational new drug application established pursuant to this chapter only shall utilize cannabidiol which is:

(1) from an approved source; and

(2) approved by the United States Food and Drug Administration to be used for treatment of a condition specified in an investigational new drug application.

(B) The principal investigator and any subinvestigator may receive cannabidiol directly from an approved source or authorized distributor for an approved source for use in the expanded access clinical trials.

Section 44-53-1840. (A) A person acting in compliance with the provisions of this article must not be subject to arrest, prosecution, or any civil or administrative penalty, including a civil penalty or

disciplinary action by a professional licensing board, or be denied any right or privilege, for the use, prescription, administration, possession, manufacture, or distribution of medical cannabis.

(B) The State must defend a state employee against a federal claim or suit that arises or by virtue of their good faith performance of official duties pursuant to this article."

Repeal

SECTION 3. Section 44-53-150 of the 1976 Code is repealed.

Study committee, created, develop a plan for sale and use of medical marijuana

SECTION 4. (A) There is created a study committee whose purpose is to develop a plan for the sale and use of medical marijuana in the State should the Drug Enforcement Administration declassify or reclassify marijuana as a controlled substance.

(B)(1) Members of the study committee must include:

(a) the Director or a designee of the Department of Agriculture;

(b) the Director or a designee of the Department of Health and Environmental Control;

(c) the Director or a designee of the Department of Revenue;

(d) the Director or a designee of the State Law Enforcement Division;

(e) two members of the House of Representatives appointed by the Speaker of the House, one of whom the Speaker shall designate as a cochair of the study committee;

(f) two members of the Senate appointed by the President Pro Tempore of the Senate, one of whom the President Pro Tempore shall designate as a cochair of the study committee;

(g) one member of the public appointed by the Speaker of the House of Representatives;

(h) one member of the public appointed by the President Pro Tempore of the Senate;

(i) the President or a designee of the Medical University of South Carolina;

(j) the President or a designee of Clemson University; and

(k) the President or a designee of the South Carolina Medical Association.

(2) The study committee also may invite representatives of nonprofit entities with expertise in the production of CBD oil to participate in the study committee process.

(3) The House of Representatives Judiciary Committee and the Senate Medical Affairs Committee shall designate staff to assist the study committee.

(C) The study committee shall provide a report with findings and recommendations to the House of Representatives and the Senate by March 15, 2015, at which time the study committee shall dissolve. The report must address, at a minimum, methods and procedures for cultivating medical marijuana in the State, the amount of tax to impose on the sale of medical marijuana, the need for an agricultural marketing plan for the sale and use of medical marijuana, and the impact of the sale and use of medical marijuana on public health and wellness.

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 222

(R230, S1036)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 15, TITLE 40 SO AS TO ENACT THE "DENTAL SEDATION ACT", TO PROVIDE REQUIREMENTS CONCERNING THE PROVISION OF VARYING LEVELS OF SEDATION TO DENTAL PATIENTS; TO AMEND SECTION 40-15-85, RELATING TO DEFINITIONS IN THE DENTISTRY PRACTICE ACT, SO AS TO ADD NECESSARY DEFINITIONS; AND TO DESIGNATE THE EXISTING SECTIONS OF CHAPTER 15, TITLE 40 AS ARTICLE 1 "GENERAL PROVISIONS".

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

Citation

SECTION 1. This act must be known and may be cited as the "Dental Sedation Act".

Dental Sedation Act

SECTION 2. Chapter 15, Title 40 of the 1976 Code is amended by adding:

"Article 3

Dental Sedation Act

Section 40-15-400. (A) For purposes of this section, 'current' means the certification course has been taken within two years. Other life support certifications approved by the board may be accepted.

(B)(1) A permit is not required for local anesthesia, nitrous oxide/oxygen, minimal sedation, or any combination thereof, where the patient has a depressed level of consciousness but is able to independently and continually maintain an airway with unaffected ventilatory and cardiovascular function and respond normally to tactile and verbal stimulation.

(2) A dentist who is not administering anesthesia, but is providing anesthesia in his dental office, must conform to the requirements of this chapter except subsections (C)(1), (D)(1), (E)(1), and (E)(2) of this section.

(3) The administration of sedation or anesthesia, or both, in a dentist's office by a licensed physician shall be administered pursuant to Chapter 47, Title 40. The administration of sedation or anesthesia, or both, in the dentist's office by a licensed Certified Registered Nurse Anesthetist shall be administered pursuant to Chapter 33, Title 40.

(C) To provide moderate enteral sedation, a dentist must first submit an application with an initial fee to the board with documentation of:

(1) completion of predoctoral, postdoctoral, or continuing education conscious sedation training in an accredited program to include twenty-four hours of didactic instruction and ten cases commensurate with each intended route of administration; and

(2) applicable life support training, which must be:

(a) advanced cardiac life support (ACLS) certification that is current if treating adults and children; or

(b) pediatric advanced life support (PALS) certification that is current if treating only children.

(D) To provide moderate parenteral sedation, a dentist must first submit an application with an initial fee to the board with documentation of:

(1) completion of predoctoral, postdoctoral, or continuing education conscious sedation training in an accredited program to include sixty hours of didactic instruction and twenty cases commensurate with each intended route of administration; and

(2) applicable life support training, which must be:

(a) advanced cardiac life support (ACLS) certification that is current if treating adults and children; or

(b) pediatric advanced life support (PALS) certification that is current if treating only children.

(E) To provide deep sedation/general anesthesia, a dentist must first submit an application with an initial fee to the board with documentation of:

(1) completion of one year of advanced training in anesthesiology and related academic subjects or complete an oral and maxillofacial surgery residency program, or be a Diplomate of the American Board of Oral and Maxillofacial Surgery; provided, however, that the training must include sixty hours of didactic instruction and twenty cases commensurate with each intended route of administration;

(2) sixty hours of pediatric didactic training and twenty cases commensurate with each intended route of administration for children under thirteen years of age in order to provide pediatric deep sedation/general anesthesia; and

(3) applicable life support training, which must be:

(a) advanced cardiac life support (ACLS) certification that is current if treating adults and children; or

(b) pediatric advanced life support (PALS) certification that is current if treating only children.

(F) To provide deep sedation/general anesthesia, the applicant may pursue an advanced education route by means of various residencies, a specific oral and maxillofacial surgery residency, or may become a Diplomate of the American Board of Oral and Maxillofacial Surgery.

(G) Permit fees must be remitted biennially with the dental license renewal. These fees initially must be determined by the board pursuant to Section 40-1-50(D).

Section 40-15-410. (A) The applicant for a sedation permit must submit verification to the board that the applicant's facilities meet the requirements of this section.

(B) The board must determine the qualifications of a facility inspector and biennially inspect each facility. All costs and expenses of the board and department incurred in performing these inspections must be paid exclusively with revenue from permit fees received pursuant to Section 40-15-400(G). The department may not conduct these inspections until sufficient funding from the receipt of these fees exist.

(C) To offer minimal sedation, a facility must have available:

(1) with respect to equipment:

(a) a positive-pressure oxygen delivery system suitable for the patient being treated;

(b) when inhalation equipment is used, it must have a fail-safe system that is appropriately checked and calibrated, and also must have either:

(i) a functioning device that prohibits the delivery of less than thirty percent oxygen; or

(ii) an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm; and

(c) an appropriate scavenging system must be available if gases other than oxygen or air are used; and

(2) with respect to preoperative preparation:

(a) the patient, parent, guardian, or caregiver must be advised regarding the procedure associated with the delivery of any sedative agents and informed consent for the proposed sedation must be obtained;

(b) the availability of an adequate oxygen supply and equipment necessary to deliver oxygen under positive pressure must be determined;

(c) baseline vital signs must be obtained unless the patient's behavior prohibits the determination;

(d) a focused physical evaluation must be performed as considered appropriate;

(e) preoperative dietary restrictions must be considered based on the sedative techniques prescribed; and

(f) preoperative verbal and written instructions must be given to the patient, parent, escort, guardian, or caregiver.

(D)(1) In a facility offering minimal sedation under this chapter:

(a) a qualified dentist or an appropriately trained individual, at the discretion of the dentist, must continuously assess the patient's level of consciousness and remain in the operatory during active dental treatment to monitor the patient continuously until the patient meets the criteria for discharge to the recovery area. The appropriately trained individual must be familiar with monitoring techniques and equipment. Monitoring must include:

(i) continuous evaluation of the color of mucosa, skin, or blood;

(ii) required oxygen saturation by pulse oximetry;

(iii) continuous observation of chest excursions by the dentist, an appropriately trained individual, or both;

(iv) continuous verification of respiration by the dentist, an appropriately trained individual, or both;

(v) preoperative, intraoperative, and postoperative evaluation of blood pressure and heart rate as necessary, unless the patient is unable to tolerate the monitoring;

(vi) maintenance of an appropriate sedative record, including the names of all drugs administered, including local anesthetics, dosages, and monitored physiological parameters;

(vii) immediate availability of oxygen and suction equipment if a separate recovery area is used;

(viii) monitoring of the patient during recovery by a qualified dentist or appropriately trained clinical staff until the patient is ready for discharge by the dentist;

(ix) determination and documentation by the qualified dentist of the patient's satisfactory level of consciousness, oxygenation, ventilation, and circulation before discharge;

(x) provision of postoperative verbal and written instructions to the patient, parent, escort, guardian, or caregiver; and

(xi) cessation of the dental procedure if a patient enters a deeper level of sedation than the dentist is qualified to provide, until the patient returns to the intended level of sedation;

(b) a qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis, and treatment of emergencies related to the administration of minimal sedation and providing the equipment and protocols for patient rescue; and

(c) for children under thirteen years of age, the board supports the American Dental Association's stance that supports the use of the American Academy of Pediatrics/American Academy of Pediatric Dentistry 'Guidelines for Monitoring and Management of Pediatric

Patients During and After Sedation for Diagnostic and Therapeutic Procedures'.

(E) To offer moderate sedation, a facility must have available:

(1) with respect to equipment:

(a) a positive-pressure oxygen delivery system suitable for the patient being treated;

(b) when inhalation equipment is used, it must have a fail-safe system that is appropriately checked and calibrated, and also must have either:

(i) a functioning device that prohibits the delivery of less than thirty percent oxygen; or

(ii) an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm;

(c) an appropriate scavenging system must be available if gases other than oxygen or air are used; and

(d) equipment necessary to establish intravenous access; and

(2) with respect to preoperative preparation:

(a) the patient, parent, guardian, or caregiver must be advised regarding the procedure associated with the delivery of any sedative agents and informed consent for the proposed sedation must be obtained;

(b) the availability of an adequate oxygen supply and equipment necessary to deliver oxygen under positive pressure must be determined;

(c) baseline vital signs must be obtained unless the patient's behavior prohibits the determination;

(d) a focused physical evaluation must be performed as considered appropriate;

(e) preoperative dietary restrictions must be considered based on the sedative techniques prescribed; and

(f) preoperative verbal and written instructions must be given to the patient, parent, escort, guardian, or caregiver.

(F)(1) In a facility offering moderate sedation under this chapter:

(a) a qualified dentist or an appropriately trained individual, at the discretion of the dentist, must remain in the operatory during active dental treatment to monitor the patient continuously until the patient meets the criteria for discharge to the recovery area. The appropriately trained individual must be familiar with monitoring techniques and equipment. Monitoring must include:

(i) continuous assessment of level of consciousness, such as responsiveness to verbal commands;

(ii) continuous evaluation of color of mucosa, skin, or blood and oxygen saturation by pulse oximetry;

(iii) continuous observation by the dentist of chest excursions and ventilation monitoring, which can be accomplished by auscultation of breath sounds, monitoring end-tidal CO2, or by verbal communication with the patient;

(iv) continuous evaluation of blood pressure and heart rate if tolerable by the patient and if noted in the time-oriented anesthesia record;

(v) continuous EKG monitoring for patients with significant cardiovascular disease;

(vi) maintenance of an appropriate time-oriented anesthetic record, including the names of all drugs, dosages, and their administration times, including local anesthetics, dosages, and monitored physiological parameters;

(vii) continuous documentation of pulse oximetry, heart rate, respiratory rate, blood pressure, and level of consciousness; and

(viii) cessation of the dental procedure if a patient enters a deeper level of sedation than the dentist is qualified to provide, until the patient returns to the intended level of sedation;

(2) a qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of moderate sedation, and providing the equipment, drugs, and protocol for patient rescue; and

(3) for children under thirteen years of age, the board supports the American Dental Association's stance that supports the use of the American Academy of Pediatrics/American Academy of Pediatric Dentistry 'Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures'.

(G) To offer deep sedation/general anesthesia, a facility must have:

(1) with respect to equipment:

(a) a positive-pressure oxygen delivery system suitable for the patient being treated;

(b) when inhalation equipment is used, it must have a fail-safe system that is appropriately checked and calibrated. The equipment also must have either:

(i) a functioning device that prohibits the delivery of less than thirty percent oxygen; or

(ii) an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm;

(c) an appropriated scavenging system must be available if gases other than oxygen or air are used;

(d) equipment necessary to establish intravenous access;

(e) equipment and drugs necessary to provide advanced airway management;

(f) advanced cardiac life support and reversal agents, if applicable;

(g) a capnograph must be used and an inspired agent analysis monitor should be considered if volatile anesthetic agents are used;

(h) resuscitation medications and an appropriate defibrillator must be immediately available;

(i) EKG for deep sedation/general anesthesia; and

(j) a chair or operating table that allows for CPR to be performed on the patient; and

(2) with respect to preoperative preparation:

(a) the patient, parent, guardian, or caregiver must be advised regarding the procedure associated with the delivery of any sedative agents and informed consent for the proposed sedation must be obtained;

(b) availability of adequate oxygen supply and equipment necessary to deliver oxygen under positive pressure must be determined;

(c) baseline vital signs must be obtained unless the patient's behavior prohibits the determination;

(d) a focused physical evaluation must be performed as considered appropriate;

(e) preoperative dietary restrictions must be considered based on the sedative techniques prescribed;

(f) preoperative verbal and written instructions must be given to the patient, parent, escort, guardian, or caregiver; and

(g) an intravenous line, which is secured throughout the procedure, must be established except as provided in subsection (I).

(H) In a facility offering deep sedation/general anesthesia under this chapter:

(1) a dentist or an appropriately trained individual, in the discretion of the dentist, must remain in the operatory during active dental treatment to monitor the patient continuously until the patient meets the criteria for discharge to the recovery area. The appropriately trained individual must be familiar with monitoring techniques and equipment. Monitoring must include:

(a) continuous evaluation of color of mucosa, skin, or blood and oxygen saturation by pulse oximetry;

(b) continuous monitoring and evaluation of:

(i) end-tidal CO2 for an intubated patient; and

(ii) breath sounds by means of auscultation, end-tidal CO2, or both for a nonintubated patient;

(c) continuous monitoring and evaluation of respiration rate;

(d) continuous evaluation of heart rate and rhythm by means of EKG throughout the procedure, as well as pulse rate by means of pulse oximetry and blood pressure;

(e) ready availability of a device capable of measuring body temperature during the administration of deep sedation/general anesthesia;

(f) availability and use of equipment to continuously monitor body temperature whenever triggering agents associated with malignant hyperthermia are administered;

(g) maintenance of an appropriate time-oriented anesthetic record, including the names of all drugs, dosages, and their administration times, including local anesthetics and monitored physiological parameters; and

(h) continuous recording of:

(i) pulse oximetry and end-tidal CO2 measurements, if taken;

(ii) heart rate;

(iii) respiratory rate; and

(iv) blood pressure;

(2) when a mental or physical challenge precludes a dental patient from having a comprehensive physical examination or appropriate laboratory tests before undergoing deep sedation/general anesthesia, the dentist responsible for administering that anesthesia should document the reasons preventing the recommended preoperative management; and

(3) use of deep sedation/general anesthesia without establishing an indwelling intravenous line may be warranted in selected circumstances, including very brief procedures or the establishment of intravenous access after deep sedation/general anesthesia has been induced because of poor patient cooperation.

(I) A facility inspection is not required for the administration of anesthesia at those hospitals, dental schools, and other dental settings approved by the Joint Commission on Accreditation of Healthcare Organizations or the Commission on Dental Accreditation.

Section 40-15-420. (A) All dental staff who provide direct, hands-on patient care must be certified in cardiopulmonary

resuscitation and the basic life support level by a board-approved training course. The certification must have been received in the immediately preceding two years.

(B) The operating dentist shall provide training for staff with hands-on patient care commensurate with the level and mode of sedation administered. This training must be documented and available for inspection by the department upon request.

(C) The dentist must include four hours in pharmacology, anesthesia, emergency medicine, or sedation every two years as part of the continuing educational requirements of this chapter.

Section 40-15-430. (A) For minimal sedation and moderate sedation, at least one person trained in Basic Life Support for Healthcare Providers must be present in addition to the dentist.

(B) For deep sedation/general anesthesia, at least two support personnel adequately trained in Basic Life Support for Healthcare Providers must be present in addition to the dentist. If the same individual administering the deep sedation/general anesthesia is performing the dental procedure, one of the additional appropriately trained team members must be designated for patient monitoring.

(C) During recovery and discharge the dentist must determine and document whether the patient:

(1) has stable vital signs, is mentally alert, and has stable levels of oxygenation, ventilation, circulation, and temperature;

(2) has a minimum of one adequately trained support personnel who must be present with the patient;

(3) is fully recovered from anesthetic drugs before discharged to the care of a responsible adult available to provide assisted care to the patient;

(4) support personnel assists the patient into the vehicle transporting him from the facility; and

(5) written postoperative instructions are given to and are reviewed with the patient and the adult responsible for the patient.

Section 40-15-440. A dentist shall give written notice to the board at least thirty days before he may relocate, add to, or significantly change a facility where procedures under this chapter are performed.

Section 40-15-450. (A) A dentist shall:

(1) maintain timely, legible, accurate, and complete patient records; and

(2) timely provide these records to the patient, another dentist, or a designated medical professional in response to a lawful request for the records by the patient or his legal representative or designee.

(B) A dental practice must have a procedure for initiating and maintaining a health record for every patient evaluated or treated. For procedures requiring patient consent, there must be an informed consent documented in the patient record.

(C) The health record of a patient required under subsection (B) must include appropriate information to:

(1) identify the patient, support the diagnosis, and justify the treatment;

(2) identify the procedure code or suitable narrative description of the procedure; and

(3) document the outcome and required follow-up care.

(D) If moderate sedation or deep sedation/general anesthesia is provided, the health record of a patient also must include documentation of:

(1) patient weight;

(2) type of anesthesia used;

(3) type and dosage of drugs administered, if any;

(4) fluid administered, if any;

(5) a record of vital signs monitoring;

(6) patient level of consciousness during the procedure;

(7) duration of the procedure;

(8) complications related to the procedure or anesthesia, if any; and

(9) time-oriented anesthesia record."

Definitions

SECTION 3. Section 40-15-85 of the 1976 Code is amended to read:

"Section 40-15-85. For purposes of this chapter:

(1) 'Analgesia' means the diminution or elimination of pain with full consciousness maintained by the patient.

(2) 'Deep sedation' means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. Reflex withdrawal from a painful stimulus is not considered a purposeful response. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining patients'

airways. Spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(3) 'Direct supervision' means that a dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure, and before the dismissal of the patient, evaluates the performance of the auxiliary. This requirement does not mandate that a dentist be present at all times, but he or she must be on the premises actually involved in supervision and control.

(4) 'Enteral' means a route of administration that includes any technique in which the agent is absorbed through the gastrointestinal tract or oral mucosa.

(5) 'General anesthesia' means a drug-induced loss of consciousness during which patients are not aroused, even by painful stimulation. The ability to independently maintain ventilatory functions is often impaired. Patients often require assistance in maintaining patients' airways; positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(a) Because sedation and general anesthesia are on a continuum, it is not always possible to predict how an individual patient will respond. Hence, practitioners intending to produce a given level of sedation should be able to diagnose and manage the physiologic consequences for patients whose level of sedation becomes deeper than initially intended.

(b) For all levels of sedation, the practitioner must have the training, skills, drugs, and equipment to identify and manage such an occurrence until either assistance arrives or the patient returns to the intended level of sedation without airway or cardiovascular complications.

(6) 'General supervision' means that a licensed dentist or the South Carolina Department of Health and Environmental Control's public health dentist has authorized the procedures to be performed but does not require that a dentist be present when the procedures are performed.

(7) 'Inhalation' means a route of administration in which a gaseous or volatile agent introduced into the lungs and whose primary effect is due to absorption through the interface of gas and blood.

(8) 'Local anesthesia' means the elimination of sensation, especially pain, in one part of the body by the topical application or regional as applies to dental, oral, or maxillofacial injection of a drug.

(9) 'Minimal sedation' means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive functions and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected.

(a) When the intent is minimal sedation for adults, the appropriate initial dosing of a single enteral drug is no more than the maximum recommended dose of a drug that can be prescribed for unmonitored home use.

(b) The use of preoperative sedatives for children under thirteen years of age before arrival in the dental office, except in extraordinary situations, must be avoided due to the risk of unobserved respiratory obstruction during transport by untrained individuals.

(c) Children under thirteen years of age may become moderately sedated despite the intended level of minimal sedation; should this occur, the guidelines for moderate sedation apply.

(d) For children under thirteen years of age, the board supports the American Dental Association's stance that supports the use of the American Academy of Pediatrics/American Academy of Pediatric Dentistry's 'Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures'.

(e) Nitrous oxide, oxygen, or both, may be used in combination with a single enteral drug in minimal sedation.

(f) Nitrous oxide, oxygen, or both, when used in combination with a sedative agent may produce minimal, moderate, or deep sedation/general anesthesia.

(10) 'Moderate sedation' means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain patients' airways, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

(11) 'Oral prophylaxis' means the removal of any and all hard and soft deposits, accretions, toxins, and stain from any natural or restored surfaces of teeth or prosthetic devices by scaling and polishing as a preventive measure for the control of local irritational factors.

(12) 'Parenteral' means a route of administration in which the drug bypasses the gastrointestinal tract.

(13) 'Titration' means the administration of moderate or greater sedation. The term means administration of incremental doses of a drug

until a desired effect is reached. Knowledge of each drug's time of onset, peak response, and duration of action is essential to avoid oversedation. Although the concept of titration of a drug to effect is critical for patient safety, when the intent is moderate sedation, one must know whether the previous dose has taken full effect before administering an additional drug increment.

(14) 'Transdermal' means a route of administration in which the drug is administered by patch or iontophoreis through skin.

(15) 'Transmucosal' means a route of administration in which the drug is administered across mucosa such as intranasal, sublingual, or rectal."

Redesignation of sections as Article 1

SECTION 4. Sections 40-15-10 through 40-15-380 of the 1976 Code are designated as Article 1, entitled "General Provisions".

Time effective

SECTION 5. The provisions of this act take effect January 1, 2015.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 223

(R248, H3512)

AN ACT TO AMEND SECTION 61-6-1560, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DISCOUNTS ON ALCOHOLIC LIQUORS OR NONALCOHOLIC ITEMS, SO AS TO AUTHORIZE A RETAIL DEALER TO OFFER A DISCOUNT ON SUCH PRODUCTS AT THE REGISTER SO LONG AS ALL THE COSTS OF THE DISCOUNT ARE BORNE BY THE RETAIL DEALER; TO AMEND SECTION 61-6-1500, RELATING TO RESTRICTIONS ON RETAIL DEALERS OF ALCOHOLIC LIQUORS, SO AS TO PROHIBIT TRANSACTIONS INVOLVING ALCOHOLIC LIQUORS AMONGST RETAIL DEALERS AND TO PROVIDE

PENALTIES; BY ADDING SECTION 61-6-195 SO AS TO PROVIDE THAT BEFORE A RETAIL DEALER LICENSE IS ISSUED, THE RETAIL DEALER MUST CERTIFY THAT HE HAS NOT AND WILL NOT PURCHASE ALCOHOLIC LIQUORS FROM A PERSON WHO DOES NOT HOLD A WHOLESALER'S LICENSE; TO AMEND SECTION 61-6-1530, RELATING TO REQUIRED POSTING OF SIGNS, SO AS TO REQUIRE A RETAIL DEALER TO POST A SIGN STATING THAT THE PURCHASE OF ALCOHOLIC LIQUOR FROM THE RETAIL DEALER BY ANOTHER RETAIL DEALER IS UNLAWFUL; TO AMEND SECTION 61-4-1515, AS AMENDED, RELATING TO BREWERIES, SO AS TO AUTHORIZE A BREWERY TO SELL BEER PRODUCED ON ITS PREMISES FOR ON-SITE CONSUMPTION AT AN EATING AREA WITHIN THE BREWERY, TO AUTHORIZE THE BREWERY TO APPLY FOR AN ON-PREMISES CONSUMPTION PERMIT TO SELL BEER AND WINE PURCHASED FROM A WHOLESALER THROUGH THE THREE-TIER DISTRIBUTION CHAIN, AND TO SET FORTH CERTAIN CRITERIA; AND TO AMEND SECTION 61-6-4160, RELATING TO THE SALE OF ALCOHOLIC LIQUORS ON CERTAIN DAYS, SO AS TO ALLOW FOR THE SALE ON STATEWIDE ELECTION DAYS AND TO PROHIBIT THE SALE ON CHRISTMAS DAY.

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

Discount of alcoholic liquor and nonalcoholic items at the register

SECTION 1. Section 61-6-1560 of the 1976 Code is amended to read:

"Section 61-6-1650. (A) Notwithstanding any other provision of law, a retail dealer, wholesaler, or producer may offer discounts on alcoholic liquors or nonalcoholic items, listed in Section 61-6-1540(A), through the use of premiums, coupons, or stamps redeemable by mail.

(B) In addition to the provisions of subsection (A), a retail dealer may offer a discount on the sale of alcoholic liquor or nonalcoholic items, listed in Section 61-6-1540(A), at the register through the use of premiums, coupons, or stamps, so long as all costs related to the discount, including, but not limited to, printing, redemption services, and the actual cost of the discount, are provided and borne only by the retail dealer and the discount is not prohibited by any federal law."

Prohibition of alcoholic liquor transactions amongst retail dealers

SECTION 2. Section 61-6-1500 of the 1976 Code is amended to read:

"Section 61-6-1500. (A) A retail dealer may not:

(1) sell, barter, exchange, give, or offer for sale, barter, or exchange, or permit the sale, barter, exchange, or gift, of alcoholic liquors without regard to the size of the container:

(a) between the hours of 7:00 p.m. and 9:00 a.m.;

(b) for consumption on the premises;

(c) to a person under twenty-one years of age;

(d) to an intoxicated person;

(e) to a mentally incompetent person; or

(f) to a person the retail dealer knows is another retail dealer, except as provided in Section 61-6-950 or between locations owned by the same retail dealer;

(2) permit the drinking of alcoholic liquors in his store or place of business;

(3) sell alcoholic liquors on credit; however, this item does not prohibit payment by electronic transfer of funds if:

(a) the transfer of funds is initiated by an irrevocable payment order on or before delivery of the alcoholic liquors; and

(b) the electronic transfer is initiated by the retailer no later than one business day after delivery;

(4) redeem proof-of-purchase certificates for any promotional item; or

(5) purchase, barter, exchange, receive, or offer to purchase, barter, exchange, receive or permit the purchase, barter, exchange, or receipt, of alcoholic liquors without regard to the size of the container from another retail dealer, except as provided in Section 61-6-950 or between locations owned by the same retail dealer.

However, during restricted hours a retail dealer is permitted to receive, stock, and inventory merchandise, provide for maintenance and repairs, and other necessary, related functions that do not involve the sale of alcoholic liquors.

(B)(1) It is unlawful for a person licensed to sell alcoholic liquors pursuant to the provisions of this section to knowingly and willfully refill, partially refill, or reuse a bottle of lawfully purchased alcoholic liquor, or otherwise tamper with the contents of the bottle.

(2) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined five hundred dollars or imprisoned for not more than thirty days, or both;

(b) for a second or subsequent offense, must be fined one thousand dollars or imprisoned not more than six months, or both.

(3) In addition to the penalties provided in subsection (B), a violation of this section may subject the licensee or permit holder to revocation or suspension of the license or permit by the department. A third or subsequent violation of subsection (A)(1)(f) within three years of the first violation must result in a mandatory suspension of the license or permit for a period of at least thirty days. A violation of subsection (A)(5) must result in a mandatory suspension of the license or permit for a period of at least thirty days.

(4) The possession of a refilled or reused bottle or other container of alcoholic liquors is prima facie evidence of a violation of this section. A person who violates this provision must, upon conviction, have his license revoked permanently.

(C) A retail dealer must keep a record of all sales of alcoholic liquors sold to establishments licensed for on-premises consumption. The record must include the name of the purchaser and the date and quantity of the sale by brand and bottle size.

(D) It is unlawful to sell alcoholic liquors except during lawful hours of operation."

Retail dealer must certify purchases from wholesaler

SECTION 3. Subarticle 1, Article 3, Chapter 6, Title 61 of the 1976 Code is amended by adding:

"Section 61-6-195. The department must not issue or renew a retail dealer's license until the applicant has certified that the applicant has not purchased and will not purchase alcoholic liquors from another person who does not hold a wholesaler's license."

Notice of prohibition of alcoholic liquor transactions amongst retail dealers

SECTION 4. Section 61-6-1530 of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

"( ) 'The purchase of alcoholic liquors from this location by or on behalf of another retail dealer is unlawful and will result in the suspension of the purchaser's retail dealer's license'. The department

must prescribe by regulation the size of the lettering and the location of the sign on the seller's premises."

Brewery authorized to sell beer for on-premises consumption in eating area

SECTION 5. A. Section 61-4-1515 of the 1976 Code, as last amended by Act 36 of 2013, is further amended to read:

"Section 61-4-1515. (A) A brewery licensed in this State is authorized to offer samples of beer to consumers on its licensed premises, provided that the beer is brewed on the licensed premises with an alcoholic content of twelve percent by weight, or less, subject to the following conditions:

(1) sales to or samplings by consumers must be held in conjunction with a tour by the consumer of the licensed premises and the entire brewing process utilized at the licensed premises;

(2) sales or samplings shall not be offered or made to, or allowed to be offered, made to, or consumed by an intoxicated person or a person who is under the age of twenty-one;

(3)(a) no more than a total of forty-eight ounces of beer brewed at the licensed premises, including amounts of samples offered and consumed with or without cost, shall be sold to a consumer for on-premises consumption within a twenty-four hour period; and

(b) of that forty-eight ounces of beer available to be sold to a consumer within a twenty-four hour period, no more than sixteen ounces of beer with an alcoholic weight of above eight percent, including any samples offered and consumed with or without cost, shall be sold to a consumer for on-premises consumption within a twenty-four hour period;

(4) a brewery must develop and use a system to monitor the amounts and types of beer sampled or sold to a consumer for on-premises consumption;

(5) a brewery must sell the beer at the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the licensed premises are located;

(6) a brewery must remit appropriate taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for excise taxes assessed by the department. A brewery also must remit appropriate sales and use taxes and local hospitality taxes;

(7) a brewery must post information that states the alcoholic content by weight of the various types of beer available in the brewery and the penalties for convictions for:

(a) driving under the influence;

(b) unlawful transport of an alcoholic container; and

(c) unlawful transfer of alcohol to minors.

And, the information shall be in signage that must be posted at each entrance, each exit, and in places in a brewery seen during a tour;

(8) a brewery must provide DAODAS approved alcohol enforcement training for the employees who serve beer on the licensed premises to consumers for on-premises consumption, so as to prevent and prohibit unlawful sales, transfer, transport, or consumption of beer by persons who are under the age of twenty-one or who are intoxicated; and

(9) a brewery must maintain liability insurance in the amount of at least one million dollars for the biennial period for which it is licensed. Within ten days of receiving its biennial license, a brewery must send proof of this insurance to the State Law Enforcement Division and to the Department of Revenue, where the proof of insurance information shall be retained with the department's alcohol beverage licensing section.

(B) In addition to the sampling and sales provisions set forth in subsection (A), a brewery licensed in this State is authorized to sell beer produced on its licensed premises to consumers on site for on-premises consumption within an area of its licensed premises approved by the rules and regulations of the Department of Health and Environmental Control governing eating and drinking establishments and other food service establishments. These establishments also may apply for a retail on-premises consumption permit for the sale of beer and wine of a producer that has been purchased from a wholesaler through the three-tier distribution chain set forth in Section 61-4-735 and Section 61-4-940.

(C) The sale of beer that is brewed on the licensed premises for on-premises consumption pursuant to subsection (B) must comply with the following provisions:

(1) all provisions of subsection (A) shall apply to sales under subsection (B) and this subsection, except subsection (A)(1), (3), and (4);

(2) the brewery must comply with all state and local laws concerning hours of operation applicable to eating and drinking establishments and other food service establishments holding permits to sell beer and wine for on-premises consumption;

(3) the brewery must comply with the discount pricing provisions of Section 61-4-160, applicable to persons holding permits to sell beer and wine for on-premises consumption;

(4) the brewery must sell the beer at a price approximating retail prices generally charged for identical beverages by on-premises retailers in the county where the licensed premises are located; and

(5) a wholesaler must not provide and a brewery must not accept services, equipment, fixtures, or free beer prohibited by Section 61-4-940(B), except those items authorized by Section 61-4-940(C). Changes to the brewery laws pursuant to subsection (B) and this subsection do not alter or amend the structure of the three-tier laws of this State, and the wholesalers and the breweries must not discriminate in pricing at the producer or wholesaler levels.

(D) A brewery located in this State is authorized to sell beer on its licensed premises for off-premises consumption, provided that the sealed beer was brewed on the licensed premises with an alcohol content of fourteen percent by weight or less, subject to the following conditions:

(1) the maximum amount of beer that may be sold to an individual per day for off-premises consumption shall be equivalent to two hundred eighty-eight ounces in total;

(2) the beer only shall be sold in conjunction with a tour by the consumer of the licensed premises and the entire brewing process utilized at the licensed premises;

(3) the beer sold is for personal use only and cannot be resold;

(4) the beer cannot be sold to anyone holding a retail beer and wine license for the purpose of resale in their establishment;

(5) the brewery must sell the beer at the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the licensed premises are located; and

(6) the brewery must remit taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for taxes assessed by Section 12-21-1020 and Section 12-21-1030. The brewery also must remit appropriate sales and use taxes and local hospitality taxes.

(E) In addition to other applicable fines or penalties, a person licensed as a brewery in this State who violates the provisions of this section must be assessed a fine of five hundred dollars for a first violation. For a second violation that occurs within three years of the first violation, a person must be assessed an additional five hundred dollars. For subsequent violations within a three-year period, the department must suspend the brewery license for a period of not less

than thirty days. The revenue from the fines established in this section must be directed to the State Law Enforcement Division for supplementing funds required for the regulation and enforcement of this section."

B. Notwithstanding the general effective date of this act, this SECTION takes effect upon approval by the Governor.

Sales of alcoholic liquor on Election Day allowed, Christmas Day prohibited

SECTION 6. A. Section 61-6-4160 of the 1976 Code is amended to read:

"Section 61-6-4160. It is unlawful to sell alcoholic liquors on Sunday except as authorized by law, on Christmas Day, or during periods proclaimed by the Governor in the interest of law and order or public morals and decorum. Full authority to proclaim these periods is conferred upon the Governor in addition to all his other powers. A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days;

(b) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and

(c) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years."

B. This SECTION takes effect upon approval by the Governor.

One subject

SECTION 7. The General Assembly finds that the sections presented in this act constitute one subject as required by Section 17, Article III of the South Carolina Constitution, 1895, in particular finding that each change and each topic related directly to or in conjunction with other sections to the subject of changes to the laws concerning alcoholic beverages. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

Severability

SECTION 8. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 9. This act takes effect July 1, 2014.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 224

(R249, H3540)

AN ACT TO AMEND SECTION 1-3-240, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REMOVAL OF OFFICERS BY THE GOVERNOR, SO AS TO ADD THE ADJUTANT GENERAL TO THE LIST OF OFFICERS OR ENTITIES THE GOVERNING BOARD OF WHICH MAY BE REMOVED BY THE GOVERNOR ONLY FOR CERTAIN REASONS CONSTITUTING CAUSE; TO AMEND SECTION 25-1-320, RELATING TO THE STATE ADJUTANT GENERAL, SO AS TO PROVIDE THAT THE ADJUTANT GENERAL MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE FOR A TERM NOT COTERMINOUS WITH THE GOVERNOR, AND TO ESTABLISH CERTAIN

QUALIFICATIONS FOR THE OFFICE OF ADJUTANT GENERAL; TO AMEND SECTION 25-1-340, AS AMENDED, RELATING TO VACANCIES IN THE OFFICE OF ADJUTANT GENERAL, SO AS TO DELETE A REFERENCE TO THE ELIGIBILITY REQUIREMENTS OF CONSTITUTIONAL OFFICERS, AND TO AUTHORIZE THE GOVERNOR TO MAKE A TEMPORARY APPOINTMENT TO THE OFFICE OF ADJUTANT GENERAL PURSUANT TO SECTION 1-3-210 SHOULD A VACANCY OCCUR AT A TIME WHEN THE SENATE IS NOT IN SESSION; AND TO PROVIDE THAT THE ABOVE PROVISIONS ARE EFFECTIVE UPON THE RATIFICATION OF AMENDMENTS TO SECTION 7, ARTICLE VI, AND SECTION 4, ARTICLE XIII OF THE CONSTITUTION OF THIS STATE DELETING THE REQUIREMENT THAT THE STATE ADJUTANT GENERAL BE ELECTED BY THE QUALIFIED ELECTORS OF THIS STATE.

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

Removal of officers

SECTION 1. Section 1-3-240(C)(1) of the 1976 Code, as last amended by Act 105 of 2012, is further amended by adding at the end:

"(p) State Adjutant General."

Appointment of Adjutant General

SECTION 2. Section 25-1-320 of the 1976 Code is amended to read:

"Section 25-1-320. (A) There must be an Adjutant General appointed by the Governor upon the advice and consent of the Senate. The initial term of the first appointed Adjutant General must be for two years so as to allow subsequent terms to be staggered with that of the Governor's term. After the initial appointment, the Adjutant General must be appointed for a four-year term commencing on the first Wednesday following the second Tuesday in January that follows the general election that marks the Governor's midterm. The position of Adjutant General is recognized as holding the rank of Major General. He shall hold office until his successor is appointed and confirmed. The Adjutant General is the commander of all military forces within

the South Carolina Military Department, and he is responsible to the Governor in his role as and Commander in Chief for the proper performance of his duties. He shall receive an annual salary as provided by the General Assembly and only may be removed for cause prior to the expiration of his term pursuant to the provisions of Section 1-3-240(C).

(B) The person appointed Adjutant General by the Governor must possess, at a minimum, the following qualifications:

(1) be a qualified elector of this State;

(2) be in an active National Guard status at the time of the appointment, except as provided in subsection (E);

(3) be a graduate of the Army War College, the Air War College, or the military education level equivalent;

(4) have ten or more years of federally recognized commissioned service in the South Carolina National Guard, at least five years of which must have been at the rank of Lieutenant Colonel (O-5) or higher;

(5) have command experience at the battalion or squadron level or higher; and

(6) hold the rank of Colonel (O-6) or higher and possess the necessary qualifications to serve as a federally recognized general officer.

(C) In addition to the minimum qualifications for the Office of Adjutant General specified in subsection (B), the Governor also may consider:

(1) the candidates' military experience, including command experience or military service in an area where hostile-fire pay or imminent-danger pay was authorized pursuant to federal law or regulation; and

(2) the promotion criteria for the rank of major general or higher.

(D) In the event of a vacancy or impending vacancy in the Office of the Adjutant General, the South Carolina Military Department, upon request of the Governor, shall provide a list of candidates who satisfy the qualifications for office specified in subsection (B) and copies of the candidates' military personnel records.

(E) Nothing in this section may be construed to prohibit the Governor's ability to appoint a qualified retired officer who has not exceeded the maximum age to serve as a federally recognized general officer."

Vacancies in Office of the Adjutant General

SECTION 3. Section 25-1-340 of the 1976 Code, as last amended by Act 46 of 2011, is further amended to read:

"Section 25-1-340. If the Office of the Adjutant General is vacated because of the death, resignation, removal, or retirement of the Adjutant General prior to the normal expiration of his term of office, the Governor shall appoint with the advice and consent of the Senate an officer of the active South Carolina National Guard, who meets the eligibility requirements provided in Section 25-1-320 to fill out the unexpired term of the former incumbent. In the event a vacancy should occur in the Office of Adjutant General at a time when the Senate is not in session, the Governor temporarily may fill the vacancy pursuant to Section 1-3-210. The appointee, upon being duly qualified, is subject to all the duties and liabilities incident to the office and receives the compensation provided by law for the Adjutant General during his term of service."

Time effective

SECTION 4. This act takes effect upon the ratification of amendments to Section 7, Article VI, and Section 4, Article XIII of the Constitution of this State deleting the requirement that the Adjutant General be elected by the qualified electors of this State and providing that he be appointed by the Governor.

Ratified the 29th day of May, 2014.

Approved the 3rd day of June, 2014.

No. 225

(R254, H3958)

AN ACT TO AMEND CHAPTER 23, TITLE 23, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LAW ENFORCEMENT TRAINING COUNCIL, SO AS TO PROVIDE THAT THIS CHAPTER ALSO RELATES TO THE CRIMINAL JUSTICE ACADEMY, TO PROVIDE

DEFINITIONS FOR THE TERMS "ACADEMY" AND "DIRECTOR", TO CORRECT CERTAIN REFERENCES, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 17-5-130, RELATING TO THE QUALIFICATIONS FOR THE ELECTION OF AND TRAINING FOR CORONERS, SO AS TO SUBSTITUTE THE TERM "SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY" FOR THE TERM "DEPARTMENT OF PUBLIC SAFETY"; TO AMEND SECTION 24-5-340, RELATING TO RESERVE DETENTION OFFICERS, SO AS TO SUBSTITUTE THE TERM "SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY" FOR THE TERM "DEPARTMENT OF PUBLIC SAFETY"; AND TO AMEND SECTIONS 63-19-1860 AND 63-19-1880, BOTH RELATING TO THE CONDITIONAL RELEASE OF A JUVENILE AND THE EMPLOYMENT OF PROBATION COUNSELORS, SO AS TO SUBSTITUTE THE TERM "SOUTH CAROLINA LAW ENFORCEMENT TRAINING COUNCIL" FOR THE TERM "DEPARTMENT OF PUBLIC SAFETY", AND TO CORRECT CERTAIN REFERENCES TO THE CODE OF LAWS.

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

Law Enforcement Training Council and Criminal Justice Academy

SECTION 1. Chapter 23, Title 23 of the 1976 Code is amended to read:

"CHAPTER 23

Law Enforcement Training Council and Criminal Justice Academy

Section 23-23-10. (A) In order to ensure the public safety and general welfare of the people of this State, and to promote equity for all segments of society, a program of training for law enforcement officers and other persons employed in the criminal justice system in this State is hereby proclaimed and this chapter must be interpreted to achieve these purposes principally through the establishment of minimum and advance standards in law enforcement selection and training.

(B) It is the intent of this chapter to encourage all law enforcement officers, departments, and agencies within this State to adopt standards which are higher than the minimum standards implemented pursuant to

this chapter, and these minimum standards may not be considered sufficient or adequate in cases where higher standards have been adopted or proposed. Nothing in this chapter may be construed to preclude an employing agency from establishing qualifications and standards for hiring or training law enforcement officers which exceed the minimum standards set by the Law Enforcement Training Council, hereinafter created, nor, unless specifically stated, may anything in this chapter be construed to affect any sheriff, or other law enforcement officer elected under the provisions of the Constitution of this State.

(C) It is the intent of the General Assembly in creating a facility and a governing council to maximize training opportunities for law enforcement officers and criminal justice personnel, to coordinate training, and to set standards for the law enforcement and criminal justice service, all of which are imperative to upgrading law enforcement to professional status.

(D) Upon the signature of the Governor, all functions, duties, responsibilities, accounts, and authority statutorily exercised by the South Carolina Criminal Justice Academy Division of the Department of Public Safety are transferred to and devolved upon the South Carolina Criminal Justice Academy.

(E) As contained in this chapter:

(1) 'Law enforcement officer' means an appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed.

(2) 'Council' means the South Carolina Law Enforcement Training Council created by this chapter.

(3) 'Academy' means the South Carolina Criminal Justice Academy created by this chapter.

(4) 'Director' means the Director of the South Carolina Criminal Justice Academy.

Section 23-23-20. There is hereby created the South Carolina Criminal Justice Academy which shall provide facilities and training for all officers from state, county, and local law enforcement agencies and for other designated persons in the criminal justice system. Correctional officers and other personnel employed or appointed by the South Carolina Department of Corrections may be trained by the academy. Administration of the academy must be vested in a director who is responsible for selection of instructors, course content,

maintenance of physical facilities, recordkeeping, supervision of personnel, scheduling of classes, enforcement of minimum standards for certification, and other matters as may be agreed upon by the council. The director must be hired by and responsible to the council. Basic and advance training must be provided at the training facility.

Section 23-23-30. (A) There is hereby created a South Carolina Law Enforcement Training Council consisting of the following eleven members:

(1) the Attorney General of South Carolina;

(2) the Chief of the South Carolina Law Enforcement Division;

(3) the Director of the South Carolina Department of Probation, Parole and Pardon Services;

(4) the Director of the South Carolina Department of Corrections;

(5) the Director of the South Carolina Department of Natural Resources;

(6) the Director of the South Carolina Department of Public Safety;

(7) one chief of police from a municipality having a population of less than ten thousand. This person must be appointed by the Governor and shall serve at his pleasure;

(8) one chief of police from a municipality having a population of more than ten thousand. This person must be appointed by the Governor and shall serve at his pleasure;

(9) one county sheriff from a county with a population of less than fifty thousand. This person must be appointed by the Governor and shall serve at his pleasure;

(10) one county sheriff from a county with a population of more than fifty thousand. This person must be appointed by the Governor and shall serve at his pleasure; and

(11) one detention director who is responsible for the operation and management of a county or multijurisdictional jail. This person must be appointed by the Governor and shall serve at his pleasure.

(B)(1) The members provided for in subsection (A)(1) through (6) above shall be ex officio members with full voting rights.

(2) The members provided for in subsection (A)(7) through (11) above shall begin serving on January 1, 2007.

In the event that a vacancy arises, it must be filled by appointment or election and confirmation of the original authority granting membership on the basis of the above referenced criteria.

(C) The council shall meet for the first time within ninety days after January 1, 2007, and shall elect one of its members as chairperson and one of its members as vice chairperson. These officers shall serve a term of one year and may be reelected. After the initial meeting, the council shall meet at the call of the chairperson, or at the call of the majority of the members of the council, but it shall meet no fewer than four times a year.

(D) Members of the council shall serve without compensation. A council member who terminates his office or employment which qualifies him for appointment shall immediately cease to be a member of the council.

Section 23-23-40. No law enforcement officer employed or appointed on or after July 1, 1989, by any public law enforcement agency in this State is authorized to enforce the laws or ordinances of this State or any political subdivision thereof unless he has been certified as qualified by the council, except that any public law enforcement agency in this State may appoint or employ as a law enforcement officer, a person who is not certified if, within one year after the date of employment or appointment, the person secures certification from the council; provided, that if any public law enforcement agency employs or appoints as a law enforcement officer a person who is not certified, the person shall not perform any of the duties of a law enforcement officer involving the control or direction of members of the public or exercising the power of arrest until he has successfully completed a firearms qualification program approved by the council; and provided, further, that within three working days of employment, the academy must be notified by a public law enforcement agency that a person has been employed by that agency as a law enforcement officer, and within three working days of the notice the firearms qualification program as approved by the director must be provided to the newly hired personnel. If the firearms qualification program approved by the director is not available within three working days after receipt of the notice, then the public law enforcement agency making the request for the firearms qualification program may employ the person to perform any of the duties of a law enforcement officer, including those involving the control and direction of members of the public and exercising the powers of arrest. Should any such person fail to secure certification within one year from his date of employment, he may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until he has been certified. He is not eligible for

employment or appointment by any other agency in South Carolina as a law enforcement officer, nor is he eligible for any compensation by any law enforcement agency for services performed as an officer. Exceptions to the one-year rule may be granted by the director in these cases:

(1) military leave or injury occurring during that first year which would preclude the receiving of training within the usual period of time; or

(2) in the event of the timely filing of application for training, which application, under circumstances of time and physical limitations, cannot be honored by the training academy within the prescribed period; or

(3) upon presentation of documentary evidence that the officer-candidate has successfully completed equivalent training in one of the other states which by law regulate and supervise the quality of police training and which require a minimum basic or recruit course of duration and content at least equivalent to that provided in this chapter or by standards set by the council; or

(4) if it is determined by documentary evidence that the training will result in undue hardship to the requesting agency, the requesting agency must propose an alternate training schedule for approval.

Notwithstanding another provision of law, in the case of a candidate for certification who begins one or more periods of state or federal military service within one year after his date of employment or appointment, the period of time within which he must obtain the certification required to become a law enforcement officer is automatically extended for an additional period equal to the aggregate period of time the candidate performed active duty or active duty for training as a member of the National Guard, the State Guard, or a reserve component of the Armed Forces of the United States, plus ninety days. The director must take all necessary and proper action to ensure that a candidate for certification as a law enforcement officer who performs military service within one year of his employment or appointment is not prejudiced in obtaining certification as a result of having performed state or federal military service.

Section 23-23-50. (A) A law enforcement officer who is Class 1-LE certified in this State is required to complete Continuing Law Enforcement Education Credits (CLEEC) in domestic violence each year of a three-year recertification period. The number of required annual CLEEC hours in domestic violence shall be determined by the council but must be included in the forty CLEEC hours required over

the three-year recertification period. The training must be provided or approved by the academy and must include, but is not limited to, the following curriculum: responding to crime scenes, Fourth Amendment issues, incident report writing, mutual restraining orders, orders of protection, determining primary aggressors, dual arrests, victim and offender dynamics, victims' resources, victims' rights issues, interviewing techniques, criminal domestic violence courts, victimless prosecution, offender treatment programs, and recognizing special needs populations.

(B) The council shall develop guidelines to provide for an exemption from the requirement of certain Class 1-LE certified law enforcement officers whose job responsibilities may not include responding to domestic violence cases from completing CLEEC hours in domestic violence each year. The request for an exemption must be made by the chief executive officer of the law enforcement officer's employing agency. A waiver or exemption from domestic violence training must not reduce the forty CLEEC hours required over the three-year period.

Section 23-23-60. (A) At the request of any public law enforcement agency of this State the council is hereby authorized to issue certificates and other appropriate indicia of compliance and qualification to law enforcement officers or other persons trained under the provisions of this chapter. Members of the council may individually or collectively visit and inspect any training school, class, or academy dealing with present or prospective law enforcement officers, and are expected to promote the most efficient and economical program for police training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication. The council may make recommendations to the director, the General Assembly, or to the Governor regarding the carrying out of the purposes, objectives, and intentions of this chapter or other acts relating to training in law enforcement.

(B) All city and county police departments, sheriffs' offices, state agencies, or other employers of law enforcement officers having such officers as candidates for certification shall submit to the director, for his confidential information and subsequent safekeeping, the following:

(1) an application under oath on a format prescribed by the director;

(2) evidence satisfactory to the director that the candidate has completed high school and received a high school diploma, equivalency certificate (military or other) recognized and accepted by

the South Carolina Department of Education or South Carolina special certificate;

(3) evidence satisfactory to the director of the candidate's physical fitness to fulfill the duties of a law enforcement officer including:

(a) a copy of his medical history compiled by a licensed physician or medical examiner approved by the employer;

(b) a certificate of a licensed physician that the candidate has recently undergone a complete medical examination and the results thereof;

(4) evidence satisfactory to the director that the applicant has not been convicted of any criminal offense that carries a sentence of one year or more or of any criminal offense that involves moral turpitude. Forfeiture of bond, a guilty plea, or a plea of nolo contendere is considered the equivalent of a conviction;

(5) evidence satisfactory to the director that the candidate is a person of good character. This evidence must include, but is not limited to:

(a) certification by the candidate's employer that a background investigation has been conducted and the employer is of the opinion that the candidate is of good character;

(b) evidence satisfactory to the director that the candidate holds a valid current state driver's license with no record during the previous five years for suspension of driver's license as a result of driving under the influence of alcoholic beverages or dangerous drugs, driving while impaired (or the equivalent), reckless homicide, involuntary manslaughter, or leaving the scene of an accident. Candidates for certification as state or local correctional officers may hold a valid current driver's license issued by any jurisdiction of the United States;

(c) evidence satisfactory to the director that a local credit check has been made with favorable results;

(d) evidence satisfactory to the director that the candidate's fingerprint record as received from the Federal Bureau of Investigation and South Carolina Law Enforcement Division indicates no record of felony convictions.

In the director's determination of good character, the director shall give consideration to all law violations, including traffic and conservation law convictions, as indicating a lack of good character. The director shall also give consideration to the candidate's prior history, if any, of alcohol and drug abuse in arriving at a determination of good character;

(6) a copy of the candidate's photograph;

(7) a copy of the candidate's fingerprints;

(8) evidence satisfactory to the director that the candidate's present age is not less than twenty-one years. This evidence must include a birth certificate or another acceptable document;

(9) evidence satisfactory to the director of successful completion of a course of law enforcement training as established and approved by the director, and conducted at an academy or institution approved by the director, this evidence to consist of a certificate granted by the approved institution.

(C) A certificate as a law enforcement officer issued by the council will expire three years from the date of issuance or upon discontinuance of employment by the officer with the employing entity or agency. Prior to the expiration of the certificate, the certificate may be renewed upon application presented to the director on a form prescribed by the director. The application for renewal must be received by the director at least forty-five days prior to the expiration of the certificate. If the officer's certificate has lapsed, the council may reissue the certificate after receipt of an application and if the director is satisfied that the officer continues to meet the requirements of subsection (B)(1) through (9).

(D) The director may accept for training as a law enforcement officer an applicant who has met requirements of subsection (B)(1) through (8).

Section 23-23-70. (A) A retired law enforcement officer with twenty years or more law enforcement experience who subsequently serves as a magistrate or municipal judge of this State and is or has been appointed chief of a municipal department by the governing body thereof must be issued a certificate as a law enforcement officer pursuant to Section 23-23-60 if that person completes the legal course for Class I certified officers taught by the academy. This provision applies to a retired law enforcement officer of this State with twenty years or more law enforcement experience whose certificate has lapsed due to a three-year break in service who subsequently is appointed chief of a municipal department by the governing body thereof.

(B) A retired South Carolina law enforcement officer must be issued a certificate pursuant to Section 23-23-60, authorizing him to serve as a certified law enforcement officer, if the officer meets the following qualifications at the time of application:

(1) the officer must have been retired pursuant to Section 9-11-60 or 9-11-70 for not more than ten years, except that the council

may certify an officer who has been retired for more than ten years if the officer provides evidence satisfactory to the director that he has received law enforcement training and experience sufficient to qualify him to serve as a certified law enforcement officer;

(2) within the previous three years, the officer must have completed a legal course and all other training programs for certified officers mandated by law and taught by the academy; and

(3) the officer must have maintained a constable commission during his retirement, without interruption.

(C) A retired federal law enforcement officer must be issued a certificate pursuant to Section 23-23-60, authorizing him to serve as a certified law enforcement officer, if the officer provides evidence satisfactory to the director that he has received law enforcement training and experience sufficient to qualify him to serve as a certified law enforcement officer.

Section 23-23-80. The South Carolina Law Enforcement Training Council is authorized to:

(1) receive and disburse funds, including those hereinafter provided in this chapter;

(2) accept any donations, contributions, funds, grants, or gifts from private individuals, foundations, agencies, corporations, or the state or federal governments, for the purpose of carrying out the programs and objectives of this chapter;

(3) consult and cooperate with counties, municipalities, agencies, or official bodies of this State or of other states, other governmental agencies, and with universities, colleges, junior colleges, and other institutions, concerning the development of police training schools, programs, or courses of instruction, selection, and training standards, or other pertinent matters relating to law enforcement;

(4) publish or cause to be published manuals, information bulletins, newsletters, and other materials to achieve the objectives of this chapter;

(5) make such regulations as may be necessary for the administration of this chapter, including the issuance of orders directing public law enforcement agencies to comply with this chapter and all regulations so promulgated;

(6) certify and train qualified candidates and applicants for law enforcement officers and provide for suspension, revocation, or restriction of the certification, in accordance with regulations promulgated by the council;

(7) require all public entities or agencies that employ or appoint law enforcement officers to provide records in the format prescribed by regulation of employment information of law enforcement officers; and

(8) provide by regulation for mandatory continued training of certified law enforcement officers, this training to be completed within each of the various counties requesting this training on a regional basis.

Section 23-23-90. An oral or written report, document, statement, or other communication that is written, made, or delivered concerning the requirements or administration of this chapter or regulations promulgated pursuant to it must not be the subject of or basis for an action at law or in equity in any court of the State if the communication is between:

(1) law enforcement agencies, their agents, employees, or representatives; or

(2) law enforcement agencies, their agents, employees, or representatives and the academy or the council.

Section 23-23-100. (A) Whenever the director finds that any public law enforcement agency is in violation of any provisions of this chapter, the director may issue an order requiring the public law enforcement agency to comply with the provision. The director may bring a civil action for injunctive relief in the appropriate court or may bring a civil enforcement action. Violation of any court order issued pursuant to this section must be considered contempt of the issuing court and punishable as provided by law. The director also may invoke the civil penalties as provided in subsection (B) for violation of the provisions of this chapter, including any order or regulation hereunder. Any public law enforcement agency against which a civil penalty is invoked by the director may appeal the decision to the court of common pleas of the county where the public law enforcement agency is located.

(B) Any public law enforcement agency which fails to comply with this chapter and regulations promulgated pursuant to this chapter or fails to comply with any order issued by the director is liable for a civil penalty not to exceed one thousand five hundred dollars a violation. When the civil penalty authorized by this subsection is imposed upon a sheriff, the sheriff is responsible for payment of this civil penalty.

Section 23-23-110. When a municipality employs only one law enforcement officer and that officer is attending law enforcement training at the academy as required by law, the sheriff of the county

wherein the municipality is located, or the head of the entity in charge of countywide law enforcement if the county sheriff is not, shall provide systematic patrolling of the municipal area while its law enforcement officer is attending the training.

Section 23-23-115. Notwithstanding another provision of law, a person employed as a law enforcement officer with the Savannah River Site Law Enforcement Department, a United States Department of Energy facility, may attend and be trained at the academy in accordance with training and certification standards established by the State. Expenses for mandated and elective training must be established by the academy and paid by the law enforcement officer's employer. An authorized representative of the United States Department of Energy shall certify to the academy that the officer is employed as a law enforcement officer at the Savannah River Site and request the officer's admission to the academy for training.

Section 23-23-120. (A) For purposes of this section, 'governmental entity' means the State or any of its political subdivisions.

(B) After July 1, 2007, every governmental entity of this State intending to employ on a permanent basis a law enforcement officer who has satisfactorily completed the mandatory training as required under this chapter must comply with the provisions of this section.

(C) If a law enforcement officer has satisfactorily completed his mandatory training while employed by a governmental entity of this State and within two years from the date of satisfactory completion of the mandatory training a different governmental entity of this State subsequently hires the law enforcement officer, the subsequent hiring governmental entity shall reimburse the governmental entity with whom the law enforcement officer was employed at the time of attending the mandatory training:

(1) one hundred percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired within one year of the date of satisfactory completion of the mandatory training; or

(2) fifty percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired after one year but before the end of the second year after the date of satisfactory completion of the mandatory training.

(D) If the law enforcement officer is employed by more than one successive governmental entity within the two-year period after the date of satisfactory completion of the mandatory training, a governmental entity which reimbursed the governmental entity that employed the officer during the training period may obtain reimbursement from the successive governmental entity employer for:

(1) one hundred percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired within one year of the date of satisfactory completion of the mandatory training; or

(2) fifty percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired after one year but before the end of the second year after the date of satisfactory completion of the mandatory training.

(E) The governmental entity that employed the officer during the training period or a governmental entity seeking reimbursement from a successive governmental entity employer must not be reimbursed for more than one hundred percent of the cost of the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training.

(F) A governmental entity, prior to seeking any other reimbursement, must first seek reimbursement from the subsequent hiring governmental entity under the provisions of this section. In no case may a governmental entity receive more than one hundred percent of the cost of the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training.

(G) No officer shall be required to assume the responsibility of the repayment of these or any other related costs by the employing agency of the governmental entity of the employing agency in their effort to be reimbursed pursuant to this section.

(H) Any agreement in existence on or before the effective date of this section, between a governmental entity and a law enforcement officer concerning the repayment of costs for mandatory training, remains in effect to the extent that it does not violate the provisions of subsection (E), (F), or (G). No governmental entity shall, as a condition of employment, enter into a promissory note for the repayment of costs for mandatory training after the effective date of this section.

Section 23-23-130. Notwithstanding any other provision of law, revenue received from the sale of meals to employees and students attending nonmandated, advanced, or specialized training courses, sale of student locks and materials, sale of legal manuals and other publications, postal reimbursement, photocopying, sale of miscellaneous refuse and recyclable materials, tuition from nonmandated, advanced, or specialized courses, coin operated telephones, revenue from E-911 and coroner training, private college tuition, and revenue from canteen operations and building management services, revenue from 'Crime-to-Court' and other academy training series shall be retained by the academy and expended in budgeted operations for food services, expansion of the academy's distance learning programs, professional training, fees and dues, clothing allowance, and other related services or programs as the Director of the Criminal Justice Academy may deem necessary. The council and the academy shall report annually to the General Assembly the amount of miscellaneous revenue retained and carried forward.

Section 23-23-140. (A) For purposes of this section, 'patrol canine teams' refers to a certified officer and a specific patrol canine controlled by the handler working together in the performance of law enforcement or correctional duties. 'Patrol canine teams' does not refer to canines used exclusively for tracking or specific detection.

(B) The South Carolina Criminal Justice Academy shall verify that patrol canine teams have been certified by a nationally recognized police dog association or similar organization.

(C) No law enforcement agency may utilize patrol canine teams after July 1, 2014, unless the patrol canine teams have met all certification requirements."

Training for coroners

SECTION 2. Section 17-5-130(C) of the 1976 Code is amended to read:

"(C) Each person serving as coroner in the person's first term is required to complete a basic training session to be determined by the South Carolina Criminal Justice Academy. This basic training session must be completed no later than the end of the calendar year following the person's election as coroner. A person appointed to fill the unexpired term in the office of coroner shall complete a basic training session to be determined by the South Carolina Criminal Justice

Academy within one calendar year of the date of appointment. This section must not be construed to require an individual to repeat the basic training session if the person has successfully completed the session prior to the person's election or appointment as coroner. A coroner who is unable to attend this training session when offered because of an emergency or extenuating circumstances, within one year from the date the disability or cause terminates, shall complete the standard basic training session required of coroners. A coroner who does not fulfill the obligations of this subsection is subject to suspension by the Governor until the coroner completes the training session."

Reserve detention officers

SECTION 3. Section 24-5-340 of the 1976 Code is amended to read:

"Section 24-5-340. Additional requirements beyond those set out in this article may be imposed by the local political entity through the responsible authority.

Upon request by the director and assurance by the director that minimum requirements have been met, identification cards registering a reserve's status may be issued by the South Carolina Law Enforcement Training Council."

Aftercare counselors and probation and parole agents

SECTION 4. Section 63-19-1860(B) of the 1976 Code is amended to read:

"(B) An aftercare counselor or probation or parole agent who has successfully completed Class I or II law enforcement officer training and received a certificate from the South Carolina Law Enforcement Training Council pursuant to the provisions of Chapter 23, Title 23 has the power, when commissioned by the department, to take a juvenile conditionally released from the custody of the department and subject to the jurisdiction of the releasing entity into custody upon the issuance of a warrant for violating the conditions of his release."

Probation counselors

SECTION 5. Section 63-19-1880(D) of the 1976 Code is amended to read:

"(D) A probation counselor who has successfully completed Class I or II law enforcement officer training and received a certificate from the South Carolina Law Enforcement Training Council pursuant to the provisions of Chapter 23, Title 23 has the authority, when commissioned by the department, in the execution of his duties, to take a child under the jurisdiction of the family court into custody pursuant to an order issued by the court directing that the child be taken into custody."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 226

(R231, S1065)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 43, TITLE 38 SO AS TO PROVIDE FOR THE LIMITED LICENSING OF SELF-STORAGE FACILITIES TO SELL OR OFFER INSURANCE.

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

Self-storage facility insurance limited licenses

SECTION 1. Chapter 43, Title 38 of the 1976 Code is amended by adding:

"Article 5

Limited Licensing of Self-Service Storage Facilities to Sell or Offer Insurance

Section 38-43-610. For the purposes of this article:

(1) 'Licensee' means a person who holds a limited license.

(2) 'Limited license' means the authority of a person authorized to sell certain insurance pursuant to the provisions of this article.

(3) 'Rental agreement' means a written agreement setting forth the terms and conditions governing the use of a storage space provided by a self-service storage facility for rental or lease.

(4) 'Owner' means the owner of a self-service storage facility or his agent.

(5) 'Occupant' means a person or his lessee, successor, or assignee entitled to the use of the storage space at a self-storage facility under a rental agreement to the exclusion of others.

(6) 'Self-service storage facility' means real property designed and used for the sole purpose of renting or leasing individual storage space to occupants given access to this storage space for the sole purpose of storing and removing personal property.

(7) 'Rental period' means the term of a rental agreement.

Section 38-43-620. The director or his designee may issue a limited license to an owner who has complied with the requirements of this article.

Section 38-43-630. (A) Before issuing a limited license, an application for a limited license must be filed with the director, signed by an officer of the applicant, on a form prescribed by the department. An applicant for a limited license must be approved and vouched for by an official or licensed representative of the insurer for which the applicant proposes to act pursuant to Section 38-43-40 and Section 38-43-50. An application must be accompanied by a forty dollar fee. A limited license must be renewed biennially before May first of odd numbered years on a renewal application form provided by the department, and this form must be accompanied by a forty dollar renewal fee. The department shall cancel a license that is not renewed as required by this section. The licensee may reinstate a license within six months after the renewal deadline by paying the forty dollar renewal fee and a forty dollar reinstatement fee. A limited license fee is not refundable.

(B) A limited license holder must not advertise, represent, or otherwise hold itself or its employee out as a licensed insurer, insurance agent, or insurance broker.

Section 38-43-640. (A) A licensee must be the owner of a self-service rental facility or his employee or agent.

(B) A licensee only may sell or offer to sell insurance in connection with, and incidental to, the rental of a self-storage space in the owner's facility. This insurance only may provide coverage for:

(1) casualty loss of the property contained in the self-storage space;

(2) liability insurance for personal injuries, excluding injuries compensable by workers' compensation, arising on the premises of the individual self-storage space; or

(3) both.

Section 38-43-650. (A) Prior to issuing a policy under the provisions of this chapter, a licensee shall provide a written document that:

(1) summarizes clearly and correctly the material terms of coverage offered to an occupant, including the identity of the insurer;

(2) discloses that the coverage offered by the self-service storage facility may provide a duplication of coverage already provided by a homeowners' insurance policy or other source of coverage in effect for the occupant;

(3) describes the process for filing a claim if the occupant elects to purchase coverage and in the event of a claim; and

(4) states that the charges for coverage are itemized and ancillary to the rental agreement.

(B) If the rental agreement requires the occupant to provide insurance of the type described in Section 38-43-640(B), this requirement may be satisfied if the occupant:

(1) purchases this coverage from a licensee; or

(2) provides evidence of this coverage from another source.

Section 38-43-660. (A) The employee or agent of an owner who is a licensee may act individually on behalf, and under the supervision of, the owner-licensee with respect to providing coverage for which the licensee is authorized to provide, but only if the owner instructs the employee or agent about the kinds of insurance sold pursuant to the owner's license.

(B) The provisions of this chapter do not prohibit:

(1) the payment or receipt of a commission for the sale of insurance that the licensee is authorized to sell; and

(2) the payment of a bonus, incentive payment, or compensation by a licensee to his employee or agent; provided, however, that these

payments may not be made based on the completion of a sale of insurance coverage.

Section 38-43-670. Notwithstanding another provision of this chapter, a regulation promulgated by the department, or an order issued by the director, a licensee, his employee, and agent must not be required to:

(1) act as a fiduciary of money received from the sale of insurance authorized to be sold under the provisions of this chapter; or

(2) hold this money in a separate trust account if the insurer represented by the license holder provides written consent, signed by an officer of the insurer, that a premium is not required to be segregated from money received by the license holder because of the consumer transaction associated with the coverage.

Section 38-43-680. The director may, after notice and opportunity for a hearing, respond to a violation of a provision of this chapter under the provisions of Section 38-2-10 by:

(1) revoking or suspending a limited license; or

(2) imposing other penalties, including suspending the transaction of insurance at a specific rental location where a violation of this chapter occurred, as the director considers necessary or convenient to carry out the provisions of this chapter."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 227

(R232, S1071)

AN ACT TO AMEND SECTION 50-1-60, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, SECTIONS 50-11-120, 50-11-150, AND SECTIONS 50-11-310, 50-11-335, AND 50-11-430, ALL AS AMENDED, RELATING TO THE DIVISION OF THE

STATE INTO GAME ZONES, SMALL GAME SEASONS, SMALL GAME BAG LIMITS, THE OPEN SEASON FOR ANTLERED DEER, THE BAG LIMIT ON ANTLERED DEER, AND BEAR HUNTING, SO AS TO DECREASE THE NUMBER OF GAME ZONES, REVISE THE DATES FOR THE VARIOUS SMALL GAME SEASONS, TO REVISE THE SMALL GAME BAG LIMITS FOR THE VARIOUS GAME ZONES, AND TO REVISE THE DATES FOR THE VARIOUS ANTLERED DEER OPEN SEASONS; AND TO REPEAL SECTION 50-11-2110 RELATING TO FIELD TRIALS IN AND PERMITS FOR GAME ZONE NINE.

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

Game zones

SECTION 1. Section 50-1-60 of the 1976 Code, as last amended by Act 195 of 2012, is further amended to read:

"Section 50-1-60. For the purpose of protection and management of wildlife, the State is divided into four zones:

(1) Game Zone 1 consists of all properties north of the main line of the Norfolk Southern Railroad from the Georgia state line to South Carolina Highway 183 in Westminster, then north of South Carolina Highway 183 to intersection of South Carolina Highway 183 and the Norfolk Southern Railroad main line in Greenville and then north of the main line of the Norfolk Southern Railroad to the Spartanburg County line.

(2) Game Zone 2 consists of the counties of Abbeville, Anderson, Chester, Cherokee, Edgefield, Fairfield, Greenwood, Lancaster, Laurens, McCormick, Newberry, Saluda, Spartanburg, Union, York; and those portions of the counties of Greenville, Oconee, and Pickens south of the main line of the Norfolk Southern Railroad from the Georgia state line to South Carolina Highway 183 in Westminster, then south of South Carolina Highway 183 to the intersection of South Carolina Highway 183 and the Norfolk Southern Railroad main line in Greenville and then south of the main line of the Norfolk Southern Railroad to the Spartanburg County line.

(3) Game Zone 3 consists of the counties of Aiken, Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Colleton, Dorchester, Hampton, Jasper, Lexington, Orangeburg, and Richland.

(4) Game Zone 4 consists of the counties of Chesterfield, Clarendon, Darlington, Dillon, Florence, Georgetown, Horry, Kershaw, Lee, Marion, Marlboro, Sumter, and Williamsburg."

Small game hunting season

SECTION 2. Section 50-11-120 of the 1976 Code is amended to read:

"Section 50-11-120. (A) Except as otherwise specified, the season for hunting and taking small game is Thanksgiving Day through March 1.

(1) Game Zone 1:

(a) rabbit: Thanksgiving Day through March 1, with weapons and dogs, day only; March 2 through the day before Thanksgiving Day, with dogs only, day and night, and no rabbits may be taken;

(b) squirrel: October 1 through March 1, with weapons and dogs; March 2 through September 30, with dogs only, and no squirrels may be taken;

(c) fox: year round but no fox may be taken March 2 through the day before Thanksgiving Day, inclusive;

(d) raccoon and opossum: September 15 through March 15, with weapons and dogs; March 16 through September 14, with dogs only, and no raccoon or opossum may be taken;

(e) quail: Monday before Thanksgiving Day through March 1, with weapons and dogs; March 2 to the Sunday before Thanksgiving, with dogs only, and no quail may be taken;

(f) grouse: Thanksgiving Day through March 1;

(g) beaver: year round.

(2) Game Zones 2 through 4:

(a) rabbit: Thanksgiving Day through March 1, with weapons and dogs, day only; March 2 through the day before Thanksgiving Day with dogs only, day and night, and no rabbits may be taken;

(b) squirrel: October 1 through March 1, with weapons and dogs; March 2 through September 30, with dogs only, and no squirrels may be taken;

(c) fox: year round but no fox may be taken March 2 through the day before Thanksgiving Day, inclusive;

(d) raccoon and opossum: September 15 through March 15, with weapons and dogs; March 16 through September 14, with dogs only, and no raccoon or opossum may be taken;

(e) quail: Monday before Thanksgiving Day through March 1, with weapons and dogs; March 2 to the Sunday before Thanksgiving, with dogs only, and no quail may be taken;

(f) beaver: year round.

(B) The season dates in this section are inclusive except as otherwise provided. Unless otherwise specified during the small game seasons when weapons are allowed, dogs also may be used.

(C) In all game zones it is lawful to run rabbits with dogs at any time during the year in enclosures but no rabbits may be taken.

(D) As used in this section where night hunting is authorized, 'night' means the time between one hour after official sundown of a day and one hour before official sunrise the following day. Where daytime hunting only is allowed 'day' means the time between one hour before official sunrise of a day and one hour after official sunset of the same day."

Small game bag limits

SECTION 3. Section 50-11-150 of the 1976 Code is amended to read:

"Section 50-11-150. (A) For purposes of this section a 'day' means the twenty-four hours between one hour before sunrise one day and one hour before sunrise the following day. It is a measure of time for the purposes of setting a bag limit only. It is unlawful to exceed the small game bag limits as follows:

(1) Game Zone 1:

(a) rabbit: five per day;

(b) squirrel: ten per day;

(c) raccoon: three per party per day;

(d) quail: twelve per day;

(e) grouse: three per day.

(2) Game Zones 2 through 4:

(a) rabbit: five per day;

(b) squirrel: ten per day;

(c) raccoon: three per party per day;

(d) quail: twelve per day.

(B) Except as provided in this section, there is no limit on small game animals."

Open season for hunting and taking of antlered deer

SECTION 4. Section 50-11-310 of the 1976 Code, as last amended by Act 70 of 2013, is further amended to read:

"Section 50-11-310. (A) The open season for the hunting and taking of antlered deer is:

(1) In Game Zone 1: October 1 through October 10, with primitive weapons only; October 11 through January 1, with archery equipment and firearms.

(2) In Game Zone 2: September 15 through September 30, with archery equipment only; October 1 through October 10, with primitive weapons only; October 11 through January 1, with archery equipment and firearms.

(3) In Game Zone 3: August 15 through January 1, with archery equipment and firearms.

(4) In Game Zone 4: August 15 through August 31, with archery equipment; and September 1 through January 1, with archery equipment and firearms.

(B) In Game Zones 1 and 2, it is unlawful to pursue deer with dogs.

(C) The department may promulgate regulations in accordance with the Administrative Procedures Act to establish the seasons for the hunting and taking of deer, methods for the hunting and taking of deer, and other restrictions for the hunting and taking of deer on wildlife management areas, heritage trust lands, and properties owned or leased by the department.

(D) It is unlawful to pursue deer with dogs except during the prescribed season for hunting deer.

(E) For special primitive weapons seasons, primitive weapons include bow and arrow, crossbows, muzzle-loading shotguns of twenty gauge or larger, and rifles of .36 caliber or larger with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitrocellulose or nitroglycerin components as the propellant charge. There are no restrictions on ignition systems including flintstone, percussion cap, shotgun primer, disk, or electronic. During primitive weapons seasons, no revolving rifles are permitted."

Bag limit on antlered deer

SECTION 5. Section 50-11-335(2) of the 1976 Code, as last amended by Act 286 of 2008, is further amended to read:

"(2) Game Zones 3 and 4: no daily or season limit.
Each animal over the limit is a separate offense."

Open season for hunting and taking of bear

SECTION 6. Section 50-11-430(A) and (B) of the 1976 Code, as last amended by Act 286 of 2010, is further amended to read:

"Section 50-11-430. (A)(1) The open season for hunting and taking bear in Game Zone 1 for still gun hunts is October 17 through October 23; for party dog hunts is October 24 through October 30. A party dog hunt in Game Zone 1 may not exceed twenty-five participants per party and shall register with the department by September first. Party participants, except those not required to have licenses shall submit their hunting license number in order to register.

(2) In all other game zones, the General Assembly finds it in the best interest of the State to allow the taking of black bear under strictly controlled conditions and circumstances. The department may establish a bear management program that allows for hunting and selective removal of bear in order to provide for the sound management of the animals and to ensure the continued viability of the species. The department must set the conditions for taking, including methods of take, areas, times, and seasons, and other conditions to properly control the harvest of bear. The department may issue bear permits to allow hunting and taking of bear in any game zone where bear occur. In Game Zones 2, 3, and 4 a person desiring to hunt and take bear must apply to the department. The application fee is ten dollars and is nonrefundable. Successful applicants must be randomly selected for the permit, and must pay a twenty-five dollar fee for residents and one hundred dollar fee for nonresidents.

(B) In Game Zones 2, 3, and 4 where the department declares an open season, the department shall promulgate regulations necessary to properly control the harvest of bear."

Repeal

SECTION 7. Section 50-11-2110 of the 1976 Code is repealed.

Savings clause

SECTION 8. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 9. This act takes effect July 1, 2015.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 228

(R233, S1076)

AN ACT TO AMEND SECTION 23-31-600, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO IDENTIFICATION CARDS ISSUED TO AND FIREARM QUALIFICATION PROVIDED FOR RETIRED LAW ENFORCEMENT PERSONNEL, SO AS TO REVISE THE DEFINITION OF THE TERMS "IDENTIFICATION CARD" AND "QUALIFIED RETIRED LAW ENFORCEMENT OFFICER", TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT AN AGENCY OR DEPARTMENT OF THIS STATE MAY ISSUE IDENTIFICATION CARDS, AND TO ELIMINATE THE FEE IMPOSED TO OBTAIN AN IDENTIFICATION CARD.

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

Identification cards

SECTION 1. Section 23-31-600 of the 1976 Code is amended to read:

"Section 23-31-600. (A) For purposes of this section:

(1) 'Identification card' is a photographic identification card complying with 18 U.S.C. Section 926C.

(2) 'Qualified retired law enforcement officer' shall have the same meaning as in 18 U.S.C. Section 926C.

(B) An agency or department within this State may comply with 18 U.S.C. Section 926C, by issuing an identification card to any qualified retired law enforcement officer. If the agency or department currently issues credentials to active law enforcement officers, the agency or department may comply with the requirements of this section by issuing the same credentials to qualified retired law enforcement officers. If the same credentials are issued, then the agency or department must stamp the credentials with the word 'RETIRED'.

(C)(1) Subject to the limitations of subsection (E), a qualified retired law enforcement officer may carry a concealed weapon in this State if the qualified retired law enforcement officer possesses an identification card along with a certification that the qualified retired law enforcement officer has, not less recently than one year before the date the individual is carrying the firearm, met the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

(2) The firearms certification required by this subsection may be reflected on the identification card or may be in a separate document carried with the identification card.

(D) The restrictions contained in Sections 23-31-220 and 23-31-225 are applicable to a person carrying a concealed weapon pursuant to this section.

(E) The agency or department must provide the qualified retired law enforcement officer with the opportunity to qualify to carry a firearm under the same standards for training and qualification for active law enforcement officers to carry firearms. However, the agency or department, as provided in 18 U. S. C. Section 926C, may require the qualified retired law enforcement officer to pay the actual expenses of the training and qualification."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 229

(R234, S1085)

AN ACT TO AMEND SECTION 4-37-30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE USE OF LOCAL SALES AND USE TAX OR TOLL REVENUES TO FINANCE TRANSPORTATION INFRASTRUCTURE IN A COUNTY, SO AS TO PROVIDE A PROCEDURE FOR THE GOVERNING BODY OF A COUNTY IN WHICH THE TRANSPORTATION INFRASTRUCTURE LOCAL SALES AND USE TAX IS CURRENTLY IMPOSED FOR LESS THAN THE TWENTY-FIVE YEAR MAXIMUM IMPOSITION PERIOD, UPON REFERENDUM APPROVAL, MAY EXTEND WITHOUT INTERRUPTION THE INITIAL IMPOSITION PERIOD FOR UP TO SEVEN YEARS FOR NOT MORE THAN TWENTY-FIVE YEARS IN THE AGGREGATE, INCLUDING THE ORIGINAL IMPOSITION PERIOD, TO PROVIDE WHAT QUESTIONS MUST APPEAR ON THE REFERENDUM BALLOT FOR THE EXTENSION, AND TO PROVIDE THAT REFERENDUMS TO IMPOSE OR EXTEND THE TRANSPORTATION INFRASTRUCTURE SALES AND USE TAX MUST BE HELD AT THE TIME OF THE GENERAL ELECTION.

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

Transportation infrastructure sales and use tax, extension of imposition, referendum date

SECTION 1. Items (2) and (4) of Section 4-37-30(A) of the 1976 Code, as last amended by Act 368 of 2000, are further amended to read:

"(2) Upon receipt of the ordinance, the county election commission shall conduct a referendum on the question of imposing the optional special sales and use tax in the jurisdiction. A referendum for the initial imposition of the sales and use tax within a county pursuant to this chapter and all subsequent referendums to impose, extend, or renew the tax must be held at the time of the general election. The commission shall publish the date and purpose of the referendum once a week for four consecutive weeks immediately preceding the date of the referendum in a newspaper of general circulation in the jurisdiction. A public hearing must be conducted at least fourteen days before the referendum after publication of a notice setting forth the date, time, and location of the public hearing. The notice must be published in a newspaper of general circulation in the county at least fourteen days before the date fixed for the public hearing.

(4)(a) If a county has imposed a tax pursuant to this chapter for less than the maximum twenty-five year term allowed and the tax remains in effect, the governing body of the county at any time may call for a referendum to extend the term of the tax for up to seven years, and thereafter call for referendums to extend the term of the tax for up to seven years, for an aggregate total not to exceed twenty-five years. The referendum to extend the term of the tax must be held at the general election. A separate question must be included on the referendum ballot for each purpose which purpose, as determined by the governing body of a county, may be set forth as a single question relating to several of the projects and the question must indicate whether the project is an existing project or new project. A new project or projects only may be listed on the ballot to the extent that the county has, or will, complete existing projects. The question must read substantially as follows:

'I approve the extension of a special sales and use tax in the amount of (fractional amount of one percent) (one percent) to be imposed in (county) not to exceed ___ years to fund the completion of the following existing project or projects and/or to fund the following new project or projects:

Project (1) for _____ $ _____ (new or existing)

Yes ☐

No ☐

Project (2), etc.'

(b) All qualified electors desiring to vote in favor of imposing the tax for a particular purpose shall vote 'yes' and all qualified electors opposed to levying the tax for a particular purpose shall vote 'no'. If a majority of the votes cast are in favor of imposing the tax for one or more of the specified purposes, then the tax is imposed as provided in this section; otherwise, the tax is not imposed. The election commission shall conduct the referendum pursuant to the election laws of this State, mutatis mutandis, and shall certify the result no later than November thirtieth after the date of the referendum to the appropriate governing body and to the Department of Revenue. Included in the certification must be the maximum cost of the project or projects or facilities to be funded in whole or in part from proceeds of the tax, the maximum time specified for the imposition of the tax, and the principal amount of bonds to be supported by the tax receiving a favorable vote. Expenses of the referendum must be paid by the jurisdiction conducting the referendum. If the tax is approved in the referendum, the tax is imposed effective the first day of May following the date of the referendum. If the reimposition of the tax pursuant to this article is approved in the referendum, the new or existing tax must be imposed, extended, or renewed immediately following the termination of the earlier imposed tax. If the certification is not made timely to the Department of Revenue, the imposition is postponed for twelve months."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 230

(R235, S1089)

AN ACT TO AMEND SECTION 54-3-700, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CESSATION OF MARINE TERMINAL OPERATIONS AND THE SALE OF PROPERTY AT PORT ROYAL, SO AS TO RECOGNIZE THAT THE STATE PORTS AUTHORITY HAS CEASED OPERATIONS AT PORT ROYAL, TO DIRECT THE STATE PORTS AUTHORITY TO SELL THE PORT ROYAL PROPERTY AS SOON AS PRACTICABLE ON OR BEFORE JUNE 30, 2015, TO PROVIDE THE CONDITIONS AND REQUIREMENTS FOR THE SALE, TO PROVIDE FOR CERTAIN CIRCUMSTANCES WHERE THE SALE MAY BE CLOSED AFTER JUNE 30, 2015, BUT NOT LATER THAN DECEMBER 31, 2015, TO PROVIDE THAT IF THE PROPERTY IS NOT SOLD BY JUNE 30, 2015, SUBJECT TO CERTAIN CIRCUMSTANCES, OR NOT CLOSED BY DECEMBER 31, 2015, THE AUTHORITY MUST IRREVOCABLY TRANSFER THE PROPERTY ON JULY 1, 2015, TO THE DIVISION OF GENERAL SERVICES TO BE SOLD AT PUBLIC AUCTION; TO PROVIDE FOR AN APPRAISAL OF THE PROPERTY PRIOR TO SALE, TO PROVIDE THAT THE PROPERTY MAY BE SOLD BY THE STATE PORTS AUTHORITY OR GENERAL SERVICES FOR EIGHTY PERCENT OR MORE OF THE APPRAISED VALUE; TO PROVIDE THAT ALL SALES MUST BE MADE ACCORDING TO STATE PROCEDURES, TO PROVIDE FOR THE DISTRIBUTION OF SALES PROCEEDS, AND TO PROVIDE THAT A SALE OF THE PROPERTY PURSUANT TO THIS ACT SATISFIES THE STATE PORTS AUTHORITY BOARD'S FIDUCIARY DUTIES TO THE AUTHORITY AND TO THE AUTHORITY'S BOND HOLDERS.

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

Findings

SECTION 1. The General Assembly finds that:

(1) Pursuant to Act 313 of 2004, the State Ports Authority was absolved of the statutory responsibility to operate a marine terminal at Port Royal.

(2) Subsequent to the enactment of Act 313 of 2004, the State Ports Authority ceased marine operations at Port Royal.

(3) Act 313 of 2004 further directed the State Ports Authority to sell its real and personal property at Port Royal and set forth the parameters of the potential sale.

(4) Pursuant to Section 54-3-700, the State Ports Authority's real and personal property at Port Royal was to be transferred to the State Budget and Control Board because its real and personal property had not been sold by December 31, 2009.

(5) The State Budget and Control Board subsequently delegated the responsibility for selling the real and personal property at Port Royal back to the State Ports Authority.

(6) The State Ports Authority has been unsuccessful in its attempt to sell its real and personal property at Port Royal.

(7) The restrictions placed upon the State Ports Authority concerning the sale of its real and personal property at Port Royal, as well as challenging market conditions, have hindered its attempts at selling the property.

(8) It is in the best interest of the residents of the Town of Port Royal, the State of South Carolina, and the State Ports Authority, to sell the real and personal property at Port Royal so that a nonperforming asset may be placed into its highest and best use in the private sector.

(9) The conversion of a nonperforming asset into revenues in the most expeditious manner protects the interests of the authority's bondholders as set forth in its bond covenants, and otherwise according to law.

Sale of property, conditions and requirements of sale

SECTION 2. Section 54-3-700 of the 1976 Code, as last amended by Act 73 of 2009, is further amended to read:

"Section 54-3-700. (A) The State Ports Authority has not had statutory responsibility to operate a marine terminal at Port Royal since September 21, 2004, and has ceased all marine operations at Port Royal.

(B) The State Ports Authority is hereby directed to sell all its real and personal property at Port Royal as soon as practicable. The property must be marketed for sale in whole, or in parcels, at the discretion of the State Ports Authority.

(C)(1)(a) The State Ports Authority, in its discretion, shall determine the manner of the sale. In no event shall terms of the sale extend beyond June 30, 2015, except as provided in subitems (b) and (c) . The sale of the property in an amount permitted by item (3) shall satisfy the board's fiduciary duties to the authority and the authority's bondholders.

(b) If the State Ports Authority has accepted a bona fide offer to purchase a parcel of the property, or an offer to purchase the property in whole, but the sale has not closed as of June 30, 2015, then the parcel that is the subject of the pending sale, or the property as a whole, shall not be transferred pursuant to item (2) on July 1, 2015. The State Ports Authority shall have until midnight on December 31, 2015, to close the sale. If the sale is not closed by midnight on December 31, 2015, then the parcel, or the property as a whole, shall be transferred pursuant to item (2).

(c) If the State Ports Authority has received a bona fide offer for a parcel of the property, or for the property as a whole, within ninety days prior to June 30, 2015, the transfer of the parcel that is the subject of the offer, or the property as a whole, shall not be transferred pursuant to item (2) on July 1, 2015. The State Ports Authority shall have until midnight on December 31, 2015, to close the sale. If the sale is not closed by midnight on December 31, 2015, then the parcel, or the property as a whole, shall be transferred pursuant to item (2).

(2)(a) Except as provided in subsection(C)(1)(b) and (c), on July 1, 2015, the property must be irrevocably transferred to the Division of General Services in the Department of Administration, as established by Act 121 of 2014, for sale at public auction. Upon the transfer of the property to General Services, the Department of Administration is vested with all of the board's fiduciary duties to the authority and the authority's bondholders.

(b) Sale of the property pursuant to this section, and in an amount permitted by item (3), shall satisfy the board's fiduciary duties to the authority and the authority's bondholders.

(3) The State Ports Authority and General Services may accept a sales price on any parcel of the property, or the property as a whole, that is equal to, or greater than, eighty percent of the appraised value of the property to be sold. General Services may deduct from the proceeds of the sale an amount equal to the actual costs incurred in conjunction with the sale of the property. The balance of the proceeds must be transmitted to the authority. The Town of Port Royal or Beaufort County, or a combination of the two, may purchase the property at a price within the parameters established in this item.

(D) Any real or personal property at Port Royal which is to be sold must be appraised prior to the sale. The real property appraiser must be a State Certified General Real Estate Appraiser, a member of the Appraisal Institute (MAI), and must be knowledgeable in appraisal and in appraising closed industrial sites. The appraisal of the real property should include its future development opportunities and those of the surrounding properties, and give due consideration to the possible existence of adverse environmental conditions and structurally unsound improvements. The sale of the real property shall comply with all state laws and procedures. All proceeds from the sale of real and personal property at Port Royal must be retained by the State Ports Authority, except as provided in subsection (C)(3), and except that the Town of Port Royal may petition the State Budget and Control Board, or its successor entity, for a portion of the net proceeds from a sale and may be allocated a portion of these net proceeds in an amount not to exceed five percent of the net proceeds upon showing the allocation is necessary to pay for infrastructure needs directly associated with and necessitated by the closing of the port as Port Royal. These funds must be expended at the direction of the Town Council of Port Royal with the approval of the State Budget and Control Board, or its successor entity, solely for infrastructure, and shall have priority over all other expenditures except usual and necessary closing costs attributable to a sales contract."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 231

(R236, S1136)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-1-683 SO AS TO DESIGNATE BARBECUE AS THE OFFICIAL STATE PICNIC CUISINE.

Whereas, South Carolina is "The Birthplace of Barbecue". Barbecue's roots can be traced to the 1500s when Spanish explorers first brought pigs to the New World. The local Native Americans taught the Spaniards how to cook the whole pig over low, indirect heat, which is the blueprint for creating modern-day American barbecue; and

Whereas, South Carolina is unique in that it is the only State where one can find all four barbecue finishing sauces: vinegar and pepper, mustard, light tomato, and heavy tomato; and

Whereas, South Carolina's love of barbecue can be explored through the South Carolina "BBQ Trail", a marketing and advertising campaign by state tourism officials to create more business for "mom-and-pop" barbecue restaurants in South Carolina. Now, therefore,

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

Official State Picnic Cuisine

SECTION 1. Article 9, Chapter 1, Title 1 of the 1976 Code is amended by adding:

"Section 1-1-683. Barbecue is designated as the official State Picnic Cuisine of South Carolina."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 232

(R237, S1172)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 60-15-75 SO AS TO PROVIDE FOR THE ESTABLISHMENT OF CRITERIA AND GUIDELINES FOR STATE-DESIGNATED CULTURAL DISTRICTS BY THE SOUTH CAROLINA ARTS COMMISSION, TO STATE THE INTENDED PURPOSE OF THE CULTURAL DISTRICTS, AND TO PROVIDE RELATED POWERS AND DUTIES OF THE COMMISSION WITH RESPECT TO THE CULTURAL DISTRICTS.

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

Statewide cultural districts

SECTION 1. Chapter 15, Title 60 of the 1976 Code is amended by adding:

"Section 60-15-75. (A) The commission shall develop criteria and guidelines for designating a cultural district by the State.

(B) A cultural district:

(1) must be a geographical area that is within a community and that has a concentration of cultural facilities, creative enterprises, or arts venues located within it;

(2) may be home to not-for-profit and for-profit creative entities; and

(3) is intended to impact the larger community in which it is located by:

(a) attracting artists, creative entrepreneurs, and cultural enterprises;

(b) encouraging economic development;

(c) encouraging the preservation and reuse of historic buildings;

(d) fostering local cultural development; and

(e) providing a focal point for celebrating and strengthening its unique cultural identity.

(C) A geographical area of the State only may be designated as a cultural district under the provisions of this section by applying to the commission for the designation, satisfying criteria and other requirements of this section, and upon approval by the commission.

(D) The commission shall:

(1) provide leadership and assistance to a community that seeks to develop or foster a cultural district;

(2) develop a process through which a community may apply for the designation of a cultural district by the State, including:

(a) specific guidelines and criteria; and

(b) a process for the periodic evaluation of the success of a designated cultural district and the periodic recertification of the district; and

(3) pursue partnerships and collaborative agreements with other public agencies and the private sector to maximize the benefits and value of cultural districts designated by the commission."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 3rd day of June, 2014.

No. 233

(R238, S1173)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 11, TITLE 25 SO AS TO CREATE THE SOUTH CAROLINA PRISONER OF WAR MEDAL, TO PROVIDE THAT THE GOVERNOR MAY PRESENT THE MEDAL ON BEHALF OF THE PEOPLE OF THE STATE OF SOUTH CAROLINA, TO SET FORTH ELIGIBILITY, AND TO ALLOW THE MEDAL TO BE AWARDED TO A DECEASED OR ABSENT PERSON.

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

South Carolina Prisoner of War Medal

SECTION 1. Chapter 11, Title 25 of the 1976 Code is amended by adding:

"Article 5

South Carolina Prisoner of War Medal

Section 25-11-510. There is created the South Carolina Prisoner of War 'POW' Medal. The Governor may present the medal on behalf of the people of the State of South Carolina to any person who:

(1) on the date of induction into the organized militia or federal military service, was a resident of this State and who, while serving in the organized militia or in federal military service on active duty in a combat theater of operation during a time of war or emergency, was officially listed as a prisoner of war by the United States Department of Defense;

(2) on the date of induction into the organized militia or federal military service, was not a resident of this State but currently resides in this State or was a resident at the time of death and who, while serving in the organized militia or in federal military service on active duty in a combat theater of operation during time of war or emergency, was officially listed as a prisoner of war by the United States Department of Defense; or

(3) meets the residency requirements of item (1) or (2), and was taken prisoner and held captive while:

(a) engaged in an action against an enemy of the United States;

(b) engaged in military operations involving conflict with an opposing foreign force; or

(c) serving with friendly forces engaged in an armed conflict against an opposing force in which the United States is not a belligerent party.

Section 25-11-520. (A) The South Carolina Division of Veterans' Affairs, in consultation with the Adjutant General, shall determine eligibility for the medal. For any person qualifying for the medal pursuant to Section 25-11-510(3), the Director of the Division of Veterans' Affairs shall determine eligibility on a case by case basis.

There is no required period of captivity; however, the director and the Adjutant General shall compare such cases to those under which persons have generally been held captive by enemy forces during periods of armed conflict.

(B) The Division of Veterans' Affairs may require a copy of DD Form 214 or WD Form 53 and any other information necessary to determine eligibility.

Section 25-11-530. Any person convicted by a United States military tribunal of misconduct or a criminal charge or whose discharge is less than honorable based on actions while a POW is ineligible for the medal. Any POW whose conduct was not in accord with the Code of Conduct and whose actions are documented by United States military records, is ineligible for the medal. Resolution of questionable cases shall be the responsibility of the Director of the Division of Veterans' Affairs, in consultation with the Adjutant General.

Section 25-11-540. No person may be awarded more than one South Carolina POW Medal.

Section 25-11-550. The medal may be awarded for a deceased person or a person absent as a prisoner of war and presented to the person's next of kin.

Section 25-11-560. The Division of Veterans' Affairs must develop and implement a plan to accept nominations for the medal.

Section 25-11-570. (A) The Adjutant General, in consultation with the Director of the Division of Veterans' Affairs, shall develop the appropriate design and appearance of the medal and a ribbon to be worn in lieu of the medal. However, nothing in this section requires the Director of the Division of Veterans' Affairs or the Adjutant General to provide or pay for the medal, ribbon, or its design.

(B) There is created in the State Treasury a special fund to be known as the South Carolina Prisoner of War Medal Fund for the sole purpose of receipt and disbursement of donated funds from the public to be used in the design, production, purchasing, and presentation of the South Carolina Prisoner of War Medal as administered by the Director of the South Carolina Division of Veterans' Affairs, in consultation with the Adjutant General. The Office of the South Carolina Division of Veterans' Affairs, or the Adjutant General, shall

remit all funds donated to the South Carolina Prisoner of War Medal Fund to the Office of State Treasurer for deposit and disbursement."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 234

(R239, S1177)

AN ACT TO AMEND SECTION 50-11-2200, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT, OPERATION, AND MAINTENANCE OF WILDLIFE MANAGEMENT AREAS, SO AS TO PROVIDE THAT CERTAIN ACTS OR CONDUCT ARE PROHIBITED ON STATE LAKES AND PONDS THAT ARE OWNED OR LEASED BY THE DEPARTMENT AND HERITAGE PRESERVES OWNED BY THE DEPARTMENT, TO MAKE TECHNICAL CHANGES, AND TO REVISE THE LIST OF ACTS OR CONDUCT THAT ARE PROHIBITED; AND TO REPEAL SECTION 50-13-2011 RELATING TO THE DEPARTMENT OF NATURAL RESOURCES MANAGEMENT AUTHORITY OVER THE LAKES AND PONDS THAT IT OWNS OR LEASES.

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

Areas managed by the Department of Natural Resources

SECTION 1. Section 50-11-2200 of the 1976 Code, as last amended by Act 63 of 2009, is further amended to read:

"Section 50-11-2200. (A) Subject to available funding, the department shall acquire sufficient wildlife habitat through lease or purchase or otherwise to establish wildlife management areas for the

protection, propagation, and promotion of fish and wildlife and for public hunting, fishing, and other natural resource dependent recreational use. The department may not have under lease at any one time more than one million six hundred thousand acres in the wildlife management area program. The department may not pay more than fair market value for the lease of lands in the area. The department may not lease land for the program which, during the preceding twenty-four months, was held under a private hunting lease. However, this restriction does not apply:

(1) if the former lessee executes a voluntary consent to the proposed wildlife management area lease;

(2) if the lessor cancels the lease; or

(3) to any lands which, during the twenty-four months before June 5, 1986, were in the game management area program.

(B) The department may promulgate regulations for the protection, preservation, operation, maintenance, and use of wildlife management areas and Heritage Trust areas and those other lands owned by the department.

(C) The following acts or conduct are prohibited and shall be unlawful on all wildlife management areas, state lakes and ponds owned or leased by the department, heritage preserves owned by the department, and all other lands owned by the department; provided, however, the department may promulgate regulations allowing any of the acts or conduct by prescribing acceptable times, locations, means, and other appropriate restrictions not inconsistent with the protection, preservation, operation, maintenance, and use of such lands and areas:

(1) hunting or taking wildlife or fish;

(2) exceeding bag or creel limits;

(3) hunting or taking wildlife or fish by unauthorized methods, weapons, or ammunition;

(4) hunting or taking wildlife or fish during closed seasons, days, or times;

(5) hunting or taking wildlife by aid of bait or feeding or baiting wildlife;

(6) hiking;

(7) rock climbing or rappelling;

(8) operation of motorized and nonmotorized vehicles;

(9) swimming;

(10) camping;

(11) horse riding;

(12) staging or participating in ‘paintball’, ‘airsoft’, or similar games;

(13) possession of pets and specialty animals;

(14) use of fire, fireworks, or explosives;

(15) polluting or contaminating any land or water;

(16) acting in a disorderly manner or creating any noise which would result in annoyance to others and no person shall operate or use electronic sound devices except as permitted by the department;

(17) consumption of alcoholic beverages or possession of open containers of alcoholic beverages on lands and areas designated for hunting or fishing;

(18) conducting commercial activity or using the area for commercial gain, except by permit;

(19) gathering, damaging, or destroying rocks, minerals, fossils, artifacts, geological formations, or ecofacts, except by permit;

(20) gathering, damaging, or destroying plants, fallen vegetation, animals, and fungi except to the extent these activities are authorized by permit, or are incidental to other activities authorized in wildlife management areas by this title;

(21) entering a closed area or unauthorized entry;

(22) launching or landing parachutes or parasails or aircraft including models or remotely piloted aircraft and similar devices, except for law enforcement or emergencies;

(23) placing temporary or permanent structures on these lands and areas, except permitted stands and blinds;

(24) obstructing or creating a hazard to land or water traffic or obstructing a watercourse;

(25) operating a motor vehicle in or across watercourses other than at designated fording sites;

(26) posting bills, signs, or other notices;

(27) indecently exposing one's person or performing an indecent act in public;

(28) abandoning vehicles, equipment, or other material;

(29) defacing, altering, destroying, or removing any sign, marker, guidepost, fence, gate, lock, barrier, improvement, building, bridge, culvert, structure, natural landmark, or feature;

(30) geocaching;

(31) use or possession of metal detectors, except by permit;

(32) digging or excavating, except by permit;

(33) use of herbicides or pesticides, excluding insect repellent;

(34) introducing nonnative or cultivated plants or other organisms, or releasing an animal;

(35) cutting or collecting of firewood, except by permit;

(36) discharging weapons or target shooting, except in areas designated by the department;

(37) trapping;

(38) shooting onto or across WMA areas closed to hunting or attempting to take wildlife on WMA areas closed to hunting;

(39) use or operation of watercraft; and

(40) depositing refuse, garbage, or other waste materials.

(D) The department or emergency service personnel may undertake these activities for enforcement, emergencies, or management purposes.

(E) A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars nor more than two hundred dollars or be imprisoned for not more than thirty days, or both.

(F) As used in this section 'bait', 'baiting', or 'feeding' means placing, depositing, exposing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain or food stuffs to constitute an attraction, lure, or enticement for wildlife to, on, or over an area. 'Baited area' means an area where bait or feed is directly or indirectly placed, deposited, exposed, distributed, or scattered, and the area remains a baited area for ten days following the complete removal of all bait or feed. Nothing in this section prohibits the hunting and taking of wildlife on or over lands or areas that are not otherwise baited and where:

(1) there are standing crops on the field where grown, including crops grown for wildlife management purposes; or

(2) shelled, shucked, or unshucked corn, wheat, or other grain, or seeds that have been distributed or scattered solely as the result of a normal agricultural practice as prescribed by the Clemson University Extension Service or its successor.

(G) An activity permitted by regulation may be temporarily suspended for up to one hundred eighty days if the activity is adversely affecting natural resources or human health or safety.

(H) Nothing contained in this section shall interfere with the use and management of lands by a state agency in charge of these lands in the functions of the agency as authorized by law."

Repeal

SECTION 2. Section 50-13-2011 of the 1976 Code is repealed.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 235

(R240, S1178)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-11-2240 SO AS TO PROVIDE THE CIRCUMSTANCES UPON WHICH A HUNTER'S PRIVILEGE TO PARTICIPATE IN A WILDLIFE MANAGEMENT AREA LOTTERY HUNT MAY BE REVOKED AND TO PROVIDE A REMEDY FOR A HUNTER WHO IS NOT CONVICTED OF A VIOLATION ARISING FROM THE OCCURRENCE PRECIPITATING THE REVOCATION OF HIS PRIVILEGE TO PARTICIPATE IN THE LOTTERY HUNT.

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

Wildlife management area lottery hunt

SECTION 1. Article 10, Chapter 11, Title 50 of the 1976 Code is amended by adding:

"Section 50-11-2240. (A) In addition to any other action that may be taken by an enforcement officer, a hunter's privilege to participate in a wildlife management area lottery hunt may be revoked for the remainder of the hunt if an enforcement officer witnesses, or has probable cause to believe that, the hunter violated any provision of this article, or regulations promulgated pursuant to this article, during the hunt.

(B) If the hunter is not convicted of a violation of this article arising from the occurrence precipitating the revocation of his privilege to participate in the lottery hunt, then he, without having to pay any fees associated with participation, may elect to:

(1) participate in the next lottery hunt of the type for which his privilege was revoked; or

(2) have reinstated his preference points for determining his status for a future lottery hunt of the type for which his privilege was revoked."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 236

(R241, S1189)

AN ACT TO AMEND SECTION 58-27-865, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "FUEL COST" AND RELATED PROVISIONS IN REGARD TO ELECTRIC UTILITY RATE DETERMINATIONS, SO AS TO REVISE THE DEFINITION AND FURTHER PROVIDE FOR RELATED PROVISIONS; BY ADDING CHAPTER 39 TO TITLE 58 SO AS TO PROVIDE FOR A SOUTH CAROLINA DISTRIBUTED ENERGY RESOURCE PROGRAM, TO DEFINE CERTAIN TERMS, TO SET GOALS FOR THE PROGRAM, AND TO PROVIDE FOR THE PROCESS AND IMPLEMENTATION OF THE PROGRAM, INCLUDING THE APPLICATION AND APPROVAL PROCESS FOR THE PROGRAM AND COST RECOVERY; BY ADDING CHAPTER 40 TO TITLE 58 SO AS TO PROVIDE FOR A NET ENERGY METERING PROGRAM, TO DEFINE CERTAIN TERMS, TO PROVIDE FOR THE REQUIREMENTS FOR THE NET ENERGY METERING PROGRAM, INCLUDING COSTS AND THE RESPONSIBILITIES OF THE PUBLIC SERVICE COMMISSION AND THE OFFICE OF REGULATORY STAFF PURSUANT TO THIS PROGRAM; BY ADDING ARTICLE 23 TO CHAPTER 27, TITLE 58 SO AS TO PROVIDE FOR THE LEASE OF RENEWABLE ELECTRIC GENERATION

FACILITIES PROGRAM, TO DEFINE CERTAIN TERMS, TO PROVIDE FOR THE REQUIREMENTS OF THE LEASE PROGRAM, INCLUDING AN APPLICATION PROCESS AND REGISTRATION WITH THE OFFICE OF REGULATORY STAFF AND PENALTIES FOR VIOLATIONS OF THE LEASE PROGRAM; BY ADDING SECTION 58-27-1050 SO AS TO PROVIDE THAT THE OFFICE OF REGULATORY STAFF SHALL INVESTIGATE AND REPORT TO THE PUBLIC SERVICE COMMISSION ON FIXED COSTS, FIXED CHARGES, AND THE EXTENT OF COST SHIFTING THAT IS ATTRIBUTABLE TO DISTRIBUTED ENERGY RESOURCES WITHIN CURRENT UTILITY COST OF SERVICE RATEMAKING METHODOLOGIES, COST ALLOCATIONS, AND RATE DESIGNS; BY ADDING SECTION 58-27-460 SO AS TO PROVIDE THAT THE PUBLIC SERVICE COMMISSION SHALL PROMULGATE STANDARDS FOR INTERCONNECTION OF RENEWABLE ENERGY FACILITIES AND OTHER NONUTILITY-OWNED GENERATION WITH A GENERATION CAPACITY OF TWO THOUSAND KILOWATTS OR LESS TO AN ELECTRICAL UTILITY'S DISTRIBUTION SYSTEM AND TO PROVIDE THAT NO CUSTOMER-GENERATOR OR CUSTOMER-GENERATOR LESSEE SHALL CONNECT OR OPERATE AN ELECTRIC GENERATION UNIT IN PARALLEL PHASE AND SYNCHRONIZATION WITH ANY ELECTRICAL UTILITY WITHOUT WRITTEN APPROVAL BY THE ELECTRICAL UTILITY THAT ALL OF THE COMMISSION'S REQUIREMENTS HAVE BEEN MET; TO PROVIDE THAT EACH DISTRIBUTION ELECTRIC COOPERATIVE BOARD SHALL CONSIDER CERTAIN GENERAL OBJECTIVES AND METHODOLOGY IN ADOPTING A NET ENERGY METERING POLICY, AND TO PROVIDE THAT EACH DISTRIBUTION ELECTRIC COOPERATIVE SHALL ADOPT A NET ENERGY METERING POLICY AND SHALL REPORT THEIR POLICY TO THE OFFICE OF REGULATORY STAFF WITHIN ONE YEAR; TO PROVIDE THAT EACH ELECTRIC COOPERATIVE SHALL INVESTIGATE THE RELATIONSHIP BETWEEN FIXED COSTS, FIXED CHARGES, AND THE EXTENT OF COST SHIFTING THAT IS ATTRIBUTABLE TO DISTRIBUTED ENERGY RESOURCES WITHIN CURRENT COST OF SERVICE RATEMAKING METHODOLOGIES, COST

ALLOCATIONS, AND RATE DESIGNS, WITH A FOCUS ON THE IMPLICATIONS DISTRIBUTED ENERGY RESOURCES COULD HAVE FOR THEIR BUSINESS MODELS IN THE FUTURE; TO PROVIDE THAT IF THE APPLICATION OF THE PROVISIONS OF THIS ACT TO ANY WHOLESALE ELECTRICAL CONTRACT EXISTING ON THE DATE OF ITS ADOPTION IS DETERMINED TO IMPAIR UNLAWFULLY ANY TERM OF SUCH CONTRACT OR TO ADD MATERIAL COSTS TO EITHER PARTY, THEN THAT CONTRACT IS EXEMPT FROM THE PROVISIONS OF THIS ACT UNDER CERTAIN CONDITIONS; AND TO PROVIDE HOW CERTAIN PROVISIONS OF THE ACT MUST BE CONSTRUED.

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

"Fuel costs" further defined

SECTION 1. Section 58-27-865(A) of the 1976 Code, as last amended by Act 16 of 2007, is further amended to read:

"Section 58-27-865. (A)(1) The term 'fuel cost' as used in this section includes the cost of fuel, cost of fuel transportation, and fuel costs related to purchased power. 'Fuel cost' also shall include the following variable environmental costs: (a) the cost of ammonia, lime, limestone, urea, dibasic acid and catalysts consumed in reducing or treating emissions, and (b) the cost of emission allowances, as used, including allowance for SO2, NOx, mercury, and particulates. Upon application of the utility, and after a hearing at which all interested parties may appear and present evidence, the commission may, if it determines such action to be just and reasonable, allow the variable costs of other environmental reagents, other environmental allowances or emissions-related taxes to be recovered as a component of fuel costs, but only to the extent these variable environmental costs are required to be incurred in relation to the consumption of fuel and the air emissions caused thereby. Alternatively, the commission may decide that the costs related to these other variable environmental costs may only be recovered through base rates established under Sections 58-27-860 and 58-27-870. All variable environmental costs included in fuel costs shall be recovered from each class of customers as a separate environmental component of the overall fuel factor. The specific environmental component for each class of customers shall be determined by allocating such variable environmental costs among

customer classes based on the utility's South Carolina firm peak demand data from the prior year. Fuel costs must be reduced by the net proceeds of any sales of emission allowances by the utility. If capacity costs are permitted to be recovered through the fuel factor, such costs shall be allocated and recovered from customers under a separate capacity component of the overall fuel factor based on the same method that is used by the utility to allocate and recover variable environmental costs. The incremental and avoided costs of distributed energy resource programs and net metering as authorized and approved under Chapters 39 and 40, Title 58 shall be allocated and recovered from customers under a separate distributed energy component of the overall fuel factor that shall be allocated and recovered based on the same method that is used by the utility to allocate and recover variable environmental costs.

(2) In order to clarify the intent of this section, 'fuel costs related to purchased power', as used in subsection (A)(1) shall include:

(a) costs of 'firm generation capacity purchases', which are defined as purchases made to cure a capacity deficiency or to maintain adequate reserve levels; costs of firm generation capacity purchases include the total delivered costs of firm generation capacity purchased and shall exclude generation capacity reservation charges, generation capacity option charges, and any other capacity charges;

(b) the total delivered cost of economy purchases of electric power including, but not limited to, transmission charges; 'economy purchases' are defined as purchases made to displace higher cost generation, at a price which is less than the purchasing utility's avoided variable costs for the generation of an equivalent quantity of electric power; and

(c) avoided costs under the Public Utility Regulatory Policy Act of 1978, also known as PURPA."

Distributed energy resource program

SECTION 2. Title 58 of the 1976 Code is amended by adding:

"CHAPTER 39

South Carolina Distributed Energy Resource Program

Section 58-39-110. This chapter may be cited as the 'South Carolina Distributed Energy Resource Act'. The goals of this chapter are to

promote the establishment of a reliable, efficient, and diversified portfolio of distributed energy resources for the State.

Section 58-39-120. As used in this chapter:

(A) 'AC' means alternating current, as measured at the point of interconnection of the renewable energy facility to the interconnecting electrical utility's transmission or distribution system.

(B) 'Avoided costs' means payments for purchases of electricity made according to an electrical utility's most recently approved or established avoided cost rates in this State or rates negotiated pursuant to PURPA, in the year the costs are incurred, for purchases of electricity from qualifying facilities pursuant to Section 210 of the Public Utility Regulatory Policies Act, said costs to be calculated as set forth in Section 58-39-140(A)(1).

(C) 'Distributed energy resource' (DER) means demand- and supply-side resources that can be deployed throughout the system of an electrical utility to meet the energy and reliability needs of the customers served by that system, including, but not limited to, renewable energy facilities, managed loads (including electric vehicle charging), energy storage, and other measures necessary to incorporate renewable generation resources, including load management and ancillary services, such as reserves, voltage control, and reactive power, and black start capabilities.

(D) 'Electrical utility' shall be defined as in Section 58-27-10 of the 1976 Code, provided, however, that electrical utilities serving less than 100,000 customer accounts shall be exempt from the provisions of this chapter.

(E) 'Renewable energy facility' means a facility that generates electric power by the use of a renewable generation resource that was placed in service for use by or to provide power to an electrical utility after January 1, 2014. A 'renewable energy facility' also shall mean any incremental capacity installed after January 1, 2014, that delivers energy from a renewable generation resource.

(F) 'Renewable generation resource' means solar photovoltaic and solar thermal resources, wind resources, low-impact hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources.

Section 58-39-130. The purpose of this section is to establish the 'distributed energy resource program' for this State. To accomplish the goals of this chapter:

(A) An electrical utility may apply to the Public Service Commission for approval to participate in the distributed energy resource program. After conducting a hearing on the application, the commission may approve such application if the applicant demonstrates that the program will further the goals of this chapter as set forth in Section 58-39-110.

(1) The application shall, at a minimum, include the following information:

(a) a statement of the specific goals to be addressed by the program and the benefits to be achieved from its implementation;

(b) a description of the principal elements of the program and a statement of the benefits to be achieved from the implementation of each of those elements;

(c) a description of the electrical utility's planned actions to implement the program and the anticipated timing of those actions;

(d) where relevant, the locational benefits and costs of proposed distributed energy resources proposed to be located on the distribution and transmission system, including, but not limited to, reductions or increases in local generation capacity needs, and avoided or increased investments in distribution infrastructure;

(e) any proposed customer programs and changes in tariffs, or other mechanisms that support the prudent, efficient, and reliable deployment of cost-effective distributed energy resources and the goals of the distributed energy resource program as defined in Section 58-39-110, including, but not limited to, programs intended to support access to distributed energy resources for tax-exempt entities;

(f) additional utility expenditures necessary to integrate cost-effective distributed energy resources into distribution and transmission planning;

(g) where relevant, a description and evaluation of any barriers to the deployment of distributed energy resources as envisioned in the plan, including, but not limited to, safety standards related to technology or operation of the distribution circuit in a manner that ensures reliable service;

(h) a schedule of the projected incremental costs anticipated to implement the electrical utility's distributed energy resource program for each year of the subject period; and

(i) an estimate of costs to be incurred pursuant to the distributed energy resource program as defined in Section 58-39-130

and an estimate of those costs to be recovered pursuant to Sections 58-27-865 and 58-39-140 to fully recover the projected costs of the program.

(2) Upon approval of its application, an electrical utility shall be permitted to recover its costs related to the approved distributed energy resource program pursuant to Sections 58-27-865 and 58-39-140 to the extent those costs are reasonably and prudently incurred to implement an approved program. Approval of a program, measure, or investment shall constitute a finding by the commission that it is just, reasonable, and prudent for the utility to implement the program, measure or investment as approved until such time as the commission orders otherwise.

(3) The Office of Regulatory Staff, an electrical utility, or any other interested party may file a petition for amendment of a distributed energy resource program at any time. The commission may hold a hearing on such petition if it determines that the extent of the proposed changes warrant a hearing. The petition for amendment shall include the information set forth in Section 58-39-130(A)(1) to the extent that such information is relevant to the amendments proposed.

(4) The effect of a decision to amend or terminate an approved distributed energy resource program, investment, or measure shall be prospective only and costs incurred prior to that decision shall be recoverable.

(5) An electrical utility may invest in distributed energy resources or programs outside of an approved distributed energy resource program under this chapter. The utility may seek recovery of the costs associated with such programs and resources under the ratemaking principles and procedures generally applicable to electrical utilities outside of this chapter. The fact that such resources are not part of an approved distributed energy resource program shall create no negative inference concerning their recoverability under other ratemaking provisions.

(6) An electrical utility may file an application to participate in a distributed energy resource program at any time.

(B) An electrical utility may implement a distributed energy resource program by one or more of the following:

(1) investment in distributed energy resources located in South Carolina as defined in Section 58-39-120;

(2) purchase of power from renewable energy facilities located in South Carolina;

(3) investment in technologies necessary to mitigate the effects of variable renewable energy generation through provision of ancillary

services, including, but not limited to, reserves, voltage control, and reactive power in South Carolina; and

(4) investment in technologies that enhance load management including, but not limited to, electric vehicle charging and energy storage.

(C) Any distributed energy resource program proposed by an electrical utility shall, at a minimum, result in development by 2021 of renewable energy facilities located in South Carolina in an aggregated amount of installed nameplate generation capacity equal to at least two percent of the previous five-year average of the electrical utility's South Carolina retail peak demand. All investments and procurements proposed by an electrical utility under its program shall be reviewed by the commission before the program is implemented to determine whether the investments or procurements are reasonable and prudent in light of the nature of the resources to be acquired, the goals of the utility's distributed energy resources program and alternatives available in the market. In the proposed distributed energy resource program, the electrical utility shall:

(1) submit a plan to invest in or procure power from renewable energy facilities located in South Carolina, each with a nameplate capacity that is greater than one thousand kilowatts (1,000 kW AC) but no greater than ten thousand kilowatts (10,000 kW AC) in an aggregated amount of installed nameplate generation capacity equal to one percent of the electrical utility's previous five-year average of the electrical utility's South Carolina retail peak demand.

(2) establish a program, to be implemented no later than one year from the initial approval of a distributed energy resource program, to encourage customers of the electrical utility to purchase or lease renewable energy facilities, each no greater than one thousand kilowatts (1,000 kW AC) in nameplate capacity in an aggregated amount of installed nameplate generation capacity equal to one percent of the electrical utility's previous five-year average of the electrical utility's South Carolina retail peak demand with no less than twenty-five percent of the capacity being from renewable energy facilities each no greater than twenty kilowatts (20 kW AC) in nameplate capacity. Said program shall be implemented according to the following options:

(a) an incentive to encourage residential customers of the electrical utility to purchase or lease renewable energy facilities in order to become an eligible customer-generator, as defined in Section 58-40-10.

(b) an incentive to encourage customers of the electrical utility to purchase or lease renewable energy facilities, each no greater than one thousand kilowatts (1000 kW AC) in nameplate capacity, which are intended primarily to offset part or all of an electrical utility customer's own electrical energy requirements.

(3) establish a program, to be implemented no later than one year from the initial approval of a distributed energy resource program, to support access to distributed energy resources for South Carolina entities holding tax-exempt status under the Internal Revenue Code and governmental entities and instrumentalities.

(D) Upon satisfaction of the minimum aggregate generation capacity targets specified in subsection (C), the electrical utility may invest in renewable energy facilities located in South Carolina, each with a nameplate capacity that is less than ten thousand kilowatts (10,000 kW AC) and greater than one thousand kilowatts (1,000 kW AC), with a cumulative installed nameplate generation capacity equal to one percent of the previous five-year average of the electrical utility's South Carolina retail peak demand.

(E) If the application of the provisions of this chapter to any wholesale electrical contract executed on or before the effective date of this act is determined to impair unlawfully any term of such contract or to add material costs to either party, then that contract will be exempt from the terms of this chapter to the extent necessary to cure such impairment or to avoid the imposition of additional material costs.

Section 58-39-140. (A) For purposes of this section, 'incremental costs' means all reasonable and prudent costs incurred by an electrical utility to implement a distributed energy resource program pursuant to the provisions of Section 58-39-130 of this chapter, including, but not limited to:

(1) The cost an electrical utility incurs in excess of the electrical utility's avoided cost rate, as defined in this section. All costs paid under avoided cost rates, or negotiated rates pursuant to PURPA, whichever is lower, shall be considered an avoided cost under Section 58-39-120(B) and shall be recovered under Section 58-27-865.

(2) The full cost of an electrical utility's investment in nongenerating distributed energy resources, such as, but not limited to, energy storage devices.

(3) The electrical utility's weighted average cost of capital as applied to the electrical utility's investment in distributed energy resources. The weighted average cost of capital means the utility's weighted average cost of (a) common equity, as most recently

approved by the commission, and (b) long term debt. The capital costs of the resource shall include, but not be limited to, all reasonable and prudent costs associated with the design, siting, selection, acquisition, licensing, permitting, constructing, testing, and placing into service of the resource as well as capital maintenance and other capital costs associated with its repair, renewal, replacement, and upgrading. Such costs also shall include all reasonable and prudent costs incurred to expand, upgrade, or reconfigure transmission or distribution systems to accommodate power flows from the resource or to respond to other requirements placed by the resource on the electrical system, along with all other costs properly considered capital costs for a project or asset under generally accepted principles of regulatory or utility accounting or accounting orders issued by the commission. Capital costs shall include the utility's weighted average cost of equity and long-term debt applied to the balance of construction work in progress for which capital costs are not yet being collected through a fuel cost component approved under this chapter and Section 58-27-865.

(4) Operating and maintenance expenses, taxes, insurance, depreciation, overheads, and all other expenses properly considered to be expenses associated with a project, asset, or program under generally accepted principles of regulatory, or utility accounting or accounting orders issued by the commission, provided that such expenses shall be recorded as a capital cost of the resource or program until such time as a fuel cost component providing for their recovery goes into effect.

(5) The electrical utility's incremental labor cost associated with implementing a distributed energy resource program.

(B) Upon approval of a distributed energy resource program, the commission shall direct the electrical utility which incurs incremental or avoided costs to submit to the commission and to the Office of Regulatory Staff, within such time and in such form as the commission may designate, its estimates of incremental or avoided costs for the next twelve months. The commission may hold a public hearing at any time between the twelve-month reviews to determine whether an increase or decrease in the fuel cost component designed to recover incremental or avoided costs should be granted. Upon conducting public hearings in accordance with law, the commission shall direct the electrical utility to place in effect an amount designed to recover, during the succeeding twelve months, the incremental or avoided costs determined by the commission to be appropriate for that period, adjusted for the over-recovery or under-recovery from the preceding twelve-month period. This amount shall be a component of the fuel

cost factor established under Section 58-27-865(A). The commission shall direct the electrical utility to send notice to the utility customers with the antecedent billing of the time and place of any public hearing to be held pursuant to this subsection, and the commission shall again direct the electrical utility to send notice to the utility customers with the next billing if the utility is granted a rate increase by the commission.

(C) Upon request by the Office of Regulatory Staff or the electrical utility, a public hearing must be held by the commission coincident with the fuel cost recovery proceeding required under Section 58-27-865 to determine whether an increase or decrease in the fuel cost component designed to recover incremental or avoided costs should be granted. If the request is by an electrical utility for an increase or decrease in the fuel cost factor, the commission shall direct the utility to send notice of the request and hearing to all customers with the next billing, and if the commission grants the rate request subsequent to the request and hearing, the commission shall direct the utility to send notice of the amount of the increase or decrease to all customers with the next billing.

(D) The commission is authorized to promulgate, in accordance with the provisions of this section, all regulations necessary to allow the recovery by electrical utilities of all their prudently incurred distributed energy resource program implementation costs incurred pursuant to Sections 58-39-130 and 58-39-140 of this chapter.

(E) No later than July 31, 2016, the Office of Regulatory Staff shall prepare and submit to the General Assembly with copies to all members of the State Regulation of Public Utilities Review Committee a report on the implementation of this chapter and Chapter 40 of this title. The Office of Regulatory Staff shall update this report no later than July 31, 2017, and each two years thereafter. Upon receipt and review of these reports, and in consultation with the General Assembly, the Public Utilities Review Committee shall make recommendations to the Office of Regulatory Staff as to any changes in implementation that may be needed.

(F) The authorization to propose or approve new components of DER programs shall sunset and expire on January 1, 2021, provided however that the cost recovery provisions of this chapter shall remain in force until the costs associated with all approved DER program components have been recovered.

Section 58-39-150. For the protection of consumers and to ensure that the cost of DER programs do not exceed a reasonable threshold,

the commission must not approve a DER plan in which the total incremental costs to be incurred by an electrical utility and recovered from the electrical utility's South Carolina retail customer classes exceeds the following annual amounts per number of accounts for costs that are incurred on or after January 1, 2014: residential: twelve dollars; commercial: one hundred twenty dollars; and industrial: twelve hundred dollars. The application of these caps to residential, commercial, and industrial accounts will be as set forth in the electrical utility's approved distributed energy resource program."

Net energy metering

SECTION 3. Title 58 of the 1976 Code is amended by adding:

"CHAPTER 40

Net Energy Metering

Section 58-40-10. As used in this section:

(A) 'Commission' means the Public Service Commission of the State of South Carolina.

(B) 'Customer' means the person who is named on the electrical utility bill for the premises.

(C) 'Customer-generator' means the owner, operator, lessee, or customer-generator lessee of an electric energy generation unit which:

(1) generates electricity from a renewable energy resource;

(2) has an electrical generating system with a capacity of:

(a) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer; or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(4) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(5) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of

Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

(D) 'Electrical utility' shall be defined as in Section 58-27-10; provided, however, that electrical utilities serving less than one hundred thousand customer accounts shall be exempt from the provisions of this chapter.

(E) 'Net energy metering' means using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by an electrical utility and the electrical energy supplied by the customer-generator to the electricity provider over the applicable billing period.

(F) 'Renewable energy resource' means solar photovoltaic and solar thermal resources, wind resources, hydroelectric resources, geothermal resources, tidal and wave energy resources, recycling resources, hydrogen fuel derived from renewable resources, combined heat and power derived from renewable resources, and biomass resources.

Section 58-40-20. (A) Net energy metering rates approved by the commission under the terms of this chapter shall be the exclusive net energy metering rates available to customer-generators. Upon commission approval, such net energy metering rates shall supersede all prior net energy metering rates. Customer-generators whose net energy metering facilities were energized prior to the availability of net energy metering rates approved by the commission under the terms of this chapter may remain in historic net energy metering programs through December 31, 2020.

(B) An electrical utility shall make net energy metering available to customer-generators on a first-come, first-served basis until the total nameplate generating capacity of net energy metering systems equals two percent of the previous five-year average of the electrical utility's South Carolina retail peak demand. No electrical utility shall be required to approve any application for interconnection from net energy metering customer-generators if the total rated generating capacity of all applications for interconnection from net energy metering customer-generators already approved to date by the electrical utility equals or exceeds two percent of the previous five-year average of the electrical utility's South Carolina retail peak demand.

(C) If determined to be prudent by the commission, the electrical utility may furnish, install, own, and maintain metering equipment needed to measure the kilowatt-hours purchased by the

customer-generator from the utility, the kilowatt-hours generated or delivered to the electrical utility, and, if applicable under the utility's tariffs, to measure the kilowatt demand delivered by the electrical utility to the customer-generator. The electrical utility shall have the right to install special metering and load research devices on the customer-generator's equipment and the right to use the customer-generator's communication devices for communication with electrical utility's and the customer-generator's equipment.

(D) The net electrical energy measurement shall be calculated in the following manner:

(1) For a customer-generator, an electrical utility shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(2) If the electricity supplied by the electrical utility exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the electrical utility in accordance with normal practices for customers in the same rate class;

(3) Any energy generated by the customer-generator that exceeds the energy supplied by the electrical utility during a billing period shall not be used to offset the nonvolumetric electricity charges for that billing period;

(4) The utility shall maintain an account of any net excess kWh credits accruing from the customer-generator's excess generation and allow those kWh credits to be used to offset the customer-generator's energy usage during future billing periods. Annually, the utility shall pay the customer-generator for any accrued net excess generation at the utility's avoided cost for qualified facilities, zeroing-out the customer-generator's account of net excess kWh credits.

(E) Each electrical utility shall submit an annual net metering report to the Public Service Commission, with a copy to the Office of Regulatory Staff, including the following information for the previous calendar year:

(1) the total number of customer-generator facilities;

(2) the estimated gross generating capacity of its net-metered customer-generators;

(3) the estimated net kilowatt hours received from customer-generators.

(F) Any and all costs prudently incurred pursuant to the provisions of this chapter by an electrical utility as approved by the commission and any and all commission approved benefits conferred by a customer-generator shall be recoverable by each entity respectively in the electrical utility's rates in accordance with these provisions:

(1) The electrical utility's general rates, tariffs, and any additional monthly charges or credits, in addition to any other charges or credits authorized by law, to recover the costs and confer the benefits of net energy metering shall include such measures necessary to ensure that the electrical utility recovers its cost of providing electrical service to customer-generators and customers who are not customer-generators.

(2) Any charges or credits prescribed in item (1), and the terms and conditions under which they may be assessed shall be in accordance with a methodology established through the proceeding described in item (4). The methodology shall be supported by an analysis and calculation of the relative benefits and costs of customer generation to the electrical utility, the customer-generators, and those customers of the electrical utility that are not customer-generators.

(3) Upon approval of the methodology provided for in item (4), each electrical utility shall file its analysis of the net cost to serve customer-generators using the approved methodology and shall propose new net energy metering rates.

(4) No later than thirty days after the enactment of this act, the commission shall initiate a generic proceeding for purposes of implementing the requirements of this chapter with respect to the net energy metering rates, tariffs, charges, and credits of electrical utilities, specifically to establish the methodology to set any necessary charges and credits as required under items (1) and (2). All interested parties shall be allowed to participate. In its notice initiating such proceeding the commission must require the electrical utilities to propose methodologies required by item (1) and shall allow intervening parties to propose methodologies required by item (2). The Office of Regulatory Staff, pursuant to the requirements of Section 58-4-50, shall represent the public interest in this proceeding and shall serve as a facilitator to resolve disputes and issues between the parties to this proceeding.

(5) In evaluating the benefits and costs of customer generation as required by item (2), and the methodology for calculating such benefits and costs, the Office of Regulatory Staff may engage third parties with relevant prior experience conducting distributed generation cost-benefit studies. The cost of any experts and consultants engaged by the Office

of Regulatory Staff for purposes of this proceeding shall be assessed to the electrical utilities pro rata based on their five-year average of retail peak demand and shall be recoverable by those electrical utilities through the base rate for fuel costs established pursuant to Section 58-27-865.

(6) In the event that the commission determines that future benefits from net energy metering are properly reflected in net metering rates because they provide quantifiable benefits to the utility system, its customers, or both, and to the degree such benefits are not then being recovered by the electrical utility in its base rates, then such future benefits shall be deemed an avoided cost and shall be recoverable pursuant to Section 58-27-865 by the electrical utility as an incremental cost of the distributed energy resource program.

(G) In no event shall the net energy metering provisions of this chapter be construed as allowing customer-generators to engage in meter aggregation, group/joint billing projects, and/or virtual net metering.

(H) The commission shall approve an electrical utility's proposed net energy metering rates that meet the requirements of this chapter, provided that the commission has previously approved that electrical utility's application to participate in a distributed energy resource program pursuant to Chapter 39, Title 58."

Lease of renewable electric generation facilities

SECTION 4. Chapter 27, Title 58 of the 1976 Code is amended by adding:

"Article 23

Lease of Renewable Electric Generation Facilities Program

Section 58-27-2600. As used in this article:

(A) 'Customer-generator lessee' means the lessee of a renewable electric generation facility which:

(1) generates electricity from a renewable energy resource;

(2) has an electrical generating system with a capacity of:

(a) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer; or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a premises or residence owned, operated, leased, or otherwise controlled by the customer-generator lessee that is also the premises or residence served by the renewable electric generation facility;

(4) is interconnected and operates in parallel phase and synchronization with the retail electric provider for the premises or residence and has been approved by that retail electric provider;

(5) is intended only to offset part or all of the customer-generator lessee's own retail electrical energy requirements for each respective premises or residence or to enable the customer-generator lessee to obtain a credit for or engage in the sale of energy from the renewable electric generation facility to that customer-generator lessee's retail electric provider or its designee; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission or the retail electric provider, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

(B) 'Retail electric provider' means an electrical utility as defined in Section 58-27-10 and also means other entities that provide retail electric service in South Carolina, but excluding electric cooperatives organized under the laws of a state other than South Carolina.

Section 58-27-2610. (A) An entity that owns a renewable electric generation facility, located on a premises or residence owned or leased by an eligible customer-generator lessee to serve the electric energy requirements of that particular premises or residence or to enable the customer-generator lessee to obtain a credit for or engage in the sale of energy from the renewable electric generation facility to that customer-generator lessee's retail electric provider or its designee, shall be permitted to lease such facility exclusively to a customer-generator lessee under a lease, provided that the entity complies with the terms, conditions, and restrictions set forth within this article and holds a valid certificate issued by the Office of Regulatory Staff. An entity owning renewable electric generation facilities in compliance with the terms of this article shall not be considered an 'electrical utility' under Section 58-27-10 if the renewable electric generation facilities are only made available to a customer-generator lessee for the customer-generator lessee's use on the customer-generator lessee's premises or the residence where the renewable electric generation facilities are located,

or for the sale of energy to that customer-generator lessee's retail electric provider or its designee, and pursuant to a lease.

(B) All customer-generator lessees that interconnect renewable electric generation facilities to a retail electric provider's transmission or distribution system must enroll in the applicable rate schedules made available by that retail electric provider, subject to the participation limitations set forth therein or in the policy adopted by the retail electric provider not subject to Section 58-40-20(B), and the customer-generator lessee shall otherwise comply with all requirements of Section 58-40-10, et seq., or the policy adopted by the retail electric provider not subject to Section 58-40-10, et seq.

(C) To comply with the terms of this article, each customer-generator lessee renewable electric generation facility shall serve only one premises or residence, and shall not serve multiple customer-generator lessees or multiple premises or residences.

(D) Any lease of a renewable electric generation facility not entered into pursuant to this article is prohibited. The owner of a renewable electric generation facility subject to any lease entered into outside of this program shall be considered an 'electrical utility' under Section 58-27-10.

(E) This section shall not be construed as allowing any sales of electricity from renewable electric generation facilities directly to any customer of any retail electric provider by the owner. This article shall not be construed as abridging or impairing any existing rights or obligations, established by contract or statute, of retail electric providers to serve South Carolina customers. The electrical output from any renewable electric generation unit leased pursuant to this program shall be the sole and exclusive property of the customer-generator lessee.

(F) An entity and its affiliates that lawfully provide retail electric service to the public may offer leases of renewable generation facilities in those areas or territories where it provides retail electric service. No such provider or affiliate shall offer or enter into leases of renewable generation facilities in areas served by another retail electric provider.

(G) The costs an electrical utility incurs in marketing, installing, owning, or maintaining solar leases through its own leasing programs as a lessor shall not be recovered from other nonparticipating electrical utility customers through rates, provided, however, that an electrical utility and the customer-generator lessees which lease facilities from it may participate on an equal basis with other lessors and lessees in any applicable programs provided pursuant to Chapter 39 of this title, 1976 Code Sections 58-39-110, et seq. and nothing in this section shall

prevent the reasonable and prudent costs of a utility's distributed energy resource programs, including the provision of incentives to its own lessees and other allowable costs, from being reflected in a utility's rates as provided for in Chapter 39 or as otherwise permitted under generally applicable regulatory principles.

(H) The total installed capacity of all renewable electric generation facilities on a retail electric provider's system that are leased pursuant to this article shall not exceed two percent of the previous five-year average of the retail electric provider's South Carolina residential and commercial contribution to coincident retail peak demand and two percent of the previous five-year average of the retail electric provider's South Carolina industrial contribution to coincident retail peak demand. A provider may refuse to interconnect with customers where to do so would result in this limitation being exceeded. Every retail electric provider must establish a program for new installations of leased equipment to permit the reservation of capacity on its system including provisions to prevent or discourage abuse of such programs. Such programs must provide that only prospective individual customer-generator lessees may apply for, receive, and hold reservations. Each reservation shall be for a single customer premises only and may not be sold, exchanged, traded, or assigned except as part of the sale of the underlying premises. Requests for reservations to electrical utilities as defined in Section 58-27-10 shall accompany applications for interconnection of the leased facilities pursuant to Chapter 40, Title 58 and the reservation shall remain in force only so long as the application or permit for interconnection remains active. Electrical utilities as defined in Section 58-27-10 shall submit programs establishing the terms of such reservations to the commission for approval.

(I) Notwithstanding the provisions of subsection (H), for an electrical utility for which more than fifty percent of the electricity that it generates in South Carolina comes from renewable resources, the total installed capacity of all renewable electric generation facilities on its system that are leased pursuant to this article shall not exceed one-tenth of one percent of the previous five-year average of the electrical utility's South Carolina residential and commercial contribution to coincident retail peak demand and one-tenth of one percent of the previous five-year average of the electrical utility's South Carolina industrial contribution to coincident retail peak demand. Electrical utilities meeting the requirements of this subsection shall not be required to establish a capacity reservation program as required by subsection (H).

(J)(1) The provisions of this Article 23 related to leased generation facilities shall not apply to:

(a) facilities serving a single premises that are not interconnected with a retail electric provider;

(b) facilities owned by customer generators but financed by a third party; or

(c) facilities used exclusively for standby emergency service or participation in an approved standby generation program operated by a retail electric provider.

(2) The commission may promulgate regulations consistent with this section interpreting the scope of these exemptions as to electrical utilities.

Section 58-27-2620. (A) Before any entity other than an entity lawfully providing retail electric service to the public in this State commences to do business as a lessor of renewable electric generation facilities under the terms of this article, that entity shall submit an application to the Office of Regulatory Staff and provide such information as the Office of Regulatory Staff shall require. In performing its responsibilities under this article, the Office of Regulatory Staff must balance the state's interest in promoting a market for the provision of renewable electric generation facilities as permitted by this article with an appropriate level of protection for customer-generator lessees to ensure fair and accurate marketing practices and ensure acceptable performance of renewable electric generation facilities and lessors.

(B) The application shall be accompanied by such information as the Office of Regulatory Staff shall require and the Office of Regulatory Staff may condition its approval on such terms as the Office of Regulatory Staff shall determine to be just and reasonable to advance the goals of this article of balancing the state's interest in promoting a market for the provision of renewable electric generation facilities as permitted by this article, with an appropriate level of protection for customer-generator lessees and to ensure fair and accurate marketing practices.

(C) Upon review of the application and a finding that the applicant is fit, willing, and able to conduct business in accordance with the provisions of this article, the Office of Regulatory Staff shall approve the application and issue the lessor a certificate permitting the lessor to market and lease renewable electric generation facilities to customer-generator lessees under the terms of this article.

(D) The Office of Regulatory Staff is authorized to require the regular updating of information by certificate holders.

(E) The Office of Regulatory Staff shall receive, compile and investigate customer complaints arising under this article and shall attempt to negotiate consent agreements or other settlements resolving alleged violations of this article.

(F) As concerns potential violations of this article, lessors of distributed generation resources and their officers, agents, employees, or customers shall be subject to the investigatory powers provided in Sections 58-4-50 and 58-4-55 to the Office of Regulatory Staff regarding public utilities.

(G) For the protection of the consuming public, the Office of Regulatory Staff may file a petition with the Administrative Law Court requesting revocation of a certificate for violations of this article. In appropriate circumstances, the Office of Regulatory Staff may request the immediate revocation of a certificate.

(H) It shall be a violation of law punishable by civil penalty of not more than ten thousand dollars per occurrence for any person subject to subsection (A), either directly or indirectly:

(1) to solicit business as a lessor of renewable electric generation facilities without a valid certificate issued under this section or otherwise in violation of the terms of this article; or

(2) to engage in any unfair or deceptive practice in the leasing of renewable electric generation facilities.

(I) An aggrieved person with standing may file a request for a contested case of a decision of the Office of Regulatory Staff with the Administrative Law Court within thirty days of such decision.

Section 58-27-2630. (A) Not more than thirty days after installation of a renewable electric generation facility leased to a customer-generator lessee, the lessor shall register the facility with the Office of Regulatory Staff on forms developed and provided by the Office of Regulatory Staff. This registration information must include:

(1) the name, mailing, and electronic mail address and telephone number of the lessor-owner;

(2) the nameplate generating capacity of the facility and its expected annual energy output;

(3) physical location of the facility;

(4) the name, mailing, email address, and telephone number of the customer-generator lessee;

(5) a description of the intended use of the facility and its output;

(6) a list of all federal, state, and local licenses and permits required for the construction and operation of the facility, along with a statement regarding whether each has been obtained or applied for;

(7) the date the facility began or will begin operating;

(8) the name of the retail electric provider to which the facility has been or will be interconnected;

(9) an affidavit from the customer-generator lessee that it will not sell, resell, or attempt to sell or resell the electrical output of the facility to any person, corporation, or entity, other than the customer-generator lessee's retail electric provider or its designee, that the primary purpose for the operation of the renewable electric generation facility is to generate electricity for the benefit of the premises where it is located, and that the facility has been or will be operated in substantial compliance with all federal and state laws, rules, and regulations and all local codes and ordinances.

(B) Office of Regulatory Staff shall maintain a registry of facilities registered pursuant to subsection (A). This information must be available for inspection by the public and is subject to the South Carolina Freedom of Information Act. The Office of Regulatory Staff may require the updating of information on the registry.

(C) The Office of Regulatory Staff shall review the program established pursuant to this article and issue a report to the State Regulation of Public Utilities Review Committee no later than December 31, 2016, relating to its review, including recommendations regarding the expansion, reduction, or continuance of the program.

Section 58-27-2640. The Office of Regulatory Staff shall have the authority to investigate claims of violations of the provisions of Section 58-27-2610 committed by electrical utilities and lessors of renewable electric generation facilities.

Section 58-27-2650. Section 58-27-2610 shall not become effective until the commission has approved net energy metering rates referenced in Chapter 40, Title 58 for all investor-owned electrical utilities serving more than one hundred thousand retail customer accounts in South Carolina."

Report required

SECTION 5. Article 7, Chapter 27, Title 58 of the 1976 Code is amended by adding:

"Section 58-27-1050. The Office of Regulatory Staff, with guidance and feedback from the electrical utilities and other interested parties, shall investigate and report to the Public Service Commission on fixed costs, fixed charges, and the extent of cost shifting that is attributable to distributed energy resources within current utility cost of service ratemaking methodologies, cost allocations, and rate designs, with a focus on the implications distributed energy resources could have for that business model in the future. The report shall review how to ensure a fair allocation of costs and benefits between consumers who utilize distributed energy resources and consumers who do not utilize distributed energy resources, as well as suggesting any necessary or prudent changes to existing or future rate structures. The report shall include a general overview of cost shifting that is attributable to or arising from historical cost of service ratemaking related to the current utility business model, specifically the cost of service ratemaking methodology, the cost allocations and rate designs. The findings shall include public comment and be reported to the Public Service Commission by December 31, 2015."

Promulgation of standards; certain generation activities prohibited

SECTION 6. Article 3, Chapter 27, Title 58 of the 1976 Code is amended by adding:

"Section 58-27-460. (A) The commission shall promulgate standards for interconnection of renewable energy facilities and other nonutility-owned generation with a generation capacity of two thousand kilowatts (2,000 kW AC) or less to an electrical utility's distribution system.

(B) No customer-generator or customer-generator lessee shall connect or operate an electric generation unit in parallel phase and synchronization with any electrical utility without written approval by the electrical utility that all of the commission's requirements have been met. For a customer-generator or customer-generator lessee who violates this provision, an electrical utility immediately may and without notice disconnect the electric facilities of the customer-generator or customer-generator lessee and terminate the customer-generator's or customer-generator lessee's electric service."

Policy to be adopted and reported

SECTION 7. Each distribution electric cooperative board shall consider the general objectives of Section 58-40-10, et seq. and any methodology promulgated thereunder in adopting a net energy metering policy. Each distribution electric cooperative shall adopt a net energy metering policy and shall report their policy to the ORS within one year of the passage of this act. Provided, however, that the requirements of this section do not apply to an electric cooperative organized under the laws of a state other than South Carolina.

Investigation and report

SECTION 8. Each electric cooperative shall investigate the relationship between fixed costs, fixed charges, and the extent of cost shifting that is attributable to distributed energy resources within current cost of service ratemaking methodologies, cost allocations, and rate designs, with a focus on the implications distributed energy resources could have for their business models in the future. The report shall review how to ensure a fair allocation of costs and benefits between consumers who utilize distributed energy resources and consumers who do not utilize distributed energy resources, as well as suggesting any necessary or prudent changes to existing or future rate structures. The report shall include a general overview of cost shifting that is attributable to or arising from historical cost of service ratemaking related to the current utility business model, specifically the cost of service ratemaking methodology, the cost allocations, and rate designs. The investigation and report may be coordinated and consolidated into a single project. The findings shall be filed with the Office of Regulatory Staff by December 31, 2015. Provided, however, that the provisions of this section do not apply to an electric cooperative organized under the laws of a state other than South Carolina.

Exemptions

SECTION 9. If the application of the provisions of this act to any wholesale electrical contract existing on the date of its adoption is determined to impair unlawfully any term of such contract or to add material costs to either party, then that contract will be exempt from the terms of this act to the extent necessary to cure such impairment or to avoid the imposition of additional material costs.

Construction of provisions

SECTION 10. Article 23, Chapter 27, Title 58 shall be construed as a whole, and all parts of it are to be read and construed together. If any part of this article shall be adjudged by any court of competent jurisdiction to be invalid, the remainder of this article shall be invalidated. Nothing herein shall be construed to affect the parties' right to appeal the matter.

Time effective

SECTION 11. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 237

(R242, S1214)

AN ACT TO AMEND SECTION 7-7-490, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN SPARTANBURG COUNTY, SO AS TO CHANGE THE NAMES OF FOUR PRECINCTS.

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

Spartanburg County voting precincts revised

SECTION 1. Section 7-7-490 of the 1976 Code, as last amended by Act 127 of 2014, is further amended to read:

"Section 7-7-490. (A) In Spartanburg County there are the following voting precincts:
Abner Creek Baptist
Anderson Mill Elementary
Arcadia Elementary

Arrowood Baptist
Beaumont Methodist
Beech Springs Intermediate
Ben Avon Methodist
Bethany Baptist
Bethany Wesleyan
Boiling Springs Elementary
Boiling Springs High School
Boiling Springs Intermediate
Boiling Springs Jr. High
Boiling Springs 9th Grade
Canaan Baptist
Cannons Elementary
Carlisle Fosters Grove
Cavins Hobbysville
C.C. Woodson Recreation
Cedar Grove Baptist
Chapman Elementary
Chapman High School
Cherokee Springs Fire Station
Chesnee Senior Center
Cleveland Elementary
Clifdale Elementary
Converse Fire Station
Cooley Springs Baptist
Cornerstone Baptist
Cowpens Depot Museum
Cowpens Fire Station
Croft Baptist
Cross Anchor Fire Station
Cudd Memorial
Daniel Morgan Technology Center
Drayton Fire Station
Eastside Baptist
Ebenezer Baptist
Enoree First Baptist
E.P. Todd Elementary
Fairforest Elementary
Fairforest Middle School
Friendship Baptist
Gable Middle School
Glendale Fire Station

Grace Baptist
Gramling Methodist
Greater St. James
Hayne Baptist
Hendrix Elementary
Holly Springs Baptist
Jesse Bobo Elementary
Jesse Boyd Elementary
Lake Bowen Baptist
Landrum High School
Landrum United Methodist
Lyman Town Hall
Mayo Elementary
Morningside Baptist
Motlow Creek Baptist
Mountain View Baptist
Mt. Calvary Presbyterian
Mt. Moriah Baptist
Mt. Zion Full Gospel Baptist
Oakland Elementary
Pacolet Town Hall
Park Hills Elementary
Pauline Glenn Springs Elementary
Pelham Fire Station
Poplar Springs Fire Station
Powell Saxon Una Fire Station
R.D. Anderson Vocational
Rebirth Missionary Baptist
Reidville Elementary
Reidville Fire Station
Roebuck Bethlehem
Roebuck Elementary
Silverhill United Methodist
Southside Baptist
Spartanburg High School
Startex Fire Station
St. John’s Lutheran
Swofford Career Center
Travelers Rest Baptist
Trinity Methodist
T.W. Edwards Recreation Center
Una Fire Station

Victor Mill Methodist
Wellford Fire Station
West Side Baptist
West View Elementary
White Stone Methodist
Whitlock Jr. High
Woodland Heights Recreation Center
Woodruff American Legion
Woodruff Fire Station
Woodruff Leisure Center
Woodruff Town Hall

(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map on file with the Office of Research and Statistics of the State Budget and Control Board, or its successor agency, and as shown on copies provided to the Board of Voter Registration of the county by the Office of Research and Statistics designated as document P-83-14.

(C) The polling places for the precincts listed in subsection (A) must be determined by the Spartanburg County Election Commission with the approval of a majority of the Spartanburg County Legislative Delegation."

Time effective

SECTION 2. This act takes effect on July 1, 2014.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 238

(R243, S1219)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-25-57 SO AS TO PROVIDE THAT NOTWITHSTANDING ANOTHER PROVISION OF LAW, SCHOOL DISTRICTS UNIFORMLY MAY NEGOTIATE SALARIES BELOW THE SCHOOL DISTRICT SALARY SCHEDULE FOR THE 2014-2015

SCHOOL YEAR FOR RETIRED TEACHERS WHO ARE NOT PARTICIPANTS IN THE TEACHER AND EMPLOYEE RETENTION INCENTIVE PROGRAM, AND TO EXTEND THIS NEGOTIATION OPTION TO SCHOOL DISTRICTS THROUGH JULY 1, 2020.

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

Salaries negotiable below schedule for non-TERI retired teachers

SECTION 1. Article 1, Chapter 25, Title 59 of the 1976 Code is amended by adding:

"Section 59-25-57. Notwithstanding another provision of law, school districts uniformly may negotiate salaries below the school district salary schedule for the 2014-2015 school year for retired teachers who are not participants in the Teacher and Employee Retention Incentive program. Thereafter, school districts annually may continue to uniformly negotiate salaries below the school district salary schedule for retired teachers who are not participants in the Teacher and Employee Retention Incentive program for each upcoming school year through the 2019-2020 school year. The provisions of this section expire on July 1, 2020."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 239

(R245, S1295)

AN ACT TO AMEND SECTION 59-53-1710, AS AMENDED, CODE OF LAW OF SOUTH CAROLINA, 1976, RELATING TO THE MIDLANDS TECHNICAL COLLEGE COMMISSION, SO AS TO ADD ONE MEMBER FROM FAIRFIELD COUNTY,

AND TO REVISE THE MANNER OF APPOINTING THE CHAIRMAN OF THE COMMISSION; AND TO AMEND SECTIONS 59-53-1720, 59-53-1730, 59-53-1740, AND 59-53-1750, ALL RELATING TO THE MIDLANDS TECHNICAL COLLEGE COMMISSION, SO AS TO MAKE CONFORMING CHANGES.

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

Member from Fairfield County added, chairman rotation dispensable

SECTION 1. Section 59-53-1710 of the 1976 Code, as last amended by Act 190 of 2004, is further amended to read:

"Section 59-53-1710. There is created, as an administrative agency of Richland, Lexington, and Fairfield counties, the Midlands Technical College Commission. The commission is composed of thirteen members who must be appointed by the Governor for a term of four years as follows: seven members must be appointed upon the recommendation of a majority of the legislative delegation representing Richland County, five members must be appointed upon the recommendation of a majority of the legislative delegation representing Lexington County, and one member must be appointed upon the recommendation of a majority of the legislative delegation representing Fairfield County. If a vacancy occurs, a successor must be appointed in the same manner as the original appointment for the unexpired portion of the term. Any member may be removed by the appointing authority for neglect of duty, misconduct, or malfeasance in office after being given a written statement of reasons and an opportunity to be heard. Members serve until their successors are appointed and qualify, but any delay in appointing a successor does not extend the term of the succession. The members of the commission shall receive per diem as provided for members of boards, commissions, and committees and actual expenses incurred in the performance of their duties. The commission shall elect from its membership a chairman, a vice chairman, a treasurer, and a secretary to serve for terms of two years and until their successors are elected and qualify. The office of chairman must be rotated among the representatives of the three counties, but the practice of rotating the office of chairman may be dispensed with by a three-fourths vote of the commission. If the office of chairman becomes vacant, a successor must be elected for the

remainder of the term and must be from the members representing the same county as the former chairman. The same rotation must be applied to the office of vice chairman, but the practice of rotating the office of vice chairman may be dispensed with if, by three-fourths vote, the commission finds that the rotation is impracticable."

Powers and duties, conforming change

SECTION 2. Section 59-53-1720 of the 1976 Code is amended to read:

"Section 59-53-1720. The commission shall promote the objects of the state technical and vocational education and training and shall:

(1) adopt and use a corporate seal;

(2) adopt bylaws and regulations for the conduct of business and the expenditure of its funds as it may consider advisable;

(3) acquire one or more sites within Richland, Lexington, and Fairfield counties and construct and equip appropriate facilities in accordance with the standards and specifications promulgated by the State Board for Technical and Comprehensive Education;

(4) acquire by gift, purchase, or otherwise all kinds and descriptions of real and personal property;

(5) accept gifts, grants, donations, devises, and bequests;

(6) provide appropriate supervision of the maintenance of any facility established by the commission;

(7) provide the necessary administrative services required by the state program;

(8) employ personnel necessary to enable the commission to fulfill its functions;

(9) promulgate and enforce regulations, in conjunction with those promulgated by the state agency, for the operation of its facilities;

(10) operate its affairs on a fiscal year coinciding with that of the State;

(11) expend funds received in any manner, including the proceeds derived from bonds issued by Richland, Lexington, and Fairfield counties, to defray costs incident to the establishment of adequate facilities for the program and then to expend the funds for the operation, maintenance, and improvement of the facilities;

(12) apply for, receive, and expend monies from all governmental agencies, both state and federal;

(13) exercise all powers contemplated for local agencies by Article 1 of this chapter, and all other laws modifying or implementing it."

Participating counties' contributions, conforming change

SECTION 3. Section 59-53-1730 of the 1976 Code is amended to read:

"Section 59-53-1730. The participating counties shall appropriate and contribute annually to the commission sufficient funds to enable it to defray costs for the operation, maintenance, and improvement of its facilities and to make payment of principal and interest on bonds issued by Richland, Lexington, and Fairfield counties for the acquisition of land and construction of facilities. The counties shall make funds available on a proportional basis equal to the population of the participating counties."

Recordkeeping and audits, conforming change

SECTION 4. Section 59-53-1740 of the 1976 Code is amended to read:

"Section 59-53-1740. The commission shall keep full and accurate account of its activities, receipts, and expenditures, and within four months, following the close of its fiscal year, a complete audit of its affairs must be made by a qualified public accountant. Copies of the audit must be filed with the clerks of court for Richland, Lexington, and Fairfield counties, secretaries of the Richland, Lexington, and Fairfield County Legislative Delegations, and the secretaries of the county councils for Richland, Lexington, and Fairfield counties."

Reporting requirements, conforming change

SECTION 5. Section 59-53-1750 of the 1976 Code is amended to read:

"Section 59-53-1750. The commission shall make a written report of its activities at least annually and file a copy with the secretaries of the Richland, Lexington, and Fairfield County Legislative Delegations and county councils."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 240

(R246, S1307)

AN ACT TO AMEND SECTION 7-7-360, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LAURENS COUNTY, SO AS TO REVISE BOUNDARIES OF EXISTING PRECINCTS AND TO DESIGNATE THE MAP NUMBER ON WHICH THE BOUNDARIES OF LAURENS COUNTY VOTING PRECINCTS AS REVISED BY THIS ACT MAY BE FOUND AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

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

Laurens County voting precincts revised

SECTION 1. Section 7-7-360(B) of the 1976 Code, as last amended by Act 138 of 2014, is further amended to read:

"(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map designated as P-59-14A and on file with the Office of Research and Statistics of the State Budget and Control Board and as shown on certified copies provided to the Registration and Elections Commission for Laurens County."

Time effective

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

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

No. 241

(R268, S176)

AN ACT TO AMEND SECTION 22-3-1000, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TIME FOR A MOTION FOR NEW TRIAL AND APPEAL IN MAGISTRATES COURT, SO AS TO INCREASE THE TIME PERIOD IN WHICH A MOTION FOR A NEW TRIAL MAY BE MADE FROM FIVE TO TEN DAYS, AND TO PROVIDE AN EXCEPTION FOR MOTIONS FOR A NEW TRIAL MADE UNDER CHAPTERS 37 AND 40, TITLE 27.

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

Motion for a new trial, time period increased, exception

SECTION 1. Section 22-3-1000 of the 1976 Code is amended to read:

"Section 22-3-1000. (A) Except as provided in subsection (B), a motion for a new trial may not be heard unless made within ten days from the rendering of the judgment. The right of appeal from the judgment exists for thirty days after the rendering of the judgment. A magistrate's order of restitution may be appealed within thirty days. The order of restitution may be appealed separately from an appeal relating to the conviction.

(B) The provisions of subsection (A) do not apply to a motion for a new trial made under Chapters 37 and 40, Title 27. A motion for a new trial made under Chapters 37 and 40, Title 27 must be requested within five days from the rendering of the judgment."

Savings clause

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge,

release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 242

(R271, S474)

AN ACT TO AMEND SECTION 12-21-2420, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXEMPTIONS FROM THE ADMISSIONS LICENSE TAX, SO AS TO EXEMPT ADMISSIONS CHARGED BY THE STATE MUSEUM.

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

Admissions tax exemption for State Museum

SECTION 1. Section 12-21-2420 of the 1976 Code is amended by inserting before the final paragraph:

"(16) on admissions to the State Museum."

Time effective

SECTION 2. This act takes effect July 1, 2014.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 243

(R272, S809)

AN ACT TO AMEND SECTION 4-10-330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CAPITAL PROJECTS SALES TAX, SO AS TO DELETE A PROVISION ALLOWING THE REFERENDUM FOR IMPOSITION OR REIMPOSITION TO BE HELD AT A TIME OTHER THAN AT THE TIME OF THE GENERAL ELECTION.

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

Referendum for capital projects sales tax

SECTION 1. Section 4-10-330(C) of the 1976 Code, as last amended by Act 49 of 2009, is further amended to read:

"(C) Upon receipt of the ordinance, the county election commission must conduct a referendum on the question of imposing the sales and use tax in the area of the county that is to be subject to the tax. The referendum for imposition or reimposition of the tax must be held at the time of the general election. Two weeks before the referendum the election commission must publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of projects and the cost of the projects. If the proposed question includes the use of sales taxes to defray debt service on bonds issued to pay the costs of any project, the notice must include a statement indicating that principal amount of the bonds proposed to be issued for the purpose and, if the issuance of the bonds is to be approved as part of the referendum, stating that the referendum includes the authorization of the issuance of bonds in that amount. This notice is in lieu of any other notice otherwise required by law."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and first applies to a referendum for which a referendum date is not set as of the time of approval.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 244

(R273, S840)

AN ACT TO AMEND SECTION 44-53-1630, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE PRESCRIPTION MONITORING PROGRAM DEFINITIONS, SO AS TO ADD A DEFINITION FOR "AUTHORIZED DELEGATE"; TO AMEND SECTION 44-53-1640, RELATING TO REQUIREMENTS FOR DISPENSERS TO SUBMIT CERTAIN INFORMATION TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO REQUIRE DAILY SUBMISSION; TO AMEND SECTION 44-53-1650, RELATING TO CONFIDENTIALITY AND AUTHORIZED RELEASE OF PRESCRIPTION INFORMATION, SO AS TO ALLOW THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO RELEASE DATA TO AN AUTHORIZED DELEGATE; TO AMEND SECTION 44-53-1680, RELATING TO PENALTIES FOR VIOLATING PROGRAM REQUIREMENTS, SO AS TO CREATE A CRIMINAL PENALTY FOR AN AUTHORIZED DELEGATE WHO VIOLATES PROGRAM REQUIREMENTS AND TO REQUIRE REPORTING OF PHYSICIANS AND PHARMACISTS TO THEIR LICENSING BOARDS FOR CERTAIN VIOLATIONS; AND TO AMEND SECTION 40-47-40, RELATING TO PHYSICIAN CONTINUING EDUCATION REQUIREMENTS, SO AS TO REQUIRE CONTINUING EDUCATION REGARDING PRESCRIPTION DISPENSING AND MONITORING.

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

Definition, added

SECTION 1. Section 44-53-1630 of the 1976 Code, as added by Act 396 of 2006, is amended by adding:

"(5) 'Authorized delegate' means an individual who is approved as having access to the prescription monitoring program and who is directly supervised by an authorized practitioner or pharmacist."

Program's dispenser information submission requirements

SECTION 2. Section 44-53-1640(B)(2) of the 1976 Code, as added by Act 396 of 2006, is amended to read:

"(2) A dispenser shall submit daily to the department the information required pursuant to subsection (B)(1) in accordance with transmission methods and protocols provided in the latest edition of the 'ASAP Telecommunications Format for Controlled Substances', developed by the American Society for Automation in Pharmacy."

Confidentiality of prescription information

SECTION 3. Section 44-53-1650 of the 1976 Code, as added by Act 396 of 2006, is amended to read:

"Section 44-53-1650. (A) Prescription information submitted to drug control is confidential and not subject to public disclosure under the Freedom of Information Act or any other provision of law, except as provided in subsections (C) and (D).

(B) Drug control shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed, except as provided for in subsections (C) and (D).

(C) If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, drug control shall notify the appropriate law enforcement or professional licensure, certification, or regulatory agency or entity and shall provide prescription information required for an investigation.

(D) Drug control may provide data in the prescription monitoring program to the following persons:

(1) a practitioner or pharmacist or authorized delegate who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established pursuant to state law;

(3) a designated representative of the South Carolina Department of Labor, Licensing and Regulation responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(4) a local, state, or federal law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing licit drugs and who is involved in a bona fide specific drug related investigation involving a designated person;

(5) the South Carolina Department of Health and Human Services regarding Medicaid program recipients;

(6) a properly convened grand jury pursuant to a subpoena properly issued for the records;

(7) personnel of drug control for purposes of administration and enforcement of this article;

(8) qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser must be deleted or redacted from such information prior to disclosure. Further, release of the information only may be made pursuant to a written agreement between qualified personnel and the department in order to ensure compliance with this subsection."

Violations and penalties for violating program requirements

SECTION 4. Section 44-53-1680 of the 1976 Code, as added by Act 396 of 2006, is amended to read:

"Section 44-53-1680. (A) A dispenser or authorized delegate who knowingly fails to submit prescription monitoring information to drug control as required by this article, or who knowingly submits incorrect prescription information, is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

(B) A person or persons authorized to have prescription monitoring information pursuant to this article who knowingly discloses this information in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(C) A person or persons authorized to have prescription monitoring information pursuant to this article who uses this information in a manner or for a purpose in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(D) A pharmacist or practitioner, licensed in Title 40, who knowingly discloses prescription monitoring information in a manner or for a purpose in violation of this article shall be reported to his respective board for disciplinary action.

(E) Nothing in this chapter requires a pharmacist or practitioner to obtain information about a patient from the prescription monitoring program. A pharmacist or practitioner does not have a duty and must not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist or practitioner did or did not seek or obtain information from the prescription monitoring program. A pharmacist or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving information from the prescription monitoring program."

Physician prescription dispensing and monitoring continuing education requirements

SECTION 5. Section 40-47-40(2)(a) of the 1976 Code is amended to read:

"(2) For renewal of an active permanent license biennially, documented evidence of at least one of following options during the renewal period is required:

(a) forty hours of Category I continuing medical education sponsored by the American Medical Association, American Osteopathic Association, or another organization approved by the board as having acceptable standards for courses it sponsors, at least thirty hours of which must be related directly to the licensee's practice area, and at least two (2) hours of which may be related to approved procedures of prescribing and monitoring controlled substances listed

in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, 44-53-250, and 44-53-270, and must be received from a statewide organization recognized by the Accreditation Council for Continuing Medical Education to recognize and accredit organizations in South Carolina offering continuing medical education or from a statewide organization approved to provide continuing medical education by its national organization which is accredited by the Accreditation Council for Continuing Medical Education. Each renewal form submitted pursuant to Section 40-47-41 must include a certificate of participation with the prescribing and monitoring education requirement issued by the organization from which the education was received;"

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 245

(R274, S872)

AN ACT TO AMEND SECTION 63-1-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JOINT CITIZENS AND LEGISLATIVE COMMITTEE ON CHILDREN, SO AS TO REAUTHORIZE THE COMMITTEE THROUGH DECEMBER 31, 2023, AND TO DELETE OBSOLETE PROVISIONS.

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

Joint Citizens and Legislative Committee on Children

SECTION 1. Section 63-1-50 of the 1976 Code is amended to read:

"Section 63-1-50. (A) There is established the Joint Citizens and Legislative Committee on Children to be composed of three members

of the House of Representatives appointed by the Speaker of the House, three members of the Senate to be appointed by the President Pro Tempore of the Senate, and three members to be appointed by the Governor. The Director of the Department of Juvenile Justice, the Director of the Department of Social Services, the Director of the Department of Disabilities and Special Needs, the Superintendent of the Department of Education, and the Director of the Department of Mental Health serve as ex officio, nonvoting members of the committee. Members appointed by the Governor must not be employees of the State. Members serve at the pleasure of the appointing authority. The committee shall study issues relating to children as the committee may undertake or as may be requested or directed by the General Assembly. The committee may contract for all necessary legal research and support services, subject to funding as provided in subsection (E).

(B) The committee shall submit an annual report to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House no later than the first of February. The report must detail the work of the committee, account for the committee's expenditures, and provide findings and recommendations the committee develops relating to children's issues it has studied.

(C) The staffing for the committee must be provided by the Children's Law Center of the University of South Carolina School of Law, subject to funding as provided in subsection (E).

(D) The committee members may not receive compensation but are entitled to mileage, subsistence, and per diem as allowed by law for members of state boards, committees, and commissions.

(E) The committee shall receive funding as may be provided in the annual general appropriations act or from any other source.

(F) The committee shall terminate and shall cease to exist effective December 31, 2023, unless the General Assembly reauthorizes its continued existence beyond that date by legislation."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 246

(R275, S876)

AN ACT TO AMEND SECTION 50-11-355, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO UNLAWFUL DEER HUNTING NEAR A RESIDENCE, SO AS TO PROVIDE THAT IT IS UNLAWFUL TO HUNT DEER WITH A FIREARM WITHIN THREE HUNDRED YARDS OF A RESIDENCE WHEN LESS THAN TEN FEET ABOVE THE GROUND WITHOUT THE PERMISSION OF THE OWNER AND OCCUPANT.

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

Deer hunting with a firearm

SECTION 1. Section 50-11-355 of the 1976 Code is amended to read:

"Section 50-11-355. It is unlawful to hunt deer with a firearm within three hundred yards of a residence when less than ten feet above the ground without permission of the owner and occupant. Anyone violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days. The provisions of this section do not apply to a landowner hunting on his own land or a person taking deer pursuant to a department permit."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 247

(R276, S894)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 14-1-240 SO AS TO PROVIDE THAT A FIVE DOLLAR SURCHARGE TO FUND TRAINING AT THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY MUST BE LEVIED ON ALL FINES, FORFEITURES, ESCHEATMENTS, OR OTHER MONETARY PENALTIES IMPOSED IN THE GENERAL SESSIONS COURT OR IN MAGISTRATES OR MUNICIPAL COURT FOR MISDEMEANOR TRAFFIC OFFENSES OR FOR NONTRAFFIC VIOLATIONS, TO PROVIDE FOR THE TRANSMITTAL OF REVENUE COLLECTED FROM THE SURCHARGE, TO PROVIDE FOR THE EXAMINATION OF FINANCIAL RECORDS BY THE STATE AUDITOR UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE THAT THE ACT SHALL SUNSET ON JUNE 30, 2016.

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

South Carolina Criminal Justice Academy, five dollar surcharge on certain misdemeanor traffic offenses or nontraffic violations

SECTION 1. Chapter 1, Title 14 of the 1976 Code is amended by adding:

"Section 14-1-240. (A) In addition to all other assessments and surcharges required to be imposed by law, a five dollar surcharge to fund training at the South Carolina Criminal Justice Academy is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in the general sessions court or in magistrates or municipal court for misdemeanor traffic offenses or for nontraffic violations. No portion of this surcharge may be waived, reduced, or suspended. The additional surcharge imposed by this section does not apply to parking citations.

(B) The revenue collected pursuant to subsection (A) must be collected by the jurisdiction which heard or processed the case and transmitted pursuant to the guidelines in Section 14-1-220. The funds should be clearly designated as Criminal Justice Academy Surcharge Collections when transmitted to the municipal and county treasurer and

then to the State Treasurer. The State Treasurer shall transfer the revenue quarterly to the South Carolina Criminal Justice Academy.

(C) The State Treasurer may request the State Auditor to examine the financial records of any jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to subsection (B). The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and terminates on June 30, 2016. All funds collected by the date of termination shall be forwarded to the State Treasurer and then to the South Carolina Criminal Justice Academy.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 248

(R277, S897)

AN ACT TO AMEND SECTION 1-11-730, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ELIGIBILITY FOR STATE HEALTH AND DENTAL PLAN COVERAGE, SO AS TO PROVIDE THAT A PERSON WHO RETIRES FROM EMPLOYMENT WITH A SOLICITOR'S OFFICE UNDER A STATE RETIREMENT SYSTEM IS ELIGIBLE TO PARTICIPATE IN THE STATE HEALTH AND DENTAL PLANS BY PAYING THE FULL PREMIUM AS DETERMINED BY THE BOARD IF AT LEAST ONE COUNTY IN THE JUDICIAL CIRCUIT COVERED BY THAT SOLICITOR'S OFFICE PARTICIPATES IN THE STATE HEALTH AND DENTAL PLANS AND THE PERSON'S LAST FIVE YEARS OF EMPLOYMENT PRIOR TO RETIREMENT ARE CONSECUTIVE AND IN A FULL-TIME PERMANENT POSITION WITH THAT SOLICITOR'S OFFICE OR ANOTHER ENTITY THAT PARTICIPATES IN THE STATE

HEALTH AND DENTAL PLANS; TO REQUIRE THAT THESE PROVISIONS BE INTERPRETED TO PROVIDE ELIGIBILITY TO THE EMPLOYEE, RETIREE, AND THEIR ELIGIBLE DEPENDENTS; AND TO MAKE THESE PROVISIONS RETROACTIVE TO JANUARY 1, 2012.

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

Solicitor's office employees, retirees, eligible dependants

SECTION 1. Section 1-11-730 of the 1976 Code, as last amended by Act 278 of 2012, is further amended by adding an appropriately lettered subsection to read:

"( )(1) A person who retires from employment with a solicitor's office under a state retirement system is eligible to participate in the state health and dental plans by paying the full premium as determined by the board if at least one county in the judicial circuit covered by that solicitor's office participates in the state health and dental plans and the person's last five years of employment prior to retirement are consecutive and in a full-time permanent position with that solicitor's office or another entity that participates in the state health and dental plans.

(2) The provisions of this subsection must be interpreted to provide eligibility to the employee, retiree, and their eligible dependents."

Time effective, retroactive

SECTION 2. This act takes effect upon approval by the Governor and is retroactive to January 1, 2012.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 249

(R279, S964)

AN ACT TO AMEND SECTION 6-1-320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LIMIT ON ANNUAL PROPERTY TAX MILLAGE INCREASES IMPOSED BY POLITICAL SUBDIVISIONS, SO AS TO PROVIDE THAT THE GOVERNING BODY OF A FIRE DISTRICT THAT EXISTED ON JANUARY 1, 2014, WHICH SERVES LESS THAN SEVEN HUNDRED HOMES, MAY ADOPT AN ORDINANCE OR RESOLUTION REQUESTING THE GOVERNING BODY OF THE COUNTY TO CONDUCT A REFERENDUM TO SUSPEND THE MILLAGE RATE INCREASE LIMITATION FOR FIRE DISTRICT GENERAL OPERATING EXPENSES, AND TO PROVIDE THAT THE GOVERNING BODY OF A COUNTY MAY ADOPT AN ORDINANCE, SUBJECT TO REFERENDUM, TO SUSPEND THE MILLAGE RATE INCREASE LIMITATION FOR THE PURPOSE OF IMPOSING A SPECIAL MILLAGE NOT TO EXCEED SIX-TENTHS OF A MILL FOR COUNTY MENTAL HEALTH SERVICES.

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

Exception to millage rate increase limitation for fire district operations

SECTION 1. Section 6-1-320 of the 1976 Code, as last amended by Act 57 of 2011, is further amended by adding an appropriately lettered subsection at the end to read:

"( )(1) Notwithstanding the limitation upon millage rate increases contained in subsection (A), a fire district's governing body may adopt an ordinance or resolution requesting the governing body of the county to conduct a referendum to suspend the millage rate limitation for general operating purposes of the fire district. If the governing body of the county agrees to hold the referendum and subject to the results of the referendum, the millage rate limitation may be suspended and the millage rate may be increased for general operating purposes of the fire district. The referendum must be held at the time of the general election, and upon a majority of the qualified voters within the fire

district voting favorably in the referendum, the millage rate may be increased in the next fiscal year. The referendum must include the amount of the millage increase. The actual millage levy may not exceed the millage increase specified in the referendum.

(2) This subsection only applies to a fire district that existed on January 1, 2014, and serves less than seven hundred homes."

Exception to millage rate increase limitation for mental health services

SECTION 2. Section 6-1-320 of the 1976 Code, as last amended by Act 57 of 2011, is further amended by adding an appropriately lettered subsection at the end to read:

"( ) Notwithstanding the limitation upon millage rate increases contained in subsection (A), the governing body of a county may adopt an ordinance, subject to a referendum, to suspend the millage rate limitation for the purpose of imposing up to six-tenths of a mill for mental health. The referendum must be held at the time of the general election, and upon a majority of the qualified voters within the county voting favorably in the referendum, this special millage may be imposed in the next fiscal year. The state election laws apply to the referendum mutatis mutandis. This special millage may be removed only upon a majority vote of the local governing body. The amounts collected from the increased millage:

(1) must be deposited into a mental health services fund separate and distinct from the county general fund and all other county funds;

(2) must be dedicated only to expenditures for mental health services in the county; and

(3) must not be used to supplant existing funds for mental health programs in the county."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 250

(R281, S986)

AN ACT TO AMEND SECTION 50-1-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE HUNTING, FISHING, OR TRAPPING OF GAME WITHOUT THE CONSENT OF A LANDOWNER OR MANAGER, SO AS TO INCREASE THE FINE FOR A VIOLATION OF THIS PROVISION, AND TO PROVIDE THAT THE MAGISTRATES COURT HAS CONCURRENT JURISDICTION TO HEAR FIRST AND SECOND OFFENSE VIOLATIONS UNDER THIS SECTION; AND TO AMEND SECTION 50-9-1120, AS AMENDED, RELATING TO THE ESTABLISHMENT OF THE POINT SYSTEM FOR VIOLATIONS OF THE PROVISIONS THAT REGULATE THE HUNTING, FISHING, AND TRAPPING OF GAME, SO AS TO REVISE THE POINTS ASSOCIATED WITH CERTAIN VIOLATIONS.

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

Hunting, fishing, and trapping of game

SECTION 1. Section 50-1-90 of the 1976 Code is amended to read:

"Section 50-1-90. If any person, at any time whatsoever, shall hunt or range on any lands or shall enter thereon, for the purpose of hunting, fishing, or trapping, without the consent of the owner or manager thereof, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall, for a first offense, be fined not more than five hundred dollars or imprisoned for not more than thirty days, for a second offense, be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days and, for a third or subsequent offense, be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned for not more than six months or both. The magistrates court has concurrent jurisdiction to hear first and second offenses under this section. A first or second offense prosecution resulting in a conviction shall be reported by the magistrate or city recorder hearing the case to the communications and records division of the South Carolina Law Enforcement Division which shall keep a record of such conviction so that any law enforcement agency may inquire into whether or not a

defendant has a prior record. Only those offenses which occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute prior offenses within the meaning of this section."

Point violation system

SECTION 2. Section 50-9-1120 of the 1976 Code, as last amended by Act 237 of 2008, is further amended to read:

"Section 50-9-1120. There is established the following point system for violations of certain provisions of law:

(1) Common violations:

(a) resisting arrest by the use of force, violence, or weapons against an employee of the department while engaged in his duties, a law enforcement officer aiding in the work of the department, or a federally commissioned employee engaged in like or similar employment: 18;

(b) attempting escape after lawful arrest: 14;

(c) hunting or fishing in a state sanctuary at any time: 14;

(d) hunting, fishing, or trapping out of season, except in a state sanctuary: 10;

(e) selling game or game fish: 14;

(f) taking game or fish in an illegal manner not mentioned specifically elsewhere in this section. However, no points may be assessed pursuant to this subitem for fish taken on the seaward side of the saltwater-freshwater dividing lines as provided in Section 50-17-30: 8;

(g) using a borrowed or altered hunting or fishing license: 10;

(h) taking more than the legal limit of game or fish: 8;

(i) hunting or fishing without a license in possession: 6;

(j) trespassing to hunt, fish, or trap: 14;

(k) violating game management area regulations: 8;

(l) hunting, taking, possessing, or selling alligators in violation of law or department regulations: 14.

(2) Hunting violations:

(a) killing or attempting to kill or molest deer from a motorboat: 14;

(b) night hunting deer or bear: 18;

(c) illegally transporting furs or hides and possessing untagged hides: 10;

(d) trapping quail or wild turkeys: 10;

(e) hunting over bait: 8;

(f) killing or possessing antlerless deer, except as expressly provided by law: 14;

(g) illegally night hunting other game, except deer, or hunting game in prohibited hours: 8;

(h) possessing buckshot illegally: 5;

(i) possessing unplugged gun while hunting, violation of Section 50-11-10: 4;

1. killing or possessing a wild turkey during the closed season: 18;

2. killing or possessing a wild turkey hen during the spring gobbler season: 14;

(j) roost shooting wild turkeys between official sunset and official sunrise: 18;

(k) intentional trespassing to hunt, fish, or trap: 18;

(l) shooting wild turkeys over bait: 18;

(m) hunting wild turkeys over bait: 10;

(n) trespassing to hunt waterfowl: 18;

(o) hunting waterfowl over bait: 10;

(p) shooting waterfowl over bait: 10;

(q) hunting waterfowl out of posted season: 15;

(r) taking more than one waterfowl over the legal limit: 15;

(s) illegally possessing, taking, or attempting to take raccoons during the season for hunting without weapons: 14.

(3) Fishing violations:

(a) trapping, netting, or seining game fish illegally: 10;

(b) taking or possessing more than the legal limit of striped bass: 14;

(c) taking or possessing an undersized striped bass: 14."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 251

(R292, H3361)

AN ACT TO AMEND SECTION 20-4-60, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO AN ORDER FOR PROTECTION FROM DOMESTIC ABUSE, SO AS TO PROVIDE THAT THE COURT MAY PROHIBIT HARM OR HARASSMENT TO PET ANIMALS OWNED, POSSESSED, KEPT, OR HELD BY THE PETITIONER AND OTHER DESIGNATED PERSONS, AND TO PROVIDE THAT IN ORDERING TEMPORARY POSSESSION OF PERSONAL PROPERTY, THE COURT MAY ORDER THE TEMPORARY POSSESSION OF PET ANIMALS; TO AMEND SECTION 47-1-40, AS AMENDED, RELATING TO THE ILL-TREATMENT OF ANIMALS, SO AS TO REVISE THE PENALTIES FOR THE ILL-TREATMENT OF ANIMALS; TO AMEND SECTION 47-1-130, RELATING TO ARREST FOR VIOLATION OF THE LAWS PROHIBITING CRUELTY TO ANIMALS, SO AS TO PROHIBIT THE SOUTH CAROLINA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS OR OTHER SIMILAR ORGANIZATIONS, FROM MAKING AN ARREST FOR A VIOLATION OF THE LAWS IN RELATION TO CRUELTY TO ANIMALS; TO AMEND SECTION 47-1-140, AS AMENDED, RELATING TO THE CARE OF ANIMALS AFTER ARREST OF THE PERSON IN CHARGE OF THE ANIMAL, SO AS TO MAKE CONFORMING CHANGES DELETING REFERENCES TO ARRESTS BY THE SOUTH CAROLINA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS AND TO PROVIDE FOR THE EXTINGUISHMENT OF A LIEN FOR THE EXPENSES FOR THE CARE AND PROVISION OF ANIMALS UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 47-1-150, AS AMENDED, RELATING TO SEARCH WARRANTS AND CUSTODY OF ANIMALS, SO AS TO MAKE CONFORMING CHANGES DELETING REFERENCES TO ORDERS BY THE SOUTH CAROLINA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS; AND TO REPEAL SECTION 47-1-160 RELATING TO THE DISPOSITION OF FINES FOR VIOLATIONS OF THE CHAPTER REGARDING CRUELTY TO ANIMALS.

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

Orders of protection, harm or harassment to pet animals

SECTION 1. Section 20-4-60(C) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

"( ) prohibit harm or harassment, including a violation of Chapter 1, Title 47, against any pet animal owned, possessed, kept, or held by:

(a) the petitioner;

(b) any family or household member designated in the order;

(c) the respondent if the petitioner has a demonstrated interest in the pet animal."

Temporary possession of pet animals

SECTION 2. Section 20-4-60(C)(5) of the 1976 Code is amended to read:

"(5) provide for temporary possession of the personal property, including pet animals, of the parties and order assistance from law enforcement officers in removing personal property of the petitioner if the respondent's eviction has not been ordered."

Ill-treatment of animals, penalties revised

SECTION 3. Section 47-1-40 of the 1976 Code, as last amended by Act 259 of 2008, is further amended to read:

"Section 47-1-40. (A) A person who knowingly or intentionally overloads, overdrives, overworks, or ill-treats an animal, deprives an animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon an animal, or by omission or commission knowingly or intentionally causes these acts to be done, is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding ninety days or by a fine of not less than one hundred dollars nor more than one thousand dollars, or both, for a first offense; or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a second or subsequent offense.

(B) A person who tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon an animal or by omission or commission causes these acts to be

done, is guilty of a felony and, upon conviction, must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars.

(C) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise."

Cruelty to animals, arrest, prohibiting arrest by the South Carolina Society for the Prevention of Cruelty to Animals

SECTION 4. Section 47-1-130 of the 1976 Code is amended to read:

"Section 47-1-130. (A) Any person violating the laws in relation to cruelty to animals may be arrested by a law enforcement officer and held, without warrant, in the same manner as in the case of persons found breaking the peace.

(B) The South Carolina Society for the Prevention of Cruelty to Animals, or other organizations organized for the same purpose, may not make an arrest for a violation of the laws in relation to cruelty to animals."

Cruelty to animals, conforming changes

SECTION 5. Section 47-1-140 of the 1976 Code, as last amended by Act 367 of 1998, is further amended to read:

"Section 47-1-140. The law enforcement officer making the arrest, with or without warrant, shall use reasonable diligence to give notice to the owner of the animals found in the charge or custody of the person arrested, if the person is not the owner, and shall care and provide properly for the animals. The law enforcement officer making the arrest shall have a lien on the animals for the expense of such care and provision unless the charge is dismissed or nol prossed or the person is found not guilty, then the lien is extinguished. The lien also may be extinguished by an agreement between the person charged and the prosecuting agency or the law enforcement agency in custody of the

animal. Notwithstanding any other provision of law, an animal may be seized preceding an arrest and pursuant to Section 47-1-150."

Cruelty to animals, conforming changes

SECTION 6. Section 47-1-150(B) of the 1976 Code, as added by Act 367 of 1998, is amended to read:

"(B) The purpose of this section is to provide a means by which a neglected or mistreated animal can be:

(1) removed from its present custody; or

(2) made the subject of an order to provide care, issued to its owner by the magistrate or municipal judge, any law enforcement officer, or any agent of the county and given protection and an appropriate and humane disposition made."

Savings clause

SECTION 7. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Repeal

SECTION 8. Section 47-1-160 of the 1976 Code is repealed.

Time effective

SECTION 9. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 252

(R293, H3365)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-66-40 SO AS TO CREATE THE SCHOOL SAFETY TASK FORCE, TO PROVIDE THE PURPOSES AND COMPOSITION OF THE TASK FORCE, AND TO PROVIDE FOR THE TERMINATION OF THE TASK FORCE UPON REPORTING ITS RECOMMENDATIONS TO THE GENERAL ASSEMBLY BEFORE JANUARY 1, 2015.

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

Creation, responsibilities, composition

SECTION 1. Chapter 66, Title 59 of the 1976 Code is amended by adding:

"Section 59-66-40. (A)(1) There is created a school safety task force to:

(a) examine the various funding streams for school-based mental health services and determine how these streams may best be utilized in order to provide more accessible and efficient delivery of mental health programs;

(b) examine school mental health staffing ratios and provide suggestions that allow for the full delivery of services and effective school-community partnerships, including collaboration between school districts;

(c) develop standards for district level policies to promote effective school discipline and mental health intervention services;

(d) examine current intra- and interagency collaboration and suggest ways to improve cooperation; and

(e) examine how to best support multitiered systems of support.

(2) Any recommendations made by the task force must be revenue neutral.

(3) The task force shall report its findings and make recommendations concerning proposed changes to the General Assembly.

(B) The task force must be composed of:

(1) one member appointed by the South Carolina Association of Licensed Professional Counselors;

(2) one member appointed by the South Carolina Society for Clinical Social Work;

(3) one member appointed by the South Carolina Education Association;

(4) one member appointed by the Palmetto State Teachers Association;

(5) one member appointed by the South Carolina School Counselor Association;

(6) one member appointed by the South Carolina Association of School Psychologists;

(7) one member appointed by the South Carolina Association of School Social Workers;

(8) one member appointed by the South Carolina Association for Marriage and Family Therapy;

(9) one member appointed by the South Carolina Association of School Administrators;

(10) one member appointed by the South Carolina School Boards Association;

(11) one member appointed by the South Carolina Department of Mental Health;

(12) one member appointed by the South Carolina Association of School Resource Officers;

(13) one member appointed by the Chief of the State Law Enforcement Division;

(14) one member appointed by the Governor;

(15) one member appointed by the State Superintendent of Education;

(16) two members appointed by the Chairman of the House Education and Public Works Committee; and

(17) two members appointed by the Chairman of the Senate Education Committee.

(C) Vacancies in the membership of the task force must be filled for the remainder of the unexpired term in the manner of original appointment.

(D) Members of the task force shall serve without compensation and may not receive mileage or per diem.

(E) The staffing for the task force must be provided by the staff of the House Education and Public Works Committee and Senate Education Committee.

(F) The task force shall make a report of its recommendations to the General Assembly no later than December 31, 2014, at which time the task force must be dissolved."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 253

(R300, H4399)

AN ACT TO AMEND SECTION 61-6-120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN ALCOHOL PERMITS IN THE PROXIMITY OF SCHOOLS, PLAYGROUNDS, AND CHURCHES, SO AS TO ALLOW THE ISSUANCE OF A LICENSE FOR THE ON-PREMISES CONSUMPTION OF ALCOHOLIC LIQUOR IF ALL PLAYGROUNDS AND CHURCHES IN THE PROXIMITY AFFIRMATIVELY STATE THAT THEY DO NOT OBJECT TO THE ISSUANCE; AND BY ADDING SECTION 61-6-4157 SO AS TO PROHIBIT CERTAIN TRANSACTIONS INVOLVING POWDERED ALCOHOL, TO PROHIBIT THE HOLDER OF CERTAIN LICENSES FROM USING POWDERED ALCOHOL AS AN ALCOHOLIC BEVERAGE, TO PROVIDE PENALTIES, AND TO PROVIDE EXCEPTIONS.

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

Authority to issue on-premises alcohol licenses in proximity of certain locations if statement of no objection

SECTION 1. Section 61-6-120 of the 1976 Code is amended to read:

"Section 61-6-120. (A) The department shall not grant or issue any license provided for in this article, Article 5, or Article 7 of this chapter, if the place of business is within three hundred feet of any church, school, or playground situated within a municipality or within five hundred feet of any church, school, or playground situated outside of a municipality. Such distance shall be computed by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of such church, school, or playground, which, as used herein, shall be defined as follows:

(1) 'church', an establishment, other than a private dwelling, where religious services are usually conducted;

(2) 'school', an establishment, other than a private dwelling where the usual processes of education are usually conducted; and

(3) 'playground', a place, other than grounds at a private dwelling, which is provided by the public or members of a community for recreation.

The above restrictions do not apply to the renewal of licenses and they do not apply to new applications for locations which are licensed at the time the new application is filed with the department.

(B) An applicant for license renewal or for a new license at an existing location shall pay a five dollar certification fee to determine if the exemptions provided for in subsection (A) apply.

(C)(1) Notwithstanding the provisions of subsection (A), the department may issue a license so long as the provisions of subsection (A) are met in regards to schools, and so long as any playground or church located within the parameters affirmatively states that it does not object to the issuance of a license. This subsection only applies to a permit for on-premises consumption of alcoholic liquor.

(2) Any applicant seeking to utilize the provisions of this subsection must provide a statement from the decision-making body of the owner of the playground or from the decision-making body of the local church stating that it does not object to the issuance of the specific license sought. If more than one playground or church is located within the parameters set forth in subsection (A), the applicant must provide the statement from all playgrounds and churches.

(3) The department may promulgate regulations necessary to implement the provisions of this subsection."

Powdered Alcohol

SECTION 2. A. Article 13, Chapter 6, Title 61 of the 1976 Code is amended by adding:

"Section 61-6-4157. (A) As used in this section, 'powdered alcohol' is alcohol prepared or sold in a powder form for either direct use or reconstitution.

(B)(1) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess powdered alcohol.

(2) It is unlawful for a holder of a license pursuant to the provisions of this chapter for on-premises or off-premises consumption of alcoholic liquors to use powdered alcohol as an alcoholic beverage.

(3) Any person or license holder that violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of not more than three hundred dollars or imprisonment for not more than thirty days, or both;

(b) for a second offense, by a fine of not more than seven hundred fifty dollars or imprisonment for not more than six months, or both;

(c) for a third or subsequent offense, by a fine of not more than three thousand dollars or imprisonment for not more than two years, or both.

(C) This section does not apply to the use of powdered alcohol for commercial uses or bona fide research purposes by a:

(1) health care provider that operates primarily for the purpose of conducting scientific research;

(2) state institution;

(3) private college or university; or

(4) pharmaceutical or biotechnology company."

B. The provisions of this SECTION are repealed effective one year following the effective date of this act.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 254

(R301, H4543)

AN ACT TO AMEND SECTION 50-13-640, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE UNLAWFUL POSSESSION OF BLUE CATFISH, SO AS TO DECREASE THE MAXIMUM LENGTH OF A BLUE CATFISH THAT MAY BE TAKEN ON CERTAIN BODIES OF WATER, TO MAKE A TECHNICAL CHANGE, TO ESTABLISH THE DAILY POSSESSION LIMIT FOR BLUE CATFISH TAKEN FROM LAKE MARION, LAKE MOULTRIE, AND THE UPPER REACH OF THE SANTEE RIVER, AND TO REQUIRE THE DEPARTMENT OF NATURAL RESOURCES TO MAKE A STUDY OF THE BLUE CATFISH FISHERY ON THE SANTEE AND COOPER RIVER SYSTEMS, AND MAKE RECOMMENDATIONS ON ANY NEEDED MODIFICATIONS OF THIS SECTION; TO AMEND SECTION 50-9-1120, AS AMENDED, RELATING TO THE ESTABLISHMENT OF THE POINT SYSTEM FOR VIOLATING CERTAIN PROVISIONS THAT REGULATE FISHING AND HUNTING, SO AS TO PROVIDE THAT TAKING OR POSSESSING MORE THAN THE LEGAL CREEL OR SIZE LIMIT OF BLUE CATFISH IS A FOURTEEN POINT VIOLATION; AND TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES MUST CONDUCT A STUDY OF THE STATUS OF THE BLUE CATFISH POPULATION AND PRESENT THE STUDY TO THE GENERAL ASSEMBLY.

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

Blue catfish

SECTION 1. Section 50-13-640 of the 1976 Code, as added by Act 114 of 2012, is amended to read:

"Section 50-13-640. (A) It is unlawful to possess more than two blue catfish (Ictalurus furcatus) greater than thirty-two inches in length in any one day in Lake Marion, Lake Moultrie, or the upper reach of the Santee River, and the Congaree and Wateree Rivers.

(B) The daily possession limit for blue catfish (Ictalurus furcatus) is not more than twenty-five in Lake Marion, Lake Moultrie, and the upper reach of the Santee River.

(C) The department shall make a study of the blue catfish fishery on the Santee and Cooper River systems and make recommendations on any needed modifications of this section on or before January 2020.

(D) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than three hundred dollars or imprisoned not more than thirty days, or both."

Fishing violations

SECTION 2. Section 50-9-1120(3) of the 1976 Code, as last amended by Act 237 of 2008, is further amended to read:

"(3) Fishing violations:

(a) trapping, netting, or seining game fish illegally: 10;

(b) taking or possessing more than the legal limit of striped bass: 14;

(c) taking or possessing an undersized striped bass: 14 ;

(d) taking or possessing more than the legal creel or size limit of blue catfish: 14."

Savings clause

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Blue catfish population study

SECTION 4. The Department of Natural Resources must conduct a study on the status of the blue catfish population. The study must be presented to the General Assembly before January 1, 2018.

Time effective

SECTION 5. This act takes effect April 1, 2015, and shall be automatically repealed on June 30, 2018, unless reauthorized by a joint resolution for that specific purpose.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 255

(R303, H4673)

AN ACT TO AMEND SECTION 27-3-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS REGARDING THE LIMITATION ON LIABILITY OF LANDOWNERS, SO AS TO DEFINE "AVIATION ACTIVITIES", TO INCLUDE AVIATION ACTIVITIES WITHIN THE DEFINITION OF "RECREATIONAL PURPOSE", AND TO INCLUDE EASEMENT HOLDER WITHIN THE DEFINITION OF "OWNER".

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

Limitation on liability of landowners, aviation activities

SECTION 1. Section 27-3-20 of the 1976 Code is amended to read:

"Section 27-3-20. As used in this chapter:

(a) 'Aviation activities' means taking off, flying, or landing an airplane or aircraft. Aviation activities do not include airshows or any activity where the general public is invited.

(b) 'Land' means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(c) 'Owner' means the possessor of a fee interest, a tenant, lessee, occupant, easement holder, or person in control of the premises.

(d) 'Recreational purpose' includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, summer and winter sports, aviation activities, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

(e) 'Charge' means the admission price or fee asked in return for invitation or permission to enter or go upon the land.

(f) 'Persons' means individuals regardless of age."

Savings clause

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

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No. 256

(R306, H4732)

AN ACT TO AMEND SECTIONS 7-11-20, 7-11-25, AND 7-13-15, ALL AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING, RESPECTIVELY, TO THE CONDUCT BY THE STATE ELECTION COMMISSION OF PARTY CONVENTIONS OR PARTY PRIMARY ELECTIONS, THE AUTHORITY OF POLITICAL PARTIES TO CONDUCT ADVISORY PRIMARY ELECTIONS AT PARTY EXPENSE, AND THE DATE PROVIDED BY LAW FOR HOLDING PRIMARY ELECTIONS AND THE PRIMARIES NOT SUBJECT TO THAT DATE, SO AS TO DELETE OBSOLETE DATE REFERENCES, TO CLARIFY THE AUTHORITY OF A POLITICAL PARTY TO CONDUCT AN ADVISORY PRIMARY AT PARTY EXPENSE, TO CLARIFY THAT THE DATE OF A PRESIDENTIAL PREFERENCE PRIMARY CONDUCTED BY THE STATE ELECTION COMMISSION MUST BE SET BY THE PARTY RATHER THAN THE GENERAL STATE LAW DATE FOR PRIMARIES AND TO ALLOW THE STATE ELECTION COMMISSION TO CARRY FORWARD ANY YEAR-END BALANCES IN ITS FILING FEE AND PRIMARY AND GENERAL ELECTION ACCOUNTS TO THE SUCCEEDING FISCAL YEAR, AND TO PROVIDE THAT THESE CARRIED FORWARD FUNDS MUST BE EXPENDED FOR THE SAME PURPOSE.

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

Presidential preference primaries

SECTION 1. Items (2) and (4) of Section 7-11-20(B) of the 1976 Code, as last amended by Act 81 of 2007, are further amended to read:

"(2) If the state committee of a certified political party which received at least five percent of the popular vote in South Carolina for the party's candidate for President of the United States decides to hold a presidential preference primary election, the State Election Commission must conduct the presidential preference primary in accordance with the provisions of this title and party rules provided that a registered elector may cast a ballot in only one presidential

preference primary. However, notwithstanding any other provision of this title, (a) the State Election Commission and the authorities responsible for conducting the elections in each county shall provide for cost-effective measures in conducting the presidential preference primaries including, but not limited to, combining polling places, while ensuring that voters have adequate notice and access to the polling places; and (b) the state committee of the party shall set the date and the filing requirements, including a certification fee. Political parties must verify the qualifications of candidates prior to certifying to the State Election Commission the names of candidates to be placed on primary ballots. The written certification required by this section must contain a statement that each certified candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications in the United States Constitution, statutory law, and party rules to participate in the presidential preference primary for which he has filed. Political parties must not certify any candidate who does not or will not by the time of the general election meet the qualifications in the United States Constitution, statutory law, and party rules for the presidential preference primary for which the candidate desires to file, and such candidate's name must not be placed on a primary ballot. Political parties may charge a certification fee to persons seeking to be candidates in the presidential preference primary for the political party. A filing fee not to exceed twenty thousand dollars, as determined by the State Election Commission, for each candidate certified by a political party must be transmitted by the respective political party to the State Election Commission and must be used for conducting the presidential preference primaries.

(4) Nothing in this section prevents a political party from conducting a presidential preference primary pursuant to the provisions of Section 7-11-25."

Advisory primaries

SECTION 2. Section 7-11-25 of the 1976 Code, as last amended by Act 81 of 2007, is further amended to read:

"Section 7-11-25. Nothing in this chapter nor any other provision of law may be construed as either requiring or prohibiting a political party in this State from conducting advisory primaries according to the party's own rules and at the party's expense."

Primaries to be conducted by State Election Commission, retention of fees

SECTION 3. Section 7-13-15 of the 1976 Code, as last amended by Act 81 of 2007, is further amended to read:

"Section 7-13-15. (A) This section does not apply to municipal primaries.

(B) Except as provided in subsection (A) or unless otherwise specifically provided for by statute or ordinance, the following primaries must be conducted by the State Election Commission and the county election commissions on the second Tuesday in June of each general election year:

(1) primaries for federal offices, excluding a presidential preference primary for the Office of President of the United States as provided pursuant to Section 7-11-20(B); and

(2) primaries for:

(a) state offices;

(b) offices including more than one county;

(c) countywide and less than countywide offices, specifically including, but not limited to, all school boards and school trustees; and

(d) special purpose district offices, which include, but are not limited to, water, sewer, fire, soil conservation, and other similar district offices.

(C) Filing fees received from candidates filing to run in primary elections may be retained and expended by the State Election Commission to pay for the conduct of primary elections. Any balance in the filing fee accounts or in the primary and general election accounts as of each June thirtieth may be carried forward in these accounts to the succeeding fiscal year and must be expended for the same purposes."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 257

(R307, H4788)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-65 SO AS TO DESIGNATE THE SECOND SUNDAY IN AUGUST AS "SPIRIT OF '45 DAY".

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

Spirit of '45 Day created

SECTION 1. Chapter 3, Title 53 of the 1976 Code is amended by adding:

"Section 53-3-65. The second Sunday in August is hereby designated as 'Spirit of '45 Day' to commemorate the anniversary of the end of World War II."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 258

(R267, S75)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-57-115 SO AS TO REQUIRE THE SOUTH CAROLINA REAL ESTATE COMMISSION TO REQUIRE INITIAL LICENSURE APPLICANTS TO SUBMIT TO A NATIONAL AND A STATE CRIMINAL RECORDS CHECK; TO AMEND SECTION 40-57-150, RELATING TO INVESTIGATIONS, SO AS TO REQUIRE INVESTIGATORS TO COMPLETE ONE HUNDRED HOURS

OF TRAINING IN PROGRAMS APPROVED BY THE SOUTH CAROLINA REAL ESTATE COMMISSION, TO REQUIRE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION TO CONCLUDE THE INVESTIGATION WITHIN ONE HUNDRED FIFTY DAYS OF RECEIPT OF THE COMPLAINT, AND TO PROVIDE REPORTING REQUIREMENTS; AND TO AMEND SECTION 40-57-145, RELATING TO GROUNDS FOR DISCIPLINE OR DENIAL OF LICENSURE, SO AS TO AUTHORIZE THE SOUTH CAROLINA REAL ESTATE COMMISSION TO DISCIPLINE OR DENY LICENSURE IF THE APPLICANT IS CONVICTED OF CERTAIN CRIMES.

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

Real Estate Commission to require criminal background check before issuing license

SECTION 1. Chapter 57, Title 40 of the 1976 Code is amended by adding:

"Section 40-57-115. In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for licensure as a salesman, broker, broker-in-charge, property manager, and property manager-in-charge, the commission shall require initial applicants to submit to a state criminal records check, by a source approved by the commission, and a national criminal records check. Costs of conducting a criminal records check must be borne by the applicant. The commission shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as necessary to support the administrative action."

Investigations by Department of Labor, Licensing and Regulation

SECTION 2. Section 40-57-150 of the 1976 Code is amended to read:

"Section 40-57-150. (A) Investigations must be conducted in accordance with Section 40-1-80 and must be performed by investigators who have completed one hundred hours of training in programs that are approved by the commission and provide instruction

on real estate principles, state statutory and regulatory law, and investigative techniques.

(B) A restraining order must be obtained in accordance with Section 40-1-100.

(C)(1) Whenever the department has reason to believe that a violation of this chapter has occurred, an investigation must be initiated within thirty days.

(2) The department shall conclude its investigation within one hundred fifty days from receipt of the complaint or seek a waiver of this period from the commission upon a showing of due diligence and extenuating circumstances.

(3) A hearing on the charges must be at the time and place designated by the commission and must be conducted in accordance with the Administrative Procedures Act.

(4) The commission shall render a decision and shall serve, within ninety days, notice, in writing, of the commission's decision to the licensee charged. The commission also shall state in the notice the date upon which the ruling or decision becomes effective.

(5) The department shall maintain a public docket or other permanent record in which must be recorded all orders, consent orders, or stipulated settlements.

(D) A licensee may voluntarily surrender his license in accordance with Section 40-1-150.

(E)(1) The commission may impose disciplinary action in accordance with Section 40-1-120.

(2) Upon determination by the commission that one or more of the grounds for discipline exists, as provided for in Section 40-1-110 or Section 40-57-140, the commission may impose a fine of not less than one hundred or more than one thousand dollars for each violation. The commission may recover the costs of the investigation and the prosecution as provided for in Section 40-1-170.

(3) Nothing in this section prevents a licensee from voluntarily entering into a consent order with the commission wherein violations are not contested and sanctions are accepted.

(F) The department annually shall post a report that provides the data for the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days."

Real Estate Commission may discipline or deny license upon conviction of certain crimes

SECTION 3. Section 40-57-145(A)(8) of the 1976 Code is amended to read:

"(8) is convicted of violating the federal and state fair housing laws, forgery, embezzlement, breach of trust, larceny, obtaining money or property under false pretense, extortion, fraud, conspiracy to defraud, or has been convicted of a violent crime as defined in Section 16-1-60, has been convicted during the previous five years of a felony directly related to the practice of the profession, or has been convicted during the previous seven years of a felony, an essential element of which is dishonesty, reasonably related to the practice of the profession, or pleading guilty or nolo contendere to any such offense in a court of competent jurisdiction of this State, any other state, or any federal court;"

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 259

(R269, S437)

AN ACT TO AMEND SECTION 12-43-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO VALUATION AND CLASSIFICATION OF PROPERTY FOR PURPOSES OF THE PROPERTY TAX, SO AS TO PROVIDE THAT THE OWNER-OCCUPANT OF RESIDENTIAL PROPERTY QUALIFIES FOR THE FOUR PERCENT ASSESSMENT RATIO ALLOWED OWNER-OCCUPIED RESIDENTIAL PROPERTY, IF THE OWNER IS OTHERWISE QUALIFIED AND THE RESIDENCE IS NOT RENTED FOR MORE THAN SEVENTY-TWO DAYS A

YEAR, AND TO DELETE OTHER REFERENCES TO THE RENTAL OF THESE RESIDENCES; TO AMEND SECTION 12-54-240, AS AMENDED, RELATING TO DISCLOSURE OF RECORDS, REPORTS, AND RETURNS WITH THE DEPARTMENT OF REVENUE, SO AS TO PROVIDE VERIFICATION THAT THE FEDERAL SCHEDULE E CONFORMS WITH THE SAME DOCUMENT REQUIRED BY A COUNTY ASSESSOR IS NOT PROHIBITED; TO AMEND SECTION 12-36-920, AS AMENDED, RELATING TO THE SEVEN PERCENT STATE SALES TAX IMPOSED ON ACCOMMODATIONS, SO AS TO PROVIDE THAT THE TAX DOES NOT APPLY TO GROSS PROCEEDS FROM RENTALS RECEIVED BY PERSONS RENTING THEIR PERSONAL RESIDENCE FOR FEWER THAN FIFTEEN DAYS TOTAL IN A YEAR AND IF THE GROSS PROCEEDS OF THE RENTAL INCOME ARE EXCLUDED FROM FEDERAL TAXABLE INCOME PURSUANT TO THE PROVISIONS OF SECTION 280A(g) OF THE INTERNAL REVENUE CODE OF 1986; TO AMEND SECTION 12-37-220, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO INCLUDE CERTAIN RELIGIOUS TRUSTS IN EXEMPTING PROPERTY USED FOR THE HOLDING OF ITS MEETINGS WHEN NO PROFIT OR BENEFIT INURES TO THE BENEFIT OF ANY STOCKHOLDER OR INDIVIDUAL; TO AMEND SECTION 12-24-40, RELATING TO EXEMPTIONS FROM DEED RECORDING FEES, SO AS TO EXEMPT TRANSFERS FROM A TRUST ESTABLISHED FOR THE BENEFIT OF A RELIGIOUS ORGANIZATION TO THE RELIGIOUS ORGANIZATION; AND TO AMEND SECTION 12-43-220, AS AMENDED, RELATING TO THE FOUR PERCENT SPECIAL ASSESSMENT RATIO, SO AS TO PROVIDE THAT AN ELIGIBILITY PROVISION REQUIRING A CERTAIN OWNERSHIP PERCENTAGE DOES NOT APPLY IF THE PROPERTY IS HELD BY A TRUST, FAMILY LIMITED PARTNERSHIP, OR LIMITED LIABILITY COMPANY UNDER CERTAIN SITUATIONS, AND TO PROVIDE THAT IF A PERSON RESIDES IN A MOBILE HOME OR SINGLE FAMILY RESIDENCE AND ONLY RENTS A PORTION OF THE MOBILE HOME OR SINGLE FAMILY RESIDENCE TO ANOTHER INDIVIDUAL AS A RESIDENCE, THE PERSON MAY CLAIM THE FOUR PERCENT ASSESSMENT RATIO.

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

Eligibility of four percent assessment ratio, rental of residence

SECTION 1. A. Section 12-43-220(c)(2)(iv) of the 1976 Code is amended by adding a new paragraph before the last undesignated paragraph to read:

"If the owner or the owner's agent has made a proper certificate as required pursuant to this subitem and the owner is otherwise eligible, the owner is deemed to have met the burden of proof and is allowed the four percent assessment ratio allowed by this item, if the residence that is the subject of the application is not rented for more than seventy-two days in a calendar year. For purposes of determining eligibility, rental income, and residency, the assessor annually may require a copy of applicable portions of the owner's federal and state tax returns, as well as the Schedule E from the applicant's federal return for the applicable tax year."

B. Section 12-43-220(c) of the 1976 Code is amended by deleting subitem (7) which reads:

"(7) Notwithstanding any other provision of law, the owner-occupant of a legal residence is not disqualified from receiving the four percent assessment ratio allowed by this item, if the taxpayer's residence meets the requirements of Internal Revenue Code Section 280A(g) as defined in Section 12-6-40(A) and the taxpayer otherwise is eligible to receive the four percent assessment ratio."

C. This section takes effect upon approval by the Governor and applies to property tax years beginning after property tax year 2013.

Verification of federal Schedule E

SECTION 2. Section 12-54-240(B) of the 1976 Code, as last amended by Act 80 of 2013, is further amended by adding an appropriately numbered item at the end to read:

"( ) verification that the federal Schedule E filed with the department is the same as the Schedule E required by the assessor pursuant to Section 12-43-220(c)."

Disallowance of accommodations tax on certain residential rentals

SECTION 3. Section 12-36-920(A) of the 1976 Code, as last amended by Act 56 of 2005, is further amended to read:

"(A) A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. This tax does not apply:

(1) where the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the individual's place of abode; or

(2) to gross proceeds from rental income wholly excluded from the gross income of the taxpayer pursuant to Internal Revenue Code Section 280A(g) as that code is defined in Section 12-6-40(A).

The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of ninety continuous days are not considered proceeds from transients. The tax imposed by this subsection does not apply to additional guest charges as defined in subsection (B)."

Property tax exemption and deed recording fee exemption for certain trusts benefitting a religious organization

SECTION 4. A. Section 12-37-220(B)(16) of the 1976 Code is amended to read:

"(16)(a) The property of any religious, charitable, eleemosynary, educational, or literary society, corporation, trust, or other association, when the property is used by it primarily for the holding of its meetings and the conduct of the business of the society, corporation, trust, or association and no profit or benefit there from inures to the benefit of any private stockholder or individual.

(b) The property of any religious, charitable, or eleemosynary society, corporation, trust, or other association when the property is acquired for the purpose of building or renovating residential structures on it for not-for-profit sale to economically disadvantaged persons. The total properties for which the religious, charitable, or eleemosynary society, corporation, trust, or other association may

claim this exemption in accordance with this paragraph may not exceed fifty acres per county within the State.

(c) The exemption allowed pursuant to subitem (a) of this item extends to real property owned by an organization described in subitem (a) and which qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3), when the real property is held for a future use by the organization that would qualify for the exemption allowed pursuant to subitem (a) of this item or held for investment by the organization in sole pursuit of the organization's exempt purposes and while held this real property is not rented or leased for a purpose unrelated to the exempt purposes of the organization and the use of the real property does not inure to the benefit of any private stockholder or individual. Real property donated to the organization which receives the exemption allowed pursuant to this subitem is allowed the exemption for no more than three consecutive property tax years. If real property acquired by the organization by purchase receives the exemption allowed pursuant to this subitem and is subsequently sold without ever having been put to the exempt use, the exemption allowed pursuant to this subitem is deemed terminated as of December thirty-first preceding the year of sale and the property is subject to property tax for the year of sale to which must be added a recapture amount equal to the property tax that would have been due on the real property for not more than the four preceding years in which the real property received the exemption allowed pursuant to this subitem. The recapture amount is deemed property tax for all purposes for payment and collection.

(d) To qualify for the exemption allowed by this item, a trust must be a trust that is established solely for the benefit of a religious organization."

B. Section 12-24-40(8) of the 1976 Code is amended to read:

"(8) transferring realty to a corporation, a partnership, or a trust as a stockholder, partner, or trust beneficiary of the entity or so as to become a stockholder, partner, or trust beneficiary of the entity as long as no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in the stock or interest held by the grantor. However, except for transfers from one family trust to another family trust without consideration or transfers from a trust established for the benefit of a religious organization to the religious organization, the transfer of realty from a corporation, a partnership, or a trust to a

stockholder, partner, or trust beneficiary of the entity is subject to the fee, even if the realty is transferred to another corporation, a partnership, or trust;"

C. This section takes effect upon approval by the Governor and applies to property tax years beginning after 2013.

Ownership percentage not required for four percent assessment in certain circumstances

SECTION 5. A. Section 12-43-220(c)(8) of the 1976 Code is amended to read:

"(8)(i) For ownership interests in residential property created by deed if the interest in the property has not already transferred by operation of law, when the individual claiming the special four percent assessment ratio allowed by this item has an ownership interest in the residence that is less than fifty percent ownership in fee simple, then the value of the residence allowed the special four percent assessment ratio is a percentage of that value equal to the individual's ownership interest in the residence, but not less than the amount provided pursuant to subitem (4) of this item. This subitem (8) does not apply in the case of a residence otherwise eligible for the special four percent assessment ratio when occupied jointly by a married couple or which remains occupied by a spouse legally separated from a spouse who has abandoned the residence. If the special four percent assessment ratio allowed by this item applies to only a fraction of the value of residence, then the exemption allowed pursuant to Section 12-37-220(B)(47) applies only to value attributable to the taxpayer's ownership interest.

(ii) Notwithstanding subsubitem (i), for ownership interests in residential property created by deed if the interest in the property has not already transferred by operation of law, an applicant may qualify for the four percent assessment ratio on the entire value of the property if the applicant:

(A) owns at least a twenty-five percent interest in the subject property with immediate family members;

(B) is not a member of a household currently receiving the four percent assessment ratio on another property; and

(C) otherwise qualifies for the four percent assessment ratio.

(iii) This subitem (8) does not apply to property held exclusively by:

(A) an applicant, or the applicant and the applicant's spouse;

(B) a trust if the person claiming the special four percent assessment ratio is the grantor or settlor of the trust, and the only beneficiaries of the trust are the grantor or settlor and any parent, spouse, child, grandchild, or sibling of the grantor or settlor;

(C) a family limited partnership if the person claiming the special four percent assessment ratio transferred the subject property to the partnership, and the only members of the partnership are the person and the person's parents, spouse, children, grandchildren, or siblings;

(D) a limited liability company if the person claiming the special four percent assessment ratio transferred the subject property to the limited liability company, and the only members of the limited liability company are the person and the person's parents, spouse, children, grandchildren, or siblings; or

(E) any combination thereof.

The exception contained in this subsubitem (iii) does not apply if the applicant does not otherwise qualify for the four percent assessment ratio, including the requirement that the applicant, nor any member of the applicant's household, claims the four percent assessment ratio on another residence.

For purposes of this subitem (8), 'immediate family member' means a parent, child, or sibling."

B. This section takes effect upon approval by the Governor and applies to property tax years beginning after 2011. If the property tax assessor determines that a person denied the four percent special assessment ratio in property tax year 2012 or 2013 now qualifies pursuant to the provisions of this section, the person must be refunded any property taxes paid in excess of the amount owed.

Eligibility of four percent assessment ratio, rental of portion of residence

SECTION 6. Section 12-43-220(c)(1) of the 1976 Code is amended to read:

"(c)(1) The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property. If residential real property is held in trust and the income beneficiary of the trust

occupies the property as a residence, then the assessment ratio allowed by this item applies if the trustee certifies to the assessor that the property is occupied as a residence by the income beneficiary of the trust. When the legal residence is located on leased or rented property and the residence is owned and occupied by the owner of a residence on leased property, even though at the end of the lease period the lessor becomes the owner of the residence, the assessment for the residence is at the same ratio as provided in this item. If the lessee of property upon which he has located his legal residence is liable for taxes on the leased property, then the property upon which he is liable for taxes, not to exceed five acres contiguous to his legal residence, must be assessed at the same ratio provided in this item. If this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties. However, if the person claiming the four percent assessment ratio resides in the mobile home or single family residence and only rents a portion of the mobile home or single family residence to another individual as a residence, the foregoing provision does not apply and the four percent assessment ratio must be applied to the entire mobile home or single family residence. For purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner-applicant."

Time effective

SECTION 7. Except where otherwise provided, this act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 260

(R270, S459)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-5-3890 SO AS TO DEFINE CERTAIN TERMS RELATED TO THE USE AND

OPERATION OF A WIRELESS ELECTRONIC COMMUNICATION DEVICE, TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO USE A WIRELESS ELECTRONIC COMMUNICATION DEVICE TO COMPOSE, SEND, OR READ A TEXT-BASED COMMUNICATION WHILE OPERATING A MOTOR VEHICLE ON THE PUBLIC HIGHWAYS OF THIS STATE, TO PROVIDE EXCEPTIONS TO THIS PROHIBITION, TO PROVIDE A PENALTY FOR A VIOLATION OF THIS SECTION, TO PROVIDE THAT A VIOLATION OF THIS SECTION MUST NOT BE INCLUDED IN THE OFFENDER'S MOTOR VEHICLE RECORD OR REPORTED TO HIS MOTOR VEHICLE INSURER, TO PROVIDE THAT LAW ENFORCEMENT OFFICERS SHALL ISSUE ONLY WARNINGS FOR VIOLATIONS OF THIS SECTION DURING THE FIRST ONE HUNDRED EIGHTY DAYS AFTER ITS EFFECTIVE DATE, TO PLACE CERTAIN RESTRICTIONS ON LAW ENFORCEMENT OFFICERS WHO ENFORCE THIS SECTION, TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO MAINTAIN STATISTICAL INFORMATION REGARDING CITATIONS ISSUED PURSUANT TO THIS SECTION, AND TO PROVIDE THAT THIS SECTION PREEMPTS ALL ORDINANCES, REGULATIONS, AND RESOLUTIONS ADOPTED BY LOCAL GOVERNMENTAL ENTITIES REGARDING PERSONS USING WIRELESS ELECTRONIC COMMUNICATION DEVICES WHILE OPERATING MOTOR VEHICLES ON THE PUBLIC HIGHWAYS OF THIS STATE.

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

Unlawful use of a wireless electronic communication device while operating a motor vehicle

SECTION 1. Article 31, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-3890. (A) For purposes of this section:

(1) 'Hands-free wireless electronic communication device' means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text-messaging device, or a computer, which allows a person to wirelessly communicate with another person without holding the device in either hand by utilizing an internal

feature or function of the device, an attachment, or an additional device. A hands-free wireless electronic communication device may require the use of either hand to activate or deactivate an internal feature or function of the device.

(2) 'Text-based communication' means a communication using text-based information, including, but not limited to, a text message, an SMS message, an instant message, or an electronic mail message.

(3) 'Wireless electronic communication device' means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text-messaging device, or a computer, which allows a person to wirelessly communicate with another person.

(B) It is unlawful for a person to use a wireless electronic communication device to compose, send, or read a text-based communication while operating a motor vehicle on the public streets and highways of this State.

(C) This section does not apply to a person who is:

(1) lawfully parked or stopped;

(2) using a hands-free wireless electronic communication device;

(3) summoning emergency assistance;

(4) transmitting or receiving data as part of a digital dispatch system;

(5) a public safety official while in the performance of the person's official duties; or

(6) using a global positioning system device or an internal global positioning system feature or function of a wireless electronic communication device for the purpose of navigation or obtaining related traffic and road condition information.

(D)(1) A person who is adjudicated to be in violation of the provisions of this section must be fined not more than twenty-five dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this section. A person must not be fined more than fifty dollars for any one incident of one or more violations of the provisions of this section. A custodial arrest for a violation of this section must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of this section does not constitute a criminal offense. Notwithstanding Section 56-1-640, a violation of this section must not be:

(a) included in the offender's motor vehicle records maintained by the Department of Motor Vehicles or in the criminal records maintained by SLED; or

(b) reported to the offender's motor vehicle insurer.

(2) During the first one hundred eighty days after this section's effective date, law enforcement officers shall issue only warnings for violations of this section.

(E) A law enforcement officer shall not:

(1) stop a person for a violation of this section except when the officer has probable cause that a violation has occurred based on the officer's clear and unobstructed view of a person who is using a wireless electronic communication device to compose, send, or read a text-based communication while operating a motor vehicle on the public streets and highways of this State;

(2) seize, search, view, or require the forfeiture of a wireless electronic communication device because of a violation of this section;

(3) search or request to search a motor vehicle, driver, or passenger in a motor vehicle, solely because of a violation of this section; or

(4) make a custodial arrest for a violation of this section, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine.

(F) The Department of Public Safety shall maintain statistical information regarding citations issued pursuant to this section.

(G) This section preempts local ordinances, regulations, and resolutions adopted by municipalities, counties, and other local governmental entities regarding persons using wireless electronic communication devices while operating motor vehicles on the public streets and highways of this State."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 261

(R280, S985)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 8 TO CHAPTER 1, TITLE 6, SO AS TO ENACT THE "FAIRNESS IN LODGING ACT", TO ALLOW MUNICIPALITIES AND COUNTIES BY ORDINANCE TO IMPLEMENT ADDITIONAL ENFORCEMENT PROVISIONS FOR THE LOCAL ACCOMMODATIONS TAX AS THOSE PROVISIONS APPLY TO THE OWNERS OF RESIDENTIAL REAL PROPERTY WHO RENT THE PROPERTY TO TOURISTS, INCLUDING DATA SHARING WITH THE SOUTH CAROLINA DEPARTMENT OF REVENUE, SPECIFIC NOTICE TO PROPERTY OWNERS INCLUDED IN PROPERTY TAX BILLS, AN ADDITIONAL PENALTY THAT MAY BE IMPOSED FOR NONCOMPLIANCE AFTER THE RECEIPT OF SUCH A NOTICE, AND DIRECTIONS TO THE SOUTH CAROLINA DEPARTMENT OF REVENUE TO IDENTIFY "RENTAL BY OWNER" WEBSITES ADVERTISING TOURISTS RENTALS AND REQUEST THEM TO POST ON THE WEBSITES A STATEMENT REGARDING THE LEGAL OBLIGATIONS OF THE OWNERS OF PROPERTY IN THIS STATE LISTED ON THE WEBSITE, TO PAY ALL APPLICABLE LOCAL AND STATE TAXES AND FEES WITH RESPECT TO SUCH RENTALS; AND TO AMEND SECTIONS 6-1-120, 12-54-240, AS AMENDED, AND 12-4-310, RELATING RESPECTIVELY TO THE CONFIDENTIALITY OF LOCAL AND STATE TAX DATA AND EXCEPTIONS THERETO, AND THE DUTIES OF THE SOUTH CAROLINA DEPARTMENT OF REVENUE, SO AS TO CONFORM THEM TO THE PROVISIONS OF THIS ACT.

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

Fairness in Lodging Act

SECTION 1. Chapter 1, Title 6 of the 1976 Code is amended by adding:

"Article 8

Fairness in Lodging Act

Section 6-1-810.(A) This article may be cited as the 'Fairness in Lodging Act'.

(B) The General Assembly finds that:

(1) providing lodging accommodations for tourists is a major business in this State;

(2) there are instances where individuals who rent residential accommodations to tourists are failing to collect and remit the local accommodations tax imposed pursuant to Article 5 of this chapter and the state sales tax on accommodations imposed pursuant to Section 12-36-920;

(3) those who fail to collect and remit local and state taxes on providing accommodations to transients are competing unfairly against those who dutifully meet these legal obligations;

(4) by the enactment of the Fairness in Lodging Act, municipalities and counties are provided the option to exercise additional enforcement authority with respect to these taxes and to engage in active cooperation with the South Carolina Department of Revenue in data sharing, to provide comprehensive enforcement of the applicable accommodations tax laws so as to promote a more equal competitive playing field for those engaged in this State in the business of renting accommodations to tourists.

Section 6-1-815. (A) The governing body of a municipality or county by ordinance may implement the provisions of this article if it imposes the local accommodations tax provided pursuant to Article 5 of this title. This article applies in the applicable jurisdiction when a certified copy of the implementation ordinance is provided to the Director of the South Carolina Department of Revenue.

(B) The provisions of this article do not apply to any residential real property lawfully assessed for property tax purposes pursuant to Section 12-43-220(c) when all rental income on the property is not included in gross income for federal income tax purposes pursuant to Internal Revenue Code Section 280A(g).

Section 6-1-820. (A) When the provisions of this article apply in an implementing jurisdiction, the South Carolina Department of Revenue, and the implementing jurisdiction using returns and copies of returns and other documents filed with or otherwise available to them shall

share data helpful to both the department and the implementing jurisdiction in determining possible instances of noncompliance.

(B) Implementing jurisdictions shall include or cause to be included notices in annual property tax notices for parcels of residential real property assessed for property tax purposes pursuant to Section 12-43-220(e) as the implementing jurisdiction determines appropriate. These notices must provide details of local accommodations tax and state sales tax on accommodations required to be paid by persons renting residential real property to tourists in the implementing jurisdiction and the intention of the implementing jurisdiction vigorously to enforce these requirements. Details must include specific information on obtaining additional information with respect to these requirements and the names, addresses, and telephone numbers of officials of implementing jurisdictions that are able to answer questions, provide forms, and assist in compliance. Counties must be reimbursed by implementing municipalities for extra expenses incurred by a county in providing these notices.

(C) In addition to other penalties and interest imposed by the ordinance of an implementing jurisdiction for failure to comply with local accommodations tax requirements imposed pursuant to Article 5 of this chapter required of owners in the business of renting residential accommodations to tourists, the jurisdiction may impose, with respect to a single rental property, a one-time civil penalty for noncompliance for failure to collect and remit local accommodations tax of not less than five hundred dollars nor more than two thousand dollars for each seven days the property was rented. This additional penalty may not be imposed unless the owner has received the notice provided pursuant to subsection (B). For purposes of enforcement and collection, this penalty is deemed property tax on the rental property.

Section 6-1-825. The South Carolina Department of Revenue shall identify websites containing ‘rent by owner’ vacation rental opportunities and request them to post a statement on the website that the owner of South Carolina rental properties is required to be licensed and to collect applicable local and state fees and taxes.”

Enforcement, sharing of data

SECTION 2. Section 6-1-120(B)(3) of the 1976 Code is amended to read:

"(3) sharing of data between public officials or employees in the performance of their duties, including the specific sharing of data as provided in Article 8 of this chapter, the Fairness in Lodging Act."

Data sharing allowed

SECTION 3. Section 12-54-240(B)(13) of the 1976 Code is amended to read:

"(13) disclosure and data sharing as provided pursuant to Article 8, Chapter 1, Title 6, the Fairness in Lodging Act;"

Duties of the Department of Revenue

SECTION 4. Section 12-4-310 of the 1976 Code is amended to read:

"Section 12-4-310. The department shall:

(1) hold meetings, as considered necessary. The department may hold meetings, transact business, or conduct investigations at any place necessary; however, its primary office is in Columbia;

(2) formulate and recommend legislation to enhance uniformity, enforcement, and administration of the tax laws, and secure just taxation and improvements in the system of taxation;

(3) consult and confer with the Governor upon the subject of taxation, the administration of the laws, and the progress of the work of the department, and furnish the Governor reports, assistance, and information he may require;

(4) prepare and publish, annually, statistics reasonably available with respect to the operation of the department, including amounts collected, and other facts it considers pertinent and valuable;

(5) make available to the authorities of a political subdivision information reported to the department pursuant to the requirements of Chapter 36 of this title of businesses licensed under Section 12-36-510 in the requesting political subdivision;

(6) hire all necessary personnel, including officers, agents, deputies, experts, and assistants, and assign to them duties and powers as the department prescribes;

(7) require those of its officers, agents, and employees it designates to give bond for the honest performance of their duties in the sum and with the sureties it determines; and all premiums on the bonds must be paid by the department;

(8) pay travel expenses, purchase, or lease all necessary facilities, equipment, books, periodicals, and supplies for the performance of its duties;

(9) exercise and perform other powers and duties as granted to it or imposed upon it by law;

(10) make available to the authorities of a municipality or county in this State levying a tax based on gross receipts or net taxable sales, any records indicating the amount of gross receipts or net taxable sales reported to the department; provided, however, that income tax records may be made available only if the department first has satisfied itself that the gross receipts reported to the municipality or county were less than the gross receipts as indicated by the records of the department; and

(11) provide data and assistance to municipalities and counties in which Article 8, Chapter 1, Title 6, the Fairness in Lodging Act, is implemented."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 262

(R282, S988)

AN ACT TO AMEND SECTION 27-2-105, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DUTIES OF THE SOUTH CAROLINA GEODETIC SURVEY (SCGS) WITH RESPECT TO DETERMINING COUNTY BOUNDARIES, SO AS TO AUTHORIZE THE SCGS TO CLARIFY COUNTY BOUNDARIES AND MEDIATE BOUNDARY DISPUTES BETWEEN COUNTIES BY PROVIDING A PROCEDURE ALLOWING THE SCGS ADMINISTRATIVELY TO ADJUST COUNTY BOUNDARIES, TO PROVIDE THE PROCEDURES INCLUDING NOTICE THAT SCGS MUST FOLLOW IN MAKING SUCH ADJUSTMENTS, TO PROVIDE THAT

AFFECTED PARTIES MAY FILE A REQUEST FOR A CONTESTED CASE ON THESE ADJUSTMENTS TO THE ADMINISTRATIVE LAW COURT, PROVIDE THE TIME WITHIN WHICH SUCH A REQUEST MUST BE FILED, AND PROVIDE FOR FURTHER APPEALS, TO PROVIDE THE METHOD OF DETERMINING THE EFFECTIVE DATE OF THESE ADMINISTRATIVE COUNTY BOUNDARY ADJUSTMENTS AND THE NOTICE REQUIREMENTS FOR THESE ADJUSTMENTS TO BE EFFECTIVE, AND TO PROVIDE THAT NOTHING CONTAINED IN THIS ADMINISTRATIVE PROCESS RESTRICTS THE AUTHORITY OF THE GENERAL ASSEMBLY BY LEGISLATIVE ENACTMENT TO ADJUST OR OTHERWISE CLARIFY COUNTY BOUNDARIES BY LEGISLATIVE ENACTMENT.

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

Findings

SECTION 1. (A) The General Assembly finds:

(1) that exact and precise locations of boundaries of this state's political subdivisions are critical for the efficient provision of services, enforcement of property rights, and election of public officials;

(2) that the passage of time and growth in society has led to confusion over statutory county descriptions and the locations of county boundary lines;

(3) that technology now exists to cost-effectively provide definite and permanent markers of boundary lines;

(4) that it is necessary for the effective and efficient operation of state government and its political subdivisions that county boundaries are clearly and accurately determined as expeditiously as possible; and

(5) that the South Carolina Geodetic Survey is the appropriate instrument to vest with the necessary authority to resolve county boundary issues.

(B) The General Assembly further finds that it is appropriate statutorily to allow the South Carolina Geodetic Survey, with appropriate procedural safeguards, administratively to adjust or otherwise clarify disputed or unclear boundaries. However, in providing the statutory administrative process and procedural safeguards in the amendments to Section 27-2-105 of the 1976 Code as contained in this act, the General Assembly in no way restricts the

plenary authority of the General Assembly by legislative enactment to adjust or otherwise clarify existing county boundaries.

Clarification of county boundaries, role of South Carolina Geodetic Survey

SECTION 2. Section 27-2-105 of the 1976 Code is amended to read:

"Section 27-2-105. (A)(1) Where county boundaries are ill-defined, unmarked, or poorly marked, the South Carolina Geodetic Survey on a cooperative basis shall assist counties in defining and monumenting the locations of county boundaries and positioning the monuments using geodetic surveys. The South Carolina Geodetic Survey (SCGS) shall seek to clarify the county boundaries as defined in Chapter 3, Title 4. The SCGS shall analyze archival and other evidence and perform field surveys geographically to position all county boundaries in accordance with statutory descriptions. Physical and descriptive points defining boundaries must be referenced using South Carolina State Plane Coordinates.

(2) If there is a boundary dispute between two or more counties, the SCGS shall act as the mediator to resolve the dispute.

(3) Upon reestablishing all, or some portion, of a county boundary, the SCGS shall certify its work and within thirty days of that certification:

(a) provide copies to the administrator of each affected county;

(b) provide written notification to affected parties;

(c) provide notice and copies to the public through its official website and or other means it considers appropriate; and

(d) notify as it determines appropriate, other affected state and federal agencies.

(4) For purposes of item (1), a certification for all or some portion of a county boundary means a plat signed and sealed by a licensed South Carolina Professional Land Surveyor and approved by the Chief of the SCGS.

(B)(1) An affected party disagreeing with a boundary certified by the SCGS may file a request for a contested case hearing with the South Carolina Administrative Law Court according to the court's rules of procedure. An affected party has sixty calendar days from the date of a written notice sent to the affected party to file an appeal with the Administrative Law Court.

(2) As used in this subsection an 'affected party' means:

(a) the governing body of an affected county;

(b) the governing body of a political subdivision of this State, including a school district, located in whole or in part in the certification zone;

(c) an elected official, other than a statewide elected official, whose electoral district is located in whole or in part in the certification zone;

(d) a property owner or an individual residing in the certification zone;

(e) a business entity located in the certification zone; or

(f) a nonresident individual who owns or leases real property situated in the certification zone.

(3) A 'certification zone' means the actual territory in which the boundary certification changes from one affected county to another.

(4) The decision of the Administrative Law Court may be appealed as provided in Section 1-23-610.

(5) The certified county boundary plat described in subsection (A)(4) of this section takes effect for all purposes on the date provided in item (6).

(6) When the certified boundary plat is no longer subject to appeal, the SCGS under cover of a letter signed by the Chief of the SCGS shall provide an appropriate revised boundary map to the Secretary of State, the South Carolina Department of Archives, and the register of deeds in each affected county. The date of the SCGS director's cover letter is the date the revised boundaries take effect.

(7) When all portions of a county boundary are resolved, the SCGS shall prepare a unique boundary description for counties with boundaries affected by the operation of this section and forward that description in a form suitable for the General Assembly to amend county boundaries as described in Chapter 3, Title 4.

(C) Nothing in this section may be construed as limiting or in any way restricting the plenary authority of the General Assembly by legislative enactment to adjust or otherwise clarify existing county boundaries, however, these boundaries may have been established."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 263

(R283, S1008)

AN ACT TO AMEND SECTION 9-8-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS PERTAINING TO THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, SO AS TO INCLUDE ADMINISTRATIVE LAW JUDGES IN THE DEFINITION OF "JUDGE"; TO AMEND SECTION 9-8-40, AS AMENDED, RELATING TO MEMBERSHIP IN THE SYSTEM, SO AS TO ALLOW ADMINISTRATIVE LAW JUDGES SERVING ON JULY 1, 2014, TO ELECT TO BECOME A MEMBER; TO AMEND SECTION 9-8-60, AS AMENDED, RELATING TO THE RETIREMENT OF MEMBERS OF THE SYSTEM, SO AS TO ALLOW A PERSON TO RECEIVE A RETIREMENT ALLOWANCE WHILE UNDER EMPLOYMENT BY ANOTHER SYSTEM; TO AMEND SECTION 9-8-120, AS AMENDED, RELATING TO A MEMBER OF THE SYSTEM RETURNING TO SERVICE, SO AS TO IMPOSE A TEN THOUSAND DOLLAR EARNING LIMITATION ON MEMBERS RETURNING TO EMPLOYMENT UNDER ANOTHER SYSTEM, AND TO PROVIDE EXCEPTIONS; AND TO REPEAL SECTION 9-8-65 RELATING TO RETIREMENT COMPENSATION WHILE EMPLOYED BY A PUBLIC INSTITUTION OF EDUCATION.

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

Definition

SECTION 1. Section 9-8-10(16) of the 1976 Code is amended to read:

"(16) 'Judge' means a justice of the Supreme Court or a judge of the court of appeals, circuit or family court of the State of South

Carolina. Subject to the provisions of Section 9-8-40, 'judge' also means an administrative law judge."

Administrative Law Judge may become a member of Retirement System for Judges and Solicitors

SECTION 2. Section 9-8-40(1) of the 1976 Code, as last amended by Act 108 of 2007, is further amended to read:

"(1) All persons who are judges or solicitors on July 1, 1979, and who have not attained age seventy-two shall become members of the system as of that date. All administrative law judges on July 1, 2014, who have not retired may elect to become a member of the system. Administrative law judges making that election may transfer prior service into the system as provided in Section 9-8-50, and to the extent the service thus transferred occurred after the member took office as an administrative law judge, that service is deemed earned service in the system. All other persons become members of the system on taking office as judge, solicitor, or circuit public defender before attaining age seventy-two."

Retirement allowance while employed under another system, earnings limitation, repeal

SECTION 3. A. Section 9-8-60(1) of the 1976 Code, as last amended by Act 278 of 2012, is further amended to read:

"(1) A member of the system may retire upon written application to the board setting forth at what time, not later than the end of the calendar year in which the member attains age seventy-two and not more than ninety days prior nor more than six months subsequent to the execution and filing thereof, the member desires to be retired, if the member at the time so specified for retirement is no longer in the service of the State, except as a member of the General Assembly or as allowed pursuant to subsection (7), and has completed ten years of earned service as a judge or eight years of earned service as a solicitor or circuit public defender or was in service as a judge or solicitor on July 1, 1984, and has either:

(a) attained the age of sixty-five and completed at least twenty years of credited service;

(b) attained age seventy and completed at least fifteen years of credited service; or

(c) completed at least twenty-five years of credited service in the system for a judge, or twenty-four years of credited service in the system for a solicitor or circuit public defender, regardless of age. A member may retire under this section if the member was a member of this system as of June 30, 2004; attained age sixty-five with at least four years' earned service in the position of judge, solicitor, or circuit public defender; and, as of June 30, 2004, had a total of twenty-five years of credited service with the State in the South Carolina Retirement System, the Police Officers Retirement System, or the Retirement System for Members of the General Assembly.

A person receiving retirement allowances under this system who is elected to the General Assembly continues to receive the retirement allowances while serving in the General Assembly, and also must be a member of the retirement system unless the person files a statement with the board on a form prescribed by the board electing not to participate in the applicable system while a member of the General Assembly. A person making this election shall not make contributions to the applicable retirement system nor shall the State make contributions on the member's behalf and the person is not entitled to benefits from the applicable retirement system after ceasing to be a member of the General Assembly."

B. Section 9-8-120(2) of the 1976 Code, as last amended by Act 108 of 2007, is further amended to read:

"(2)(a) A retired member of the system who has been retired for at least thirty consecutive calendar days may be hired and return to employment covered by the South Carolina Retirement System or the South Carolina Police Officers Retirement System and earn up to ten thousand dollars without affecting the monthly retirement allowance the member is receiving from the system. If the retired member continues in service after earning ten thousand dollars in a calendar year, the member's allowance must be discontinued during his period of service in the remainder of the calendar year. If a retired member of the system returns to employment covered by the South Carolina Retirement System or South Carolina Police Officers Retirement System sooner than thirty days after retirement, the member's retirement allowance is suspended while the member remains employed by the participating employer. If an employer fails to notify the system of the engagement of a retired member to perform services, the employer shall reimburse the system for all benefits wrongly paid to the retired member. If the beneficiary's return is as a member of the

General Assembly, retirement allowances continue as provided pursuant to Section 9-8-60(1).

(b) The earnings limitation imposed pursuant to this item does not apply if the member meets at least one of the following qualifications:

(i) the member retired before July 1, 2014;

(ii) the member had attained the age of sixty-two years at retirement; or

(iii) compensation received by the retired member from the covered employer is for service in a public office filled by the appointment of the Governor and with confirmation by the Senate, by appointment or election by the General Assembly, or by election of the qualified electors of the applicable jurisdiction.

(c) A member retiring before July 1, 2014, is not subject to the thirty-day separation from service requirement pursuant to this item and the retired member's retirement allowance is not suspended if the retired member returns to employment covered by the South Carolina Retirement System or the Police Officers' Retirement System sooner than thirty days after retirement.

(d) If a participating employer in the South Carolina Retirement System or the South Carolina Police Officers Retirement System employs a retired member of the system, the retired member and the participating employer shall pay to the South Carolina Retirement System or the South Carolina Police Officers Retirement System, as applicable, the employee and employer contributions, respectively, that would be required if the member were an active contributing member of the applicable system. A retired member so employed may not become a member of the South Carolina Retirement System or the South Carolina Police Officers Retirement System and does not accrue service credit in either system by reason of the contributions required pursuant to this subitem."

C. Section 9-8-65 of the 1976 Code is repealed.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 264

(R284, S1026)

AN ACT TO AMEND SECTION 29-5-440, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SUITS ON CONTRACTOR PAYMENT BONDS, SO AS TO PROVIDE THAT CERTAIN WRITTEN NOTICE REQUIRED OF A REMOTE CLAIMANT MUST BE SENT BY CERTIFIED OR REGISTERED MAIL AND MUST GENERALLY CONFORM WITH STATUTORY LIMITS ON THE AGGREGATE AMOUNT OF LIENS FILED BY A SUB-SUBCONTRACTOR OR SUPPLIER, TO PROVIDE ANY PAYMENT BOND SURETY FOR THE BONDED CONTRACTOR SHALL HAVE THE SAME RIGHTS AND DEFENSES OF THE BONDED CONTRACTOR, TO MAKE THE LANGUAGE APPLICABLE TO ANY PAYMENT BOND WHETHER PRIVATE, COMMON LAW, PUBLIC, OR STATUTORY IN NATURE, WHEN THE BONDS ARE NOT OTHERWISE REQUIRED OR GOVERNED BY STATUTE, AND TO PROVIDE NECESSARY DEFINITIONS; AND TO AMEND SECTION 11-1-120, RELATING TO SUITS ON PAYMENT BONDS AND REMOTE CLAIMANTS INVOLVING CONSTRUCTION CONTRACTS WITH THE STATE OR A POLITICAL SUBDIVISION OF THE STATE, SECTION 11-35-3030, RELATING TO CONTRACT PERFORMANCE PAYMENT BONDS UNDER THE CONSOLIDATED PROCUREMENT CODE, AND SECTION 57-5-1660, RELATING TO CONTRACTOR BONDS INVOLVING THE DEPARTMENT OF TRANSPORTATION, ALL SO AS TO MAKE CONFORMING CHANGES.

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

Notice for remote claimants, rights and defenses of payment bond sureties, definitions

SECTION 1. Section 29-5-440 of the 1976 Code is amended to read:

"Section 29-5-440. Every person who has furnished labor, material, or rental equipment to a bonded contractor or its subcontractors in the prosecution of work provided for in any contract for construction, and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or material or rental equipment was furnished or supplied by him for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of the institution of such suit and to prosecute such action to final execution and judgment for the sum or sums justly due him.

A remote claimant shall have a right of action on the payment bond only upon giving written notice by certified or registered mail to the bonded contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment upon which such claim is made. However, in no event shall the aggregate amount of any claim against such payment bond by a remote claimant exceed the amount due by the bonded contractor to the person to whom the remote claimant has supplied labor, materials, rental equipment, or services, unless the remote claimant has provided notice of furnishing labor, materials, or rental equipment to the bonded contractor. Such written notice to the bonded contractor must generally conform to the requirements of Section 29-5-20(B) and sent by certified or registered mail to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of its business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. After receiving the notice of furnishing labor, materials, or rental equipment, no payment by the bonded contractor shall lessen the amount recoverable by the remote claimant. However, in no event shall the aggregate amount of claims on the payment bond exceed the penal sum of the bond.

No suit under this section shall be commenced after the expiration of one year after the last date of furnishing or providing labor, services, materials, or rental equipment.

For purposes of this section, 'bonded contractor' means a contractor or subcontractor furnishing a payment bond, and 'remote claimant' means a person having a direct contractual relationship with a subcontractor or supplier of a bonded contractor, but no contractual relationship expressed or implied with the bonded contractor. Any

payment bond surety for the bonded contractor must have the same rights and defenses of the bonded contractor as provided in this section.

This section shall apply to any payment bond, whether statutory, public, common law, or private in nature, that is issued in connection with a construction project or other improvements to real property within South Carolina when such payment bonds are not otherwise required or governed by any other applicable section of the South Carolina Code of Laws.

For the purposes of this section:

(1) 'Statutory bonds' or 'public bonds' means bonds that are either:

(a) provided because required by statute and in accordance with the minimum guidelines set forth in this section; or

(b) contain either express or implied reference to the provisions of this section.

(2) 'Common law bonds' or 'private bonds' means bonds that are either:

(a) not required by statute, such as a bond voluntarily provided to meet a contractual agreement between parties; or

(b) required by statute but that specifically deviates from the statutory requirements to provide broader protection."

State and political subdivisions, conforming changes

SECTION 2. Section 11-1-120 of the 1976 Code is amended to read:

"Section 11-1-120. When the State or a county, city, public service district, or other political subdivision thereof, or other public entity contracts for construction and requires the person or entity performing the work to furnish a payment bond not governed by Section 11-35-3030(2)(c) or Section 57-5-1660(b), for the protection of persons who furnish labor, material, or rental equipment to the contractor or its subcontractors for the work specified in the contract, the following provisions shall apply.

Every person who has furnished labor, material, or rental equipment to a bonded contractor or its subcontractors in the prosecution of the work provided for in the contract for construction, and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or material or rental equipment was furnished or supplied by him for which such claim is made, shall have the right to sue on such bond for the amount, or the balance thereof, unpaid at the time of the

institution of such suit and to prosecute such action to final execution and judgment for the sum or sums justly due him.

A remote claimant shall have a right of action on the payment bond only upon giving written notice by certified or registered mail to the bonded contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment upon which such claim is made. However, in no event shall the aggregate amount of any claim against such payment bond by a remote claimant exceed the amount due by the bonded contractor to the person to whom the remote claimant has supplied labor, materials, rental equipment, or services, unless the remote claimant has provided notice of furnishing labor, materials, or rental equipment to the bonded contractor. Such written notice to the bonded contractor must generally conform to the requirements of Section 29-5-20(B) and sent by certified mail or registered mail to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of its business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. After receiving the notice of furnishing labor, materials, or rental equipment, no payment by the bonded contractor shall lessen the amount recoverable by the remote claimant. However, in no event shall the aggregate amount of claims on the payment bond exceed the penal sum of the bond.

No suit under this section shall be commenced after the expiration of one year after the last date of providing or furnishing labor, materials, rental equipment, or services.

For purposes of this section, 'bonded contractor' means a contractor or subcontractor furnishing a payment bond, and 'remote claimant' means a person having a direct contractual relationship with a subcontractor or supplier of a bonded contractor, but no contractual relationship expressed or implied with the bonded contractor. Any payment bond surety for the bonded contractor must have the same rights and defenses of the bonded contractor as provided in this section.

If the State, or county, city, public service district, or other political subdivision of the State, or other public entity contracts for construction and requires the contractor to furnish a payment bond pursuant to this section, the State, political subdivision of this State, or other public entity of this State may not exact that the payment bond be furnished by a particular surety company or through a particular agent or broker."

Consolidated procurement code, conforming changes

SECTION 3. Section 11-35-3030(2)(c) of the 1976 Code is amended to read:

"(c) Suits on Payment Bonds-Right to Institute. A person who has furnished labor, material, or rental equipment to a bonded contractor or his subcontractors for the work specified in the contract, and who has not been paid in full for it before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by the person or material or rental equipment was furnished or supplied by the person for which the claim is made, has the right to sue on the payment bond for the amount, or the balance of it, unpaid at the time of institution of the suit and to prosecute the action for the sum or sums justly due the person. A remote claimant has a right of action on the payment bond only upon giving written notice to the contractor within ninety days from the date on which the person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment upon which the claim is made, stating with substantial accuracy the amount claimed as unpaid and the name of the party to whom the material or rental equipment was furnished or supplied or for whom the labor was done or performed. The written notice to the bonded contractor must be served personally or served by mailing the notice by registered or certified mail, postage prepaid, in an envelope addressed to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of its business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. The aggregate amount of a claim against the payment bond by a remote claimant may not exceed the amount due by the bonded contractor to the person to whom the remote claimant has supplied labor, materials, rental equipment, or services, unless the remote claimant has provided notice of furnishing labor, materials, or rental equipment to the bonded contractor. The written notice to the bonded contractor must generally conform to the requirements of Section 29-5-20(B) and sent by certified or registered mail to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of its business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. After receiving the notice of furnishing labor, materials, or rental equipment, payment by the bonded contractor may not lessen the amount recoverable by the remote claimant. The aggregate amount of claims on the payment bond may not exceed the

penal sum of the bond. A suit under this section must not be commenced after the expiration of one year after the last date of furnishing or providing labor, services, materials, or rental equipment.

For purposes of this section, 'bonded contractor' means the contractor or subcontractor furnishing the payment bond, and 'remote claimant' means a person having a direct contractual relationship with a subcontractor or supplier of a bonded contractor, but no expressed or implied contractual relationship with the bonded contractor. Any payment bond surety for the bonded contractor must have the same rights and defenses of the bonded contractor as provided in this section."

Department of Transportation, conforming changes

SECTION 4. Section 57-5-1660(b) of the 1976 Code is amended to read:

"(b) Every person who has furnished labor, material, or rental equipment in the prosecution of the work provided for in such contract, in respect of which such a bond has been furnished under this section and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or material or rental equipment was furnished or supplied by him for which such claim is made, shall have the right to sue on such bond for the amount, or the balance thereof, unpaid at the time of the institution of such suit and to prosecute such action to final execution and judgment for the sum or sums justly due him. A remote claimant shall have a right of action upon the bond only upon giving written notice by certified or registered mail to the contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material or rental equipment for which claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom material or rental equipment was furnished or supplied or for whom labor was done or performed. However, in no event shall the aggregate amount of any claim against such payment bond by a remote claimant exceed the amount due by the bonded contractor to the person to whom the remote claimant has supplied labor, materials, rental equipment, or services, unless the remote claimant has provided notice of furnishing labor, materials, or rental equipment to the bonded contractor. Such written notice to the bonded contractor must generally conform to the requirements of Section 29-5-20(B) and sent by

certified or registered mail to the bonded contractor at any place the bonded contractor maintains a permanent office for the conduct of his business, or at the current address as shown on the records of the Department of Labor, Licensing and Regulation. After receiving the notice of furnishing labor, materials, or rental equipment, no payment by the bonded contractor shall lessen the amount recoverable by the remote claimant. However, in no event shall the aggregate amount of claims on the payment bond exceed the penal sum of the bond.

For purposes of this section, 'bonded contractor' means the contractor or subcontractor furnishing the payment bond, and 'remote claimant' means a person having a direct contractual relationship with a subcontractor or supplier, but no contractual relationship expressed or implied with the bonded contractor. No suit under this section shall be commenced after the expiration of one year after the date of the final settlement of the contract. Any payment bond surety for the bonded contractor must have the same rights and defenses of the bonded contractor as provided in this section."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 265

(R285, S1099)

AN ACT TO AMEND SECTION 41-27-260, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXEMPTIONS FROM THE DEFINITION OF EMPLOYMENT FOR UNEMPLOYMENT BENEFIT PURPOSES, SO AS TO PROVIDE EXEMPTIONS FOR MOTOR CARRIERS THAT USE INDEPENDENT CONTRACTORS AND INDIVIDUALS TRANSPORTING VEHICLES FOR AUTOMOBILE DEALERS UNDER CERTAIN CIRCUMSTANCES.

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

Exemptions for motor carriers using independent contractors and automobile transports for dealers

SECTION 1. Section 41-27-260 of the 1976 Code, as last amended by Act 63 of 2011, is further amended by adding appropriately numbered items at the end to read:

"(19) An individual or entity who owns, or holds under a bona fide lease purchase or installment-purchase agreement, a tractor trailer, tractor, or other vehicle and who, under a valid independent contractor contract provides services as a driver of the tractor trailer, tractor, or other vehicle to a motor carrier.

(20) An individual performing a service for an automobile dealer related to the transportation of individual vehicles to purchasers or sellers of vehicles, including, but not limited to, when:

(a) an automobile auction is the purchaser, seller, or both;

(b) the contract of service contemplates that the service is to be performed personally by the individual;

(c) the individual does not own the vehicle used in connection with the performance of the service;

(d) the service is in the nature of a single transaction with no guarantee of a continuing relationship with the automobile dealer for whom the service is performed; or

(e) any combination of subitems (a) through (d)."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 266

(R286, S1100)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41-27-265 SO AS TO

EXEMPT CORPORATE OFFICERS FROM UNEMPLOYMENT BENEFITS UNLESS THE EMPLOYER ELECTS COVERAGE PURSUANT TO SPECIFIED PROCEDURES, AND TO COMPLY WITH FEDERAL MANDATES BY PROVIDING EXEMPTIONS FOR INDIVIDUALS EMPLOYED BY AN INDIAN TRIBE AND FOR INDIVIDUALS EMPLOYED BY ORGANIZATIONS THAT ARE RELIGIOUS, CHARITABLE, OR EDUCATIONAL IN NATURE, OR AS OTHERWISE DEFINED BY FEDERAL LAW.

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

Corporate officers exempt absent employer election, procedure, exceptions

SECTION 1. Article 3, Chapter 27, Title 41 of the 1976 Code is amended by adding:

"Section 41-27-265. (A) Solely for purposes of this title, services performed by a person appointed or otherwise serving as an officer for a corporation pursuant to Article 4, Chapter 8, Title 33 shall not be considered services in employment. However, a corporation may elect to cover not less than all of its corporate officers under subsection (B). If an employer does not elect to cover its corporate officers under subsection (B), the employer must notify its corporate officers in writing that they are ineligible for unemployment benefits. However, if the employer fails to provide notice, the individual's status as a corporate officer is unchanged and the person remains ineligible for unemployment benefits.

(B) An employer may elect to cover its corporate officers by providing the department with a written election that all services performed by its corporate officers shall be deemed to constitute employment for all purposes related to Chapters 27 through 41 of this title for at least two calendar years. Upon written approval of the election by the department, the services shall be deemed to constitute employment for purposes of Chapters 27 through 41 of this title on and after the date of approval. Services covered under this subsection shall cease to be deemed employment as of January first of any calendar year subsequent to the two calendar year period, only if the employer files a written application for termination of coverage with the department before January fifteenth of that year.

(C)(1) Services performed by an individual employed by a religious, charitable, educational, or other organization which is excluded from the term 'employment' as defined in the federal Unemployment Tax Act solely by reason of 26 U.S.C. Section 3306(c)(8) of that act are not subject to the provisions of this section.

(2) Services performed by an individual employed by an Indian tribe, as defined in 26 U.S.C. Section 3306(u) of the federal Unemployment Tax Act, provided that the service is excluded from the term 'employment' as defined in the federal Unemployment Tax Act solely by reason of 26 U.S.C. Section 3306(c)(7) of that act are not subject to the provisions of this section."

Time effective

SECTION 2. This act takes effect January 1, 2015.

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 267

(R291, H3021)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 57 TO TITLE 11 SO AS TO ENACT THE IRAN DIVESTMENT ACT OF 2014 AND TO PROHIBIT CERTAIN INVESTMENTS AND CONTRACTS WITH PERSONS DEEMED TO BE ENGAGING IN INVESTMENT ACTIVITIES IN IRAN.

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

Iran Divestment Act

SECTION 1. Title 11 of the 1976 Code is amended by adding:

"CHAPTER 57

Iran Divestment Act

Article 1

General Provisions

Section 11-57-10. This chapter may be cited as the 'Iran Divestment Act of 2014'.

Section 11-57-20. The General Assembly finds that:

(1) Congress and the President have determined that the illicit nuclear activities of the Government of Iran, combined with its development of unconventional weapons and ballistic missiles, and its support of international terrorism, represent a serious threat to the security of the United States, Israel, and other United States allies in Europe, the Middle East, and around the world.

(2) The International Atomic Energy Agency has repeatedly called attention to Iran's unlawful nuclear activities, and, as a result, the United Nations Security Council has adopted a range of sanctions designed to encourage the Government of Iran to cease those activities and comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons.

(3) On July 1, 2010, President Barack Obama signed into law H.R. 2194, the 'Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010' (Public Law 111-195), which expressly authorizes states and local governments to prevent investment in, including prohibiting entry into or renewing contracts with, companies operating in Iran's energy sector with investments that have the result of directly or indirectly supporting the efforts of the Government of Iran to achieve nuclear weapons capability.

(4) The serious and urgent nature of the threat from Iran demands that states, local governments, and private institutions work together with the federal government and American allies to do everything possible diplomatically, politically, and economically to prevent Iran from acquiring a nuclear weapons capability.

(5) Respect for human rights in Iran has steadily deteriorated as demonstrated by transparently fraudulent elections and the brutal repression and murder, arbitrary arrests, and show trials of peaceful dissidents.

(6) The concerns of the State of South Carolina regarding Iran are strictly the result of the actions of the Government of Iran and should not be construed as enmity towards the Iranian people.

(7) In order to effectively address the need for this State to respond to the policies of Iran in a uniform fashion, prohibiting contracts with persons engaged in investment activities in the energy sector of Iran must be accomplished on a statewide basis.

(8) It is the intent of the General Assembly to fully implement the authority granted under Section 202 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195).

Section 11-57-30. As used in this chapter:

(1) 'Energy sector of Iran' means activities to develop petroleum or natural gas resources or nuclear power in Iran.

(2) 'Financial institution' means the term as used in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note).

(3) 'Investment' means a commitment or contribution of funds or property, whatever the source, a loan or other extension of credit, and the entry into or renewal of a contract for goods or services. It does not include indirect beneficial ownership through index funds, commingled funds, limited partnerships, derivative instruments, or the like.

(4) 'Iran' includes the Government of Iran and any agency or instrumentality of Iran.

(5) 'Person' means any of the following:

(a) a natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(b) any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3));

(c) any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in subitems (a) and (b) of this item.

(6) 'State agency' means each state board, commission, department, executive department or officer, institution, and instrumentality.

Section 11-57-40. This chapter does not apply to a procurement or contract valued at one thousand dollars or less.

Article 3

State Divestment

Section 11-57-300. For purposes of this chapter, a person engages in investment activities in Iran if:

(1) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

(2) the person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list, created pursuant to Section 11-57-310, as a person engaging in investment activities in Iran as described in this section.

Section 11-57-310. (A)(1) No more than one hundred twenty days after the effective date of this act, the Executive Director of the State Budget and Control Board shall develop or contract to develop, using credible information available to the public, a list of persons it determines engage in investment activities in Iran as described in Section 11-57-310. If the executive director has contracted to develop the list, the list shall be finally developed no more than one hundred twenty days after the effective date of this act. The list, when completed, shall be posted on the website of the State Budget and Control Board.

(2) The executive director shall update the list every one hundred eighty days.

(3) Before finalizing an initial list or an updated list, the executive director must do all of the following before a person is included on the list:

(a) Provide ninety days' written notice of the executive director's intent to include the person on the list. The notice shall inform the person that inclusion on the list would make the person ineligible to contract with the State. The notice shall specify that the person, if it ceases its engagement in investment activities in Iran, may be removed from the list.

(b) The executive director shall provide a person with an opportunity to comment in writing that it is not engaged in investment activities in Iran. If the person demonstrates to the executive director

that the person is not engaged in investment activities in Iran, the person shall not be included on the list.

(4) The executive director shall make every effort to avoid erroneously including a person on the list.

(B) A person that is identified on a list created pursuant to subsection (A) as a person engaging in investment activities in Iran as described in Section 11-57-300, is ineligible to contract with the State.

(C) Any contract entered into with a person that is ineligible to contract with the State shall be void ab initio.

Section 11-57-320. Notwithstanding Section 11-57-310, a person engaged in investment activities in Iran as described in Section 11-57-300, may contract with the State, on a case-by-case basis, if:

(1) the investment activities in Iran were made before the effective date of this act, the investment activities in Iran have not been expanded or renewed after the effective date of this act, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) the state agency makes a determination that the commodities or services are necessary to perform its functions and that, absent such an exemption, the state agency would be unable to obtain the commodities or services for which the contract is offered. Such determination shall be entered into the procurement record.

Section 11-57-330. (A) A state agency or entity shall require a person that attempts to contract with the State, including a contract renewal or assumption, to certify, at the time the bid is submitted or the contract is entered into, renewed, or assigned, that the person or the assignee is not identified on a list created pursuant to Section 11-57-310. A state agency shall include certification information in the procurement record.

(B) A person that contracts with the State, including a contract renewal or assumption, shall not utilize, on the contract with the state agency or entity, any subcontractor that is identified on a list created pursuant to Section 11-57-310.

(C) Upon receiving information that a person who has made the certification required by subsection (A) is in violation thereof, the state agency or entity shall review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of this act within ninety days after the determination of such violation, then the

state agency or entity shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the contractor in default.

Section 11-57-340. The executive director shall report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor annually by October first, on the status of the federal 'Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010' (Public Law 111-195), the 'Iran Divestment Act of 2014', and any rules or regulations adopted thereunder.

Article 5

Political Subdivision Divestment

Section 11-57-500. A person that is identified on a list created pursuant to Section 11-57-310, as a person engaging in investment activities in Iran as described in Section 11-57-300 shall be ineligible to contract with any political subdivision of this State, and any contract entered into with a political subdivision of this State shall be void ab initio.

Section 11-57-510. (A) After this act takes effect, every bid or proposal made to a political subdivision of the State or any public department, agency, or official thereof where competitive bidding is required by statute, rule, regulation, or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury: 'By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Section 11-57-310.'

(B) Notwithstanding subsection (A), the statement of noninvestment in the Iranian energy sector may be submitted electronically.

(C) A bid shall not be considered for award nor shall any award be made where the condition set forth in subsection (A) has not been complied with; provided, however, that if in any case the bidder cannot

make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. A political subdivision may award a bid to a bidder who cannot make the certification pursuant to subsection (A), on a case-by-case basis, if:

(1) the investment activities in Iran were made before the effective date of this act, the investment activities in Iran have not been expanded or renewed after the effective date of this act, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) the political subdivision makes a determination that the goods or services are necessary for the political subdivision to perform its functions and that, absent such an exemption, the political subdivision would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

Article 7

Prohibition on Iranian Investment

Section 11-57-700. (A) Neither the Retirement System Investment Commission or the State Treasurer may invest funds with a person that is identified on a list created pursuant to Section 11-57-310 as a person engaging in investment activities in Iran as described in Section 11-57-300.

(B) Any existing investments in violation of subsection (A) as of the effective date of this act, must be divested within one hundred twenty days of the effective date of this act.

Section 11-57-710. Notwithstanding Section 11-57-700, an investment may be made in a person engaged in investment activities in Iran as described in Section 11-57-300, on a case-by-case basis, if:

(1) the investment activities in Iran were made before the effective date of this act, the investment activities in Iran have not been expanded or renewed after the effective date of this act, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) the investor makes a determination that the investments are necessary to perform its functions.

Section 11-57-720. Nothing in this article requires the Retirement System Investment Commission or its agents or contract investment managers to take action as described in this article unless it is determined, in good faith, that the action described in this article is consistent with the fiduciary responsibilities of the commission or its agents or contract investment managers as described in Chapter 16, Title 9, and there are appropriated funds of the State to absorb the expenses necessary to implement this article.

Section 11-57-730. Present, future, and former board members, officers, and employees of the State Budget and Control Board, the Public Employee Benefit Authority, the Retirement System Investment Commission, and contract investment managers and agents retained by the commission, as well as present, future, and former State Treasurers, officers, and employees of the State Treasurer, and contract investment managers and agents retained by the State Treasurer must be indemnified from the General Fund of the State and held harmless by the State from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, agents or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this chapter.

Section 11-57-740. The restrictions provided for in this chapter apply only until:

(1) the President or Congress of the United States, by means including, but not limited to, legislation, executive order, or written certification, declares that divestment of the type provided for in this chapter interferes with the conduct of United States foreign policy; or

(2) the United States revokes its current sanctions against Iran."

Notice to Attorney General of the United States

SECTION 2. The Secretary of State, in consultation with the South Carolina Attorney General, shall submit to the Attorney General of the United States a written notice describing this act within thirty days after the effective date of this act.

Severability

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this Act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 4. This act takes effect ninety days after approval by the Governor. However, immediately upon approval by the Governor, any rule or regulation that must be amended or repealed to implement this act is authorized.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 268

(R296, H3459)

AN ACT TO AMEND SECTION 40-2-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA BOARD OF ACCOUNTANCY, SO AS TO PROVIDE THE DIRECTOR OF DEPARTMENT OF LABOR, LICENSING AND REGULATION SHALL DESIGNATE ONE FULL-TIME ADMINISTRATOR WHO IS A LICENSED CERTIFIED PUBLIC ACCOUNTANT IN THIS STATE TO SERVE AS FULL-TIME ADMINISTRATOR OF THE BOARD, TO REQUIRE ADVICE AND CONSENT OF THE BOARD IN MAKING THIS DESIGNATION, TO PROVIDE THE PRIMARY RESPONSIBILITY OF THE ADMINISTRATOR IS TO ADMINISTER THE BOARD BUT THAT HE MAY BE

ASSIGNED ADDITIONAL DUTIES AND RESPONSIBILITIES WITHIN THE DEPARTMENT BY THE DIRECTOR IF THE ADDITIONAL DUTIES AND RESPONSIBILITIES DO NOT UNREASONABLY OCCUPY THE ADMINISTRATOR'S TIME, AND TO PROVIDE THE DIRECTOR MAY TERMINATE THE ADMINISTRATOR; TO AMEND SECTION 40-2-30, RELATING TO THE PRACTICE OF ACCOUNTANCY, SO AS TO EXEMPT A LICENSEE FROM LICENSURE REQUIREMENTS OF PRIVATE SECURITY AND INVESTIGATION AGENCIES; TO AMEND SECTION 40-2-70, RELATING TO POWERS AND DUTIES OF THE BOARD, SO AS TO PROVIDE THE BOARD MAY CONDUCT PERIODIC INSPECTIONS OF LICENSEES OR FIRMS IN A CERTAIN MANNER, AND TO PROVIDE FOR COMPLAINTS; AND TO AMEND SECTION 40-2-80, RELATING TO INVESTIGATIONS OF ALLEGED VIOLATIONS, SO AS TO PROVIDE THE DEPARTMENT SHALL DIRECT THE INVESTIGATOR ASSIGNED TO THE BOARD TO INVESTIGATE AN ALLEGED VIOLATION TO DETERMINE THE EXISTENCE OF PROBABLE CAUSE MERITING FURTHER PROCEEDINGS.

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

Administrator requirements, termination by LLR director

SECTION 1. Section 40-2-10 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( )(1) The director, with the advice and consent of the board, shall designate for the use of the board one full-time administrator who is a certified public accountant licensed in this State. The administrator's primary responsibility is to administer the board; provided, however, that the director may assign to the administrator additional duties and responsibilities within the department so long as the additional duties and responsibilities do not unreasonably occupy the administrator's time so that he does not thoroughly fulfill his duties and responsibilities to the board.

(2) A person employed by the board under this section may be terminated by the director."

Licensee exempt from private security and investigator requirements

SECTION 2. Section 40-2-30 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( ) Notwithstanding another provision of law, a licensed certified public accountant while in the performance of his duties is exempt from the licensing requirements of Chapter 18 of this title."

Powers and duties, investigations and complaints

SECTION 3. Section 40-2-70 of the 1976 Code is amended to read:

"Section 40-2-70. In addition to the powers and duties provided in Section 40-1-70, the board may:

(1) determine the eligibility of applicants for examination and licensure;

(2) examine applicants for licensure including, but not limited to:

(a) prescribing the subjects, character, and manner of licensing examinations;

(b) preparing, administering, and grading the examination or assisting in the selection of a contractor to prepare, administer, or grade the examination; and

(c) charging, or authorizing a third party administering the examination to charge, each applicant a fee in an adequate amount to cover examination costs;

(3) establish criteria for issuing, renewing, and reactivating authorizations for qualified applicants to practice, including issuing active or permanent, temporary, limited, and inactive licenses or other categories as may be created;

(4) adopt a code of professional ethics appropriate to the profession;

(5) evaluate and approve continuing education course hours and programs;

(6) conduct periodic inspections of licensees or firms with notice to the licensee or firm of at least three business days, and if upon inspection a violation is found, a formal complaint shall be filed and the customary procedures for complaints must be followed;

(7) conduct hearings on alleged violations of this chapter and regulations promulgated under this chapter;

(8) participate in national efforts to regulate the accounting profession;

(9) discipline licensees or registrants in a manner provided for in this chapter;

(10) project future activity of the program based on historical trends and program requirements, including the cost of licensure and renewal, conducting investigations and proceedings, participating in national efforts to regulate the accounting profession, and providing educational programs for the benefit of the public and licensees and their employees;

(11) issue safe harbor language nonlicensees may use in connection with financial statements, transmittals, or financial information which does not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS);

(12) promulgate regulations that have been submitted to the director at least thirty days in advance of filing with the Legislative Council as required by Section 1-23-30, including, but not limited to, a schedule of fees for examination, licensure, and regulation; and

(13) promulgate standards for peer review."

Inspector-investigator requirements, department reports

SECTION 4. Section 40-2-80(B) of the 1976 Code is amended to read:

"(B)(1) An investigation of a licensee pursuant this chapter must be performed by an inspector-investigator who has been licensed as a certified public accountant in this State for at least five years. The inspector-investigator must report the results of his investigation to the board no later than one hundred fifty days after the date upon which he initiated his investigation. If the inspector-investigator has not completed his investigation by that date, then the board may extend the investigation for a period defined by the board. The board may grant subsequent extensions to complete the investigation as needed. The inspector-investigator may designate additional persons of appropriate competency to assist in an investigation.

(2) The department shall annually post a report related to the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days."

Lapsed licenses, "accounting practitioner" included

SECTION 5. Section 40-2-250(F) of the 1976 Code is amended to read:

"(F) A certified public accountant, accounting practitioner, or public accountant whose license has lapsed or has been inactive for:

(1) fewer than three years, the license may be reinstated by applying to the board, submitting proof of completing forty continuing education units for each year the license has lapsed or has been inactive, and paying the reinstatement fee;

(2) three or more years, the license may be reinstated upon completion of six months of additional experience, and one hundred and twenty hours of continuing education;

(3) an indefinite period and has active status outside of this State may reinstate the license by submitting an application under Section 40-2-240."

Annual report from LLR

SECTION 6. The Director of the Department of Labor, Licensing and Regulation must submit an annual report to the Chairmen of the Senate and House Committees on Labor, Licensing and Regulation concerning the workload of the Accountancy Board's Administrator, specifically addressing the amount of time that the administrator must devote to the work of the Accountancy Board compared to the amount of time that he must devote to other duties and responsibilities. The other duties and responsibilities, and the time devoted to them, must be itemized in the report.

Time effective

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 269

(R298, H3959)

AN ACT TO AMEND SECTION 16-15-395, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR, SO AS TO INCLUDE THE APPEARANCE OF A MINOR IN A STATE OF SEXUALLY EXPLICIT NUDITY WHEN A REASONABLE PERSON WOULD INFER THE PURPOSE IS SEXUAL STIMULATION IN THE PURVIEW OF THE OFFENSE; TO AMEND SECTION 16-15-405, AS AMENDED, RELATING TO SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR, SO AS TO INCLUDE THE APPEARANCE OF A MINOR IN A STATE OF SEXUALLY EXPLICIT NUDITY WHEN A REASONABLE PERSON WOULD INFER THE PURPOSE IS SEXUAL STIMULATION IN THE PURVIEW OF THE OFFENSE; AND TO AMEND SECTION 16-15-410, AS AMENDED, RELATING TO THIRD DEGREE SEXUAL EXPLOITATION OF A MINOR, SO AS TO INCLUDE THE APPEARANCE OF A MINOR IN A STATE OF SEXUALLY EXPLICIT NUDITY WHEN A REASONABLE PERSON WOULD INFER THE PURPOSE IS SEXUAL STIMULATION IN THE PURVIEW OF THE OFFENSE.

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

Sexual exploitation of a minor, first degree

SECTION 1. Section 16-15-395 of the 1976 Code, as last amended by Act 208 of 2004, is further amended to read:

"Section 16-15-395. (A) An individual commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

(1) uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit

nudity when a reasonable person would infer the purpose is sexual stimulation;

(2) permits a minor under his custody or control to engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation;

(3) transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation; or

(4) records, photographs, films, develops, duplicates, produces, or creates a digital electronic file for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in a sexual activity or a state of sexually explicit nudity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution pursuant to this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than twenty years. No part of the minimum sentence of imprisonment may be suspended nor is the individual convicted eligible for parole until he has served the minimum term of imprisonment. Sentences imposed pursuant to this section must run consecutively with and commence at the expiration of another sentence being served by the person sentenced."

Sexual exploitation of a minor, second degree

SECTION 2. Section 16-15-405 of the 1976 Code, as last amended by Act 208 of 2004, is further amended to read:

"Section 16-15-405. (A) An individual commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

(1) records, photographs, films, develops, duplicates, produces, or creates digital electronic file material that contains a visual representation of a minor engaged in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation; or

(2) distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in sexual activity or a state of sexually explicit nudity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution pursuant to this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than ten years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence."

Sexual exploitation of a minor, third degree

SECTION 3. Section 16-15-410 of the 1976 Code, as last amended by Act 226 of 2008, is further amended to read:

"Section 16-15-410. (A) An individual commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in sexual activity or a state of sexually explicit nudity depicted as a minor through its title, text, visual representation, or otherwise, is a minor.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years.

(D) This section does not apply to an employee of a law enforcement agency, including the State Law Enforcement Division, a prosecuting agency, including the South Carolina Attorney General's Office, or the South Carolina Department of Corrections who, while acting within the employee's official capacity in the course of an investigation or criminal proceeding, is in possession of material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation."

Savings clause

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 270

(R299, H4348)

AN ACT TO AMEND SECTION 63-3-530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JURISDICTION OF THE FAMILY COURT, INCLUDING JURISDICTION TO ORDER VISITATION FOR GRANDPARENTS OF MINOR CHILDREN, SO AS TO ELIMINATE CERTAIN PREREQUISITES TO ORDERING VISITATION, AND TO CLARIFY THAT PARENT MEANS THE NATURAL OR ADOPTIVE PARENT.

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

Grandparent visitation

SECTION 1. Section 63-3-530(A)(33) of the 1976 Code, as last amended by Act 267 of 2010, is further amended to read:

"(33) to order visitation for the grandparent of a minor child where either or both parents of the minor child is or are deceased, or are divorced, or are living separate and apart in different habitats, if the court finds that:

(1) the child's parents or guardians are unreasonably depriving the grandparent of the opportunity to visit with the child, including denying visitation of the minor child to the grandparent for a period exceeding ninety days; and

(2) awarding grandparent visitation would not interfere with the parent-child relationship; and:

(a) the court finds by clear and convincing evidence that the child's parents or guardians are unfit; or

(b) the court finds by clear and convincing evidence that there are compelling circumstances to overcome the presumption that the parental decision is in the child's best interest.

The judge presiding over this matter may award attorney's fees and costs to the prevailing party.

For purposes of this item, 'grandparent' means the natural or adoptive parent of a natural or adoptive parent of a minor child."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 271

(R302, H4550)

AN ACT TO AMEND SECTION 40-35-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING LONG-TERM HEALTH CARE ADMINISTRATORS, SO AS TO REVISE AND ADD NECESSARY DEFINITIONS; TO AMEND SECTION 40-35-40, RELATING TO THE LICENSURE OF LONG-TERM HEALTH CARE ADMINISTRATORS, SO AS TO REVISE LICENSURE CRITERIA; AND TO AMEND SECTION 40-35-200, AS AMENDED, RELATING TO THE PROHIBITION AGAINST A PERSON ACTING OR SERVING IN THE CAPACITY OF A NURSING HOME ADMINISTRATOR OR RESIDENTIAL CARE FACILITY ADMINISTRATOR WITHOUT A LICENSE, SO AS TO MAKE A CONFORMING CHANGE.

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

Definitions

SECTION 1. Section 40-35-20 of the 1976 Code, as last amended by Act 293 of 2004, is further amended to read:

"Section 40-35-20. As used in this chapter:

(1) 'Accredited college or university' means a college or university whose accreditation is recognized by the Council on Higher Education Accreditation and the United States Department of Education.

(2) 'Board' means the South Carolina Board of Long Term Health Care Administrators.

(3) 'Community residential care facility' or 'CRCF' means a facility defined for licensing purposes under law or pursuant to regulations for community residential care facilities by the Department of Health and Environmental Control, whether proprietary or nonprofit.

(4) 'Community residential care facility administrator' or 'CRCFA' means a person who has attained the required education and experience, is otherwise qualified, has been issued a license by the board, and is eligible to administer, manage, supervise, or be in administrative charge of a community residential care facility.

(5) 'Consumer' means a person who is or has been a resident of a nursing home or community residential care facility.

(6) 'Department' means the Department of Labor, Licensing and Regulation.

(7) 'Habilitation center for persons with intellectual disability or persons with related conditions' means a facility which is licensed by the Department of Health and Environmental Control and that serves four or more persons with intellectual disability or persons with related conditions and provides health or rehabilitative services on a regular basis to individuals whose mental and physical conditions require services including room, board, and active treatment for their intellectual disability or related conditions.

(8) 'Nursing home' means an institution or facility defined for licensing purposes under law or pursuant to regulations for nursing homes promulgated by the Department of Health and Environmental Control, whether proprietary or nonprofit including, but not limited to, nursing homes owned or administered by the State or a political subdivision of the State. The term does not include habilitation centers for persons with intellectual disability or persons with related conditions.

(9) 'Nursing home administrator' or 'NHA' means a person who has attained the requisite education and experience, is otherwise qualified, and has been issued a license by the board and is eligible to administer, manage, supervise, or be in administrative charge of a nursing home.

(10) 'Practical experience in nursing home administration' means full-time employment, with a minimum of thirty-six hours each week, under the on-site supervision by a licensed nursing home administrator in a state-licensed nursing home. During the on-site supervision by a licensed NHA, the applicant is responsible and accountable for at least a six-month period in at least two of the following areas:

(a) business and fiscal management;

(b) a direct patient-care service such as nursing, physical therapy, occupational therapy, speech therapy, chaplaincy, social work, or activities; and

(c) a supporting service such as dietary, maintenance, engineering, laundry, environmental services, or pharmacy.

(11) 'Qualified intellectual disability professional' means a person who, by training and experience, meets the requirements of applicable federal law and regulations for a qualified intellectual disability professional, as determined by the Department of Disabilities and Special Needs.

(12) 'Related health care administration' means the administration of a facility that provides direct nursing care on a twenty-four hour basis to persons who require health services because of illness, age, or chronic disability. Administration of a CRCF or an Independent Living Community is not considered related health care administration.

(13) 'Community residential care facility administrator work experience' means on-site work experience with supervisory and direct resident care responsibilities under the supervision of a licensed CRCFA in a licensed CRCF.

(14) 'Work experience in a health related field other than in a Community Residential Care Facility' means a satisfactory demonstration through the application for licensure that the applicant has sufficient knowledge of and experience with business and fiscal management responsibilities, coordinating patient care, and direct contact in a health care facility as determined by the board.

(15) 'Sponsor' means a person who is financially or legally responsible for an individual currently residing in a nursing home or residential care facility."

Licensure criteria

SECTION 2. Section 40-35-40 of the 1976 Code is amended to read:

"Section 40-35-40. (A) The board shall issue a nursing home administrator license to a person who submits evidence satisfactory to the board that the person:

(1) is at least twenty-one years of age;

(2) has not been convicted of any criminal act that is relevant to the practice of nursing home administration, including financial misconduct or physical violence;

(3) is of reputable and responsible character and is of sound physical and mental health sufficient to perform the duties of a nursing home administrator;

(4)(a) has a baccalaureate degree or higher in health care administration or related health care degree from an accredited college or university and one year of practical experience in nursing home administration or related health care administration;

(b) has a baccalaureate degree other than in health care administration from an accredited college or university and two years of practical experience in nursing home administration or related health care administration;

(c) has a health-related associates degree from an accredited college or university and three years of practical experience in nursing home administration or related health care administration; or

(d) has a combination of education and experience as established by the board in regulation;

(5) has successfully completed the nursing home administrators' examination administered by the board; and

(6) has paid the applicable fees.

(B) The board shall issue a community residential care facility administrator license to a person who submits evidence satisfactory to the board that the person:

(1) is at least twenty-one years of age;

(2) has not been convicted of any criminal act that is relevant to the practice of community residential care facility administration, including financial misconduct or physical violence;

(3) is of reputable and responsible character and is of sound physical and mental health sufficient to perform the duties of a community residential care facility administrator;

(4)(a) has a nonhealth-related associates degree or is a licensed practical nurse with at least one year of on-site work experience of at least three hundred eighty-four hours with supervisory and direct resident care responsibilities under the supervision of a licensed community residential care facility administrator;

(b) has a health-related associates degree with at least nine months of on-site work experience of at least two hundred eighty-eight hours with supervisory and direct resident care responsibilities under the supervision of a licensed CRCFA;

(c) has a baccalaureate degree or higher with at least six months of on-site work experience of at least one hundred ninety-two hours with supervisory and direct resident care responsibilities under the supervision of a licensed CRCFA;

(d) has a combination of education and experience as established by the board in regulation; or

(e) provided, however, a person initially licensed as a community residential care facility administrator before July 1, 2000, must have at least a high school diploma or the equivalent and at least two years of on-site work experience with supervisory and direct resident care responsibilities under the supervision of a licensed community residential care facility administrator;

(5) has successfully completed the community residential care facility administrators' examination administered by the board and has paid the established fees.

(C) The board may establish qualifications in regulation for the issuance of a combined nursing home administrator and community residential care facility administrator license.

(D) An applicant for a nursing home administrator license or a community residential care facility administrator license shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine state criminal history and a federal fingerprint review to be conducted by the Federal Bureau of Investigation to determine other criminal history. In addition to the fingerprint fee, the results of the reviews must be furnished to the board by the applicant before initial licensure.

(E) An applicant for a nursing home administrator license or a community residential care facility administrator license shall provide a current credit report before initial licensure.

(F) An application must be submitted on forms prescribed by the department and developed in consultation with the board."

Unlawful conduct

SECTION 3. Section 40-35-200(B) of the 1976 Code is amended to read:

"(B) It is unlawful for a person to act or serve in the capacity of a nursing home administrator or community residential care facility administrator unless the person is licensed in accordance with this chapter."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 272

(R308, H4840)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "HIGH SCHOOL EQUIVALENCY DIPLOMA ACCESSIBILITY ACT"; BY ADDING SECTION 59-43-25 SO AS TO PROVIDE THAT BEFORE JANUARY 1, 2015, THE STATE BOARD OF EDUCATION SHALL SELECT A TEST OR TEST BATTERY THAT ELIGIBLE CANDIDATES SUCCESSFULLY MAY COMPLETE TO RECEIVE A HIGH SCHOOL EQUIVALENCY DIPLOMA, TO PROVIDE THAT THE TEST BATTERIES MUST HAVE DEMONSTRATED THE APPROPRIATE RIGOR FOR A HIGH SCHOOL EQUIVALENCY EXAM AND MUST BE VALID AND RELIABLE FOR THE PURPOSE FOR WHICH THESE TEST BATTERIES ARE ADMINISTERED, TO PROVIDE THE STATE BOARD SHALL SELECT AT LEAST ONE TEST BATTERY MEETING THIS RIGOR REQUIREMENT THAT IS AVAILABLE IN PAPER AND PENCIL FORM, IF ONE IS AVAILABLE, AND THAT THE APPROVED TEST BATTERIES THAT ARE AVAILABLE IN PAPER AND PENCIL FORM AND DEPENDENT ON COMPUTER TECHNOLOGY MUST BE AVAILABLE TO ELIGIBLE CANDIDATES IN BOTH FORMS, TO REQUIRE THE BOARD SHALL AUTHORIZE THE ADMINISTRATION OF THIS TEST BY THE STATE DEPARTMENT OF EDUCATION PURSUANT TO CERTAIN REGULATIONS AND POLICIES, AND TO PROVIDE THE BOARD SHALL ISSUE HIGH SCHOOL EQUIVALENCY DIPLOMAS TO ELIGIBLE CANDIDATES WHO SUCCESSFULLY COMPLETE THE TEST OR TEST BATTERY AFTER JANUARY 1, 2015; AND TO AMEND SECTION 59-43-20, RELATING TO POWERS OF THE STATE BOARD OF EDUCATION WITH RESPECT TO BASIC ADULT AND SECONDARY EDUCATION, SO AS TO MAKE CONFORMING CHANGES AND CLARIFY APPLICABILITY.

Whereas, the South Carolina General Assembly finds that the Palmetto State's path to economic prosperity involves creating jobs and improving education, among other essential elements; and

Whereas, the South Carolina General Assembly finds that approximately four hundred eighteen thousand working-age South Carolinians between ages eighteen and sixty-four have not earned a high school diploma or its equivalent, which must be rectified to provide a workforce that will attract jobs and improve our overall economy; and

Whereas, the South Carolina General Assembly finds that the only test currently available to earn a high school equivalency diploma in South Carolina is offered only in a computer-based format, requiring technology that limits the places in which it can be offered, thus limiting opportunities for people to take the test and earn their high school equivalency diploma; and

Whereas, the South Carolina General Assembly finds that adopting an alternative high school equivalency test that must be offered in a paper and pen or pencil format not dependent on the availability of computer-based technology is essential to broadening the accessibility of the testing needed to earn a high school equivalency diploma to those who need it most. Now, therefore,

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

Citation

SECTION 1. This act must be known and may be cited as the "High School Equivalency Diploma Accessibility Act".

Test batteries, formats

SECTION 2. Chapter 43, Title 59 of the 1976 Code is amended by adding:

"Section 59-43-25. Before January 1, 2015, the State Board of Education shall select one or more tests or test batteries that an eligible candidate successfully may complete to receive a high school equivalency diploma. The test batteries approved by the State Board

must have demonstrated the appropriate rigor for a high school equivalency exam and must be valid and reliable for the purpose for which these test batteries are administered. The State Board shall select at least one test battery meeting this requirement that is available in paper and pencil form, if one is available. The approved test batteries that are available in paper and pencil (pen), as well as dependent on computer technology, must be available to eligible candidates in both forms. Upon making its selection, the board shall authorize the administration of this test by the State Department of Education under policies that the board shall establish by regulations promulgated by the board and other procedures that the board considers appropriate. The board shall issue a high school equivalency diploma to an eligible candidate who successfully completes the approved test or test battery after January 1, 2015."

State Board of Education powers, conforming provisions, applicability

SECTION 3. Section 59-43-20 of the 1976 Code is amended to read:

"Section 59-43-20. (A) The State Board of Education may:

(1) make and enforce regulations for the organization, conduct, and supervision of adult basic and adult secondary (GED, alternate testing, and high school diploma) education;

(2) determine the qualifications of teachers and issue teaching certificates for teaching adult basic and adult secondary (GED, alternate testing, and high school diploma) education classes;

(3) determine the tuition which may be required of persons attending adult basic and adult secondary (GED, alternate testing, and high school diploma) education classes;

(4) determine the subjects which may be taught in adult basic and adult secondary (GED, alternate testing, and high school diploma) education classes.

(B) The State Board of Education is also responsible for the administration, coordination, and management of adult basic and adult secondary (GED, alternate testing, and high school diploma) education for the purpose of facilitating and coordinating adult basic and adult secondary (GED, alternate testing, and high school diploma) education programs for South Carolina adults whose level of educational attainment is below high school, as prescribed by state and federal laws and regulations. The State Board of Education and the local school districts are responsible for effective coordination and utilization of

literacy councils, the technical education system, the educational television network, nonprofit groups, business and industry representatives, and other state and local agencies and private persons interested in adult basic and adult secondary (GED, alternate testing, and high school diploma) education programs to deliver programs to the state's undereducated adult population.

(C) Any funds distributed by the State Board of Education for local literacy councils or programs must be made available to those councils or programs either in-kind or in money.

(D) The requirements of this section apply to alternate high school equivalency testing required in Section 59-43-25."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 273

(R309, H4864)

AN ACT TO AMEND SECTION 46-21-215, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REQUIRED LABELS AND TAGS FOR CONTAINERS OF AGRICULTURAL, VEGETABLE, AND FLOWER SEEDS, SO AS TO REVISE CERTAIN OF THESE LABELING AND TAGGING REQUIREMENTS.

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

Labeling and tagging requirements revised

SECTION 1. Section 46-21-215 of the 1976 Code, as added by Act 238 of 2010, is amended to read:

"Section 46-21-215. Each container of agricultural, vegetable, and flower seeds which is sold, offered for sale, or exposed for sale, or

transported within this State for sowing purposes must state or have affixed in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information, which statement may not be modified or denied in the labeling or on another label attached to the container.

(A) For all agricultural, vegetable, and flower seeds treated as defined in this chapter for which a separate label may be used:

(1) a word or statement indicating that the seed has been treated;

(2) the commonly accepted coined, chemical, abbreviated chemical, or generic name of the applied substance or description of the process used;

(3) if the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as 'do not use for food, feed, or oil purposes'. The caution for mercurials and similarly toxic substances must be a poison statement or symbol; and

(4) if the seed is treated with an inoculant, the date beyond which the inoculant is not to be considered effective, and its date of expiration.

(B) For agricultural seeds, except for cool season lawn and turf grass seeds and mixtures as provided in item (C) and for hybrids which contain less than ninety-five percent hybrid seed as provided in item (I):

(1) the name of the kind and variety for each agricultural seed component present in excess of five percent of the whole and the percentage by weight of each; in order of its predominance where more than one component is required to be named the word 'mixture' or the word 'mixed' must be shown conspicuously on the label. Hybrids must be labeled as hybrids;

(2) lot number or other lot identification;

(3) origin, state or foreign country, if known; if unknown, the fact must be stated;

(4) percentage by weight of all weed seeds;

(5) the name and rate of occurrence per pound of each kind of restricted noxious weed seed present;

(6) percentage by weight of other crop seed;

(7) percentage by weight of inert matter;

(8) the total of subitems (1), (4), (6), and (7) must equal one hundred percent;

(9) for each named agricultural seed:

(a) percentage of germination, exclusive of hard seed;

(b) percentage of hard seeds, if present; and

(c) the calendar month and year the test was completed to determine the percentages.

Following subitems (a) and (b) the 'total germination and hard seed' may be stated, if desired; and

(10) name and address of the person who labeled the seed, or who sells, offers or exposes the seed for sale within this State.

(C) For cool season lawn and turf grasses including Kentucky bluegrass, red fescue, chewing fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass, creeping bentgrass, and mixtures of them:

(1) for single kinds, the name of the kind or kind and variety;

(2) for mixtures:

(a) the terms 'mix', 'mixed', or 'mixture' or 'blend' must be stated with the name of the mixture;

(b) the heading 'Pure Seed' and 'Germination' or 'Germ' must be used in the proper places;

(c) commonly accepted name of kind and variety of each agricultural seed component in excess of five percent of the whole, and the percentage by weights of pure seed in order of its predominance;

(3) lot number or other lot identification;

(4) origin, state or foreign country, if known; if unknown, it must be stated;

(5) percentage by weight of all weed seeds;

(6) the name and rate of occurrence per pound of each kind of restricted noxious weed seed present;

(7) percentage by weight of other crop seed;

(8) percentage by weight of inert matter;

(9) the total of subitems (1), (2), (5), (7), and (8) must be one hundred percent; and

(10) for each agricultural seed named under subitem (1) or (2):

(a) percentage of germination, exclusive of hard seed;

(b) percentage of hard seed, if present;

(c) calendar month and year the test was completed to determine percentages. The oldest test date must be used and the date of sale must be within fifteen months of this test date, exclusive of the month of the test, or alternatively the statement 'Sell by _____', which may be no more than fifteen months from the date of test exclusive of the month of test; and

(d) name and address of the person who labeled the seed, or who sells, offers or exposes this seed for sale within the State.

(D) For agricultural seeds that are coated:

(1) percentage by weight of pure seeds with coating material removed;

(2) percentage by weight of coating material;

(3) percentage by weight of inert material exclusive of coating material; and

(4) in addition to the provisions of this subsection, labeling of coated seed must comply with the requirements of subsections (A), (B), and (C).

(E) For vegetable seeds in packets as prepared for use in home gardens or household plantings or vegetable seeds in preplanted containers, mats, tapes, or other plant devices:

(1) name of kind and variety of seed;

(2) lot identification, such as by lot number or other means;

(3)(a) the calendar month and year the germination test was completed, and the date of sale may be no more than twelve months from the date of test exclusive of the month of the test; or

(b) the year for which the seed was packaged for sale as 'Packed for _____' and the statement 'Sell by _____', which must be twelve months from the date of the test exclusive of the month of the test;

(4) name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this State; and

(5) for seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.

(F) For vegetable seeds in containers other than packets prepared for use in home gardens or household planting and other than preplanted containers, mats, tapes, or other planting devices:

(1) the name of each kind and variety present in excess of five percent and the percentage by weight of each in order of its predominance;

(2) lot number or other lot identification;

(3) for each named vegetable seed:

(a) percentage of germination exclusive of hard seed;

(b) percentage of hard seed, if present;

(c) the calendar month and year the test was completed to determine the percentages; and

(d) germination test must have been completed within twelve months exclusive of the month of test.

Following subitems (a) and (b) the 'total germination and hard seed' may be stated, if desired;

(4) name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this State; and

(5) the labeling requirements for vegetable seeds in containers of more than one pound is considered to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.

(G) For flower seeds in packets prepared for use in home gardens or household plantings or flower seeds in preplanted containers, mats, tapes, or other planting devices:

(1) for all kinds of flower seeds:

(a) the name of the kind and variety or a statement of type and performance characteristics as prescribed in regulations promulgated pursuant to the provisions of this chapter;

(b)(i) the calendar month and year the germination test was completed and the date of sale may be no more than twelve months from the date of test exclusive of the month of the test; or

(ii) the year the seed was packed for sale as 'Packed for _____' and the statement 'Sell by _____', which must be twelve months from the date of the test exclusive of the month of the test;

(c) the name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within the State; and

(2) for seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.

(H) For flower seeds in containers other than packets and other than preplanted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings:

(1) the name of the kind and variety or a statement of type and performance characteristics as prescribed by regulations promulgated pursuant to the provisions of this chapter, and for wildflowers, the genus and species and subspecies, if appropriate;

(2) the lot number or other lot identification;

(3) for wildflower seed only with a pure seed percentage of less than ninety percent:

(a) the percentage, by weight, of each component listed in order of their predominance;

(b) the percentage by weight of weed seed if present; and

(c) the percentage by weight of inert matter;

(4) for seeds for which standard testing procedures are prescribed:

(a) percentage of germination exclusive of hard or dormant seed;

(b) percentage of hard or dormant seed, if present;

(c) the calendar month and year that the test was completed to determine the percentages; germination test must have been completed within twelve months exclusive of the month of test; and

(5) name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this State.

(I) For agricultural and vegetable hybrid seed which contain less than ninety-five percent hybrid seed:

(a) kind or variety must be labeled as 'hybrid';

(b) the percent which is hybrid must be labeled parenthetically in direct association following named variety; such as, 'Comet (85% hybrid)'; and

(c) varieties in which the pure seed contains less than seventy-five percent hybrid seed may not be labeled hybrids."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 6th day of June, 2014.

No. 274

(R310, H5014)

AN ACT TO AMEND SECTION 56-1-2100, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A COMMERCIAL DRIVER LICENSE, SO AS TO DELETE THE VARIOUS ENDORSEMENTS AND RESTRICTIONS THAT MAY BE ATTACHED TO A COMMERCIAL DRIVER LICENSE, AND TO PROVIDE THAT ENDORSEMENTS AND RESTRICTIONS ARE ADDED TO A COMMERCIAL DRIVER LICENSE AS REQUIRED UNDER THE FEDERAL MOTOR

CARRIER SAFETY REGULATIONS; TO AMEND SECTION 56-5-2770, RELATING TO SIGNALS AND MARKINGS ON SCHOOL BUSES, OVERTAKING AND PASSING A SCHOOL BUS, AND LOADING PASSENGERS ON A SCHOOL BUS, SO AS TO PROVIDE THAT A SCHOOL BUS MAY BE EQUIPPED WITH A DIGITAL RECORDING DEVICE MOUNTED ON THE SCHOOL BUS; BY ADDING SECTION 56-5-2773 SO AS TO PROVIDE THAT A UNIFORM TRAFFIC CITATION MAY BE ISSUED BASED UPON IMAGES OBTAINED FROM A DIGITAL RECORDING DEVICE MOUNTED ON A SCHOOL BUS, AND TO PROVIDE THAT THE DIGITAL IMAGES MAY BE USED AS EVIDENCE AT A HEARING REGARDING AN OFFENSE RELATED TO THE OPERATION OF A SCHOOL BUS; TO AMEND SECTION 56-7-35, AS AMENDED, RELATING TO THE ISSUANCE OF A UNIFORM TRAFFIC TICKET FOR SPEEDING OR DISREGARDING A TRAFFIC CONTROL DEVICE, SO AS TO PROVIDE THAT THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A UNIFORM TRAFFIC CITATION ALLEGING THE VIOLATION OF THE PROVISIONS THAT RELATES TO THE OPERATION OF A SCHOOL BUS; AND TO AMEND SECTION 56-7-15, AS AMENDED, RELATING TO THE ISSUANCE OF A UNIFORM TRAFFIC TICKET BY A LAW ENFORCEMENT OFFICER TO ARREST A PERSON FOR AN OFFENSE COMMITTED IN HIS PRESENCE OR FOR DOMESTIC VIOLENCE OFFENSES, SO AS TO PROVIDE THAT THE ISSUANCE OF A UNIFORM TRAFFIC TICKET ALLEGING THE VIOLATION OF A PROVISION THAT RELATES TO THE OPERATION OF A BUS IS NOT SUBJECT TO THE PROVISIONS CONTAINED IN THIS SECTION.

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

Commercial driver license

SECTION 1. Section 56-1-2100(B) of the 1976 Code, as last amended by Act 216 of 2010, is further amended to read:

"(B) The holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles which require an endorsement may not be driven unless the proper endorsement appears

on the license. Commercial driver licenses may be issued with the following classifications, endorsements, and restrictions:

(1) Classifications:

(a) Class A: A combination of vehicles with a gross combination weight rating of twenty-six thousand one pounds or more provided the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand pounds.

(b) Class B: A single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of ten thousand pounds gross vehicle weight rating.

(c) Class C: A single vehicle, or combination of vehicles, that are not Class A or B vehicles but either designed to transport sixteen or more passengers including the driver, or are required to be placarded for hazardous materials under 49 C.F.R. Part 172, subpart F.

(2) Endorsements are added to commercial driver licenses as required under Part 383.153 of the Federal Motor Carrier Safety Regulations.

(3) Restrictions are added to commercial driver licenses as required under Part 383.153 of the Federal Motor Carrier Safety Regulations."

School bus

SECTION 2. Section 56-5-2770(D) of the 1976 Code is amended to read:

"(D)(1) A school bus must be equipped with red and amber visual signals meeting the requirements of State Department of Education Regulations and Specifications Pertaining to School Buses, which must be actuated by the driver whenever the bus is stopped or preparing to stop on the highway for the purpose of receiving or discharging school children. A driver must not actuate the special visual signals when the bus is in designated school bus loading or off-loading areas if the bus is off the roadway entirely.

(2) A school bus may be equipped with a digital video recording device mounted on the school bus with a clear view of vehicles passing the bus on either side and showing the date and time the recording was made and an electronic symbol showing the activation of amber lights, flashing red lights, stop arms, and brakes. Digital video recording devices mounted on school buses must be procured in compliance with Chapter 11, Title 35 or a procurement code adopted by the political

subdivision procuring the digital video recording device in compliance with Section 11-35-50."

School bus

SECTION 3. Article 21, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-2773. (A) A uniform traffic citation alleging the violation of Section 56-5-2770 may be issued based in whole or in part upon images obtained from a digital video recording device mounted on a school bus. A copy of the citation must be given directly to the alleged offender by the law enforcement officer issuing the citation.

(B) Digital images obtained from a digital video recording device mounted on a school bus pursuant to Section 56-5-2770(D) may be used as evidence at any hearing related to a violation of Section 56-5-2770 to corroborate testimony by the school bus driver or any other person who witnessed the offense."

Uniform traffic ticket

SECTION 4. Section 56-7-35(C) of the 1976 Code, as added by Act 65 of 2011, is further amended to read:

"(C) The provisions of this section do not apply to:

(1) toll collection; or

(2) issuance of a uniform traffic citation alleging the violation of Section 56-5-2770."

Uniform traffic ticket

SECTION 5. Section 56-7-15 of the 1976 Code, as last amended by Act 78 of 2013, is further amended by adding at the end:

"(C) The issuance of a uniform traffic ticket alleging the violation of Section 56-5-2770 is not subject to the provisions of this section."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 9th day of June, 2014.

No. 275

(R319, H3905)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "BACK TO BASICS IN EDUCATION ACT OF 2014" BY ADDING SECTION 59-29-15 SO AS TO REQUIRE CURSIVE WRITING AND MEMORIZATION OF MULTIPLICATION TABLES AS SUBJECTS OF INSTRUCTION IN PUBLIC SCHOOLS, TO REQUIRE STUDENTS DEMONSTRATE COMPETENCE IN EACH SUBJECT BEFORE COMPLETION OF THE FIFTH GRADE, TO PROVIDE THE STATE DEPARTMENT OF EDUCATION SHALL ASSIST THE SCHOOL DISTRICTS IN IDENTIFYING THE MOST APPROPRIATE MEANS FOR INTEGRATING THIS REQUIREMENT INTO THEIR EXISTING CURRICULUMS AND RECOMMEND CURSIVE WRITING INSTRUCTIONAL MATERIALS FOR INCLUSION ON THE APPROVED STATE TEXTBOOK ADOPTION LIST, AND TO MAKE THE PROVISIONS OF THIS ACT APPLICABLE BEGINNING WITH THE 2015-2016 SCHOOL YEAR.

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

Back to Basics Education Act of 2014

SECTION 1. This act must be known and may be cited as the "Back to Basics in Education Act of 2014".

Teaching cursive writing and multiplication tables required, Department of Education obligations

SECTION 2. Article 1, Chapter 29, Title 59 of the 1976 Code is amended by adding:

"Section 59-29-15. (A) In addition to the requirements that writing and arithmetic be subjects of instruction in each school district pursuant to Section 59-29-10, each school district shall:

(1) provide instruction in cursive writing to ensure that students can create readable documents through legible cursive handwriting by the end of fifth grade; and

(2) require students to memorize multiplication tables to ensure that students can effectively multiply numbers by the end of fifth grade.

(B) The State Department of Education shall assist the school districts in identifying the most appropriate means for integrating this requirement into their existing curriculums. Additionally, the department, using procedures followed for other textbook adoptions, shall review and recommend cursive writing instructional materials for inclusion on the approved state textbook adoption list. Schools may select these materials in the same manner that other textbooks are selected from the list."

Time effective

SECTION 3. The provisions of this section take effect upon approval by the Governor, and are applicable beginning with the 2015-2016 academic year.

Ratified the 9th day of June, 2014.

Approved the 9th day of June, 2014.

No. 276

(R320, H4560)

AN ACT TO AMEND SECTION 17-1-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DESTRUCTION OR EXPUNGEMENT OF CERTAIN ARREST AND BOOKING RECORDS UNDER CERTAIN CIRCUMSTANCES, SO AS TO DEFINE THE TERM "UNDER SEAL", TO PROVIDE IN THE CASE OF OFFENSES EXPUNGED FOR THE RETENTION BY LAW ENFORCEMENT AND PROSECUTION AGENCIES OF ARREST AND BOOKING RECORDS, ASSOCIATED BENCH

WARRANTS, INCIDENT REPORTS, AND OTHER INFORMATION UNDER SEAL FOR THREE YEARS AND ONE HUNDRED TWENTY DAYS AND ALLOW FOR THEIR INDEFINITE RETENTION FOR CERTAIN DELINEATED PURPOSES, TO PROVIDE THAT THIS INFORMATION IS NOT A PUBLIC DOCUMENT AND IS EXEMPT FROM DISCLOSURE EXCEPT BY COURT ORDER, TO AUTHORIZE REDACTION OF CERTAIN INFORMATION IN AN INCIDENT REPORT IF A REQUEST IS MADE TO INSPECT OR OBTAIN AN INCIDENT REPORT PURSUANT TO THE FREEDOM OF INFORMATION ACT, AND TO PROVIDE A CRIMINAL PENALTY FOR PERSONS WHO VIOLATE PROVISIONS RELATING TO THE RELEASE OF AN INCIDENT REPORT; TO AMEND SECTION 22-5-910, AS AMENDED, RELATING TO EXPUNGEMENT OF CRIMINAL RECORDS, SO AS TO INCLUDE ASSOCIATED BENCH WARRANTS IN THE INFORMATION THAT MAY BE EXPUNGED; TO AMEND SECTION 17-22-910, RELATING TO APPLICATIONS FOR CERTAIN OFFENSES ELIGIBLE FOR EXPUNGEMENT, SO AS TO CONFORM THE PROVISIONS TO THAT OF SECTION 44-53-450 WHICH ALLOWS FOR EXPUNGEMENT OF CERTAIN DELINEATED DRUG OFFENSES; TO AMEND SECTION 17-22-940, RELATING TO THE EXPUNGEMENT PROCESS, SO AS TO INCLUDE THE TRAFFIC EDUCATION PROGRAM DIRECTOR'S PARTICIPATION IN THE PROCESS; AND TO AMEND SECTION 17-22-950, RELATING TO THE ISSUANCE OF EXPUNGEMENT ORDERS, SO AS TO MAKE A CONFORMING CHANGE TO ADD THAT ASSOCIATED BENCH WARRANTS ARE INCLUDED IN THE EXPUNGEMENT ORDER AND TO PROVIDE EXPUNGEMENT PROCEDURES WHEN CRIMINAL CHARGES ARE BROUGHT IN SUMMARY COURT WHEN THE PERSON WAS NOT FINGERPRINTED.

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

Expungement, retention of certain information by law enforcement or prosecution agencies

SECTION 1. Section 17-1-40 of the 1976 Code, as last amended by Act 75 of 2013, is further amended to read:

"Section 17-1-40. (A) For purposes of this section, 'under seal' means not subject to disclosure other than to a law enforcement or prosecution agency, and attorneys representing a law enforcement or prosecution agency, unless disclosure is allowed by court order.

(B)(1) If a person's record is expunged pursuant to Article 9, Title 17, Chapter 22, because the person was charged with a criminal offense, or was issued a courtesy summons pursuant to Section 22-3-330 or another provision of law, and the charge was discharged, proceedings against the person were dismissed, or the person was found not guilty of the charge, then the arrest and booking record, associated bench warrants, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge or associated bench warrants may be retained by any municipal, county, or state agency. Provided, however, that:

(a) Law enforcement and prosecution agencies shall retain the arrest and booking record, associated bench warrants, mug shots, and fingerprints of the person under seal for three years and one hundred twenty days. A law enforcement or prosecution agency may retain the information indefinitely for purposes of ongoing or future investigations and prosecution of the offense, and to defend the agency and the agency's employees during litigation proceedings. The information must remain under seal. The information is not a public document and is exempt from disclosure, except by court order.

(b) Detention and correctional facilities shall retain booking records, identifying documentation and materials, and other institutional reports and files under seal, on all persons who have been processed, detained, or incarcerated, for a period not to exceed three years and one hundred twenty days from the date of the expungement order to manage the facilities' statistical and professional information needs, and to defend the facilities and the facilities' employees during litigation proceedings, except when an action, complaint, or inquiry has been initiated. The information is not a public document and is exempt from disclosure, except by court order.

(2) A municipal, county, or state agency, or an employee of a municipal, county, or state agency that intentionally violates this subsection is guilty of contempt of court.

(3) Nothing in this subsection requires the South Carolina Department of Probation, Parole and Pardon Services to expunge the probation records of persons whose charges were dismissed by conditional discharge pursuant to Section 44-53-450.

(C)(1) If a person's record is expunged pursuant to Article 9, Title 17, Chapter 22, because the person was charged with a criminal

offense, or was issued a courtesy summons pursuant to Section 22-3-330 or another provision of law, and the charge was discharged, proceedings against the person were dismissed, or the person was found not guilty of the charge, then law enforcement and prosecution agencies shall retain the evidence gathered, unredacted incident and supplemental reports, and investigative files under seal for three years and one hundred twenty days. A law enforcement or prosecution agency may retain the information indefinitely for purposes of ongoing or future investigations, other law enforcement or prosecution purposes, and to defend the agency and the agency's employees during litigation proceedings. The information must remain under seal. The information is not a public document, is exempt from disclosure, except by court order, and is not subject to an order for destruction of arrest records.

(2) If a request is made to inspect or obtain the incident reports pursuant to the South Carolina Freedom of Information Act, the law enforcement agency shall redact the name of the person whose record is expunged and other information which specifically identifies the person from copies of the reports provided to the person or entity making the request.

(3) If a person other than the person whose record is expunged is charged with the offense, a prosecution agency may provide the attorney representing the other person with unredacted incident and supplemental reports. The attorney shall not provide copies of the reports to a person or entity nor share the contents of the reports with a person or entity, except during judicial proceedings or as allowed by court order.

(4) A person who intentionally violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days, or both.

(5) Nothing in this subsection prohibits evidence gathered or information contained in incident reports or investigation and prosecution files from being used for the investigation and prosecution of a criminal case or for the defense of a law enforcement or prosecution agency or agency employee.

(D) A municipal, county, or state agency may not collect a fee for the destruction of records pursuant to this section.

(E)(1) This section does not apply to a person who is charged with a violation of Title 50, Title 56, or an enactment pursuant to the authority of counties and municipalities provided in Titles 4 and 5.

(2) If a charge enumerated in item (1) is discharged, proceedings against the person are dismissed, the person is found not guilty of the

charge, or the person's record is expunged pursuant to Article 9, Title 17, Chapter 22, the charge must be removed from any Internet-based public record no later than thirty days from the disposition date.

(F) The State Law Enforcement Division is authorized to promulgate regulations that allow for the electronic transmission of information pursuant to this section.

(G) Unless there is an act of gross negligence or intentional misconduct, nothing in this section gives rise to a claim for damages against the State, a state employee, a political subdivision of the State, an employee of a political subdivision of the State, a public officer, or other persons."

Expungement, associated bench warrants included

SECTION 2. Section 22-5-910 of the 1976 Code, as last amended by Act 75 of 2013, is further amended to read:

"Section 22-5-910. (A) Following a first offense conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of one thousand dollars, or both, the defendant after three years from the date of the conviction, including a conviction in magistrates or general sessions court, may apply, or cause someone acting on his behalf to apply, to the circuit court for an order expunging the records of the arrest and conviction and any associated bench warrant. However, this section does not apply to:

(1) an offense involving the operation of a motor vehicle;

(2) a violation of Title 50 or the regulations promulgated pursuant to Title 50 for which points are assessed, suspension provided for, or enhanced penalties for subsequent offenses are authorized; or

(3) an offense contained in Chapter 25, Title 16, except first offense criminal domestic violence as contained in Section 16-25-20, which may be expunged five years from the date of the conviction.

(B) If the defendant has had no other conviction during the three-year period, or during the five-year period as provided in subsection (A)(3), following the first offense conviction for a crime carrying a penalty of not more than thirty days imprisonment or a fine of not more than one thousand dollars, or both, including a conviction in magistrates or general sessions court, the circuit court may issue an order expunging the records including any associated bench warrant. No person may have his records expunged under this section more than once. A person may have his record expunged even though the conviction occurred prior to June 1, 1992.

(C) After the expungement, the South Carolina Law Enforcement Division is required to keep a nonpublic record of the offense and the date of the expungement to ensure that no person takes advantage of the rights of this section more than once. This nonpublic record is not subject to release pursuant to Section 34-11-95, the Freedom of Information Act, or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this section from being taken advantage of more than once.

(D) As used in this section, 'conviction' includes a guilty plea, a plea of nolo contendere, or the forfeiting of bail."

Expungement, certain drug offenses eligible for expungement

SECTION 3. Section 17-22-910 of the 1976 Code is amended to read:

"Section 17-22-910. Applications for expungement of all criminal records must be administered by the solicitor's office in each circuit in the State as authorized pursuant to:

(1) Section 34-11-90(e), first offense misdemeanor fraudulent check;

(2) Section 44-53-450(b), conditional discharge;

(3) Section 22-5-910, first offense conviction in magistrates court;

(4) Section 22-5-920, youthful offender act;

(5) Section 56-5-750(f), first offense failure to stop when signaled by a law enforcement vehicle;

(6) Section 17-22-150(a), pretrial intervention;

(7) Section 17-1-40, criminal records destruction, except as provided in Section 17-22-950;

(8) Section 20-7-8525, juvenile expungements;

(9) Section 17-22-530(a), alcohol education program;

(10) Section 17-22-330(A), traffic education program; and

(11) any other statutory authorization."

Expungement, traffic education program directors included

SECTION 4. Section 17-22-940(E) of the 1976 Code is amended to read:

"(E) In cases when charges are sought to be expunged pursuant to Section 17-22-150(a), 17-22-530(a), 22-5-910, or 44-53-450(b), the circuit pretrial intervention director, alcohol education program

director, traffic education program director, or summary court judge shall attest by signature on the application to the eligibility of the charge for expungement before either the solicitor or his designee and then the circuit court judge, or the family court judge in the case of a juvenile, signs the application for expungement."

Expungement, court orders to include associated bench warrants, summary court expungement procedures

SECTION 5. Section 17-22-950 of the 1976 Code is amended to read:

"Section 17-22-950. (A)(1) When criminal charges are brought in a summary court and the accused person is found not guilty or if the charges are dismissed or nolle prossed, pursuant to Section 17-1-40, the presiding judge of the summary court, at no cost to the accused person, immediately shall issue an order to expunge the criminal records, including any associated bench warrants, of the accused person unless the dismissal of the charges occurs at a preliminary hearing or unless the accused person has charges pending in summary court and a court of general sessions and such charges arise out of the same course of events. This expungement must occur no sooner than the appeal expiration date and no later than thirty days after the appeal expiration date. Except as provided in item (2), upon issuance of the order, the judge of the summary court or a member of the summary court staff must coordinate with SLED to confirm that the criminal charge is statutorily appropriate for expungement; obtain and verify the presence of all necessary signatures; file the completed expungement order with the clerk of court; provide copies of the completed expungement order to all governmental agencies which must receive the order including, but not limited to, the arresting law enforcement agency, the detention facility or jail, the solicitor's office, the magistrates or municipal court where the arrest or bench warrant originated, the magistrates or municipal court that was involved in any way in the criminal process of the charge or bench warrant sought to be expunged, and SLED. The judge of the summary court or a member of the summary court staff also must provide a copy of the completed expungement order to the applicant or his retained counsel. The prosecuting agency or appropriate law enforcement agency may file an objection to a summary court expungement. If an objection is filed by the prosecuting agency or law enforcement agency, that expungement then must be heard by the judge of a general sessions court. The prosecuting

agency's or the appropriate law enforcement agency's reason for objecting must be that the:

(a) accused person has other charges pending;

(b) prosecuting agency or the appropriate law enforcement agency believes that the evidence in the case needs to be preserved; or

(c) accused person's charges were dismissed as a part of a plea agreement.

(2) If criminal charges are brought in a summary court and the accused person is found not guilty, or the charges are dismissed or nolle prossed pursuant to Section 17-1-40, and the person was not fingerprinted for the violation, then, upon issuance of the order, the summary court shall coordinate with the arresting law enforcement agency to confirm that the person was not fingerprinted for the violation; obtain and verify all necessary signatures; and provide copies of the completed expungement order to the arresting law enforcement agency and all summary courts that were involved in the criminal process of the charges. The summary court is not required to provide copies of the completed expungement order to SLED. All summary courts that were involved in the criminal process of the charges shall destroy all documentation related to the charges, including, but not limited to, removing the charges from Internet-based public records. All other provisions of subsection (A)(1) apply.

(B) If the prosecuting agency or the appropriate law enforcement agency objects to an expungement order being issued pursuant to subsection (A)(1)(b), the prosecuting agency or appropriate law enforcement agency must notify the accused person of the objection. This notice must be given in writing at the address listed on the accused person's bond form, or through his attorney, no later than thirty days after the person is found not guilty or his charges are dismissed or nolle prossed."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 9th day of June, 2014.

Approved the 9th day of June, 2014.

No. 277

(R321, H4944)

AN ACT TO AMEND SECTION 12-43-225, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MULTIPLE LOT DISCOUNT, SO AS TO PROVIDE AN ADDITIONAL YEAR OF ELIGIBILITY IN CERTAIN CIRCUMSTANCES.

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

Multiple lot discount extension

SECTION 1. Section 12-43-225(D) of the 1976 Code is amended to read:

"(D)(1) For lots which received the discount provided in subsection (B) on December 31, 2011, there is granted an additional year of eligibility for that discount in property tax years 2012, 2013, 2014, and 2015, in addition to any remaining period provided for in subsection (B). If ten or more lots receiving the discount under this item are sold to a new owner primarily in the business of real estate development, the new owner may make written application within sixty days of the date of sale to the assessor for the remaining eligibility period under this item.

(2) For lots which received the discount provided in subsection (C) after December 31, 2008, and before January 1, 2012, upon written application to the assessor no later than thirty days after mailing of the property tax bill, there is granted an additional year of eligibility for that discount in property tax years 2012, 2013, 2014, and 2015. If a lot receiving the additional eligibility under this item is transferred to a new owner primarily in the business of residential development or residential construction during its eligibility period, the new owner may apply to the county assessor for the discount allowed by this item for the remaining period of eligibility, which must be allowed if the new owner applied for the discount within thirty days of the mailing of the tax bill and meets the other requirements of this section."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies to property tax years beginning after 2013.

Ratified the 9th day of June, 2014.

Approved the 9th day of June, 2014.

No. 278

(R322, H5040)

AN ACT TO AMEND SECTION 51-13-1720, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BOARD OF REGENTS FOR THE OLD JACKSONBOROUGH HISTORIC DISTRICT AUTHORITY, SO AS TO REDUCE THE BOARD TO SEVEN MEMBERS, AND TO CHANGE THE MANNER IN WHICH TWO APPOINTMENTS ARE MADE.

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

Membership of Board of Regents for the Old Jacksonborough District Authority

SECTION 1. Section 51-13-1720 of the 1976 Code, as last amended by Act 279 of 2012, is further amended to read:

"Section 51-13-1720. The authority must be governed by a board of regents consisting of seven members, as follows:

(a) one member appointed by the Senator in whose district the present Village of Jacksonborough is located. The member must be a resident of this State;

(b) one member appointed by the Representative in whose district the present Village of Jacksonborough is located. The member must be a resident of this State;

(c) four members resident in Colleton County appointed by the Governor upon recommendation of the Colleton County Legislative Delegation;

(d) one member appointed by the Governor with the advice and consent of the Senate who resides in the congressional district in which the present Village of Jacksonborough is located.

The terms of the members must be for four years and until their successors are appointed and qualify except that those originally appointed to the board of regents, four shall serve two years and three shall serve for four years. The length of such terms must be determined by lot. In the case of a vacancy, the vacancy must be filled in the manner of the original appointment for the unexpired portion of the term only. The board of regents, upon being appointed, shall meet and elect a chairman and other officers it considers necessary from its membership."

Time effective

SECTION 2. This act takes effect upon approval by the Governor. However, any member serving on the effective date of this act may continue to serve until their term expires, at which time the succeeding member must be appointed pursuant to the provisions of this act.

Ratified the 9th day of June, 2014.

Approved the 9th day of June, 2014.

No. 279

(R297, H3644)

AN ACT TO AMEND SECTION 12-6-3588, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RENEWABLE ENERGY TAX CREDIT INCENTIVE PROGRAM, SO AS TO REDESIGNATE THE PROGRAM THE "SOUTH CAROLINA CLEAN ENERGY TAX INCENTIVE PROGRAM", TO REVISE DEFINITIONS TO EXTEND THE CREDIT TO ADDITIONAL FORMS OF ENERGY PRODUCTION AND OPERATIONS, TO DECREASE INVESTMENT THRESHOLDS AND DECREASE JOB CREATION THRESHOLDS FOR QUALIFYING FOR THE CREDIT AND MAKE THE CREDIT, PREVIOUSLY DUE TO EXPIRE DECEMBER 31, 2015, AVAILABLE THROUGH 2020, AND TO REVISE CREDIT ADMINISTRATION PROCEDURES FOR CREDITS EARNED AFTER 2014; TO AMEND SECTION 12-6-3620, RELATING TO THE CORPORATE INCOME AND LICENSE TAX CREDIT ALLOWED FOR EQUIPMENT

INSTALLED TO PRODUCE ENERGY FROM BIOMASS SOURCES, SO AS TO PROVIDE THAT THE PRIMARY ADMINISTRATION OF SUCH CREDITS EARNED AFTER TAXABLE YEAR 2013, IS BY THE SOUTH CAROLINA DEPARTMENT OF REVENUE; TO AMEND SECTION 12-20-105, RELATING TO THE CORPORATE LICENSE TAX CREDIT ALLOWED FOR CASH CONTRIBUTIONS TO PROVIDE INFRASTRUCTURE FOR ELIGIBLE PROJECTS, SO AS TO INCLUDE IN THE DEFINITION OF "ELIGIBLE PROJECT" A MUNICIPAL OR COUNTY-OWNED, MULTIUSE SPORTS AND RECREATIONAL COMPLEX LOCATED IN A COUNTY IN WHICH HAS BEEN COLLECTED AT LEAST FIVE MILLION DOLLARS IN A FISCAL YEAR IN STATE-IMPOSED ACCOMMODATIONS TAX AND TO FURTHER DEFINE "INFRASTRUCTURE" FOR PURPOSES OF A MULTIUSE SPORTS AND RECREATIONAL COMPLEX; TO AMEND SECTION 12-10-95, RELATING TO THE CREDIT AGAINST WITHHOLDING FOR RETRAINING, SO AS TO INCREASE THE CREDIT, SPECIFY ELIGIBLE EMPLOYEES AND PROGRAMS, PROVIDE THAT A BUSINESS MAY NOT CLAIM THE CREDIT IF THE EMPLOYEE IS REQUIRED TO REIMBURSE OR PAY FOR THE COSTS OF THE RETRAINING, INCREASE THE MATCH AMOUNT FOR THE BUSINESS, AND PROVIDE THAT THE PROGRAMS ARE SUBJECT TO REVIEW BY THE DEPARTMENT OF REVENUE AND THE STATE BOARD OF TECHNICAL AND COMPREHENSIVE EDUCATION; AND TO AMEND SECTION 12-10-105, RELATING TO THE ANNUAL FEE FOR A BUSINESS CLAIMING THE WITHHOLDING CREDIT, SO AS TO INCREASE THE THRESHOLD BELOW WHICH THE ANNUAL FEE FOR THE JOB RETRAINING CREDIT DOES NOT APPLY.

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

Tax credit renamed, extended, and revised

SECTION 1. A. Section 12-6-3588 of the 1976 Code is amended to read:

"Section 12-6-3588. (A) The General Assembly has determined to enact the 'South Carolina Clean Energy Tax Incentive Program' as

contained in this section to encourage business investment that will produce high quality employment opportunities and enhance this state's position as a center for production and use of clean energy products. The program accomplishes this goal by providing tax incentives to companies in the solar, wind, geothermal, and other clean energy industries which are expanding or locating in South Carolina.

(B) As used in this section:

(1) 'Capital investment' means an expenditure to acquire, lease, or improve property that is used in operating a business, including land, buildings, machinery, and fixtures.

(2) 'Manufacturing' means fabricating, producing, or manufacturing raw or unprepared materials into usable products, imparting new forms, qualities, properties, and combinations. Manufacturing does not include generating electricity for off-site consumption.

(3) 'Qualifying investment' means investment in land, buildings, machinery, and fixtures for expansion of an existing facility or establishment of a new facility in this State. Qualifying investment does not include relocating an existing facility in this State to another location in this State without additional capital investment.

(4) 'Clean energy operations' are limited to manufacturers of systems or components that are used or useful in manufacturing or operation of clean energy equipment for the generation, storage, testing and research and development, and transmission or distribution of electricity from clean energy sources, including specialized packaging for the clean energy equipment manufactured at the facility. A clean energy operation does not include generating electricity for off-site consumption.

(C) A business or corporation meeting the requirements of this section is eligible to receive a ten percent nonrefundable income tax credit of the cost of the company's total qualifying investments in plant and equipment in this State for clean energy operations.

(D) The business or corporation shall:

(1) manufacture clean energy systems or components in South Carolina for solar, wind, geothermal, or other clean energy uses in order to be eligible for the tax credit authorized by this section;

(2) invest at least fifty million dollars in a Tier IV county, at least one hundred million dollars in a Tier III county, at least one hundred fifty million dollars in a Tier II county, and at least two hundred million dollars in a Tier I county according to the county ranking and designation system as provided pursuant to Section 12-6-3360(B) in

the year the tax credit is claimed in new qualifying plant and equipment; and

(3) have created at least one full-time job for every one million dollars of capital investment qualifying for the credit that each pays at least one hundred twenty-five percent of this state's average annual median wage as defined by the Department of Commerce.

(E) The income tax credit is allowed for up to sixty months beginning with the first taxable year for which the business or corporation is eligible to receive the credit, so long as the business or corporation becomes eligible to receive the credit no later than the tax year ending on December 31, 2020.

(F) A taxpayer may separately qualify for new facilities in separate locations or for separate expansions of existing facilities located in this State.

(G) A taxpayer's total credit for all expenditures allowed pursuant to this section must not exceed five hundred thousand dollars for any year and five million dollars total for all years. Unused credits may be carried forward for fifteen years after the tax year in which a qualified expenditure was made. The credit is nonrefundable.

(H) For any credit awarded after tax year 2014, to obtain the amount of the credit available to a taxpayer, each taxpayer shall notify the Department of Revenue, in writing, of its intention to claim the tax credit. The Department of Revenue shall determine the proof necessary to meet the requirements of subsections (D)(1) and (D)(2). Expenditures qualifying for the tax credit allowed by this section must be certified by the Department of Revenue. The Department of Revenue must consult with the Department of Commerce, the State Energy Office, or any other appropriate state and federal officials on standards for certification.

Each taxpayer shall submit a request for the credit to the Department of Revenue by January thirty-first for qualifying expenses incurred in the previous calendar year and the Department of Revenue must notify the taxpayer that the submitted expenditures qualify for the credit and the amount of credit allocated to such taxpayer by March first of that year. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty-first of the previous calendar year.

(I) To obtain the amount of the credit available to a taxpayer, the Department of Commerce also must certify to the Department of Revenue that the taxpayer has met the job creation requirements of subsection (D)(3).

(J) The credits authorized by this section are in lieu of any other applicable income tax credits or abatements allowed by state law, and in the event of an overlap or conflict in available credits or abatements to a taxpayer, the taxpayer must select the credit or abatement the taxpayer desires in the manner prescribed by the Department of Revenue to the extent the credits or abatements conflict or overlap."

B. This section takes effect upon approval by the Governor and applies to tax years beginning after 2013.

Administration of tax credit

SECTION 2. Section 12-6-3620 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) Notwithstanding subsections (A) or (D)(1), for any credit requested after tax year 2013, to obtain the maximum amount of credit available to a taxpayer, a taxpayer must submit a request for credit to the Department of Revenue by January thirty-first for all qualifying equipment placed in service in the previous calendar year and the department must notify the taxpayer that it qualifies for the credit and the amount of credit allocated to the taxpayer by March first of that year. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty-first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit, including, but not limited to, documentation relating to certifying the costs incurred by a taxpayer. The Department of Revenue shall consult with the State Energy Office or any other appropriate state and federal officials on standards for certification."

Additional 'eligible project'

SECTION 3. A. Section 12-20-105(B) of the 1976 Code is amended by adding an appropriately numbered item to read:

"(3) In a county in which at least five million dollars in state accommodations tax imposed pursuant to Section 12-36-920 has been collected in at least one fiscal year, a county or municipality-owned multiuse sports and recreational complex is considered an 'eligible project' promoting economic development for all purposes of the credit allowed pursuant to this section."

B. Section 12-20-105 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) For the purposes of this section, for a qualifying project pursuant to subsection (B)(3), infrastructure includes all applicable provisions of subsection (C) applying to the development and construction of the sports and recreational complex and further includes costs of land acquisition and preparation, construction of facilities and venues in the complex, improvements and upgrades to existing facilities and venues, and any other capital costs incurred in the acquisition, construction, and operation of the complex."

C. This section takes effect upon approval by the Governor and applies for contributions made for a multiuse sports and recreational complex placed in service after 2011.

Job retraining tax credit and annual fee revised

SECTION 4. A. Section 12-10-95 of the 1976 Code is amended to read:

"Section 12-10-95. (A)(1) Subject to the conditions in this section, a business engaged in manufacturing or processing operations or technology intensive activities at a manufacturing, processing, or technology intensive facility as defined in Section 12-6-3360(M) and that meets the requirements of Section 12-10-50(B)(2) may negotiate with a technical college, with approval from the State Board for Technical and Comprehensive Education, to claim as a credit against withholding one thousand dollars a year for the retraining of a production or technology first line employee or immediate supervisor who has been continuously employed by the business for a minimum of two years and is a full-time employee, so long as retraining is necessary for the qualifying business to remain competitive or to introduce new technologies. In addition to the yearly limits, the retraining credit claimed against withholding may not exceed five thousand dollars over five consecutive years for each retrained production or technology first line employee or immediate supervisor.

(2) Retraining programs that are eligible for the credit include, but are not limited to:

(a) retraining of current employees on newly installed equipment; and

(b) retraining of current employees on newly implemented technology, such as computer platforms, software implementation and upgrades, Total Quality Management, ISO 9000, and self-directed work teams.

Executive training, management development training, career development, personal enrichment training, and cross-training of employees on equipment or technology that is not new to the company are not eligible for the credit.

(B) A qualifying business is eligible to claim as a retraining credit against withholding the lower amount of the following:

(1) the retraining credit for the applicable withholding period as determined by subsection (A); or

(2) withholding paid to the State for the applicable withholding period.

(C) All retraining must be approved by a technical college under the jurisdiction of the State Board for Technical and Comprehensive Education. A qualifying business must submit a retraining program for approval by the appropriate technical college. The approving technical college may provide the retraining itself, subject to the retraining program, or contract with other training entities to provide the required retraining, or supervise the employer's approved internal training program.

(D) An employer may not receive the credit allowed by this section if the employer requires that the employee reimburse or pay the employer for the direct costs of retraining, or if the employee is required to reimburse or pay the employer indirectly through the forfeiture of leave time, vacation time, or other compensable time. Direct costs of retraining include instructor salaries, development of retraining programs, purchase or rental of materials and supplies, textbooks and manuals, instructional media, such as video tapes, presentations, equipment used for retraining only, not to include production equipment, and reasonable travel costs as limited by the state's travel expense reimbursement policy.

(E) The qualifying business must expend at least one dollar fifty cents on retraining eligible employees for every dollar claimed as a credit against withholding for retraining. All training costs, including costs in excess of the retraining credits and matching funds, are the responsibility of the business.

(F) A qualifying business may not claim retraining credit for training provided to the following production or technology first line employees or immediate supervisors:

(a) temporary or contract employees; and

(b) employees who are subject to a revitalization agreement, including a preliminary revitalization agreement.

(G) Notwithstanding another provision of this section, the retraining credit allowed by this section is for:

(1) apprenticeship programs; and

(2) retraining for all relevant employees that enable a company to export or increase its ability to export its products, including training for logistics, regulatory, and administrative areas connected to its export process and other export process training that allows a qualified company to maintain or expand its business in this State.

(H) There is hereby established an annual renewal fee of two hundred fifty dollars to be billed and collected by the department.

(I)(1) All approved programs and training must be reviewed annually by the State Board for Technical and Comprehensive Education.

(2) Every three years, the Department of Revenue must audit any business that claimed the job retraining credit pursuant to this section during that time period, solely for the purpose of verifying proper sources and uses of the credits.

(J) The State Board for Technical and Comprehensive Education shall establish policies and procedures to provide the oversight and review provisions of this section. By November fifteenth of each year, the State Board for Technical and Comprehensive Education shall submit a statewide aggregated report detailing the utilization of the retraining credit pursuant to this section, as well as the board's activities in regard to oversight, to the Governor, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Finance Committee, the Coordinating Council for Economic Development, and the Department of Revenue. Also, the board shall make the report available in a conspicuous place on the website maintained by the board."

B. Section 12-10-105 of the 1976 Code is amended to read:

"Section 12-10-105. In addition to the application fee provided in Section 12-10-100, an additional annual fee of one thousand dollars must be remitted by those qualifying businesses claiming in excess of ten thousand dollars of job development credits or in excess of forty thousand dollars in job retraining credits in one calendar year. The fee is due for each project that is subject to a revitalization agreement that exceeds ten thousand dollars or retraining agreement that exceeds forty thousand dollars in one calendar year and must be remitted to the

Department of Revenue to be used to reimburse the department for costs incurred auditing reports required pursuant to Section 12-10-80(A). The fee becomes due at the time the single project's claims for job development credits exceeds ten thousand dollars or job retraining credits exceed forty thousand dollars for that calendar year."

C. This section takes effect upon approval by the Governor and applies to tax years beginning after December 31, 2013.

Time effective

SECTION 5. Except where provided otherwise, this act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 10th day of June, 2014.

No. 280

(R316, H3014)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 29 TO TITLE 14 SO AS TO ENACT THE "VETERANS TREATMENT COURT PROGRAM ACT"; TO AUTHORIZE CIRCUIT SOLICITORS TO ESTABLISH VETERANS TREATMENT COURT PROGRAMS; TO PROVIDE THAT EACH CIRCUIT SOLICITOR THAT ACCEPTS STATE FUNDING FOR THE IMPLEMENTATION OF A VETERANS TREATMENT COURT PROGRAM MUST ESTABLISH AND ADMINISTER AT LEAST ONE VETERANS TREATMENT COURT PROGRAM FOR THE CIRCUIT WITHIN ONE HUNDRED EIGHTY DAYS OF RECEIPT OF FUNDING; AND TO PROVIDE THAT THE CIRCUIT SOLICITOR MUST ADMINISTER THE PROGRAM AND ENSURE THAT ALL ELIGIBLE PERSONS ARE PERMITTED TO APPLY FOR ADMISSION.

Whereas, researchers have shown that a significant number of members of the United States Armed Forces who have served in Iraq and

Afghanistan will suffer, as a result of their military service, mental health injuries, such as post-traumatic stress disorder, depression, anxiety and acute stress, and injuries that affect brain function, such as traumatic brain injury; and

Whereas, while the vast majority of returning members of the United States Armed Forces do not have contact with the criminal justice system, and most veterans and members of the United States Armed Forces are well-adjusted, contributing members of society, psychiatrists and law enforcement officials agree that combat-related injuries have led to instances of criminality; and

Whereas, as a grateful State, we must continue to honor the military service of our men and women by providing them with an alternative to incarceration when feasible, permitting them instead to obtain proper treatment for mental health and substance abuse problems that have resulted from military service. Now, therefore,

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

Veterans Treatment Courts

SECTION 1. Title 14 of the 1976 Code is amended by adding:

"CHAPTER 29

Veterans Treatment Court Program

Section 14-29-10. This chapter may be cited as the 'Veterans Treatment Court Program Act'.

Section 14-29-20. The General Assembly recognizes the success of various other states' veterans court initiatives in rehabilitating certain nonviolent offenders who are veterans of a military conflict in which the United States military is or has been involved. The purpose of this chapter is to divert qualifying nonviolent military veteran offenders away from the criminal justice system and into appropriate treatment programs, thereby reserving prison space for violent criminals and others for whom incarceration is the only reasonable alternative.

Section 14-29-30. Each circuit solicitor may establish a veterans treatment court program. Each circuit solicitor that accepts state

funding for the implementation of a veterans treatment court program must establish and administer at least one veterans treatment court program for the circuit within one hundred eighty days of receipt of funding. The circuit solicitor must administer the program and ensure that all eligible persons are permitted to apply for admission to the program."

Savings Clause

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Severability

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 9th day of June, 2014.

Approved the 10th day of June, 2014.

No. 281

(R317, H3102)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT "JAIDON'S LAW"; TO AMEND SECTION 43-5-1285, RELATING TO EVALUATION OF THE SUCCESS AND EFFECTIVENESS OF THE SOUTH CAROLINA FAMILY INDEPENDENCE ACT OF 1995, SO AS TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES (DSS) TO REPORT ANNUALLY CERTAIN DATA TO THE GENERAL ASSEMBLY; BY ADDING SECTION 2-15-64 SO AS TO REQUIRE THE LEGISLATIVE AUDIT COUNCIL TO AUDIT EVERY THREE YEARS A PROGRAM OF DSS TO BE DETERMINED IN CONSULTATION WITH THE HOUSE JUDICIARY COMMITTEE AND SENATE GENERAL COMMITTEE AND TO AUTHORIZE THE LEGISLATIVE AUDIT COUNCIL TO SEEK REIMBURSEMENT OF AUDIT COSTS FROM DSS UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 63-7-1680, AS AMENDED, RELATING TO A PLACEMENT PLAN FOR A CHILD REMOVED FROM THE CUSTODY OF THE PARENT OR GUARDIAN, SO AS TO ALLOW DSS TO FILE A MOTION WITH THE COURT TO TERMINATE OR SUSPEND VISITATION WITH THE PARENT OR GUARDIAN; TO AMEND SECTION 63-7-1690, RELATING TO CONTENTS OF A PLACEMENT PLAN WHEN THE CONDITIONS FOR REMOVAL OF A CHILD FROM THE CUSTODY OF A PARENT INCLUDE CONTROLLED SUBSTANCE ABUSE, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 63-7-1710, RELATING TO CIRCUMSTANCES UNDER WHICH DSS IS REQUIRED TO FILE A PETITION TO TERMINATE PARENTAL RIGHTS, SO AS TO ADD COMMITTING, AND AIDING OR ABETTING TO COMMIT, HOMICIDE BY CHILD ABUSE OF ANOTHER CHILD OF THE PARENT AND WILFUL FAILURE TO COMPLY WITH THE TERMS OF A TREATMENT PLAN OR

PLACEMENT PLAN TWICE WITHIN TWELVE MONTHS; TO AMEND SECTION 63-7-1940, RELATING TO COURT-ORDERED ENTRY OF A PERSON IN THE CENTRAL REGISTRY FOR CHILD ABUSE AND NEGLECT, SO AS TO REQUIRE ENTRY IF A NEWBORN INFANT TESTS POSITIVE FOR A CONTROLLED SUBSTANCE, PRESCRIBED DRUG, OR ALCOHOL-RELATED DIAGNOSIS, IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 63-7-2570, AS AMENDED, RELATING TO GROUNDS FOR TERMINATION OF PARENTAL RIGHTS, SO AS TO ADD ADDICTION TO ALCOHOL OR ILLEGAL DRUGS OR PRESCRIPTION MEDICATION ABUSE AND COMMITTING MURDER, VOLUNTARY MANSLAUGHTER, OR HOMICIDE BY CHILD ABUSE OF ANOTHER CHILD OF THE PARENT; TO AMEND SECTION 63-7-1700, AS AMENDED, RELATING TO PERMANENCY PLANNING FOR A CHILD, SO AS TO REQUIRE A PARENT TO UNDERGO A DRUG TEST BEFORE RETURNING THE CHILD TO THE HOME IF THE REASON FOR REMOVAL IS RELATED TO DRUG ABUSE BY THE PARENT; TO AMEND SECTION 17-5-540, RELATING TO CORONER OR MEDICAL EXAMINER NOTIFICATION OF THE DEPARTMENT OF CHILD FATALITIES, SO AS TO APPLY IN ALL CASES WHEN A CHILD DIES AS A RESULT OF VIOLENCE; AND TO AMEND SECTION 43-1-210, AS AMENDED, RELATING TO DSS REPORTING REQUIREMENTS, SO AS TO REQUIRE DSS ANNUALLY TO REPORT CERTAIN DATA TO THE GOVERNOR AND GENERAL ASSEMBLY ADDRESSING CHILD PROTECTION WORKER CASELOADS, TIMELINESS OF CHILD ABUSE AND NEGLECT INVESTIGATIONS, AND TIMELINESS OF CASEWORKER VISITS WITH CHILDREN IN FOSTER CARE.

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

Jaidon's Law created

SECTION 1. This act may be cited as "Jaidon's Law".

Annual reports, Family Independence Program

SECTION 2. Section 43-5-1285 of the 1976 Code, as added by Act 102 of 1995, is amended to read:

"Section 43-5-1285. The department shall report annually to the General Assembly on the number of Family Independence families and individuals no longer receiving welfare, the number of individuals who have participated in educational, employment, or training programs under this act, the number of individuals who have completed educational, employment, or training programs under this act, and the number of individuals who have become employed and the duration of their employment."

Department of Social Services audits

SECTION 3. Chapter 15, Title 2 of the 1976 Code is amended by adding:

"Section 2-15-64. Beginning December 31, 2013, and every three years thereafter, the Legislative Audit Council shall conduct a management performance audit of a program of the South Carolina Department of Social Services. The program to be reviewed will be determined after consultation with the House of Representatives and the Senate. The Legislative Audit Council is authorized to charge the Department of Social Services for federal funds, if available, for the costs associated with this audit and shall provide certification to the Department of Social Services of certified public expenditures that are eligible for matching federal funds. The Department of Social Services shall remit the federal funds to the Legislative Audit Council as reimbursement for the costs of the audit."

Visitation of child in foster care

SECTION 4. Section 63-7-1680(D) of the 1976 Code, as last amended by Act 160 of 2010, is further amended to read:

"(D) The third section of the plan shall set forth rights and obligations of the parents or guardian while the child is in custody including, but not limited to:

(1) the responsibility of the parents or guardian for financial support of the child during the placement; and

(2) the visitation rights and obligations of the parents or guardian during the placement.

The department may move before the family court for termination or suspension of visits between the parent or guardian and the child. The

family court may order termination or suspension of the visits if ongoing contact between the parent or guardian and the child would be contrary to the best interests of the child. This section of the plan must include a notice to the parents or guardian that failure to support or visit the child as provided in the plan may result in termination of parental rights."

Placement plan, technical changes

SECTION 5. Section 63-7-1690 of the 1976 Code is amended to read:

"Section 63-7-1690. (A) When the conditions justifying removal pursuant to Section 63-7-1660 include the addiction of the parent or abuse by the parent of controlled substances, the court may require as part of the placement plan ordered pursuant to Section 63-7-1680:

(1) the parent to successfully complete a treatment program operated by the Department of Alcohol and Other Drug Abuse Services or another treatment program approved by the department before return of the child to the home;

(2) any other adult person living in the home who has been determined by the court to be addicted to or abusing controlled substances or alcohol and whose conduct has contributed to the parent's addiction or abuse of controlled substances or alcohol to successfully complete a treatment program approved by the department before return of the child to the home; and

(3) the parent or other adult, or both, identified in item (2) to submit to random testing for substance abuse and to be alcohol or drug free for a period of time to be determined by the court before return of the child. The parent or other adult identified in item (2) must continue random testing for substance abuse and must be alcohol or drug free for a period of time to be determined by the court after return of the child before the case will be authorized to be closed.

(B) Results of tests ordered pursuant to this section must be submitted to the department and are admissible only in family court proceedings brought by the department."

Termination of parental rights

SECTION 6. Section 63-7-1710(A) of the 1976 Code is amended to read:

"(A) When a child is in the custody of the department, the department shall file a petition to terminate parental rights or shall join as party in a termination petition filed by another party if:

(1) a child has been in foster care under the responsibility of the State for fifteen of the most recent twenty-two months;

(2) a court of competent jurisdiction has determined the child to be an abandoned infant;

(3) a court of competent jurisdiction has determined that the parent has committed murder, voluntary manslaughter, or homicide by child abuse of another child of the parent;

(4) a court of competent jurisdiction has determined that the parent has aided, abetted, conspired, or solicited to commit murder, voluntary manslaughter, or homicide by child abuse of another child of the parent;

(5) a court of competent jurisdiction has determined that the parent has committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent; or

(6) a court of competent jurisdiction has found the parent to be in wilful contempt on two occasions over a twelve-month period for failure to comply with the terms of the treatment plan or placement plan established pursuant to subarticle 11."

Court order, Central Registry of Child Abuse and Neglect

SECTION 7. Section 63-7-1940 of the 1976 Code is amended to read:

"Section 63-7-1940. (A) At a hearing pursuant to Section 63-7-1650 or 63-7-1660, at which the court orders that a child be taken or retained in custody or finds that the child was abused or neglected, the court:

(1) shall order, without possibility of waiver by the department, that a person's name be entered in the Central Registry of Child Abuse and Neglect if the court finds that there is a preponderance of evidence that the person:

(a) physically abused the child; however, if the only form of physical abuse that is found by the court is excessive corporal punishment, the court only may order that the person's name be entered in the central registry if item (2) applies;

(b) sexually abused the child;

(c) wilfully or recklessly neglected the child; or

(d) gave birth to the infant and the infant tested positive for the presence of any amount of controlled substance, prescription drugs not

prescribed to the mother, metabolite of a controlled substance, or the infant has a medical diagnosis of neonatal abstinence syndrome, unless the presence of the substance or metabolite is the result of a medical treatment administered to the mother of the infant during birth or to the infant;

(2) may, except as provided for in item (1), order that the person's name be entered in the central registry if the court finds by a preponderance of evidence that:

(a) the person abused or neglected the child in any manner, including the use of excessive corporal punishment; and

(b) the nature and circumstances of the abuse indicate that the person would present a significant risk of committing physical or sexual abuse or wilful or reckless neglect if the person were in a position or setting outside of the person's home that involves care of or substantial contact with children.

(B) At the probable cause hearing, the court may order that the person be entered in the central registry if there is sufficient evidence to support the findings required by subsection (A)."

Grounds to terminate parental rights

SECTION 8. Section 63-7-2570 of the 1976 Code, as last amended by Act 160 of 2010, is further amended to read:

"Section 63-7-2570. The family court may order the termination of parental rights upon a finding of one or more of the following grounds and a finding that termination is in the best interest of the child:

(1) The child or another child while residing in the parent's domicile has been harmed as defined in Section 63-7-20, and because of the severity or repetition of the abuse or neglect, it is not reasonably likely that the home can be made safe within twelve months. In determining the likelihood that the home can be made safe, the parent's previous abuse or neglect of the child or another child may be considered.

(2) The child has been removed from the parent pursuant to subarticle 3 or Section 63-7-1660 and has been out of the home for a period of six months following the adoption of a placement plan by court order or by agreement between the department and the parent and the parent has not remedied the conditions which caused the removal.

(3) The child has lived outside the home of either parent for a period of six months, and during that time the parent has wilfully failed to visit the child. The court may attach little or no weight to incidental

visitations, but it must be shown that the parent was not prevented from visiting by the party having custody or by court order. The distance of the child's placement from the parent's home must be taken into consideration when determining the ability to visit.

(4) The child has lived outside the home of either parent for a period of six months, and during that time the parent has wilfully failed to support the child. Failure to support means that the parent has failed to make a material contribution to the child's care. A material contribution consists of either financial contributions according to the parent's means or contributions of food, clothing, shelter, or other necessities for the care of the child according to the parent's means. The court may consider all relevant circumstances in determining whether or not the parent has wilfully failed to support the child, including requests for support by the custodian and the ability of the parent to provide support.

(5) The presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by termination of the parental rights of the presumptive legal father.

(6) The parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, addiction to alcohol or illegal drugs, prescription medication abuse, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unlikely to provide minimally acceptable care of the child. It is presumed that the parent's condition is unlikely to change within a reasonable time upon proof that the parent has been required by the department or the family court to participate in a treatment program for alcohol or drug addiction, and the parent has failed two or more times to complete the program successfully or has refused at two or more separate meetings with the department to participate in a treatment program.

(7) The child has been abandoned as defined in Section 63-7-20.

(8) The child has been in foster care under the responsibility of the State for fifteen of the most recent twenty-two months.

(9) The physical abuse of a child of the parent resulted in the death or admission to the hospital for in-patient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo contendere to committing, aiding, abetting, conspiring to commit, or soliciting an offense against the person as provided for in Chapter 3, Title 16, criminal domestic violence as defined in Section 16-25-20, criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65, or an assault and battery offense as provided in Article 7, Chapter 3, Title 16.

(10) A parent of the child pleads guilty or nolo contendere to or is convicted of the murder of the child's other parent.

(11) Conception of a child as a result of the criminal sexual conduct of a biological parent, as found by a court of competent jurisdiction, is grounds for terminating the rights of that biological parent, unless the sentencing court makes specific findings on the record that the conviction resulted from consensual sexual conduct when neither the victim nor the actor were younger than fourteen years of age nor older than eighteen years of age at the time of the offense.

(12) The parent of the child pleads guilty or nolo contendere to or is convicted of murder, voluntary manslaughter, or homicide by child abuse, of another child of the parent."

Reunification of child with parents

SECTION 9. Section 63-7-1700(D) of the 1976 Code, as last amended by Act 160 of 2010, is further amended to read:

"(D) If the court determines at the permanency planning hearing that the child may be safely maintained in the home in that the parent has remedied the conditions that caused the removal and the return of the child to the child's parent would not cause an unreasonable risk of harm to the child's life, physical health, safety, or mental well-being, the court shall order the child returned to the child's parent. The court may order a specified period of supervision and services not to exceed twelve months. When determining whether the child should be returned, the court shall consider all evidence; if the removal of the child from the family was due to drug use by one or both parents, then a drug test must be administered to the parent or both parents, as appropriate, and the results must be considered with all other evidence in determining whether the child should be returned to the parents' care; and the supplemental report including whether the parent has substantially complied with the terms and conditions of the plan approved pursuant to Section 63-7-1680."

Coroner and medical examiner child fatality reporting

SECTION 10. Section 17-5-540 of the 1976 Code is amended to read:

"Section 17-5-540. The coroner or medical examiner, within twenty-four hours or one working day, whichever occurs first, must

notify the Department of Child Fatalities when a child dies in the county he serves:

(1) as a result of violence;

(2) in any suspicious or unusual manner; or

(3) when the death is unexpected and unexplained including, but not limited to, possible sudden infant death syndrome."

Caseworker and caseload reporting requirements

SECTION 11. Section 43-1-210 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

"Section 43-1-210. The director shall prepare and submit to the Governor and the General Assembly a full and detailed report of its activities and expenditures annually, including a statement of its personnel and the salaries paid, and shall likewise make such recommendations and suggestions as it shall deem advisable in the execution of its duties to the General Assembly. In addition, this report must include, but is not limited to, the following information:

(1) the monthly total number of cases assigned, as of the last business day of every month, to each case worker in the Department of Social Services Child Protective Services Division;

(2) the monthly total number of children assigned, as of the last business day of every month, to each case worker in the Department of Social Services Child Protective Services Division;

(3) the monthly total number of children seen by the Department of Social Services within twenty-four hours of a report of abuse or neglect that were accepted for intake;

(4) the monthly total number of children that were not seen by the Department of Social Services within twenty-four hours of a report of abuse or neglect;

(5) the total number of children in foster care that were seen by the Department of Social Services each month; and

(6) the total number of children in foster care that were not seen by the Department of Social Services each month.

The Department of Social Services shall prepare and submit this report no later than March first of each year."

Time effective

SECTION 12. This act takes effect upon approval by the Governor.

Ratified the 9th day of June, 2014.

Approved the 10th day of June, 2014.

No. 282

(R278, S909)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-90-165 SO AS TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF INSURANCE MAY DECLARE A CAPTIVE INSURANCE COMPANY INACTIVE IN CERTAIN CIRCUMSTANCES AND THAT THE DIRECTOR MAY MODIFY THE MINIMUM TAX PREMIUM APPLICABLE TO THE COMPANY DURING INACTIVITY; BY ADDING SECTION 38-90-215 SO AS TO PROVIDE A PROTECTED CELL MAY BE EITHER INCORPORATED OR UNINCORPORATED, AND TO PROVIDE REQUIREMENTS FOR EACH; BY ADDING SECTION 38-90-250 SO AS TO PROVIDE THE DEPARTMENT MUST CONSIDER A LICENSED CAPTIVE INSURANCE COMPANY THAT MEETS THE REQUIREMENTS OF AN INSURER FOR ISSUANCE OF A CERTIFICATE OF AUTHORITY TO ACT AS AN INSURER; TO AMEND SECTION 38-90-10, AS AMENDED, RELATING TO DEFINITIONS CONCERNING CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE ADDITIONAL TERMS AND REVISE DEFINITIONS OF CERTAIN EXISTING TERMS; TO AMEND SECTION 38-90-20, AS AMENDED, RELATING TO THE DOCUMENTATION REQUIRED FOR LICENSING CAPTIVE INSURANCE COMPANIES, SO AS TO REMOVE THE REQUIREMENT OF A CERTIFICATE OF GENERAL GOOD ISSUED BY THE DIRECTOR; TO AMEND SECTION 38-90-35, RELATING TO THE CONFIDENTIALITY OF INFORMATION CONCERNING CAPTIVE INSURANCE COMPANIES SUBMITTED TO THE DEPARTMENT OF INSURANCE, SO AS TO REVISE REQUIREMENTS FOR MAKING THE INFORMATION SUBJECT TO DISCOVERY IN A CIVIL ACTION; TO AMEND SECTION 38-90-40, AS AMENDED, RELATING TO CAPITALIZATION

REQUIREMENTS, SECURITY REQUIREMENTS, AND RESTRICTIONS ON DIVIDEND PAYMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES AND RISK RETENTION GROUPS, TO REVISE THE FORM OF CAPITAL REQUIRED FOR A CAPTIVE INSURANCE COMPANY THAT IS NOT A SPONSORED CAPTIVE INSURANCE COMPANY THAT ASSUMES RISK, AND TO REVISE REQUIREMENTS FOR CONTRIBUTIONS TO A CAPTIVE INSURANCE COMPANY INCORPORATED AS A NONPROFIT, AMONG OTHER THINGS; TO AMEND SECTION 38-90-50, AS AMENDED, RELATING TO FREE SURPLUS REQUIREMENTS OF A CAPTIVE INSURANCE COMPANY, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES AND SPECIAL PURPOSE CAPTIVE INSURANCE COMPANIES FORMED AS A RISK RETENTION GROUP, AND TO REVISE THE FORM OF CAPITAL REQUIRED FOR A CAPTIVE INSURANCE COMPANY THAT IS NOT A SPONSORED CAPTIVE INSURANCE COMPANY THAT ASSUMES RISK; TO AMEND SECTION 38-90-55, AS AMENDED, RELATING TO THE INCORPORATION OF CAPTIVE INSURANCE COMPANIES, SO AS TO DELETE PROVISIONS CONCERNING THE MINIMUM NUMBER AND STATUS OF INCORPORATORS, PREREQUISITES TO TRANSMITTING ARTICLES OF INCORPORATION TO THE SECRETARY OF STATE, AND THE ISSUANCE OF CAPITAL STOCK AT PAR VALUE; TO AMEND SECTION 38-90-60, AS AMENDED, RELATING TO INCORPORATION OPTIONS AND REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES, SO AS TO REVISE THE AVAILABLE OPTIONS; TO AMEND SECTION 38-90-70, AS AMENDED, RELATING TO REPORTING REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES AND CAPTIVE REINSURANCE COMPANIES, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES FORMED AS RISK RETENTION GROUPS; TO AMEND SECTION 38-90-80, AS AMENDED, RELATING TO INSPECTIONS AND EXAMINATIONS OF CAPTIVE INSURANCE COMPANIES BY THE DEPARTMENT, SO AS TO DELETE REFERENCES TO PURE CAPTIVE INSURANCE COMPANIES AND SPECIAL PURPOSE CAPTIVE INSURANCE COMPANIES; TO AMEND SECTION 38-90-90, AS AMENDED, RELATING TO THE SUSPENSION OR REVOCATION OF A CAPTIVE INSURANCE LICENSE, SO

AS TO MAKE A GRAMMATICAL CHANGE; TO AMEND SECTION 38-90-100, AS AMENDED, RELATING TO THE LOANS BY CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE A SPONSORED CAPTIVE INSURANCE COMPANY MAY MAKE LOANS TO ITS PARENT COMPANY IN CERTAIN CIRCUMSTANCES AND TO MAKE CONFORMING CHANGES; TO AMEND SECTION 38-90-110, AS AMENDED, RELATING TO CREDIT RESERVES, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES FORMED AS RISK RETENTION GROUPS; TO AMEND SECTION 38-90-130, AS AMENDED, RELATING THE PROHIBITION AGAINST PARTICIPATION IN PLAN, POOL, ASSOCIATION, GUARANTY, OR INSOLVENCY FUNDS BY CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE CAPTIVE INSURANCE COMPANIES, INCLUDING PURE CAPTIVE INSURANCE COMPANIES, MAY PARTICIPATE IN A POOL FOR THE PURPOSE OF COMMERCIAL RISK SHARING, AMONG OTHER THINGS; TO AMEND SECTION 38-90-160, AS AMENDED, RELATING TO APPLICABILITY OF THE CHAPTER, SO AS TO INCLUDE CAPTIVE INSURANCE COMPANIES FORMED AS RISK RETENTION GROUPS; TO AMEND SECTION 38-90-180, AS AMENDED, RELATING TO THE APPLICABILITY OF SPONSORED CAPTIVE INSURANCE COMPANY ASSETS AND CAPITAL PROVISIONS, SO AS TO PROVIDE REQUIREMENTS FOR THE NAME OF NEW CAPTIVE INSURANCE COMPANIES, TO PROVIDE CIRCUMSTANCES IN WHICH A SPONSORED CAPTIVE INSURANCE COMPANY MAY ESTABLISH PROTECTED CELLS, INCLUDING REQUIREMENTS FOR A PLAN OF OPERATION, THE ATTRIBUTIONS OF ASSETS AND LIABILITIES BETWEEN A PROTECTED CELL AND THE GENERAL ACCOUNT OF THE SPONSORED CAPTIVE INSURANCE COMPANY, AND ADMINISTRATIVE AND ACCOUNTING PROCEDURES; TO AMEND SECTION 38-90-210, RELATING TO THE SEPARATE ACCOUNTING OF PROTECTED CELLS WHEN ESTABLISHED, SO AS TO REQUIRE THIS ACCOUNTING MUST REFLECT THE PARTICIPANTS OF THE PROTECTED CELL IN ADDITION TO EXISTING REQUIREMENTS; TO AMEND SECTION 38-90-220, AS AMENDED, RELATING TO CERTAIN REQUIREMENTS APPLICABLE TO SPONSORS OF CAPTIVE INSURANCE COMPANIES, SO AS TO REVISE THE

REQUIREMENTS; TO AMEND SECTION 38-90-230, AS AMENDED, RELATING TO PARTICIPANTS IN SPONSORED CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE THAT PROTECTED CELLS ASSETS ARE ONLY AVAILABLE TO CREDITORS OF THE SPONSORED CAPTIVE INSURANCE COMPANY AND RELATED REQUIREMENTS, AND TO PROVIDE REQUIREMENTS CONCERNING OBLIGATIONS OF SPONSORED CAPTIVE INSURANCE COMPANIES WITH RESPECT TO PROTECTED CELLS AND ITS GENERAL ACCOUNT; TO AMEND SECTION 38-90-240, RELATING TO THE ELIGIBILITY OF A LICENSED CAPTIVE INSURANCE COMPANY FOR CERTIFICATE OF AUTHORITY TO ACT AS INSURER, SO AS TO DELETE THE EXISTING LANGUAGE AND TO PROVIDE FOR WHO MAY PARTICIPATE IN A SPONSORED CAPTIVE INSURANCE COMPANY AND OBLIGATIONS OF THESE PARTICIPANTS, AND TO PROVIDE SPONSORED CAPTIVE INSURANCE COMPANIES MAY NOT BE USED TO FACILITATE INSURANCE SECURITIZATION TRANSACTIONS; TO AMEND SECTION 38-90-450, AS AMENDED, RELATING TO ORGANIZATION REQUIREMENTS FOR SPECIAL PURPOSE FINANCIAL CAPTIVES, SO AS TO DELETE PROVISIONS CONCERNING THE MINIMUM NUMBER AND STATUS OF INCORPORATORS, AND PREREQUISITES TO TRANSMITTING ARTICLES OF INCORPORATION TO THE SECRETARY OF STATE; AND TO REPEAL SECTION 38-90-235 RELATING TO TERMS AND CONDITIONS FOR PROTECTED CELL INSURANCE COMPANIES TO APPLY TO SPONSORED CAPTIVE INSURANCE COMPANIES.

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

Declaration of inactivity

SECTION 1. Article 1, Chapter 90, Title 38 of the 1976 Code is amended by adding:

"Section 38-90-165. (A) The director may declare inactive by order a captive insurance company other than a risk retention group or association captive if such captive insurance company has no outstanding liabilities and agrees to cease providing insurance coverage.

(B) During the period the captive insurance company is inactive, the director may by order:

(1) modify the minimum premium tax applicable to the captive insurance company to an amount no less than two thousand dollars and the captive insurance company shall pay no other premium taxes; and

(2) exempt the captive insurance company from the requirement to file such reports as set forth in the order."

Protected cells

SECTION 2. Article 1, Chapter 90, Title 38 of the 1976 Code is amended by adding:

"Section 38-90-215. (A) A protected cell may be either unincorporated or incorporated.

(B) With regard to unincorporated protected cells:

(1) The unincorporated protected cell shall have its own distinct name or designation, which shall include the words 'Protected Cell' or the abbreviation 'PC'. Any captive insurance company or protected cell formed prior to the effective date of this section may not be required to change its name to comply with the provisions of this paragraph.

(2) An unincorporated protected cell must meet the paid-in capital and free surplus requirements applicable to a special purpose captive insurance company and either:

(a) establish loss and loss expense reserves for business written through the unincorporated protected cell; or

(b) the business written through the unincorporated protected cell must be:

(i) fronted by an insurance company licensed pursuant to the laws of:

(A) any state; or

(B) any jurisdiction if the insurance company is a wholly owned subsidiary of an insurance company licensed pursuant to the laws of any state;

(ii) reinsured by a reinsurer authorized or approved by this State; or

(iii) secured by a trust fund in the United States for the benefit of policyholders and claimants funded by an irrevocable letter of credit or other asset acceptable to the director. The amount of security provided by the trust fund may not be less than the reserves associated with those liabilities, including reserves for losses, allocated

loss adjustment expenses, incurred but unreported losses, and unearned premiums for business written through the participant's protected cell. The director may require the sponsored captive to increase the funding of a trust established pursuant to this item. If the form of security in the trust is a letter of credit, the letter of credit must be established, issued, or confirmed by a bank chartered in this State, a member of the federal reserve system, or a bank chartered by another state if that state-chartered bank is acceptable to the director. A trust and trust instrument maintained pursuant to this item must be in a form and upon terms approved by the director.

(3) The creation of an unincorporated protected cell does not create, with respect to that protected cell, a legal person separate from the sponsored captive insurance company. Amounts attributed to a protected cell, including assets transferred to a protected cell account, are owned by the sponsored captive insurance company of which the protected cell is a part, and the sponsored captive insurance company may not be, or may not hold itself out to be, a trustee with respect to those protected cell assets of that protected cell account. Notwithstanding the provisions of this subsection, the sponsored captive insurance company may allow for a security interest to attach to protected cell assets or a protected cell account when in favor of a creditor of the protected cell and otherwise allowed under applicable law.

(4) This subsection may not be construed to prohibit the sponsored captive insurance company from:

(a) entering into contracts of insurance on behalf of the protected cell; or

(b) contracting with or arranging for third-party managers or advisors to manage the protected cell to manage the assets of a protected cell, if all remuneration, expenses, and other compensation of the third party manager or advisor is payable from the protected cell assets of that protected cell and not from the protected cell assets of other protected cells or the assets of the sponsored captive insurance company's general account.

(C) Incorporated protected cells shall be subject to all of the following:

(1) An incorporated protected cell may be organized and operated in any form of business organization set forth in Section 38-90-60(A).

(2) Except as specifically set forth in this chapter, each incorporated protected cell of a sponsored captive insurance company

shall be licensed and treated as a special purpose captive insurance company.

(3) A participant in an incorporated protected cell need not be a shareholder of the protected cell or of the sponsored captive insurance company or any affiliate thereof.

(D) The name of an incorporated protected cell must include the words 'Incorporated Cell' or the abbreviation 'IC'.

(E) Any captive insurance company or protected cell formed prior to July 31, 2013, shall not be required to change its name to comply with the provisions of subsection (D)."

Certificate of authority

SECTION 3. Article 1, Chapter 90, Title 38 of the 1976 Code is amended by adding:

"Section 38-90-250. A licensed captive insurance company that meets the necessary requirements of this title imposed upon an insurer must be considered for issuance of a certificate of authority to act as an insurer in this State."

Definitions

SECTION 4. Section 38-90-10 of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

"Section 38-90-10. As used in this chapter, unless the context requires otherwise:

(1) 'Alien captive insurance company' means an insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction which imposes statutory or regulatory standards in a form acceptable to the director on companies transacting the business of insurance in such jurisdiction.

(2) 'Affiliated company' means a company in the same corporate system as a parent, an industrial insured, or a member organization by virtue of common ownership, control, operation, or management.

(3) 'Association' means a legal association of individuals, corporations, limited liability companies, partnerships, political subdivisions, or associations that has been in continuous existence for at least one year:

(a) the member organizations of which collectively, or which does itself:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer or organized as a limited liability company; or

(ii) have complete voting control over an association captive insurance company organized as a mutual insurer; or

(b) the member organizations of which collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

(4) 'Association captive insurance company' means a company that insures risks of the member organizations of the association and their affiliated companies.

(5) 'Branch business' means any insurance business transacted by a branch captive insurance company in this State.

(6) 'Branch captive insurance company' means an alien captive insurance company licensed by the director to transact the business of insurance in this State through a business unit with a principal place of business in this State.

(7) 'Branch operations' means any business operations of a branch captive insurance company in this State.

(8) 'Captive insurance company' means a pure captive insurance company, association captive insurance company, captive reinsurance company, sponsored captive insurance company, special purpose captive insurance company, or industrial insured captive insurance company formed or licensed under this chapter. For purposes of this chapter, a branch captive insurance company must be a pure captive insurance company with respect to operations in this State, unless otherwise permitted by the director.

(9) 'Captive reinsurance company' means a reinsurance company that is formed or licensed pursuant to this chapter and is wholly owned by a qualifying reinsurance parent company. A captive reinsurance company is a stock corporation.

(10) 'Consolidated debt to total capital ratio' means the ratio of the sum of (a) all debts and hybrid capital instruments including, but not limited to, all borrowings from banks, all senior debt, all subordinated debts, all trust preferred shares, and all other hybrid capital instruments that are not included in the determination of consolidated GAAP net worth issued and outstanding to (b) total capital, consisting of all debts and hybrid capital instruments as described in subitem (a) plus owners'

equity determined in accordance with GAAP for reporting to the United States Securities and Exchange Commission.

(11) 'Consolidated GAAP net worth' means the consolidated owners' equity determined in accordance with GAAP for reporting to the United States Securities and Exchange Commission.

(12) 'Controlled unaffiliated business' means a company:

(a) that is not in the corporate system of a parent and affiliated companies;

(b) that has an existing contractual relationship with a parent or affiliated company; and

(c) whose risks are managed by a captive insurance company in accordance with Section 38-90-190.

(13) 'Director' means the Director of the South Carolina Department of Insurance or the director's designee.

(14) 'Department' means the South Carolina Department of Insurance.

(15) 'GAAP' means generally accepted accounting principles.

(16) 'General account' means the assets and liabilities of a sponsored captive insurance company other than protected cell assets and protected cell liabilities.

(17) 'Industrial insured' means an insured as defined in Section 38-25-150(8).

(18) 'Industrial insured captive insurance company' means a company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.

(19) 'Industrial insured group' means a group that meets either of the following criteria:

(a) a group of industrial insureds that collectively:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer or limited liability company; or

(ii) have complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer; or

(b) a group which is created under the Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended, and Chapter 87, Title 38, as a corporation or other limited liability association taxable as a stock insurance company or a mutual insurer under this title.

(20) 'Member organization' means any individual, corporation, limited liability company, partnership, or association that belongs to an association.

(21) 'Parent' means any corporation, limited liability company, partnership, or individual that directly or indirectly owns, controls, or holds with power to vote more than fifty percent of the outstanding voting interests of a captive insurance company.

(22) 'Participant' means an entity as defined in Section 38-90-240, and any affiliates of that entity, that are insured by a sponsored captive insurance company, where the losses of the participant are limited through a participant contract to the assets of a protected cell.

(23) 'Participant contract' means a contract by which a sponsored captive insurance company insures the risks of a participant and limits the losses of the participant to the assets of a protected cell.

(24) 'Protected cell' means an identified pool of assets and liabilities of a sponsored captive insurance company for one or more participants that is segregated and insulated from the remainder of the sponsored captive insurance company's assets and liabilities as set forth in this chapter. A protected cell may be unincorporated or incorporated.

(25) 'Protected cell account' means a specifically identified bank or custodial account established by a sponsored captive insurance company for the purpose of segregating the protected cell assets of one protected cell from the protected cell assets of other protected cells and from the assets of the sponsored captive insurance company's general account.

(26) 'Protected cell assets' means all assets, contract rights, and general intangibles, identified with and attributable to a specific protected cell of a sponsored captive insurance company.

(27) 'Protected cell liabilities' means all liabilities and other obligations identified with and attributable to a specific protected cell of a sponsored captive insurance company.

(28) 'Pure captive insurance company' means a company that insures risks of its parent, affiliated companies, controlled unaffiliated business, or a combination thereof.

(29) 'Qualifying reinsurer parent company' means a reinsurer authorized to write reinsurance by this State and that has a consolidated GAAP net worth of not less than five hundred million dollars and consolidated debt to total capital ratio not greater than 0.50.

(30) 'Risk retention group' means a captive insurance company formed under the Product Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended.

(31) 'Special purpose captive insurance company' means a captive insurance company that is formed or licensed under this chapter that does not meet the definition of any other type of captive insurance company defined in this section.

(32) 'Sponsor' means an entity that is approved by the director to provide all or part of the capital and surplus required by applicable law and to organize and operate a sponsored captive insurance company.

(33) 'Sponsored captive insurance company' means a captive insurance company:

(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(b) that is formed or licensed under this chapter;

(c) that segregates liability through one or more protected cells; and

(d) that insures the risks of participants through participant contracts.

(34) 'Treasury rates' means the United States Treasury strips asked yield as published in the Wall Street Journal as of a balance sheet date."

Required documentation

SECTION 5. Section 38-90-20(F) of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

"(F) A foreign or alien captive insurance company, upon approval of the director or his designee, may become a domestic captive insurance company by complying with all of the requirements of law relative to the organization and licensing of a domestic captive insurance company of the same or equivalent type in this State and by filing with the Secretary of State its articles of association, charter, or other organizational document, together with appropriate amendments to them adopted in accordance with the laws of this State bringing those articles of association, charter, or other organizational document into compliance with the laws of this State. After this is accomplished, the captive insurance company is entitled to the necessary or appropriate certificates and licenses to continue transacting business in this State and is subject to the authority and jurisdiction of this State. In connection with this redomestication, the director may waive any requirements for public hearings. It is not necessary for a company redomesticating into this State to merge, consolidate, transfer assets, or otherwise engage in any other reorganization, other than as specified in this section."

Discovery of confidential information in civil actions

SECTION 6. Section 38-90-35 of the 1976 Code, as added by Act 291 of 2004, is amended to read:

"Section 38-90-35. (A) Information submitted pursuant to the provisions of this chapter is confidential and may not be made public by the director or an agent or employee of the director without the written consent of the company, except that information may be discoverable by a party in a civil action or contested case to which the submitting captive insurance company is a party, upon a showing by the party seeking to discover the information that:

(1) the information sought is relevant to and necessary for the furtherance of the action or case and the information sought is unavailable from other nonconfidential sources; or

(2) a subpoena applicable to the information is issued by a judicial or administrative law officer of competent jurisdiction has been submitted to the director.

(B) The director may disclose the information to the public officer having jurisdiction over the regulation of insurance in another state if:

(1) the public official agrees in writing to maintain the confidentiality of the information; and

(2) the laws of the state in which the public official serves require the information to be confidential."

Capitalization requirements

SECTION 7. Section 38-90-40 of the 1976 Code, as last amended by Act 217 of 2010, is further amended to read:

"Section 38-90-40. (A)(1) The director may not issue a license to a captive insurance company unless the company possesses and maintains unimpaired paid-in capital of:

(a) in the case of a pure captive insurance company, not less than one hundred thousand dollars;

(b) in the case of an association captive insurance company incorporated as a stock insurer or organized as a limited liability company, not less than four hundred thousand dollars;

(c) in the case of an industrial insured captive insurance company incorporated as a stock insurer or organized as a limited liability company, or in the case of a captive insurance company

formed as a risk retention group, not less than two hundred thousand dollars;

(d) in the case of a sponsored captive insurance company, not less than five hundred thousand dollars; however, if the sponsored captive insurance company does not assume any risk, the risks insured by the protected cells are homogeneous and there are no more than ten cells, the director may reduce this amount to an amount not less than one hundred fifty thousand dollars;

(e) in the case of a special purpose captive insurance company that is not a special purpose captive insurance company formed as a risk retention group, an amount determined by the director after giving due consideration to the company's business plan, feasibility study, and pro formas, including the nature of the risks to be insured.

(2)(a) Except for a sponsored captive insurance company that does not assume any risk, the unimpaired, paid-in capital required in subsection (A)(1) must be in the form of:

(i) cash on deposit with a bank located in South Carolina;

(ii) cash equivalent accessible through a bank or investment manager located in South Carolina; or

(iii) an irrevocable letter of credit in a form approved by the director and issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director.

(b) For a sponsored captive insurance company that does not assume any risk, the capital also may be in the form of other high quality securities as approved by the director.

(B)(1) The director may not issue a license to a captive insurance company incorporated as a nonprofit corporation unless the company possesses and maintains unrestricted net assets of:

(a) in the case of a pure captive insurance company, not less than two hundred fifty thousand dollars;

(b) in the case of a special purpose captive insurance company formed as a risk retention group, not less than five hundred thousand dollars; and

(c) in the case of a special purpose captive insurance company that is not a special purpose captive insurance company formed as a risk retention group, an amount determined by the director after giving due consideration to the company's business plan, feasibility study, and pro formas, including the nature of the risks to be insured.

(2) Contributions to a captive insurance company incorporated as a nonprofit corporation must conform with the requirements of subsection (A)(2)(a).

(C) For purposes of subsections (A) and (B), the director may issue a license expressly conditioned upon the captive insurance company providing to the director satisfactory evidence of possession of the minimum required unimpaired paid-in capital. Until this evidence is provided, the captive insurance company may not issue any policy, assume any liability, or otherwise provide coverage. The director summarily may revoke the conditional license without legal recourse by the company if satisfactory evidence of the required capital is not provided within a maximum period of time, not to exceed one year, to be established by the director at the time the conditional license is issued.

(D) Notwithstanding the provisions of this section, the director may prescribe additional capital or net assets based upon the type, volume, and nature of insurance business transacted including, but not limited to, the net amount of risk retained for an individual risk. Contributions in connection with these prescribed additional net assets or capital must be in the form of:

(1) cash;

(2) cash equivalent;

(3) an irrevocable letter of credit issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director; or

(4) securities invested as provided in Section 38-90-100.

(E) In the case of a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, the director shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed, by the branch captive insurance company through its branch operations. The amount of the security may be no less than the capital and surplus required by this chapter and the reserves on these insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through branch operations; however, the director may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer or front company to reduce the funds in the trust account required by this section by the same amount so long as the security remains posted with the reinsurer or front company. If the form of security selected is a letter of credit, the letter of credit must be established by, or issued or confirmed by, a

bank chartered in this State or a member bank of the Federal Reserve System.

(F)(1) A captive insurance company may not pay a dividend out of, or other distribution with respect to, capital or surplus, in excess of the limitations set forth in Section 38-21-250 through Section 38-21-270, without the prior approval of the director. Approval of an ongoing plan for the payment of dividends or other distributions must be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by, or determined in accordance with formulas approved by, the director.

(2) A captive insurance company incorporated as a nonprofit corporation may not make any distributions without the prior approval of the director.

(G) An irrevocable letter of credit, which is issued by a financial institution other than a bank chartered by this State or a member bank of the Federal Reserve System, shall meet the same standards as an irrevocable letter of credit which has been issued by either entity."

Fee surplus requirements

SECTION 8. Section 38-90-50 of the 1976 Code, as last amended by Act 217 of 2010, is further amended to read:

"Section 38-90-50. (A)(1) The director may not issue a license to a captive insurance company unless the company possesses and maintains free surplus of:

(a) in the case of a pure captive insurance company, not less than one hundred fifty thousand dollars;

(b) in the case of an association captive insurance company incorporated as a stock insurer or organized as a limited liability company, not less than three hundred fifty thousand dollars;

(c) in the case of an industrial insured captive insurance company incorporated as a stock insurer or organized as a limited liability company, or in the case of a captive insurance company formed as a risk retention group, not less than three hundred thousand dollars;

(d) in the case of an association captive insurance company incorporated as a mutual insurer, not less than seven hundred fifty thousand dollars;

(e) in the case of an industrial insured captive insurance company, or a captive insurance company formed as a risk retention

group incorporated as a mutual insurer, not less than five hundred thousand dollars;

(f) in the case of a sponsored captive insurance company, not less than five hundred thousand dollars; however, if the sponsored captive insurance company does not assume any risk, the risks insured by the protected cells are homogeneous and there are no more than ten cells, the director may reduce this amount to an amount not less than one hundred fifty thousand dollars; and

(g) in the case of a special purpose captive insurance company that is not a special purpose captive insurance company formed as a risk retention group, an amount determined by the director after giving due consideration to the company's business plan, feasibility study, and pro formas, including the nature of the risks to be insured.

(2)(a) Except for a sponsored captive insurance company that does not assume any risk, the free surplus required in subsection (A)(1) must be in the form of:

(i) cash on deposit with a bank located in South Carolina;

(ii) cash equivalent accessible through a bank or investment manager located in South Carolina; or

(iii) an irrevocable letter of credit in a form approved by the director and issued by a bank chartered by this State or a member bank of the Federal Reserve System with a branch office in this State or as approved by the director.

(b) For a sponsored captive insurance company that does not assume any risk, the surplus also may be in the form of other high quality securities as approved by the director.

(B) Notwithstanding the requirements of subsection (A), a captive insurance company organized as a reciprocal insurer under this chapter may not be issued a license unless it possesses and thereafter maintains free surplus of one million dollars.

(C) For purposes of subsections (A) and (B), the director may issue a license expressly conditioned upon the captive insurance company providing to the director satisfactory evidence of possession of the minimum required free surplus. Until this evidence is provided, the captive may not issue any policy, assume any liability, or otherwise provide coverage. The director summarily may revoke the conditional license without legal recourse by the company if satisfactory evidence of the required capital is not provided within a maximum period of time, not to exceed one year, to be established by the director at the time the conditional license is issued.

(D) Notwithstanding another provision of this section, the director may prescribe additional surplus based upon the type, volume, and

nature of insurance business transacted including, but not limited to, the net amount of risk retained for an individual risk. This additional surplus must be in the form of:

(1) cash;

(2) cash equivalent;

(3) an irrevocable letter of credit issued by a bank chartered by this State, or a member bank of the Federal Reserve System with a branch in this State or as approved by the director; or

(4) securities invested as provided in Section 38-90-100.

(E) A captive insurance company may not pay a dividend out of, or other distribution with respect to, capital or surplus in excess of the limitations set forth in Section 38-21-270, without the prior approval of the director. Approval of an ongoing plan for the payment of dividends or other distribution must be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by, or determined in accordance with formulas approved by the director.

(F) An irrevocable letter of credit, which is issued by a financial institution other than a bank chartered by this State or a member bank of the Federal Reserve System, shall meet the same standards as an irrevocable letter of credit which has been issued by either entity."

Incorporation requirements

SECTION 9. Section 38-90-55 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

"Section 38-90-55. (A) A captive reinsurance company must be incorporated as a stock insurer with its capital divided into shares and held by its shareholders.

(B) At least one of the members of the board of directors of a captive reinsurance company incorporated in this State must be a resident of this State."

Incorporation options

SECTION 10. Section 38-90-60 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

"Section 38-90-60. (A) A captive insurance company may be:

(1) incorporated as a stock insurer;

(2) incorporated as a nonprofit corporation;

(3) organized as a limited liability company;

(4) incorporated as a mutual insurer without capital stock, the governing body of which is elected by the members of the insurer; or

(5) organized as a reciprocal insurer pursuant to Chapter 17.

(B) No captive insurance company shall do any business in this State unless it first obtains from the director a certificate of authority authorizing it to do business in this State. In determining whether to issue a certificate of authority to a captive insurance company, the director may consider:

(1) the character, reputation, financial responsibility, insurance experience, and business qualifications of the incorporators, officers, and directors or managers; and

(2) other aspects the director considers advisable.

(C) In the case of a captive insurance company licensed as a branch captive insurance company, the alien captive insurance company must register to do business in this State after the certificate of authority has been issued.

(D) The articles of incorporation, articles of organization, or the application of a branch captive insurance company to qualify to do business in South Carolina, and the organization fees required by Section 33-1-220, 33-31-122, or 33-44-1204, as applicable, must be transmitted to the Secretary of State, who shall record the articles of incorporation, articles of organization, or application to qualify to do business in South Carolina.

(E) A captive insurance company formed as a corporation, a nonprofit corporation, or a limited liability company, pursuant to the provisions of this chapter has the privileges and is subject to the provisions of the general corporation law, including the South Carolina Nonprofit Corporation Act of 1994 for nonprofit corporations and the South Carolina Uniform Limited Liability Company Act of 1996 for limited liability companies, as applicable, as well as the applicable provisions contained in this chapter. If a conflict occurs between a provision of the general corporation law, including the South Carolina Nonprofit Corporation Act of 1994 for nonprofit corporations and the South Carolina Uniform Limited Liability Company Act of 1996 for limited liability companies, as applicable, and a provision of this chapter, the latter controls. The provisions of this title pertaining to mergers, consolidations, conversions, mutualizations, and redomestications apply in determining the procedures to be followed by a captive insurance company in carrying out any of the transactions described in those provisions, except the director may waive or modify the requirements for public notice and hearing in accordance with

regulations which the director may promulgate addressing categories of transactions. If a notice of public hearing is required, but no one requests a hearing, the director may cancel the hearing.

(F) A captive insurance company formed as a reciprocal insurer pursuant to the provisions of this chapter has the privileges and is subject to Chapter 17 in addition to the applicable provisions of this chapter. If a conflict occurs between the provisions of Chapter 17 and the provisions of this chapter, the latter controls. To the extent a reciprocal insurer is made subject to other provisions of this title pursuant to Chapter 17, the provisions are not applicable to a reciprocal insurer formed pursuant to the provisions of this chapter unless the provisions are expressly made applicable to a captive insurance company pursuant to the provisions of this chapter.

(G) In the case of a captive insurance company formed as a corporation, a mutual insurer, or a nonprofit corporation, at least one of the members of the board of directors of a captive insurance company incorporated in this State must be a resident of this State.

(H) In the case of a captive insurance company formed as a limited liability company, at least one of the managers of the captive insurance company must be a resident of this State.

(I) In the case of a captive insurance company formed as a reciprocal insurer, at least one of the members of the subscribers' advisory committee must be a resident of this State.

(J) The articles of incorporation or bylaws of a captive insurance company may authorize a quorum of a board of directors to consist of no fewer than one-third of the fixed or prescribed number of directors as provided for in Section 33-8-240(b). In the case of a limited liability company, the articles of organization or operating agreement of a captive insurance company may authorize a quorum to consist of no fewer than one-third of the managers required by the articles of organization or the operating agreement."

Reporting requirements

SECTION 11. Section 38-90-70(B) of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

"(B) Before March first of each year, a captive insurance company or a captive reinsurance company shall submit to the director a report of its financial condition, verified by oath of two of its executive officers. Except as provided in Sections 38-90-40 and 38-90-50, a captive insurance company or a captive reinsurance company shall report using

generally accepted accounting principles, unless the director approves the use of statutory accounting principles, with useful or necessary modifications or adaptations required or approved or accepted by the director for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the director. Except as otherwise provided, an association captive insurance company, an industrial insured group, and a captive insurance company formed as a risk retention group shall file its report in the form and manner required by Section 38-13-80, and each industrial insured group and each captive insurance company formed as a risk retention group shall comply with the requirements provided for in Section 38-13-85. The director by regulation shall prescribe the forms in which pure captive insurance companies and industrial insured captive insurance companies shall report. Information submitted pursuant to this section is confidential as provided in Section 38-90-35, except for reports submitted by a captive insurance company formed as a risk retention group under the Product Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended."

Inspections and examinations

SECTION 12. Section 38-90-80(A) of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

"(A) At least once every five years, and whenever the director determines it to be prudent, the director personally, or by a competent person appointed by the director, shall visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with this chapter. The director may waive the requirement for a visit to the captive insurance company. The expenses and charges of the examination must be paid to the State by the company or companies examined and the department shall issue its warrants for the proper charges incurred in all examinations."

License suspensions and revocations

SECTION 13. Section 38-90-90(C) of the 1976 Code, as added by Act 28 of 2009, is amended to read:

"(C) In lieu of suspending or revoking the license of a captive insurance company, the director may impose fines as provided for in Section 38-2-10."

Loans

SECTION 14. Section 38-90-100 of the 1976 Code, as last amended by Act 332 of 2006, is further amended to read:

"Section 38-90-100. (A) An association captive insurance company, an industrial insured captive insurance company insuring the risks of an industrial insured group, and a captive insurance company formed as a risk retention group shall comply with the investment requirements contained in this title. Notwithstanding any other provision of this title, the director may approve the use of alternative reliable methods of valuation and rating.

(B) A pure captive insurance company, a captive reinsurance company, a special purpose captive insurance company, other than a special purpose captive insurance company formed as a risk retention group, and a sponsored captive insurance company are not subject to any restrictions on allowable investments contained in this title; however, the director may request a written investment plan and may prohibit or limit an investment that threatens the solvency or liquidity of the company.

(C) Only a pure captive insurance company or a sponsored captive insurance company may make loans to its parent company or affiliates and only by order of the director and must be evidenced by a note in a form approved by the director. Loans of minimum capital and surplus funds required by Sections 38-90-40(A) and 38-90-50(A) are prohibited."

Credit reserves

SECTION 15. Section 38-90-110(B)(2) of the 1976 Code, as last amended by Act 86 of 2007, is further amended to read:

"(2) An industrial insured captive insurance company or a captive insurance company formed as a risk retention group may not take credit for reserves on risks or portions of risks ceded to a reinsurer if the reinsurer is not in compliance with Sections 38-9-200, 38-9-210, and 38-9-220."

Participation in plan, pool, association, guaranty, or insolvency funds prohibited

SECTION 16. Section 38-90-130 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

"Section 38-90-130. A captive insurance company, including a captive insurance company organized as a reciprocal insurer under this chapter, may not join or contribute financially to a plan, pool, association, or guaranty or insolvency fund in this State, and a captive insurance company, or its insured or its parent or any affiliated company or any member organization of its association, or in the case of a captive insurance company organized as a reciprocal insurer, a subscriber of the company, may not receive a benefit from a plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of such captive insurance company. Subject to the prior written approval of the director or his designee, participation by a captive insurance company, including a pure captive insurance company, in a pool for the purpose of commercial risk sharing is not prohibited under this section. Nothing in this section may be interpreted to permit the writing of third-party risk by a captive insurance company outside of a commercial risk sharing arrangement approved by the director."

Applicability of chapter expanded

SECTION 17. Section 38-90-160 of the 1976 Code, as last amended by Act 18 of 2013, is further amended to read:

"Section 38-90-160. (A) No provisions of this title, other than those contained in this chapter or contained in specific references contained in this chapter and regulations applicable to them, apply to captive insurance companies.

(B) The director may exempt, by rule, regulation, or order, special purpose captive insurance companies, other than a special purpose captive insurance company formed as a risk retention group, on a case by case basis, from provisions of this chapter that he determines to be inappropriate given the nature of the risks to be insured.

(C) The provisions of Sections 38-5-120(A)(5), 38-5-120(B), 38-5-120(D)(1), 38-5-120(D)(2), 38-9-225, 38-9-230, 38-21-10, 38-21-30, 38-21-60, 38-21-70, 38-21-90, 38-21-95, 38-21-120, 38-21-130, 38-21-140, 38-21-150, 38-21-160, 38-21-170, 38-21-250,

38-21-270, 38-21-280, 38-21-310, 38-21-320, 38-21-330, 38-21-360, 38-55-75 and Chapters 44 and 46, Title 38 apply in full to a risk retention group licensed as a captive insurance company and, if a conflict occurs between those code sections and chapters referenced in this subsection and this chapter (Chapter 90, Title 38), then the code sections and chapters referenced in this subsection control.

(D) Except as provided elsewhere in this chapter, the provisions of Chapter 87, Title 38 apply to a risk retention group licensed as a captive insurance company.

(E)(1) Except for Section 38-9-330(F) and Section 38-9-440, the provisions of Article 3 and Article 5, Chapter 9, Title 38 apply in full to a risk retention group licensed as a captive insurance company, and if a conflict occurs between those provisions and this chapter, the provisions of this subsection control.

(2) The director may elect not to take regulatory action as otherwise required by Sections 38-9-330, 38-9-340, 38-9-350, and 38-9-360 if any of the following conditions exist:

(a) the director establishes that the risk retention group's members, sponsoring organizations, or both, are well-capitalized entities whose financial condition and support for the risk retention group is adequately documented. In making this determination, the director shall, at a minimum, require the filing of at least three years of historical, audited financial statements of the members, sponsor, or both, to assess the financial ability of the members', sponsor's, or both, support of the risk retention group. In addition, one year of projected financial information must be reviewed if available. The members, sponsor, or both, shall have:

(i) an investment grade rating from a nationally recognized statistical rating organization or A.M. Best rating of A- or better; or

(ii) equity equal to or greater than one hundred million dollars or equity equal to or greater than ten times the risk retention group's largest net retained per occurrence limit;

(b) each policyholder qualifies as an industrial insured in their state or this State, depending on which has the greater requirements, provided that if the policyholder's home state does not have an industrial insured exemption or equivalent, the policyholder must qualify under the industrial insured requirement of this State; or

(c) the risk retention group's certificate of authority date of issue was before January 1, 2011, and, based on a minimum five-year history of successful operations, is specifically exempted, in writing, from the requirements for mandatory risk-based capital action by the director."

Sponsored captive insurance company assets and capital provisions

SECTION 18. Section 38-90-180(B) of the 1976 Code, as last amended by Act 58 of 2001, is further amended to read:

"(B) In the case of a sponsored captive insurance company:

(1) the assets of the protected cell may not be used to pay expenses or claims other than those attributable to the protected cell; and

(2) its capital and surplus at all times must be available to pay expenses of or claims against the sponsored captive insurance company and may not be used to pay expenses or claims attributable to a protected cell.

(3) Notwithstanding another provision of law or regulation, upon an order of conservation, rehabilitation, or liquidation of a sponsored captive insurance company, the receiver shall deal with the sponsored captive insurance company's assets and liabilities, including protected cell assets and protected cell liabilities, pursuant to the requirements of this chapter."

Accounting provisions for protected cells

SECTION 19. Section 38-90-210 of the 1976 Code is amended to read:

"Section 38-90-210. (A) One or more sponsors may form a sponsored captive insurance company under this chapter.

(B) A sponsored captive insurance company formed or licensed under this chapter may establish and maintain one or more protected cells to insure risks of one or more participants, subject to the following conditions:

(1) the shareholders of a sponsored captive insurance company must be limited to its participants and sponsors;

(2) each protected cell must be accounted for separately on the books and records of the sponsored captive insurance company to reflect the participants of the protected cell, the financial condition and results of operations of the protected cell, net income or loss, dividends or other distributions to participants, and other factors may be provided in the participant contract or required by the director;

(3) the assets of a protected cell must not be chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct;

(4) no sale, exchange, or other transfer of assets may be made by the sponsored captive insurance company between or among any of its protected cells without the consent of the protected cells;

(5) no sale, exchange, transfer of assets, dividend, or distribution may be made from a protected cell to a sponsor or participant without the director's approval and in no event may the approval be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to a protected cell;

(6) a sponsored captive insurance company annually shall file with the director financial reports the director requires, which shall include, but are not limited to, accounting statements detailing the financial experience of each protected cell;

(7) a sponsored captive insurance company shall notify the director in writing within ten business days of a protected cell that is insolvent or otherwise unable to meet its claim or expense obligations;

(8) no participant contract shall take effect without the director's prior written approval, and the addition of each new protected cell and withdrawal of any participant of any existing protected cell constitutes a change in the business plan requiring the director's prior written approval.

(C) The name of a sponsored captive insurance company shall include the words 'Sponsored Captive' or the abbreviation 'SC'. Any captive insurance company or protected cell formed prior to July 31, 2013, may not be required to change its name to comply with the provisions of this subsection.

(D) A sponsored captive insurance company may establish one or more protected cells with the prior written approval of the director of a plan of operation or amendments submitted by the sponsored captive insurance company with respect to each protected cell. Upon the written approval of the director of the plan of operation, which shall include, but is not limited to, the specific business objectives and investment guidelines of the protected cell, the sponsored captive insurance company, in accordance with the approved plan of operation, may attribute to the protected cell insurance obligations with respect to its insurance business and assets to fund the obligations. The sponsored captive insurance company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell. Protected cell assets must be held in the

protected cell accounts for the purpose of satisfying the obligations of that protected cell.

(E) All attributions of assets and liabilities between a protected cell and the general account must be in accordance with the plan of operation approved by the director. No other attribution of assets or liabilities may be made by a sponsored captive insurance company between the sponsored captive insurance company's general account and its protected cells.

(F) A sponsored captive insurance company shall establish administrative and accounting procedures necessary to properly identify the one or more protected cells of the sponsored captive insurance company and the protected cell assets and protected cell liabilities attributable to the protected cells. The directors of a sponsored captive insurance company shall keep protected cell assets and protected cell liabilities:

(1) separate and separately identifiable from the assets and liabilities of the sponsored captive insurance company's general account; and

(2) attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

Notwithstanding the provisions of this subsection, if this subsection is violated, the remedy of tracing is applicable to protected cell assets when commingled with protected cell assets of other protected cells or the assets of the sponsored captive insurance company's general account. The remedy of tracing must not be construed as an exclusive remedy.

(G) When establishing a protected cell, the sponsored captive insurance company shall attribute to the protected cell assets with a value at least equal to the reserves and other insurance liabilities attributed to that protected cell."

Requirements of sponsors

SECTION 20. Section 38-90-220 of the 1976 Code, as last amended by Act 58 of 2001, is further amended to read:

"Section 38-90-220. (A) The sponsored captive insurance company shall attribute all insurance obligations, assets, and liabilities relating to a participant's risks to the participant's protected cell.

(B) The protected cell assets of a protected cell may not be charged with liabilities arising out of any other business the sponsored captive

insurance company may conduct. All contracts or other documentation reflecting protected cell liabilities shall clearly indicate that only the protected cell assets are available for the satisfaction of those protected cell liabilities. Under no circumstances may a protected cell be authorized to issue insurance or reinsurance contracts directly to policyholders or reinsureds or have any obligation to the policyholders or reinsureds of the sponsored captive insurance company's general account.

(C) The income, gains and losses, realized or unrealized, from protected cell assets and protected cell liabilities must be credited to or charged against the protected cell without regard to other income, gains or losses of the sponsored captive insurance company, including income, gains or losses of other protected cells. Investments must be handled pursuant to Section 38-90-100(B).

(D) In all sponsored captive insurance company transactions, the contracts or other documentation effecting the transaction shall contain provisions identifying the protected cell to which the transaction will be attributed. In addition, the contracts or other documentation must clearly disclose that the assets of that protected cell, and only those assets are available to pay the obligations of that protected cell. Notwithstanding the provisions of this subsection and subject to the provisions of this chapter and any other applicable law or regulation, the failure to include such language in the contracts or other documentation may not be used as the sole basis by creditors, reinsurers, or other claimants to circumvent the provisions of this chapter.

(E) Assets attributed to a protected cell must be valued at their market value on the date of valuation or if there is no readily available market, as provided in the contract or the rules or other written documentation applicable to the protected cell.

(F) At the cessation of business of a protected cell in accordance with the plan approved by the director, the sponsored captive insurance company voluntarily shall close out the protected cell account."

Protected cell assets, availability to creditors

SECTION 21. Section 38-90-230 of the 1976 Code, as last amended by Act 58 of 2001, is further amended to read:

"Section 38-90-230. (A) Protected cell assets are only available to the creditors of the sponsored captive insurance company that are creditors with respect to that protected cell and are therefore entitled, in

conformity with this chapter, to have recourse to the protected cell assets attributable to that protected cell. Protected cell assets are absolutely protected from the creditors of the sponsored captive insurance company that are not creditors with respect to that protected cell and who, therefore, are not entitled to have recourse to the protected cell assets attributable to that protected cell. Creditors with respect to a protected cell are not entitled to have recourse against the protected cell assets of other protected cells or the assets or the sponsored captive insurance company's general account. Protected cell assets only are available to creditors of a sponsored captive insurance company after all protected cell liabilities have been extinguished or otherwise provided for in accordance with the plan of operation relating to that protected cell.

(B) When an obligation of a sponsored captive insurance company to a person arises from a transaction, or is otherwise imposed, with respect to a protected cell:

(1) that obligation of the sponsored captive insurance company extends only to the protected cell assets attributable to that protected cell, and the person, with respect to that obligation, is entitled to have recourse only to the protected cell assets attributable to that protected cell; and

(2) that obligation of the sponsored captive insurance company does not extend to the protected cell assets of any other protected cell or the assets of the sponsored captive insurance company's general account, and that person, with respect to that obligation, is not entitled to have recourse to the protected cell assets of any other protected cell or the assets of the sponsored captive insurance company's general account.

(C) When an obligation of a sponsored captive insurance company relates solely to the general account, the obligation of the sponsored captive insurance company extends only to the sponsored captive insurance company, and that person, with respect to that obligation, is entitled to have recourse only to the assets of the sponsored captive insurance company's general account.

(D) The establishment of one or more protected cells alone does not constitute, and may not be deemed to be, a fraudulent conveyance, an intent by the sponsored captive insurance company to defraud creditors, or the carrying out of business by the sponsored captive insurance company for any other fraudulent purpose."

Eligibility of licensed captive insurance companies for certificate of authority to act as insurer

SECTION 22. Section 38-90-240 of the 1976 Code is amended to read:

"Section 38-90-240. (A) The following may be participants in a sponsored captive insurance company formed or licensed pursuant to this chapter:

(1) an association, a corporation, limited liability company, partnership, trust, or other business entity; and

(2) a sponsor may be a participant in a sponsored captive insurance company.

(B) A participant does not need to be a shareholder of the sponsored captive insurance company or an affiliate of the company.

(C) A participant shall insure only its own risks through a sponsored captive insurance company, unless otherwise approved by the director.

(D) A risk retention group may not be either a sponsor or participant in a sponsored captive insurance company.

(E) A sponsored captive insurance company established pursuant to Section 38-90-210 may not be used to facilitate insurance securitizations, but may be established for the purpose of isolating the expenses and claims. Insurance securitization transactions utilizing protected cells are governed by Chapter 10 of this title."

Special purpose financial captives, organization requirements

SECTION 23. Section 38-90-450 of the 1976 Code, as last amended by Act 28 of 2009, is further amended to read:

"Section 38-90-450. (A) A SPFC may be established as a stock corporation, limited liability company, mutual, partnership, or other form of organization approved by the director.

(B) The SPFC's organizational documents must limit the SPFC's authority to transact the business of insurance or reinsurance to those activities the SPFC conducts to accomplish its purpose as expressed in this article.

(C) The SPFC may not adopt a name that is the same as, deceptively similar to, or likely to be confused with or mistaken for another existing business name registered in this State.

(D) The organizational documents and the required organization fees must be transmitted to the Secretary of State, who shall record the relevant organizational documents.

(E) At least one of the members of the management of the SPFC must be a resident of this State.

(F) A SPFC formed pursuant to the provisions of this article has the privileges of and is subject to the provisions of the 1976 Code, applicable to its formation, as well as the applicable provisions contained in this article. If a conflict occurs between a provision of the applicable law and a provision of this article, the latter controls. Nothing contained in this provision with respect to a SPFC shall abrogate, limit, or rescind in any way the authority of the Securities Commissioner pursuant to the provisions of Title 35."

Repeal

SECTION 24. Section 38-90-235 of the 1976 Code is repealed.

Time effective

SECTION 25. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2014.

Approved the 10th day of June, 2014.

No. 283

(R294, H3411)

AN ACT TO AMEND SECTION 40-7-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "HAIR BRAIDING" ASSOCIATED WITH THE LICENSURE AND REGULATION OF BARBERS, SO AS TO PERMIT THE USE OF HAIR EXTENSIONS IN HAIR BRAIDING, EXCEPT IN PUBLIC PLACES.

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

Hair extensions permitted, exception

SECTION 1. Section 40-7-20(2) of the 1976 Code is amended to read:

"(2) 'Hair braiding' means the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or chemical treatment. Hair braiding also includes the use of hair extensions, except when used in public places including, but not limited to, beaches, parks, and sidewalks."

Time effective

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

Ratified the 5th day of June, 2014.

Approved the 11th day of June, 2014.

No. 284

(R313, S516)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 155 TO TITLE 59 SO AS TO CREATE THE SOUTH CAROLINA READ TO SUCCEED OFFICE AND TO PROVIDE FOR ITS PURPOSES, TO PROVIDE NECESSARY DEFINITIONS, TO PROVIDE FOR A COMPREHENSIVE STATE PLAN TO IMPROVE READING ACHIEVEMENT IN PUBLIC SCHOOLS BY ASSESSING THE READINESS AND READING PROFICIENCY OF STUDENTS PROGRESSING FROM PREKINDERGARTEN THROUGH THIRD GRADE AND PROVIDING APPROPRIATE INTERVENTIONS AND OTHER ASSISTANCE TO STUDENTS, AS APPROPRIATE, TO PROVIDE RELATED OBLIGATIONS OF THE STATE DEPARTMENT OF EDUCATION, READ TO SUCCEED OFFICE, STATE BOARD OF EDUCATION, AND EACH SCHOOL CONCERNING THE PLAN AND RELATED PROVISIONS, TO PROVIDE THAT BEGINNING WITH THE 2017-2018 SCHOOL YEAR A STUDENT MUST BE RETAINED IN THE THIRD GRADE IF HE FAILS TO DEMONSTRATE

READING PROFICIENCY AT THE END OF THE THIRD GRADE AS INDICATED BY SCORING AT A CERTAIN ACHIEVEMENT LEVEL ON THE STATE SUMMATIVE READING ASSESSMENT, TO PROVIDE EXCEPTIONS, TO PROVIDE FOR THE ASSISTANCE OF RETAINED STUDENTS THROUGH CERTAIN SUPPORT AND SERVICES, TO PROVIDE RELATED EDUCATION REQUIREMENTS FOR TEACHERS AND ADMINISTRATORS IMPLEMENTED OVER SEVERAL YEARS, TO ENCOURAGE LOCAL SCHOOL DISTRICTS TO CREATE FAMILY-SCHOOL-COMMUNITY PARTNERSHIPS TO PROMOTE AND ENHANCE READING DEVELOPMENT AND PROFICIENCY THROUGHOUT THE YEAR IN HOMES AND IN THE COMMUNITY, TO REQUIRE THE READ TO SUCCEED OFFICE AND EACH DISTRICT TO PLAN FOR AND ACT DECISIVELY TO ENGAGE THE FAMILIES OF STUDENTS AS FULL PARTICIPATING PARTNERS IN PROMOTING THE READING AND WRITING HABITS AND SKILLS DEVELOPMENT OF THEIR CHILDREN IN A CERTAIN MANNER, AND TO PROVIDE THE BOARD AND DEPARTMENT SHALL TRANSLATE THE STATUTORY REQUIREMENTS FOR READING AND WRITING SPECIFIED IN THIS CHAPTER INTO STANDARDS, PRACTICES, AND PROCEDURES FOR SCHOOL DISTRICTS, BOARDS, AND THEIR EMPLOYEES AND FOR OTHER ORGANIZATIONS, AS APPROPRIATE, AND IN A CERTAIN MANNER; BY ADDING CHAPTER 156 TO TITLE 59 SO AS TO CREATE THE CHILD EARLY READING DEVELOPMENT AND EDUCATION PROGRAM, TO PROVIDE A FULL DAY, FOUR-YEAR-OLD KINDERGARTEN PROGRAM FOR AT-RISK CHILDREN WHICH MUST BE MADE AVAILABLE TO QUALIFIED CHILDREN IN ALL PUBLIC SCHOOL DISTRICTS WITHIN THE STATE, TO SPECIFY REQUIREMENTS OF THE PROGRAM, TO PROVIDE THE PROGRAM FIRST MUST BE MADE AVAILABLE TO ELIGIBLE CHILDREN IN EIGHT SPECIFIC TRIAL DISTRICTS AND THAT REMAINING FUNDS MAY BE USED TO EXPAND THE PROGRAM IN A SPECIFIC MANNER, TO PROVIDE ELIGIBILITY CRITERIA, TO PROVIDE REQUIREMENTS AND PROCEDURES FOR DETERMINING ELIGIBILITY, TO PROVIDE RELATED REQUIREMENTS OF THE DEPARTMENT OF EDUCATION, READ TO SUCCEED OFFICE, AND THE OFFICE OF FIRST

STEPS TO SCHOOL READINESS, TO REQUIRE PROVIDERS OF THE SOUTH CAROLINA CHILD EARLY READING DEVELOPMENT AND EDUCATION PROGRAM SHALL OFFER A COMPLETE EDUCATIONAL PROGRAM IN ACCORDANCE WITH AGE-APPROPRIATE INSTRUCTIONAL PRACTICE AND A RESEARCH-BASED PRESCHOOL CURRICULUM ALIGNED WITH SCHOOL SUCCESS, TO PROVIDE RELATED REQUIREMENTS, TO RECOGNIZE AND IMPROVE RELATIONSHIPS BETWEEN THE SKILLS AND PREPARATION OF PREKINDERGARTEN INSTRUCTORS AND THE EDUCATIONAL OUTCOMES OF STUDENTS, TO PROVIDE PUBLIC AND PRIVATE PROVIDERS ARE ELIGIBLE FOR TRANSPORTATION FUNDS PURSUANT TO CERTAIN CRITERIA AND REQUIREMENTS, TO PROVIDE SPECIFIC DUTIES OF THE READ TO SUCCEED OFFICE WITH RESPECT TO APPROVED PRIVATE PROVIDERS AND PUBLIC PROVIDERS, TO PROVIDE FUNDING FORMULAS, TO PROVIDE THE DEPARTMENT OF SOCIAL SERVICES SHALL MAINTAIN A LIST OF ALL APPROVED PUBLIC AND PRIVATE PROVIDERS AND PROVIDE THE DEPARTMENT OF EDUCATION AND THE OFFICE OF FIRST STEPS INFORMATION NECESSARY TO CARRY OUT THE REQUIREMENTS OF THIS CHAPTER, TO PROVIDE THE OFFICE OF FIRST STEPS TO SCHOOL READINESS IS RESPONSIBLE FOR THE COLLECTION AND MAINTENANCE OF DATA ON THE STATE-FUNDED PROGRAMS PROVIDED THROUGH PRIVATE PROVIDERS, AND TO MAKE THESE REQUIREMENTS CONTINGENT ON STATE FUNDING.

Whereas, the South Carolina General Assembly finds that national research has documented that students unable to comprehend grade-level text struggle in all their courses; and

Whereas, the South Carolina General Assembly finds that while reading typically has been assessed through standardized tests beginning in third grade, research has found that many struggling readers reach preschool or kindergarten with low oral language skills and limited print awareness. Once in school, they and other students fail to develop proficiency with reading and comprehension because of inadequate instruction and engaged practice; and

Whereas, the South Carolina General Assembly finds that research has also shown that students who have difficulty comprehending texts struggle academically in their content area courses but seldom receive effective instructional intervention during middle and high school to improve their reading comprehension. These are the students least likely to graduate; and

Whereas, the South Carolina General Assembly finds that one recent longitudinal study found that students reading below grade level at the end of third grade were six times more likely to leave school without a high school diploma; and

Whereas, the South Carolina General Assembly finds that reading proficiency is a fundamental life skill vital for the educational and economic success of our citizens and State. In accordance with the ruling of the South Carolina Supreme Court that all students must be given "an opportunity to acquire the ability to read, write, and speak the English language", the South Carolina General Assembly finds that all students must be given high quality instruction and engage in ample time actually reading and writing in order to learn to read, comprehend, write, speak, listen, and use language effectively across all content areas; and

Whereas, to guarantee that all students exhibit these abilities and behaviors, the State of South Carolina must implement a comprehensive and strategic approach to reading proficiency for students in prekindergarten through twelfth grade that begins when each student enters the public school system and continues until he or she graduates. Now, therefore,

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

South Carolina Read to Succeed Act

SECTION 1. Title 59 of the 1976 Code is amended by adding:

"CHAPTER 155

South Carolina Read to Succeed Act

Section 59-155-110. There is established within the South Carolina Department of Education the South Carolina Read to Succeed Office to implement a comprehensive, systemic approach to reading which will ensure that:

(1) classroom teachers use evidence-based reading instruction in prekindergarten through grade twelve, to include oral language, phonological awareness, phonics, fluency, vocabulary, and comprehension; administer and interpret valid and reliable assessments; analyze data to inform reading instruction; and provide evidence-based interventions as needed so that all students develop proficiency with literacy skills and comprehension;

(2) classroom teachers periodically reassess their curriculum and instruction to determine if they are helping each student progress as a proficient reader and make modifications as appropriate;

(3) each student who cannot yet comprehend grade-level text is identified and served as early as possible and at all stages of his or her educational process;

(4) each student receives targeted, effective, comprehension support from the classroom teacher and, if needed, supplemental support from a reading interventionist so that ultimately all students can comprehend grade-level texts;

(5) each student and his parent or guardian is continuously informed in writing of:

(a) the student's reading proficiency needs, progress, and ability to comprehend and write grade-level texts;

(b) specific actions the classroom teacher and other reading professionals have taken and will take to help the student comprehend and write grade-level texts; and

(c) specific actions that the parent or guardian can take to help the student comprehend grade-level texts by providing access to books, assuring time for the student to read independently, reading to students, and talking with the student about books;

(6) classroom teachers receive pre-service and in-service coursework which prepares them to help all students comprehend grade-level texts;

(7) all students develop reading and writing proficiency to prepare them to graduate and to succeed in their career and post-secondary education; and

(8) each school district publishes annually a comprehensive research-based reading plan that includes intervention options available to students and funding for these services.

Section 59-155-120. As used in this chapter:

(1) 'Board' means the State Board of Education.

(2) 'Department' means the State Department of Education.

(3) 'Discipline-specific literacy' means the ability to read, write, listen, and speak across various disciplines and content areas including, but not limited to, English/language arts, science, mathematics, social studies, physical education, health, the arts, and career and technology education.

(4) 'Readiness assessment' means assessments used to analyze students' literacy, mathematical, physical, social, and emotional-behavioral competencies in prekindergarten or kindergarten.

(5) 'Reading interventions' means individual or group assistance in the classroom and supplemental support based on curricular and instructional decisions made by classroom teachers who have proven effectiveness in teaching reading and an add-on literacy endorsement or reading/literacy coaches who meet the minimum qualifications established in guidelines published by the Department of Education.

(6) 'Reading portfolio' means an organized collection of evidence and assessments documenting that the student has demonstrated mastery of the state standards in reading equal to at least a level above the lowest achievement level on the state reading assessment.

(7) 'Reading proficiency' means the ability of students to meet state reading standards in kindergarten through grade twelve, demonstrated by readiness, formative, or summative assessments.

(8) 'Reading proficiency skills' means the ability to understand how written language works at the word, sentence, paragraph, and text level and mastery of the skills, strategies, and oral and written language needed to comprehend grade-level texts.

(9) 'Research-based formative assessment' means assessments used within the school year to analyze strengths and weaknesses in reading comprehension of students individually to adapt instruction to meet student needs, make decisions about appropriate intervention services, and inform placement and instructional planning for the next grade level.

(10) 'Substantially fails to demonstrate third-grade reading proficiency' means a student who does not demonstrate reading proficiency at the end of the third grade as indicated by scoring at the lowest achievement level on the statewide summative reading assessment that equates to Not Met 1 on the Palmetto Assessment of State Standards (PASS).

(11) 'Summative assessment' means state-approved assessments administered in grades three through eight and any statewide

assessment used in grades nine through twelve to determine student mastery of grade-level or content standards.

(12) 'Summer reading camp' means an educational program offered in the summer by each local school district or consortia of school districts for students who are unable to comprehend grade-level texts and who qualify for mandatory retention.

(13) 'Third-grade reading proficiency' means the ability to read grade-level texts by the end of a student's third grade year as demonstrated by the results of state-approved assessments administered to third grade students, or through other assessments as noted in this chapter and adopted by the board.

(14) 'Writing proficiency skills' means the ability to communicate information, analysis, and persuasive points of view effectively in writing.

Section 59-155-130. The Read to Succeed Office must guide and support districts and collaborate with university teacher training programs to increase reading proficiency through the following functions, including, but not limited to:

(1) providing professional development to teachers, school principals, and other administrative staff on reading and writing instruction and reading assessment that informs instruction;

(2) providing professional development to teachers, school principals, and other administrative staff on reading and writing in content areas;

(3) working collaboratively with institutions of higher learning offering courses in reading and writing and those institutions of higher education offering accredited master's degrees in reading-literacy to design coursework leading to a literacy teacher add-on endorsement by the State;

(4) providing professional development in reading and coaching for already certified reading/literacy coaches and literacy teachers;

(5) developing information and resources that school districts can use to provide workshops for parents about how they can support their children as readers and writers;

(6) assisting school districts in the development and implementation of their district reading proficiency plans for research-based reading instruction programs and assisting each of their schools to develop its own implementation plan aligned with the district and state plans;

(7) annually designing content and questions for and review and approve the reading proficiency plan of each district;

(8) monitor and report to the State Board of Education the yearly success rate of summer reading camps. Districts must provide statistical data to include the:

(a) number of students enrolled in camps;

(b) number of students by grade level who successfully complete the camps;

(c) number of third-graders promoted to fourth grade;

(d) number of third-graders retained; and

(e) total expenditure made on operating the camps by source of funds to include in-kind donations; and

(9) provide an annual report to the General Assembly regarding the implementation of the South Carolina Read to Succeed Act and the State and the district's progress toward ensuring that at least ninety-five percent of all students are reading at grade level.

Section 59-155-140. (A)(1) The department, with approval by the State Board of Education, shall develop, implement, evaluate, and continuously refine a comprehensive state plan to improve reading achievement in public schools. The State Reading Proficiency Plan must be approved by the board by February 1, 2015, and must include, but not be limited to, sections addressing the following components:

(a) reading process;

(b) professional development to increase teacher reading expertise;

(c) professional development to increase reading expertise and literacy leadership of principals and assistant principals;

(d) reading instruction;

(e) reading assessment;

(f) discipline-specific literacy;

(g) writing;

(h) support for struggling readers;

(i) early childhood interventions;

(j) family support of literacy development;

(k) district guidance and support for reading proficiency;

(l) state guidance and support for reading proficiency;

(m) accountability; and

(n) urgency to improve reading proficiency.

(2) The state plan must be based on reading research and proven-effective practices, applied to the conditions prevailing in reading-literacy education in this State, with special emphasis on addressing instructional and institutional deficiencies that can be remedied through faithful implementation of research-based practices.

The plan must provide standards, format, and guidance for districts to use to develop and annually update their plans, as well as to present and explain the research-based rationale for state-level actions to be taken. The plan must be updated annually and must incorporate a state reading proficiency progress report.

(3) The state plan must include specific details and explanations for all substantial uses of state, local, and federal funds promoting reading-literacy and best judgment estimates of the cost of research-supported, thoroughly analyzed proposals for initiation, expansion, or modification of major funding programs addressing reading and writing. Analyses of funding requirements must be prepared by the department for incorporation into the plan.

(B)(1) Beginning in Fiscal Year 2015-2016, each district must prepare a comprehensive annual reading proficiency plan for prekindergarten through twelfth grade consistent with the plan by responding to questions and presenting specific information and data in a format specified by the Read to Succeed Office. Each district's PK-12 reading proficiency plan must present the rationale and details of its blueprint for action and support at the district, school, and classroom levels. Each district shall develop a comprehensive plan for supporting the progress of students as readers and writers, monitoring the impact of its plan, and using data to make improvements and to inform its plan for the subsequent years. The district plan piloted in school districts in Fiscal Year 2013-2014 and revised based on the input of districts shall be used as the initial district reading plan framework in Fiscal Year 2014-2015 to provide interventions for struggling readers and fully implemented in Fiscal Year 2015-2016 to align with the state plan.

(2) Each district PK-12 reading proficiency plan shall:

(a) document the reading and writing assessment and instruction planned for all PK-12 students and the interventions in prekindergarten through twelfth grade to be provided to all struggling readers who are not able to comprehend grade-level texts. Supplemental instruction shall be provided by teachers who have a literacy teacher add-on endorsement and offered during the school day and, as appropriate, before or after school in book clubs, through a summer reading camp, or both;

(b) include a system for helping parents understand how they can support the student as a reader at home;

(c) provide for the monitoring of reading achievement and growth at the classroom, school, and district levels with decisions about intervention based on all available data;

(d) ensure that students are provided with wide selections of texts over a wide range of genres and written on a wide range of reading levels to match the reading levels of students;

(e) provide teacher training in reading and writing instruction; and

(f) include strategically planned and developed partnerships with county libraries, state and local arts organizations, volunteers, social service organizations, and school media specialists to promote reading.

(3)(a) The Read to Succeed Office shall develop the format for the plan and the deadline for districts to submit their plans to the office for its approval. A school district that does not submit a plan or whose plan is not approved shall not receive any state funds for reading until it submits a plan that is approved. All district reading plans must be reviewed and approved by the Read to Succeed Office. The office shall provide written comments to each district on its plan and to all districts on common issues raised in prior or newly submitted district reading plans.

(b) The Read to Succeed Office shall monitor the district and school plans and use their findings to inform the training and support the office provides to districts and schools.

(c) The department may direct a district that is persistently unable to prepare an acceptable PK-12 reading proficiency plan or to help all students comprehend grade-level texts to enter into a multidistrict or contractual arrangement to develop an effective intervention plan.

(C) Each school must prepare an implementation plan aligned with the district reading proficiency plan to enable the district to monitor and support implementation at the school level. The school plan must be a component of the school's strategic plan required by Section 59-18-1310. A school implementation plan shall be sufficiently detailed to provide practical guidance for classroom teachers. Proposed strategies for assessment, instruction, and other activities specified in the school plan must be sufficient to provide to classroom teachers and other instructional staff helpful guidance that can be related to the critical reading and writing needs of students in the school. In consultation with the School Improvement Council, each school must include in its implementation plan the training and support that will be provided to parents as needed to maximize their promotion of reading and writing by students at home and in the community.

Section 59-155-150. (A) With the enactment of this chapter, the State Superintendent of Education shall ensure that every student entering publically funded prekindergarten and kindergarten beginning in Fiscal Year 2014-2015 will be administered a readiness assessment by the forty-fifth day of the school year. Initially the assessment shall focus on early language and literacy development. Beginning in Fiscal Year 2016-2017, the assessment must assess each child's early language and literacy development, mathematical thinking, physical well-being, and social-emotional development. The assessment may include multiple assessments, all of which must be approved by the board. The approved assessments of academic readiness must be aligned with first and second grade standards for English/language arts and mathematics. The purpose of the assessment is to provide teachers and parents or guardians with information to address the readiness needs of each student, especially by identifying language, cognitive, social, emotional, health problems, and concerning appropriate instruction for each child. The results of the assessment and the developmental intervention strategies recommended to address the child's identified needs must be provided, in writing, to the parent or guardian. Reading instructional strategies and developmental activities for children whose oral language skills are assessed to be below the norm of their peers in the State must be aligned with the district's reading proficiency plan for addressing the readiness needs of each student. The results of each assessment also must be reported to the Read to Succeed Office.

(B) Any student enrolled in prekindergarten, kindergarten, first grade, second grade, or third grade who is substantially not demonstrating proficiency in reading, based upon formal diagnostic assessments or through teacher observations, must be provided intensive in-class and supplemental reading intervention immediately upon determination. The intensive interventions must be provided as individualized and small group assistance based on the analysis of assessment data. All sustained interventions must be aligned with the district's reading proficiency plan. These interventions must be at least thirty minutes in duration and be in addition to ninety minutes of daily reading and writing instruction provided to all students in kindergarten through grade three. The district must continue to provide intensive in-class intervention and at least thirty minutes of supplemental intervention until the student can comprehend and write text at grade-level independently. In addition, the parent or guardian of the student must be notified, in writing, of the child's inability to read grade-level texts, the interventions to be provided, and the child's

reading abilities at the end of the planned interventions. The results of the initial assessments and progress monitoring also must be provided to the Read to Succeed Office.

(C) Programs that focus on early childhood literacy development in the State are required to promote:

(1) parent training and support for parent involvement in developing children's literacy; and

(2) development of oral language, print awareness, and emergent writing; and are encouraged to promote community literacy including, but not limited to, primary health care providers, faith-based organizations, county libraries, and service organizations.

(D) Districts that fail to provide reports on summer reading camps pursuant to Section 59-15-130(8) are ineligible to receive state funding for summer reading camps for the following fiscal year; however, districts must continue to operate summer reading camps as defined in this act.

Section 59-155-160. (A) Beginning with the 2017-2018 School Year, a student must be retained in the third grade if the student fails to demonstrate reading proficiency at the end of the third grade as indicated by scoring at the lowest achievement level on the state summative reading assessment that equates to Not Met 1 on the Palmetto Assessment of State Standards (PASS). A student may be exempt for good cause from the mandatory retention but shall continue to receive instructional support and services and reading intervention appropriate for their age and reading level. Good cause exemptions include students:

(1) with limited English proficiency and less than two years of instruction in English as a Second Language program;

(2) with disabilities whose individual education plan indicates the use of alternative assessments or alternative reading interventions and students with disabilities whose Individual Education Plan or Section 504 Plan reflects that the student has received intensive remediation in reading for more than two years but still does not substantially demonstrate reading proficiency;

(3) who demonstrate third-grade reading proficiency on an alternative assessment approved by the board and which teachers may administer following the administration of the state assessment of reading;

(4) who have received two years of reading intervention and were previously retained;

(5) who through a reading portfolio document, the student's mastery of the state standards in reading equal to at least a level above the lowest achievement level on the state reading assessment. Such evidence must be an organized collection of the student's mastery of the state English/language arts standards that are assessed by the grade three state reading assessment. The Read to Succeed Office shall develop the assessment tool for the student portfolio; however, the student portfolio must meet the following minimum criteria:

(a) be selected by the student's English/language arts teacher or summer reading camp instructor;

(b) be an accurate picture of the student's ability and only include student work that has been independently produced in the classroom;

(c) include evidence that the benchmarks assessed by the grade three state reading assessment have been met. Evidence is to include multiple choice items and passages that are approximately sixty percent literary text and forty percent information text, and that are between one hundred and seven hundred words with an average of five hundred words. Such evidence could include chapter or unit tests from the district or school's adopted core reading curriculum that are aligned with the state English/language arts standards or teacher-prepared assessments;

(d) be an organized collection of evidence of the student's mastery of the English/language arts state standards that are assessed by the grade three state reading assessment. For each benchmark there must be at least three examples of mastery as demonstrated by a grade of seventy percent or above; and

(e) be signed by the teacher and the principal as an accurate assessment of the required reading skills; and

(6) who successfully participate in a summer reading camp at the conclusion of the third grade year and demonstrate through either a reading portfolio or through a norm-referenced, alternative assessment, selected from a list of norm-referenced, alternative assessments approved by the Read to Succeed Office for use in the summer reading camps, that the student's mastery of the state standards in reading is equal to at least a level above the lowest level on the state reading assessment.

(B) The superintendent of the local school district must determine whether a student in the district may be exempt from the mandatory retention by taking all of the following steps:

(1) The teacher of a student eligible for exemption must submit to the principal documentation on the proposed exemption and

evidence that promotion of the student is appropriate based on the student's academic record. This evidence must be limited to the student's individual education program, alternative assessments, or student reading portfolio. The Read to Succeed Office must provide districts with a standardized form to use in the process.

(2) The principal must review the documentation and determine whether the student should be promoted. If the principal determines the student should be promoted, the principal must submit a written recommendation for promotion to the district superintendent for final determination.

(3) The district superintendent's acceptance or rejection of the recommendation must be in writing and a copy must be provided to the parent or guardian of the child.

(4) A parent or legal guardian may appeal the decision to retain a student to the district superintendent if there is a compelling reason why the student should not be retained. A parent or legal guardian must appeal, in writing, within two weeks after the notification of retention. The letter must be addressed to the district superintendent and specify the reasons why the student should not be retained. The district superintendent shall render a decision and provide copies to the parent or legal guardian and the principal.

(C)(1) Students eligible for retention under the provisions in Section 59-155-160(A) may enroll in a summer reading camp provided by their school district or a summer reading camp consortium to which their district belongs prior to being retained the following school year. Summer reading camps must be at least six weeks in duration with a minimum of four days of instruction per week and four hours of instruction per day, or the equivalent minimum hours of instruction in the summer. The camps must be taught by compensated teachers who have at least an add-on literacy endorsement or who have documented and demonstrated substantial success in helping students comprehend grade level texts. The Read to Succeed Office shall assist districts that cannot find qualified teachers to work in the summer camps. Districts also may choose to contract for the services of qualified instructors or collaborate with one or more districts to provide a summer reading camp. Schools and school districts are encouraged to partner with county or school libraries, institutions of higher learning, community organizations, faith-based institutions, businesses, pediatric and family practice medical personnel, and other groups to provide volunteers, mentors, tutors, space, or other support to assist with the provision of the summer reading camps. A parent or guardian of a student who does not substantially demonstrate proficiency in comprehending texts

appropriate for his grade level must make the final decision regarding the student's participation in the summer reading camp.

(2) A district may include in the summer reading camps students who are not exhibiting reading proficiency at any grade and do not meet the good cause exemption. Districts may charge fees for these students to attend the summer reading camps based on a sliding scale pursuant to Section 59-19-90, except where a child is found to be reading below grade level in the first, second, or third grade and does not meet the good cause exemption.

(D) Retained students must be provided intensive instructional services and support, including a minimum of ninety minutes of daily reading and writing instruction, supplemental text-based instruction, and other strategies prescribed by the school district. These strategies may include, but are not limited to, instruction directly focused on improving the student's individual reading proficiency skills through small group instruction, reduced teacher-student ratios, more frequent student progress monitoring, tutoring or mentoring, transition classes containing students in multiple grade spans, and extended school day, week, or year reading support. The school must report to the Read to Succeed Office on the progress of students in the class at the end of the school year and at other times as required by the office based on the reading progression monitoring requirements of these students.

(E) If the student is not demonstrating third-grade reading proficiency by the end of the second grading period of the third grade:

(1)(a) his parent or guardian timely must be notified, in writing, that the student is being considered for retention and a conference with the parent or guardian must be held prior to a determination regarding retention is made, and conferences must be documented;

(b) within two weeks following the parent/teacher conference, copies of the conference form must be provided to the principal, parent or guardian, teacher and other school personnel who are working with the child on literacy, and summary statements must be sent to parents or legal guardians who do not attend the conference;

(c) following the parent/teacher retention conference, the principal, classroom teacher, and other school personnel who are working with the child on literacy must review the recommendation for retention and provide suggestions for supplemental instruction; and

(d) recommendations and observations of the principal, teacher, parent or legal guardian, and other school personnel who are working with the child on literacy must be considered when determining whether to retain the student.

(2) The parent or guardian may designate another person as an education advocate also to act on their behalf to receive notification and to assume the responsibility of promoting the reading success of the child. The parent or guardian of a retained student must be offered supplemental tutoring for the retained student in evidenced-based services outside the instructional day.

(F) For students in grades four and above who are substantially not demonstrating reading proficiency, interventions shall be provided by reading interventionists in the classroom and supplementally by teachers with a literacy teacher add-on endorsement or reading/literacy coaches. This supplemental support will be provided during the school day and, as appropriate, before or after school as documented in the district reading plan, and may include book clubs or summer reading camps.

Section 59-155-170. (A) To help students develop and apply their reading and writing skills across the school day in all the academic disciplines, including, but not limited to, English/language arts, mathematics, science, social studies, the arts, career and technology education, and physical and health education, teachers of these content areas at all grade levels must focus on helping students comprehend print and nonprint texts authentic to the content area. The Read to Succeed Program is intended to institutionalize in the public schools a comprehensive system to promote high achievement in the content areas described in this chapter through extensive reading and writing. Research-based practices must be employed to promote comprehension skills through, but not limited to:

(1) vocabulary;

(2) connotation of words;

(3) connotations of words in context with adjoining or prior text;

(4) concepts from prior text;

(5) personal background knowledge;

(6) ability to interpret meaning through sentence structure features;

(7) questioning;

(8) visualization; and

(9) discussion of text with peers.

(B) These practices must be mastered by teachers through high-quality training and addressed through well-designed and effectively executed assessment and instruction implemented with fidelity to research-based instructional practices presented in the state, district, and school reading plans. All teachers, administrators, and

support staff must be trained adequately in reading comprehension in order to perform effectively their roles enabling each student to become proficient in content area reading and writing.

(C) During Fiscal Year 2014-2015, the Read to Succeed Office shall establish a set of essential competencies that describe what certified teachers at the early childhood, elementary, middle or secondary levels must know and be able to do so that all students can comprehend grade-level texts. These competencies, developed collaboratively with the faculty of higher education institutions and based on research and national standards, must then be incorporated into the coursework required by Section 59-155-180. The Read to Succeed Office, in collaboration with South Carolina Educational Television, shall provide professional development courses to ensure that educators have access to multiple avenues of receiving endorsements.

Section 59-155-180. (A) As a student progresses through school, reading comprehension in content areas such as science, mathematics, social studies, English/language arts, career and technology education, and the arts is critical to the student's academic success. Therefore, to improve the academic success of all students in prekindergarten through grade twelve, the State shall strengthen its pre-service and in-service teacher education programs.

(B)(1) Beginning with students entering a teacher education program in the fall semester of the 2016-2017 School Year, all pre-service teacher education programs including MAT degree programs must require all candidates seeking certification at the early childhood or elementary level to complete a twelve credit hour sequence in literacy that includes a school-based practicum and ensures that candidates grasp the theory, research, and practices that support and guide the teaching of reading. The six components of the reading process that are comprehension, oral language, phonological awareness, phonics, fluency, and vocabulary will provide the focus for this sequence to ensure that all teacher candidates are skilled in diagnosing a child's reading problems and are capable of providing an effective intervention. All teacher preparation programs must be approved for licensure by the State Department of Education to ensure that all teacher education candidates possess the knowledge and skills to assist effectively all children in becoming proficient readers. The General Assembly is not mandating an increase in the number of credit hours required for teacher candidates, but is requiring that pre-service teacher education programs prioritize their missions and resources so

all early and elementary education teachers have the knowledge and skills to provide effective instruction in reading and numeracy to all students.

(2) Beginning with students entering a teacher education program in the fall semester of the 2016-2017 School Year, all pre-service teacher education programs, including MAT degree programs, must require all candidates seeking certification at the middle or secondary level to complete a six credit hour sequence in literacy that includes a course in the foundations of literacy and a course in content-area reading. All middle and secondary teacher preparation programs must be approved by the department to ensure that all teacher candidates possess the necessary knowledge and skills to assist effectively all adolescents in becoming proficient readers. The General Assembly is not mandating an increase in the number of semester hours required for teacher candidates but rather is requiring that pre-service teacher education programs prioritize their mission and resources so all middle and secondary education teachers have the knowledge and skills to provide effective instruction in reading and numeracy to all students.

(C)(1) To ensure that practicing professionals possess the knowledge and skills necessary to assist all children and adolescents in becoming proficient readers, multiple pathways are needed for developing this capacity.

(2) A reading/literacy coach shall be employed in each elementary school. Reading coaches shall serve as job-embedded, stable resources for professional development throughout schools in order to generate improvement in reading and literacy instruction and student achievement. Reading coaches shall support and provide initial and ongoing professional development to teachers based on an analysis of student assessment and the provision of differentiated instruction and intensive intervention. The reading coach shall:

(a) model effective instructional strategies for teachers by working weekly with students in whole, and small groups, or individually;

(b) facilitate study groups;

(c) train teachers in data analysis and using data to differentiate instruction;

(d) coaching and mentoring colleagues;

(e) work with teachers to ensure that research-based reading programs are implemented with fidelity;

(f) work with all teachers (including content area and elective areas) at the school they serve, and help prioritize time for those

teachers, activities, and roles that will have the greatest impact on student achievement, namely coaching and mentoring in the classrooms; and

(g) help lead and support reading leadership teams.

(3) The reading coach must not be assigned a regular classroom teaching assignment, must not perform administrative functions that deter from the flow of improving reading instruction and reading performance of students and must not devote a significant portion of his or her time to administering or coordinating assessments. By August 1, 2014, the department must publish guidelines that define the minimum qualifications for a reading coach. Beginning in Fiscal Year 2014-2015, reading/literacy coaches are required to earn the add-on certification within six years, except as exempted in items (4) and (5), by completing the necessary courses or professional development as required by the department for the add-on. During the six-year period, to increase the number of qualified reading coaches, the Read to Succeed Office shall identify and secure courses and professional development opportunities to assist educators in becoming reading coaches and in earning the literacy add-on endorsement. In addition, the Read to Succeed Office will establish a process through which a district may be permitted to use state appropriations for reading coaches to obtain in-school services from department-approved consultants or vendors, in the event that the school is not successful in identifying and directly employing a qualified candidate. Districts must provide to the Read to Succeed Office information on the name and qualifications of reading coaches funded by the state appropriations.

(4) Beginning in Fiscal Year 2015-2016, early childhood and elementary education certified classroom teachers, reading interventionists, and those special education teachers who provide learning disability and speech services to students who need to substantially improve their low reading and writing proficiency skills, are required to earn the literacy teacher add-on endorsement within ten years of their most recent certification by taking at least two courses or six credit hours every five years, or the equivalent professional development hours as determined by the South Carolina Read to Succeed Office, consistent with existing recertification requirements. Inservice hours earned through professional development for the literacy teacher endorsement must be used for renewal of teaching certificates in all subject areas. The courses and professional development leading to the endorsement must be approved by the State Board of Education and must include foundations, assessment, content

area reading and writing, instructional strategies, and an embedded or stand-alone practicum. Whenever possible these courses shall be offered at a professional development rate which is lower than the certified teacher rate. Early childhood and elementary education certified classroom teachers, reading specialists, and special education teachers who provide learning disability and speech services to students who need to improve substantially their reading and writing proficiency and who already possess their add-on reading teacher certification can take a content area reading course to obtain their literacy teacher add-on endorsement. Individuals who possess a literacy teacher add-on endorsement or who have earned a master's or doctorate degree in reading are exempt from this requirement. Individuals who have completed an intensive and prolonged professional development program like Reading Recovery, Project Read, the South Carolina Reading Initiative, or another similar program should submit their transcripts to the Office of Educator Licensure to determine if they have completed the coursework required for the literacy teacher add-on certificate.

(5) Beginning in Fiscal Year 2015-2016, middle and secondary licensed classroom teachers are required to take at least one course or three credit hours, or the equivalent professional development hours as determined by the South Carolina Read to Succeed Office, to improve reading instruction within five years of their most recent certification. The courses and professional development must be approved by the State Board of Education and include courses and professional development leading to the literacy teacher add-on endorsement. Coursework and professional development in reading must include a course in reading in the content areas. Whenever possible these courses will be offered at a professional development rate which is lower than the certified teacher rate. Individuals who possess a literacy teacher add-on endorsement or who have earned a master's or doctorate degree in reading are exempt from this requirement. Individuals who have completed an intensive, prolonged professional development program like Reading Recovery, Project Read, the South Carolina Reading Initiative, or another similar program should submit their transcripts the to the Office of Educator Licensure to determine if they have completed the coursework or professional development required for the literacy teacher add-on certificate.

(6) Beginning in Fiscal Year 2015-2016, principals and administrators who are responsible for reading instruction or intervention and school psychologists in a school district or school are required to take at least one course or three credit hours within five

years of their most recent certification, or the equivalent professional development hours as determined by the South Carolina Read to Succeed Office. The course or professional development shall include information about reading process, instruction, assessment, or content area literacy and shall be approved by the Read to Succeed Office.

(7) The Read to Succeed Office shall publish by August 1, 2014, the guidelines and procedures used in evaluating all courses and professional development, including virtual courses and professional development, leading to the literacy teacher add-on endorsement. Annually by January first, the Read to Succeed Office shall publish the approved courses and approved professional development leading to the literacy teacher add-on endorsement.

Section 59-155-190. Local school districts are encouraged to create family-school-community partnerships that focus on increasing the volume of reading, in school and at home, during the year and at home and in the community over the summer. Schools and districts should partner with county libraries, community organizations, local arts organizations, faith-based institutions, pediatric and family practice medical personnel, businesses, and other groups to provide volunteers, mentors, or tutors to assist with the provision of instructional supports, services, and books that enhance reading development and proficiency. A district shall include specific actions taken to accomplish the requirements of this section in its reading proficiency plan.

Section 59-155-200. The Read to Succeed Office and each school district must plan for and act decisively to engage the families of students as full participating partners in promoting the reading and writing habits and skills development of their children. With support from the Read to Succeed Office, districts and individual schools shall provide families with information about how children progress as readers and writers and how they can support this progress. This family support must include providing time for their child to read, as well as reading to the child. To ensure that all families have access to a considerable number and diverse range of books appealing to their children, schools should develop plans for enhancing home libraries and for accessing books from county libraries and school libraries and to inform families about their child's ability to comprehend grade-level texts and how to interpret information about reading that is sent home. The districts and schools shall help families learn about reading and writing through open houses, South Carolina Educational Television, video and audio tapes, websites, and school-family events and

collaborations that help link the home and school of the student. The information should enable family members to understand the reading and writing skills required for graduation and essential for success in a career. Each institution of higher learning may operate a year-round program similar to a summer reading camp to assist students not reading at grade level.

Section 59-155-210. The board and department shall translate the statutory requirements for reading and writing specified in this chapter into standards, practices, and procedures for school districts, boards, and their employees and for other organizations as appropriate. In this effort, they shall solicit the advice of education stakeholders who have a deep understanding of reading, as well as school boards, administrators, and others who play key roles in facilitating support for and implementation of effective reading instruction."

Child Early Reading Development and Education Program

SECTION 2. Title 59 of the 1976 Code is amended by adding:

"CHAPTER 156

Child Early Reading Development and Education Program

Section 59-156-110. There is created the South Carolina Child Early Reading Development and Education Program which is a full day, four-year-old kindergarten program for at-risk children which must be made available to qualified children in all public school districts within the State. The program must focus on:

(1) a comprehensive, systemic approach to reading that follows the State Reading Proficiency Plan and the district's comprehensive annual reading proficiency plan, both adopted pursuant to Chapter 155, Title 59;

(2) successfully completing the readiness assessment administered pursuant to Section 59-155-150;

(3) the developmental and learning support that children must have in order to be ready for school;

(4) incorporating parenting education, including educating the parents as to methods that may assist the child pursuant to Section 59-155-110, 59-155-130, and 59-155-140; and

(5) identifying community and civic organizations that can support early literacy efforts.

Section 59-156-120. (A)(1) The South Carolina Child Early Reading Development and Education Program first must be made available to eligible children from the following eight trial districts in Abbeville County School District et al vs. South Carolina: Allendale, Dillon 2, Florence 4, Hampton 2, Jasper, Lee, Marion 7, and Orangeburg 3.

(2) With any funds remaining after funding the eight trial districts, the program must be expanded to the remaining plaintiff school districts in Abbeville County School District et al vs. South Carolina and then expanded to eligible children residing in school districts with a poverty index of ninety percent or greater. Priority must be given to implementing the program first in those of the plaintiff districts which participated in the pilot program during the 2006-2007 School Year, then in the plaintiff districts having proportionally the largest population of underserved at-risk four-year-old children.

(3) With any funds remaining after funding the school districts delineated in items (1) and (2), the program must be expanded statewide. The General Assembly, in the annual general appropriations bill, shall set forth the priority schedule, the funding, and the manner in which the program is expanded.

(B) Unexpended funds from the prior fiscal year for this program shall be carried forward and shall remain in the program. In rare instances, students with documented kindergarten readiness barriers, especially reading barriers, may be permitted to enroll for a second year, or at age five, at the discretion of the Department of Education for students being served by a public provider or at the discretion of the Office of South Carolina First Steps to School Readiness for students being served by a private provider.

Section 59-156-130. (A) Each child residing in the program's district, who has attained the age of four years on or before September first of the school year and meets the at-risk criteria, is eligible for enrollment in the South Carolina Child Early Reading Development and Education Program for one year.

(B)(1) The parent of each eligible child may enroll the child in one of the following programs:

(a) a school-year four-year-old kindergarten program delivered by an approved public provider; or

(b) a school-year four-year-old kindergarten program delivered by an approved private provider.

(2) The parent enrolling a child must complete and submit an application to the approved provider of choice. The application must be submitted on forms and must be accompanied by a copy of the child's birth certificate, immunization documentation, and documentation of the student's eligibility as evidenced by family income documentation showing an annual family income of one hundred eighty-five percent or less of the federal poverty guidelines as promulgated annually by the United States Department of Health and Human Services or a statement of Medicaid eligibility.

(3) In submitting an application for enrollment, the parent agrees to comply with provider attendance policies during the school year. The attendance policy must state that the program consists of six and one-half hours of instructional time daily and operates for a period of not less than one hundred eighty days a year. Pursuant to program guidelines, noncompliance with attendance policies may result in removal from the program.

(C)(1) No parent is required to pay tuition or fees solely for the purpose of enrolling in or attending the program established under this chapter. Nothing in this chapter prohibits charging fees for childcare that may be provided outside the times of the instructional day provided in these programs.

(2) If by October first of the school year at least seventy-five percent of the total number of children eligible for the Child Early Reading Development and Education Program in a district or county are projected to be enrolled in that program, Head Start, or ABC Child Care Program as determined by the Department of Education and the Office of First Steps, Child Early Reading Development and Education Program providers may then enroll pay-lunch children who score at or below the twenty-fifth national percentile on two of the three DIAL-3 subscales and may receive reimbursement for these children if funds are available.

Section 59-156-140. (A) Public school providers participating in the South Carolina Child Early Reading Development and Education Program must submit an application to the Department of Education. Private providers participating in the South Carolina Child Early Reading Development and Education Program must submit an application to the Office of First Steps. The application must be submitted on the forms prescribed, contain assurances that the provider meets all program criteria set forth in this section, and will comply with all reporting and assessment requirements.

(B) Providers shall:

(1) comply with all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services;

(2) comply with all state and local health and safety laws and codes;

(3) comply with all state laws that apply regarding criminal background checks for employees and exclude from employment any individual not permitted by state law to work with children;

(4) be accountable for meeting the educational needs of the child and report at least quarterly to the parent or guardian on his progress;

(5) comply with all program, reporting, and assessment criteria required of providers;

(6) maintain individual student records for each child enrolled in the program, including, but not limited to, assessment data, health data, records of teacher observations, and records of parent or guardian and teacher conferences;

(7) designate whether extended day services will be offered to the parents and guardians of children participating in the program;

(8) be approved, registered, or licensed by the Department of Social Services; and

(9) comply with all state and federal laws and requirements specific to program providers.

(C) Providers may limit student enrollment based upon space available, but, if enrollment exceeds available space, providers shall enroll children with first priority given to children with the lowest scores on an approved prekindergarten readiness assessment. Private providers must not be required to expand their programs to accommodate all children desiring enrollment, but are encouraged to keep a waiting list for students they are unable to serve because of space limitations.

Section 59-156-150. The Department of Education, the Read to Succeed Office, and the Office of First Steps to School Readiness shall:

(1) develop the provider application form;

(2) develop the child enrollment application form;

(3) develop a list of approved research-based preschool curricula for use in the program based upon the South Carolina Content Standards, and provide training and technical assistance to support its effective use in approved classrooms serving children;

(4) develop a list of approved prekindergarten readiness assessments to be used in conjunction with the program, and provide

assessments and technical assistance to support assessment administration in approved classrooms serving children;

(5) establish criteria for awarding new classroom equipping grants;

(6) establish criteria for the parenting education program providers must offer;

(7) establish a list of early childhood related fields that may be used in meeting the lead teacher qualifications;

(8) develop a list of data-collection needs to be used in implementation and evaluation of the program;

(9) identify teacher preparation program options and assist lead teachers in meeting teacher program requirements;

(10) establish criteria for granting student retention waivers; and

(11) establish criteria for granting classroom-size requirements waivers.

Section 59-156-160. (A) Providers of the South Carolina Child Early Reading Development and Education Program shall offer a complete educational program in accordance with age-appropriate instructional practice and a research-based preschool curriculum aligned with school success. The program must focus on:

(1) a comprehensive, systemic approach to reading that follows the State Reading Proficiency Plan and the district's comprehensive annual reading proficiency plan, both adopted pursuant to Chapter 155, Title 59;

(2) successfully completing the readiness assessment administered pursuant to Section 59-155-150;

(3) the developmental and learning support that children must have in order to be ready for school;

(4) incorporating parenting education, including educating the parents as to methods that may assist the child pursuant to Section 59-155-110, 59-155-130, and 59-155-140, including strengthening parent involvement in the learning process with an emphasis on interactive literacy; and

(5) identifying community and civic organizations that can support early literacy efforts.

(B) Providers shall offer high-quality, center-based programs, including, but not limited to, the following:

(1) employ a lead teacher with a two-year degree in early childhood education or related field or be granted a waiver of this requirement from the Department of Education for public schools or from the Office of First Steps to School Readiness for private centers;

(2) employ an education assistant with pre-service or in-service training in early childhood education;

(3) maintain classrooms with at least ten four-year-old children, but no more than twenty four-year-old children, with an adult to child ratio of 1:10. With classrooms having a minimum of ten children, the 1:10 ratio must be a lead teacher to child ratio. Waivers of the minimum class size requirement may be granted by the South Carolina Department of Education for public providers or by the Office of First Steps to School Readiness for private providers on a case-by-case basis;

(4) offer a full day, center-based program with six and one-half hours of instruction daily for one hundred eighty school days;

(5) provide an approved research-based preschool curriculum that focuses on critical child development skills, especially early literacy, numeracy, and social and emotional development;

(6) engage parents' participation in their child's educational experience that shall include a minimum of two documented conferences for each year; and

(7) adhere to professional development requirements outlined in this chapter.

Section 59-156-170. (A) Every classroom providing services to four-year-old children established pursuant to this chapter must have a qualified lead teacher and an education assistant as needed to maintain an adult to child ratio of 1:10.

(B)(1) In classrooms in private centers, the lead teacher must have at least a two-year degree in early childhood education or a related field and who is enrolled and is demonstrating progress toward the completion of a teacher education program within four years.

(2) In classrooms in public schools, the lead teacher must meet state requirements pertaining to certification.

(C) All education assistants in private centers and public schools must have the minimum of a high school diploma or the equivalent, and at least two years of experience working with children under five years old. The assistant must have completed the Early Childhood Development Credential (ECD) 101 or enroll and complete this course within twelve months of hire. Providers may request waivers to the ECD 101 requirement for those assistants who have demonstrated sufficient experience in teaching children five years old and younger. The providers must request this waiver in writing to First Steps or the Department of Education, as applicable, and provide appropriate documentation as to the qualifications of the teaching assistant.

Section 59-156-180. The General Assembly recognizes there is a strong relationship between the skills and preparation of prekindergarten instructors and the educational outcomes of students. To improve these educational outcomes, participating providers shall require all personnel providing instruction and classroom support to students participating in the South Carolina Child Early Reading Development and Education Program to participate annually in a minimum of fifteen hours of professional development, including, teaching children from poverty. Professional development should provide instruction in strategies and techniques to address the age-appropriate progress of prekindergarten students in developing emergent literacy skills, including, but not limited to, oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.

Section 59-156-190. Both public and private providers are eligible for transportation funds for the transportation of children to and from school. Nothing in this section prohibits providers from contracting with another entity to provide transportation services provided the entities adhere to the requirements of Section 56-5-195. Providers must not be responsible for transporting students attending programs outside the district lines. Parents choosing program providers located outside of their resident district shall be responsible for transportation. When transporting four-year-old child development students, providers shall make every effort to transport them with students of similar ages attending the same school. Of the amount appropriated for the program, not more than one hundred eighty-five dollars for each student may be retained by the Department of Education for the purposes of transporting four-year-old students. This amount annually must be increased by the same projected rate of inflation as determined by the Office of Research and Statistics of the State Budget and Control Board for the Education Finance Act.

Section 59-156-200. For all private providers approved to offer services pursuant to this chapter, the Office of First Steps to School Readiness shall:

(1) serve as the fiscal agent;

(2) verify student enrollment eligibility;

(3) recruit, review, and approve eligible providers. In considering approval of providers, consideration must be given to the provider's

availability of permanent space for program service and whether temporary classroom space is necessary to provide services to any children;

(4) coordinate oversight, monitoring, technical assistance, coordination, and training for classroom providers;

(5) serve as a clearing house for information and best practices related to four-year-old kindergarten programs;

(6) receive, review, and approve new classroom grant applications and make recommendations for approval based on approved criteria;

(7) coordinate activities and promote collaboration with other private and public providers in developing and supporting four-year-old kindergarten programs;

(8) maintain a database of the children enrolled in the program; and

(9) promulgate guidelines as necessary for the implementation of the program.

Section 59-156-210. For all public school providers approved to offer services pursuant to this chapter, the Department of Education shall:

(1) serve as the fiscal agent;

(2) verify student enrollment eligibility;

(3) recruit, review, and approve eligible providers. In considering approval of providers, consideration must be given to the provider's availability of permanent space for program service and whether temporary classroom space is necessary to provide services to any children;

(4) coordinate oversight, monitoring, technical assistance, coordination, and training for classroom providers;

(5) serve as a clearing house for information and best practices related to four-year-old kindergarten programs;

(6) receive, review, and approve new classroom grant applications and make recommendations for approval based on approved criteria;

(7) coordinate activities and promote collaboration with other private and public providers in developing and supporting four-year-old kindergarten programs;

(8) maintain a database of the children enrolled in the program; and

(9) promulgate guidelines as necessary for the implementation of the program.

Section 59-156-220. (A) Eligible students enrolling with private providers during the school year must be funded on a pro rata basis determined by the length of their enrollment.

(B) Private providers transporting eligible children to and from school must be eligible for a reimbursement of up to five hundred fifty dollars for each eligible child transported, funded on a pro rata basis determined by the length of the child's enrollment. Providers who are reimbursed are required to retain records as required by their fiscal agent.

(C) Providers enrolling between one and six eligible children must be eligible to receive up to one thousand dollars for each child in materials and equipment grant funding, with providers enrolling seven or more such children eligible for grants not to exceed ten thousand dollars.

(D) Providers receiving equipment grants are expected to participate in the program and provide high-quality, center-based programs for a minimum of three years. A provider who fails to participate for three years shall return a portion of the equipment allocation at a level determined by the Department of Education and the Office of First Steps to School Readiness. Funding to providers is contingent upon receipt of data as requested by the Department of Education and the Office of First Steps.

Section 59-156-230. The Department of Social Services shall:

(1) maintain a list of all approved public and private providers; and

(2) provide the Department of Education and the Office of First Steps information necessary to carry out the requirements of this chapter.

Section 59-156-240. The Office of First Steps to School Readiness is responsible for the collection and maintenance of data on the state-funded programs provided through private providers."

Time effective, contingent on funding

SECTION 3. This act takes effect upon approval by the Governor and is subject to the availability of state funding.

Ratified the 9th day of June, 2014.

Approved the 11th day of June, 2014.

No. 285

(R315, S999)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-1-218 SO AS TO PROVIDE THAT A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR CERTAIN CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE PERFORMING DUTY OUTSIDE OF THE STATE WHOSE DRIVER'S LICENSE EXPIRES WHILE SERVING OUTSIDE OF THIS STATE OR WHOSE LICENSE EXPIRES WITHIN NINETY DAYS FROM THE BEGINNING OF SERVICE OUTSIDE OF THIS STATE MAY APPLY FOR AN EXTENSION UPON THE EXPIRATION OF THE DRIVER'S LICENSE THAT LASTS UNTIL NINETY DAYS AFTER THE MEMBER RETURNS TO THE STATE OR THE TIME THE MEMBER IS DISCHARGED FROM THE ARMED FORCES, TO PROVIDE THE APPLICATION PROCESS, AND TO SPECIFY TO WHOM EXTENSION ELIGIBILITY APPLIES.

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

Driver's license extensions

SECTION 1. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

"Section 56-1-218. (A) Notwithstanding any other provision of law, a member of the Armed Forces of the United States, who is deployed or mobilized outside of this State, or receives orders for a permanent change of station outside of this State, or a civilian employee of the Department of Defense performing temporary duty outside of the State in support of the armed forces, whose license expires while serving outside of this State or whose license expires within ninety days from the beginning of service outside of this State, may apply for an extension on the expiration of the license.

(B) The department must grant the extension if the service member, or a civilian employee of the Department of Defense, provides copies of the orders that require service outside of this State and a valid military identification card, or in the case of a civilian employee, the civilian employee's Department of Defense issued identification card,

or military orders supporting services outside of the State. The extension shall expire ninety days after the member is discharged from the service or returns to this State. If the orders do not specify a return date, the service member is deemed to have returned on the date that the commanding officer of the unit provides as the return date to the department. The license is deemed to expire only upon the expiration of the extension.

(C) The provisions of this section also apply to dependents residing with the service member.

(D) The department may prescribe forms and policies to implement the provisions of this section. The department must post the application form on its website, and the application must be able to be processed by mail or electronically."

Time effective

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

Ratified the 9th day of June, 2014.

Approved the 9th day of June, 2014.
