Advance Sheet No. 2 | September 19, 2012 | Pages 1639-2306 Acts 152-278

2012 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

(continued on inside cover)

Numbers in parenthesis to left of act numbers (numbers in bold face) refer as follows: number with R before it refers to ratification number, number with S before it refers to bill number in Senate, and number with H before it refers to bill number in House of Representatives.

STEPHEN T. DRAFFIN, Code Commissioner, P.O. Box 11489,
Columbia, S.C. 29211

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If the first portion of the act on the opposite page is incomplete, see the preceding Advance Sheet for the first portion.

Doby's Mill
East Camden-Hermitage
Elgin No. 1
Elgin No. 2
Elgin No. 3
Elgin No. 4
Elgin No. 5
Elgin No. 6
Gates Ford
Hobkirk's Hill
Liberty Hill
Lugoff No. 1
Lugoff No. 2
Lugoff No. 3
Lugoff No. 4
Malvern Hill
Rabon's Crossroads
Riverdale
Salt Pond
Shaylor's Hill
Springdale
Westville
White's Gardens.

(B) The precinct lines defining the above precincts in Kershaw County are as shown on the official map prepared by and on file with the Division of Research and Statistics of the State Budget and Control Board designated as document P-55-12 and as shown on copies of the official map provided to the Kershaw County Board of Voter Registration.

(C) The polling places for the precincts provided in this section must be established by the Kershaw County Election Commission subject to approval by a majority of the Kershaw County Legislative Delegation."

Time effective

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

Ratified the 19th day of April, 2012.

Approved the 23rd day of April, 2012.

No. 152

(R172, S6)

AN ACT TO RATIFY AN AMENDMENT TO SECTION 36(A), ARTICLE III OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE GENERAL RESERVE FUND, SO AS TO INCREASE FROM THREE TO FIVE PERCENT THE AMOUNT OF STATE GENERAL FUND REVENUE IN THE LATEST COMPLETED FISCAL YEAR REQUIRED TO BE HELD IN THE GENERAL RESERVE FUND; AND TO RATIFY AN AMENDMENT TO SECTION 36(B) OF ARTICLE III, RELATING TO THE CAPITAL RESERVE FUND, SO AS TO PROVIDE THAT MONIES IN THE CAPITAL RESERVE FUND, IN ANY YEAR THE GENERAL RESERVE FUND DOES NOT HAVE THE REQUIRED PERCENTAGE OF GENERAL FUND REVENUE, FIRST MUST BE USED TO FULLY REPLENISH THE APPLICABLE PERCENTAGE AMOUNT IN THE GENERAL RESERVE FUND BEFORE BEING USED FOR OTHER AUTHORIZED PURPOSES WHICH DO NOT INCLUDE OFFSETTING MIDYEAR BUDGET REDUCTIONS.

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

General Reserve Fund and Capital Reserve Fund revised

SECTION 1. A. The amendment to Section 36(A), Article III of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 296 of 2010, having been submitted to the qualified electors at the General Election of 2010 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 36(A), Article III is amended to read:

"(A) The General Assembly shall provide for a General Reserve Fund of five percent of the general fund revenue of the latest completed fiscal year. The five percent requirement shall be achieved by increasing the percentage requirement by a cumulative one-half of one percent of general fund revenue in each fiscal year succeeding the last fiscal year to which the three percent requirement applied until the percentage of revenue in the General Reserve Fund equals the five percent requirement, which shall thereafter be maintained. Funds may be withdrawn from the reserve only for the purpose of covering operating deficits of state government. The General Assembly must provide for the orderly restoration of funds withdrawn from the reserve from future revenues and out of funds accumulating in excess of annual operating expenditures.

(1) The General Assembly shall provide by law for a procedure to survey the progress of the collection of revenue and the expenditure of funds and to authorize and direct reduction of appropriations as may be necessary to prevent a deficit.

(2) In the event of a year-end operating deficit, so much of the reserve fund as may be necessary must be used to cover the deficit; and the amount must be restored to the reserve fund within five fiscal years out of future revenues until the five percent, or the applicable percentage amount required to be transferred to the General Reserve Fund, is again reached and maintained. Provided that a minimum of one percent of the general fund revenue of the latest completed fiscal year, if so much is necessary, must be restored to the reserve fund each year following the deficit until the five percent, or the applicable percentage amount required by general law to be transferred to the General Reserve Fund is restored."

B. The amendment to Section 36(B), Article III of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 296 of 2010, having been submitted to the qualified electors at the General Election of 2010 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 36(B), Article III is amended to read:

"(B) The General Assembly, in the annual general appropriations act, shall appropriate, out of the estimated revenue of the general fund for the fiscal year for which the appropriations are made, into a Capital Reserve Fund, which is separate and distinct from the General Reserve

Fund, an amount equal to two percent of the general fund revenue of the latest completed fiscal year.

(1) In any fiscal year in which the General Reserve Fund does not maintain the required percentage of general fund revenue, monies from the Capital Reserve Fund first must be used, to the extent necessary, to fully replenish the General Reserve Fund. The Capital Reserve Fund's replenishment of the General Reserve Fund is in addition to the replenishment requirement provided in subsection (A)(2) of this section. After the General Reserve Fund is fully replenished to the required percentage, the monies in the Capital Reserve Fund may be appropriated, except that the Capital Reserve Fund must not be used to offset a midyear budget reduction.

(2) Subsequent to appropriations required by item (1) of this subsection, monies from the Capital Reserve Fund may be appropriated by the General Assembly in separate legislation upon an affirmative vote in each branch of the General Assembly by two-thirds of the members present and voting, but not less than three-fifths of the total membership in each branch for the following purposes:

(a) to finance in cash previously authorized capital improvement bond projects;

(b) to retire interest or principal on bonds previously issued;

(c) for capital improvements or other nonrecurring purposes.

(3)(a) Any appropriation of monies from the Capital Reserve Fund as provided in this subsection must be ranked in priority of expenditure and is effective thirty days after completion of the fiscal year. If it is determined that the fiscal year has ended with an operating deficit, then the monies appropriated from the Capital Reserve Fund must be reduced based on the rank of priority, beginning with the lowest priority, to the extent necessary and applied to the year-end operating deficit before withdrawing monies from the General Reserve Fund.

(b) At the end of the fiscal year, any monies in the Capital Reserve Fund that are not appropriated as provided in this subsection or any appropriation for a particular project or item which has been reduced due to application of the monies to a year end deficit must lapse and be credited to the general fund."

Ratified the 8th day of May, 2012.

No. 153

(R173, S271)

AN ACT TO AMEND SECTION 15-41-30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO AN INDIVIDUAL RETIREMENT ACCOUNT BEING EXEMPT FROM ATTACHMENT, LEVY, AND SALE, SO AS TO DELETE THE PROVISION THAT THE EXEMPTION ONLY APPLIES TO THE EXTENT REASONABLY NECESSARY FOR THE SUPPORT OF THE DEBTOR AND ANY DEPENDENT OF THE DEBTOR, AND TO PROVIDE THAT THE INTEREST OF AN INDIVIDUAL IS EXEMPT FROM CREDITOR PROCESS IN CERTAIN CIRCUMSTANCES.

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

Individual retirement account exempt from attachment

SECTION 1. Section 15-41-30(A)(13) of the 1976 Code, as last amended by Act 225 of 2008, is further amended to read:

"(13) The debtor's right to receive individual retirement accounts as described in Sections 408(a) and 408A of the Internal Revenue Code, individual retirement annuities as described in Section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in Section 408(c) of the Internal Revenue Code. A claimed exemption may be reduced or eliminated by the amount of a fraudulent conveyance into the individual retirement account or other plan. For purposes of this item, 'Internal Revenue Code' has the meaning provided in Section 12-6-40(A). The interest of an individual under a retirement plan shall be exempt from creditor process to the same extent permitted in Section 522(d) under federal bankruptcy law and is an exception to Section 15-41-35. The exemption provided by this section shall be available whether such individual has an interest in the retirement plan as a participant, beneficiary, contingent annuitant, alternate payee, or otherwise."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 154

(R174, S872)

AN ACT TO AMEND SECTION 25-1-590, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE RETIREMENT OF MEMBERS OF THE SOUTH CAROLINA NATIONAL GUARD, SO AS TO EXTEND THE RETIREMENT HONORARY PROMOTION PROVISIONS TO HONORABLY DISCHARGED SERVICEMEMBERS WHO ARE REMOVED FROM THE NATIONAL GUARD DUE TO MEDICAL CONDITIONS, AND TO PROVIDE THAT THE EXPANDED HONORARY PROMOTION ELIGIBILITY DESCRIBED ABOVE IS TO BE APPLIED RETROACTIVELY.

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

Retirement of officers and enlisted personnel

SECTION 1. Section 25-1-590 of the 1976 Code is amended to read:

"Section 25-1-590. Officers and enlisted men of the National Guard of South Carolina must be retired by order of the commander-in-chief with a promotion of one grade, effective the date of retirement or medical discharge at the request of an officer or enlisted man upon completion of twenty or more years of honorable service in the National Guard of South Carolina, the Armed Forces of the United States, and reserve components of these branches, except that the last ten years of that service must have been in the South Carolina National Guard, or in the National Guard of the United States, and provided that the individual concerned was a member of the South Carolina National Guard at the time he was ordered to active duty in the National Guard of the United States status. The years of service requirements shall not apply to members of the National Guard of South Carolina who are medically discharged prior to the completion of at least twenty years of

qualifying military service, so long as the individual's discharge is characterized as honorable. A commissioned officer holding the grade of major general upon retirement must be retired in that grade; a warrant officer holding the grade of chief warrant officer upon retirement must be retired in that grade; and an enlisted man holding the highest authorized enlisted grade upon retirement must be retired in that grade.

Retired officers and retired enlisted men shall draw no pay or allowances except when placed on duty. They must be subject to temporary detail by the commander-in-chief, and while on this duty, shall receive the same pay and allowances as officers and enlisted men of the same rank on the active list. On all occasions of duty or ceremony, retired officers and enlisted men shall take rank below officers and enlisted men of the same grade on the active list."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and must be applied retroactively.

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 155

(R175, S1085)

AN ACT TO AMEND SECTION 48-11-210, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ORGANIZATION AND FUNCTIONING OF SPECIFIC WATERSHED CONSERVATION DISTRICTS UNDER THE GENERAL LAW PERTAINING TO SUCH DISTRICTS, SO AS TO PROVIDE THAT FOR PURPOSES OF CHAPTER 11, TITLE 48, INCLUDING THE CONDUCT OF ELECTIONS, THE DIGITAL HYDROLOGIC MAP PREPARED BY THE SERVICE CENTER AGENCIES OF THE UNITED STATES DEPARTMENT OF AGRICULTURE OF THE FISHING CREEK WATERSHED DISTRICT IN YORK COUNTY

REPRESENTS AND IS DECLARED TO BE THE BOUNDARIES OF THE DISTRICT.

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

Boundaries declared

SECTION 1. Section 48-11-210 of the 1976 Code is amended by adding:

"(E) For purposes of this chapter, including the conduct of elections, the Digital Hydrologic Map prepared by the Service Center Agencies of the United States Department of Agriculture of the Fishing Creek Watershed District in York County represents and is declared to be the boundaries of the district."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 156

(R176, S1122)

AN ACT TO AMEND SECTION 7-7-350, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN LANCASTER COUNTY, SO AS TO REVISE AND RENAME CERTAIN PRECINCTS AND REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION 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:

Lancaster County voting precincts designated

SECTION 1. Section 7-7-350 of the 1976 Code, as last amended by Act 369 of 2006, is further amended to read:

"Section 7-7-350. (A) In Lancaster County there are the following voting precincts:
Antioch
Belaire Number 2
Camp Creek
Carmel
Chesterfield Avenue
Douglas
Dwight
Elgin
Erwin Farm
Gooch's Cross Road
Heath Springs
Hyde Park
Jacksonham
Kershaw North
Kershaw South
Lake House
Lancaster East
Lancaster West
Lynwood Drive
Midway
Pleasant Hill
Pleasant Valley
Pleasant Valley Number 2
Rich Hill
Riverside
Spring Hill
Unity
Van Wyck
Wylie Park.

(B) The precinct lines defining the above precincts 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 Division of Research and Statistics of the State Budget and Control Board designated as document P-57-12.

(C) The polling places for the precincts provided in this section must be established by the Lancaster County Board of Elections and Voter Registration subject to approval by a majority of the Lancaster County Legislative Delegation."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 157

(R177, S1223)

AN ACT TO AMEND SECTION 7-7-430, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN OCONEE COUNTY, SO AS TO REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION 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:

Oconee County voting precincts designated

SECTION 1. Section 7-7-430 of the 1976 Code as last amended by Act 75 of 2003, is further amended to read:

"Section 7-7-430. (A) In Oconee County there are the following voting precincts:
Bounty Land
Earles Grove
Fair Play
Friendship
Holly Springs

Keowee
Long Creek
Madison
Mountain Rest
Newry-Corinth
Oakway
Ravenel
Return
Richland
Salem
Seneca No. 1
Seneca No. 2
Seneca No. 3
Seneca No. 4
Shiloh
South Union
Stamp Creek
Tamassee
Tokeena/Providence
Utica
Walhalla No. 1
Walhalla No. 2
Westminster No. 1
Westminster No. 2
West Union.

(B) The precinct lines defining the above precincts in Oconee County are as shown on the official map prepared by and on file with the Division of Research and Statistics of the State Budget and Control Board designated as document P-73-12 and as shown on certified copies of the official map provided to the Oconee Registration and Elections Commission by the division.

(C) The polling places for the precincts provided in this section must be established by the Oconee Registration and Elections Commission."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 158

(R178, S1316)

AN ACT TO AMEND SECTION 7-7-450, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN PICKENS COUNTY, SO AS TO REDESIGNATE CERTAIN PRECINCTS, TO REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION 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:

Pickens County voting precincts designated

SECTION 1. Section 7-7-450 of the 1976 Code, as last amended by Act 108 of 2001, is further amended to read:

"Section 7-7-450. (A) In Pickens County there are the following voting precincts:
Abel
Albert R. Lewis
Arial Mill
Brushy Creek
Calhoun
Cedar Rock
Clemson
Crescent Hill
Crestview
Crossroads
Crosswell
Dacusville
Easley
East Liberty
East Pickens
Flat Rock

Forest Acres
Fruit Mountain
Georges Creek
Glassy Mountain
Griffin
Holly Springs
Issaqueena
Lawrence Chapel
Lenhart
McAllister
McKissick
Morrison
Mountain View
Nine Forks
Norris
North Central
North Liberty
North Pickens
Pendleton
Pickensville
Pike
Pope Field
Praters Creek
Pumpkintown
Rices Creek
Rock Springs
Saluda
Sheffield
Simpson
Sitton
Six Mile
Six Mile Mountain
Skelton
Smith Grove
South Central
South Pickens
Stone Church
Tri County
University
Vinland
West Central
West Liberty

West Pickens
Woodside
Zion.

(B) The precinct lines defining the above precincts are as shown on official maps on file with the Division of Research and Statistics of the State Budget and Control Board designated as document P-77-12 and as shown on certified copies provided to the Pickens County Board of Voter Registration.

(C) The polling places for the precincts provided in this section must be established by the Pickens County Registration and Elections Commission subject to the approval of the majority of the Pickens County Legislative Delegation."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 159

(R179, S1351)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-55-2390 SO AS TO SPECIFY THE NUMBER OF LIFEGUARDS, BASED ON THE SQUARE FOOTAGE OF THE POOL AND NUMBER OF PATRONS, A TYPE "A" PUBLIC SWIMMING POOL MUST HAVE AS A CONDITION OF OBTAINING AND MAINTAINING AN OPERATING PERMIT; TO REQUIRE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL APPROVAL OF LIFEGUARD COVERAGE PLANS FOR TYPE "E" PUBLIC SWIMMING POOLS; TO PROVIDE THAT A POOL REQUIRED TO HAVE ONLY ONE LIFEGUARD MUST HAVE AN ADDITIONAL EMPLOYEE AVAILABLE; AND TO PROVIDE PROCEDURES FOR APPLYING FOR A VARIANCE.

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

Lifeguard coverage for public swimming pools

SECTION 1. Article 23, Chapter 55, Title 44 of the 1976 Code is amended by adding:

"Section 44-55-2390. (A) As a condition of obtaining and maintaining an operating permit, all Type 'A' public swimming pools, as defined in Regulation 61-51, shall provide lifeguards, as defined in Regulation 61-51, in accordance with the following:

(1) A public swimming pool of three thousand square feet or fewer must have:

(a) one lifeguard for one through twenty-five patrons;

(b) two lifeguards for twenty-six through fifty patrons;

(c) three lifeguards for fifty-one through one hundred fifty patrons;

(d) four lifeguards for one hundred fifty-one through two hundred fifty patrons;

(e) one additional lifeguard for each one hundred patrons greater than two hundred fifty patrons.

(2) A public swimming pool of three thousand one square feet through six thousand square feet must have:

(a) two lifeguards for one through twenty-five patrons;

(b) three lifeguards for twenty-six through fifty patrons;

(c) four lifeguards for fifty-one through one hundred fifty patrons;

(d) five lifeguards for one hundred fifty-one through two hundred fifty patrons;

(e) one additional lifeguard for each one hundred patrons greater than two hundred fifty patrons.

(3) A public swimming pool of six thousand one square feet through nine thousand square feet must have:

(a) two lifeguards for one through twenty-five patrons;

(b) three lifeguards for twenty-six through fifty patrons;

(c) five lifeguards for fifty-one through one hundred fifty patrons;

(d) six lifeguards for one hundred fifty-one through two hundred fifty patrons;

(e) one additional lifeguard for each one hundred patrons greater than two hundred fifty patrons.

(4) A public swimming pool of greater than nine thousand square feet must have:

(a) three lifeguards for one through twenty-five patrons;

(b) four lifeguards for twenty-six through fifty patrons;

(c) six lifeguards for fifty-one through one hundred fifty patrons;

(d) seven lifeguards for one hundred fifty-one through two hundred fifty patrons;

(e) one additional lifeguard for each one hundred patrons greater than two hundred fifty patrons.

(B) All Type 'E' public swimming pools, as defined in Regulation 61-51, shall submit to the Department of Health and Environmental Control a lifeguard coverage plan. Upon approval by the department, Type 'E' public swimming pools shall provide lifeguards in accordance with their approved plan.

(C) A public swimming pool, as defined in this chapter, required to have only one lifeguard shall, at all times, have at least one additional pool staff employee present and available to make an emergency call if necessary.

(D) Any request for a variance from these provisions must be made in writing and must include a site-specific evaluation that demonstrates proof of equivalency with these provisions. The Department of Health and Environmental Control will consider the variance request and will provide written notice of its decision."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 160

(R184, S1461)

AN ACT TO AMEND SECTION 7-7-520, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN WILLIAMSBURG

COUNTY, SO AS TO REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION 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:

Williamsburg County voting precincts designated

SECTION 1. Section 7-7-520 of the 1976 Code, as last amended by Act 240 of 2006, is further amended to read:

"Section 7-7-520. (A) In Williamsburg County there are the following voting precincts:
Black River
Bloomingvale
Cades
Cedar Swamp
Central
Earles
Greeleyville
Harmony
Hebron
Hemingway
Henry-Poplar Hill
Indiantown
Kingstree No. 1
Kingstree No. 2
Kingstree No. 3
Kingstree No. 4
Lane
Morrisville
Mount Vernon
Muddy Creek
Nesmith
Pergamos
Piney Forest
Salters
Sandy Bay
Singletary

Suttons
Trio.

(B) The precinct lines defining the precincts provided in subsection (A) are as shown on maps filed with the County Election Commission and County Registration Board as provided and maintained by the Division of Research and Statistics of the State Budget and Control Board designated as document P-89-12.

(C) The polling places for the precincts provided in this section must be established by the Williamsburg County Election Commission subject to the approval of a majority of the Williamsburg County Delegation, including the Senators."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 161

(R185, H3059)

AN ACT TO AMEND SECTION 12-6-3376, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INCOME TAX CREDIT FOR PLUG-IN HYBRID VEHICLES, SO AS TO REVISE THE DEFINITION OF "PLUG-IN HYBRID VEHICLE", REVISE THE METHOD OF ALLOCATING THE CREDIT, PROVIDE THAT CERTAIN INFORMATION MUST BE PROVIDED TO THE DEPARTMENT OF REVENUE IN ORDER TO CLAIM THE CREDIT, REVISE ITS EXPIRATION DATE, AND PROVIDE THAT THE CREDIT MUST BE ALLOCATED TO ELIGIBLE CLAIMANTS DURING A FISCAL YEAR ON A FIRST-COME, FIRST-SERVED BASIS.

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

Plug-in hybrid vehicle tax credit

SECTION 1. Section 12-6-3376 of the 1976 Code, as added by Act 83 of 2007, is amended to read:

"Section 12-6-3376. (A) For taxable years beginning in 2012 and before 2017, a taxpayer is allowed a tax credit against the income tax imposed pursuant to this chapter for the in-state purchase or lease of a new plug-in hybrid vehicle.

A plug-in hybrid vehicle is a vehicle that:

(1) shares the same benefits as an internal combustion and electric engine with an all-electric range of no less than nine miles;

(2) has four or more wheels;

(3) draws propulsion using a traction battery;

(4) has at least four kilowatt hours of battery capacity; and

(5) uses an external source of energy to recharge the battery.

Qualified plug-in hybrid vehicles also must be manufactured primarily for use on public streets, roads, highways, and not be classified as low or medium speed vehicles. Low-speed vehicles are vehicles capable of a speed of at least twenty but not more than twenty-five miles per hour, is used primarily for short trips and recreational purposes, and has safety equipment such as lights, reflectors, mirrors, parking brake, windshield, and safety belts. Medium-speed vehicles are vehicles capable of a speed of at least thirty but not more than forty-six miles per hour and has safety equipment such as lights, reflectors, mirrors, parking brake, windshield, and safety belts.

The credit is equal to six hundred sixty-seven dollars, plus one hundred eleven dollars if the vehicle has at least five kilowatt hours of battery capacity, plus an additional one hundred eleven dollars for each kilowatt hour of battery capacity in excess of five kilowatt hours. The maximum credit allowed by this section is two thousand dollars. The credit allowed by this section is nonrefundable and if the amount of the credit exceeds the taxpayer's liability for the applicable taxable year, any unused credit may be carried forward for five years.

(B) To claim the credit allowed by this section, the taxpayer must provide the department with a certification from the vehicle manufacturer, or in the case of a foreign vehicle manufacturer, its domestic distributor, stating that the vehicle is a qualified plug-in hybrid as described in subsection (A), and the vehicle's number of kilowatt hours of battery capacity.

(C) Notwithstanding the credit amount allowed pursuant to this section, for a calendar year all claims made pursuant to this section must not exceed two hundred thousand dollars and must apply to eligible claimants on a first-come, first-served basis as determined by the Department of Revenue in a manner it prescribes until the total allowable credits for that calendar year are exhausted."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies to in-state purchases and leases made on or after the first day of the calendar month beginning at least thirty days after the effective date of this act.

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 162

(R186, H3083)

AN ACT TO AMEND ACT 200 OF 2002, RELATING TO THE ESTABLISHMENT AND FUNDING SOURCES OF THE SOUTH CAROLINA CONSERVATION BANK, SO AS TO EXTEND FOR FIVE YEARS THROUGH JUNE 30, 2018, THE PROVISIONS OF CHAPTER 59, TITLE 48, CODE OF LAWS OF SOUTH CAROLINA, 1976, THE SOUTH CAROLINA CONSERVATION BANK ACT OTHERWISE SCHEDULED FOR REPEAL EFFECTIVE JULY 1, 2013, AND SIMILARLY TO EXTEND THE PROVISIONS OF ACT 200 OF 2002, RELATING TO FUNDING SOURCES AND OTHER MATTERS RELATING TO THE OPERATION OF THE SOUTH CAROLINA CONSERVATION BANK.

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

South Carolina Conservation Bank and funding sources extended

SECTION 1. Section 7 of Act 200 of 2002 is amended to read:

"Section 7. Chapter 59, Title 48 of the 1976 Code and Sections 2 through 6 of this act are repealed effective July 1, 2018, unless reenacted or otherwise extended by the General Assembly. However, the South Carolina Conservation Bank established by this act may continue to operate as if Chapter 59, Title 48 of the 1976 Code was not repealed until the South Carolina Conservation Bank Trust Fund is exhausted or July 1, 2021, whichever first occurs. Any balance in that trust fund on July 1, 2021, reverts to the general fund of the State. Repeal does not affect any rights, obligations, liabilities, or debts due the South Carolina Conservation Bank. For these purposes, after the bank's termination, the State Budget and Control Board is the bank's successor, except that, after the bank's termination, the board's voting rights provided in the former provisions of Section 48-59-80(F), (G), (H), and (I) of the 1976 Code are devolved upon the Department of Natural Resources Board, and any contribution to the trust fund required pursuant to the former provisions of Section 48-59-80(H) of the 1976 Code must be made to the Heritage Trust Program."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 163

(R187, H3236)

AN ACT TO AMEND SECTION 59-65-10 AND SECTION 59-65-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COMPULSORY EDUCATION FOR SOUTH CAROLINA SCHOOL CHILDREN AND THE EXCEPTION TO THE REQUIREMENT, RESPECTIVELY, SO AS TO INCLUDE THE SOUTH CAROLINA ASSOCIATION OF CHRISTIAN SCHOOLS AS AN AUTHORIZER OF SCHOOLS THAT CHILDREN MAY ATTEND WITHIN THE COMPULSORY EDUCATION REQUIREMENT.

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

Compulsory school attendance requirement satisfied by attending school approved by the South Carolina Association of Christian Schools

SECTION 1. Section 59-65-10(A) of the 1976 Code is amended to read:

"(A) A parent or guardian shall require his child to attend regularly a public or private school or kindergarten of this State which has been approved by the State Board of Education, a member school of the South Carolina Independent Schools' Association, a member school of the South Carolina Association of Christian Schools, or some similar organization, or a parochial, denominational, or church-related school, or other programs which have been approved by the State Board of Education from the school year in which the child is five years of age before September first until the child attains his seventeenth birthday or graduates from high school. A parent or guardian whose child is not six years of age on or before the first day of September of a particular school year may elect for their child or ward not to attend kindergarten. For this purpose, the parent or guardian shall sign a written document making the election with the governing body of the school district in which the parent or guardian resides. The form of this written document must be prescribed by regulation of the Department of Education. Upon the written election being executed, that child is not required to attend kindergarten."

Graduate of school approved by the South Carolina Association of Christian Schools exempt from applicability of compulsory attendance requirements

SECTION 2. Section 59-65-30(a) of the 1976 Code is amended to read:

"(a) A child who has graduated from high school or has received the equivalent of a high school education from a school approved by the State Board of Education, member school of South Carolina Independent Schools' Association, a private school in existence at the time of the passage of this article, or a member school of the South Carolina Association of Christian Schools;"

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 164

(R188, H3241)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-40-55 SO AS TO PROVIDE CHARTER SCHOOL SPONSOR POWERS AND DUTIES AND TO ALLOW A SPONSOR TO RETAIN CERTAIN FUNDS FOR OVERSEEING THE CHARTER SCHOOL; BY ADDING SECTION 59-40-175 SO AS TO CREATE THE CHARTER SCHOOL FACILITY REVOLVING LOAN PROGRAM FOR THE CONSTRUCTION, PURCHASE, RENOVATION, AND MAINTENANCE OF PUBLIC CHARTER SCHOOL FACILITIES; BY ADDING SECTION 59-40-235 SO AS TO PROVIDE THAT THE GEOGRAPHICAL BOUNDARIES FROM WHICH A CHARTER SCHOOL SPONSORED BY A PUBLIC OR INDEPENDENT INSTITUTION OF HIGHER LEARNING MAY ACCEPT STUDENTS ARE THE SAME AS THE BOUNDARIES OF THE STATE OF SOUTH CAROLINA; TO AMEND SECTION 59-40-20, AS AMENDED, RELATING TO THE PURPOSE OF THE CHARTER SCHOOL ACT, SO AS TO INCLUDE AN ADDITIONAL PURPOSE; TO AMEND SECTION 59-40-40, AS AMENDED, RELATING TO DEFINITIONS, SO AS TO AMEND EXISTING DEFINITIONS AND ADD NEW DEFINITIONS, INCLUDING PROVISIONS WITHIN THE DEFINITION OF A "CHARTER SCHOOL" TO ALLOW AN APPLICANT TO SEEK TO FORM A SINGLE GENDER CHARTER SCHOOL, AND TO PERMIT WITHIN THE DEFINITIONS OF "SPONSOR" AND "APPLICANT" A PUBLIC OR INDEPENDENT INSTITUTION OF HIGHER LEARNING OR ITS BOARD TO BE A SPONSOR

OR APPLICANT; TO AMEND SECTION 59-40-50, AS AMENDED, RELATING TO CHARTER SCHOOL POWERS AND DUTIES, SO AS TO FURTHER PROVIDE FOR THESE POWERS AND DUTIES AND FOR OTHER PROVISIONS PERTAINING TO THE OPERATION OR GOVERNANCE OF THE CHARTER SCHOOL, INCLUDING THE SELECTION OF ITS BOARD OF DIRECTORS AND THE AUTHORIZATION OF CHARTER SCHOOLS AND CHARTER SCHOOL STUDENTS TO PARTICIPATE IN INTERSCHOLASTIC COMPETITIONS, PROGRAMS, AND EXTRACURRICULAR ACTIVITIES UNDER CERTAIN CONDITIONS; TO AMEND SECTION 59-40-60, AS AMENDED, RELATING TO APPLICATION TO CREATE A CHARTER SCHOOL, SO AS TO REQUIRE A CONTRACT TO BE EXECUTED BETWEEN THE CHARTER SCHOOL AND ITS SPONSOR, REFLECTING THE PROVISIONS IN THE APPLICATION AMONG OTHER REQUIREMENTS, TO PROVIDE THAT THE DEPARTMENT OF EDUCATION SHALL DEVELOP A CONTRACT TEMPLATE TO BE USED BY CHARTER SCHOOLS AND THEIR SPONSORS, AND TO FURTHER PROVIDE FOR ACTIONS REQUIRED OF AN APPLICANT AND WHAT MUST BE IN THE APPLICATION; TO AMEND SECTION 59-40-70, AS AMENDED, RELATING TO THE CHARTER SCHOOL ADVISORY COMMITTEE, SO AS TO REVISE ITS MEMBERSHIP, TO EXTEND THE TIME PERIOD IN WHICH THE COMMITTEE SHALL DETERMINE APPLICATION COMPLIANCE AND THE TIME IN WHICH A LOCAL SCHOOL DISTRICT SHALL RULE ON THE APPLICATION, AND TO PROVIDE FOR OTHER PROVISIONS RELATIVE TO THE APPLICATION, INCLUDING A REQUIREMENT THAT THE ADVISORY COMMITTEE SHALL NOTIFY THE LOCAL DELEGATION OF A COUNTY IN WHICH A PROPOSED CHARTER SCHOOL IS TO BE LOCATED UPON RECEIPT OF A CHARTER SCHOOL APPLICATION AND ALSO SHALL PROVIDE A COPY OF THE CHARTER SCHOOL APPLICATION UPON REQUEST BY A MEMBER OF THE LOCAL DELEGATION; TO AMEND SECTION 59-40-100, AS AMENDED, RELATING TO A CHARTER SCHOOL CONVERSION, SO AS TO PROVIDE FOR SPECIFIC VOTE REQUIREMENTS IF THE PROPOSED CONVERSION SCHOOL HAS CERTAIN TYPES OF OUTSTANDING GENERAL OBLIGATION BOND DEBT, TO REVISE

PRIORITY ENROLLMENT PROCEDURES FOR A CONVERTED CHARTER SCHOOL, TO ALLOW A CONVERTED CHARTER SCHOOL TO RETAIN FACILITIES AND EQUIPMENT AVAILABLE BEFORE CONVERSION, AND TO PROHIBIT UNLAWFUL REPRISALS AGAINST EMPLOYEES OF A SCHOOL DISTRICT BECAUSE OF THEIR INVOLVEMENT IN ESTABLISHING OR CONVERTING A CHARTER SCHOOL; TO AMEND SECTION 59-40-110, AS AMENDED, RELATING TO THE DURATION OF A CHARTER, SO AS TO PERMIT A CHARTER SCHOOL TO SUBMIT A RENEWAL APPLICATION TO ANOTHER CHARTER GRANTING AUTHORITY IF THE SPONSOR REFUSES TO RENEW THE CHARTER UNDER CERTAIN CONDITIONS; TO AMEND SECTION 59-40-140, AS AMENDED, RELATING TO DISTRIBUTION OF RESOURCES, SO AS TO REVISE THE MANNER IN WHICH SPECIFIC FUNDS MUST BE DISTRIBUTED BY THE DEPARTMENT OF EDUCATION TO SCHOOL DISTRICTS HAVING CHARTER SCHOOLS AND THEN BY THE DISTRICTS TO THE CHARTER SCHOOLS, TO FURTHER PROVIDE FOR THE DISTRIBUTION OF CERTAIN OTHER FUNDS TO A CHARTER SCHOOL BY THE SPONSOR, TO FURTHER PROVIDE FOR CONTRACT AND REPORTING REQUIREMENTS IN REGARD TO THE CHARTER SCHOOL, AND TO PROVIDE FOR THE MANNER IN WHICH FUNDING SHALL BE DETERMINED FOR CONVERTED CHARTER SCHOOLS; TO AMEND SECTION 59-40-190, AS AMENDED, RELATING TO LIABILITY OF A GOVERNING BODY OF A CHARTER SCHOOL, SO AS TO PROVIDE IMMUNITY TO A LOCAL SCHOOL DISTRICT OR AREA COMMISSION FOR CRIMINAL OR CIVIL LIABILITY REGARDING ACTIVITIES RELATED TO A SPONSORED CHARTER SCHOOL; TO AMEND SECTION 59-40-230, RELATING TO THE BOARD OF TRUSTEES OF THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT, SO AS TO REVISE ITS MEMBERSHIP; TO AMEND SECTION 59-40-130, AS AMENDED, RELATING TO LEAVE TO BE EMPLOYED AT A CHARTER SCHOOL, SO AS TO PROVIDE THAT A CHARTER SCHOOL IS A COVERED EMPLOYER WITH RESPECT TO THE SOUTH CAROLINA RETIREMENT SYSTEMS FOR CERTAIN SCHOOL DISTRICT EMPLOYEES; TO AMEND SECTION 59-40-220, RELATING TO THE SOUTH CAROLINA PUBLIC

CHARTER SCHOOL DISTRICT, SO AS TO PROVIDE THAT THE PROHIBITION AGAINST THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT HAVING A LOCAL TAX BASE AND RECEIVING LOCAL PROPERTY TAXES DOES NOT EXTEND TO CERTAIN LOCAL FUNDS; TO AMEND SECTION 59-18-920, RELATING TO REPORT CARD REQUIREMENTS FOR CHARTER AND OTHER SCHOOLS, SO AS TO PROVIDE THAT THE PERFORMANCE OF CHARTER SCHOOL STUDENTS MUST NOT BE INCLUDED IN THE OVERALL PERFORMANCE RATINGS OF THE LOCAL SCHOOL DISTRICT UNLESS THERE IS A MUTUAL AGREEMENT TO INCLUDE SCORES IN THE LOCAL DISTRICT RATINGS; AND BY ADDING SECTION 59-19-350 SO AS TO PROVIDE THAT A LOCAL SCHOOL DISTRICT BOARD OF TRUSTEES DESIROUS OF CREATING AN AVENUE FOR NEW, INNOVATIVE, AND MORE FLEXIBLE WAYS OF EDUCATING CHILDREN WITHIN THEIR DISTRICT MAY CREATE A SCHOOL OF CHOICE WITHIN THE DISTRICT THAT IS EXEMPT FROM STATE STATUTES WHICH GOVERN OTHER SCHOOLS IN THE DISTRICT AND REGULATIONS PROMULGATED BY THE STATE BOARD OF EDUCATION, AND TO PROVIDE FOR THE REQUIREMENTS AND PROCEDURES TO IMPLEMENT THESE SCHOOLS OF CHOICE.

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

Sponsor powers, retention of funds

SECTION 1. Chapter 40, Title 59 of the 1976 Code is amended by adding:

"Section 59-40-55. (A) A charter school sponsor shall:

(1) approve charter applications that meet the requirements specified in Sections 59-40-50 and 59-40-60;

(2) decline to approve charter applications according to Section 59-40-70(C);

(3) negotiate and execute sound charter contracts with each approved charter school;

(4) monitor, in accordance with charter contract terms, the performance and legal/fiscal compliance of charter schools to include

collecting and analyzing data to support ongoing evaluation according to the charter contract;

(5) conduct or require oversight activities that enable the sponsor to fulfill its responsibilities outlined in this chapter, including conducting appropriate inquiries and investigations, only if those activities are consistent with the intent of this chapter, adhere to the terms of the charter contact, and do not unduly inhibit the autonomy granted to public charter schools;

(6) collect, in accordance with Section 59-40-140(H), an annual report from each of its sponsored charter schools and submit the reports to the Department of Education;

(7) notify the charter school of perceived problems if its performance or legal compliance appears to be unsatisfactory and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation and revocation timeframes apply;

(8) take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. These actions or sanctions may include requiring a school to develop and execute a corrective action plan within a specified timeframe;

(9) determine whether each charter contract merits renewal, nonrenewal, or revocation; and

(10) provide to parents and the general public information about charter schools authorized by the sponsor as an enrollment option within the district in which the charter school is located to the same extent and through the same means as the district in which the charter school is located provides and publicizes information about all public schools in the district. A charter school shall notify its sponsor of its enrollment procedures and dates of its enrollment period no less than sixty days prior to the first day of its enrollment period.

(B) The South Carolina Public Charter School District may retain no more than two percent of the total state appropriations for each charter school it authorizes to cover the costs for overseeing its charter schools. The sponsor's administrative fee does not include costs incurred in delivering services that a charter school may purchase at its discretion from the sponsor. The sponsor's fee is not applicable to federal money or grants received by the charter school. The sponsor shall use its funding provided pursuant to this section exclusively for the purpose of fulfilling sponsor obligations in accordance with this chapter."

Facility revolving loan program

SECTION 2. Chapter 40, Title 59 of the 1976 Code is amended by adding:

"Section 59-40-175. There is created in the state treasury the Charter School Facility Revolving Loan Program. This loan program is comprised of federal funds obtained by the state for charter school facilities, other funds appropriated or transferred to the fund by the state, and privately donated funds. Funds deposited to the Charter School Facility Revolving Loan Program must remain available for the purposes of the program until appropriated or reverted by the General Assembly. The State Treasurer may approve loans from monies in the Charter School Revolving Loan Program to a charter school, upon application by the charter school. Money loaned to a charter school pursuant to this section must be used for construction, purchase, renovation, and maintenance of public charter school facilities. The State Treasurer shall establish guidelines and procedures for application, approval, allocation, and repayment regarding loans from these monies. The Office of State Treasurer may be reimbursed from the program for costs associated with the administration of these loans."

Geographical boundaries

SECTION 3. Chapter 40, Title 59 of the 1976 Code is amended by adding:

"Section 59-40-235. The geographical boundaries from which a charter school sponsored by a public or independent institution of higher learning may accept students are the same as the boundaries of the State of South Carolina."

Purpose added

SECTION 4. Section 59-40-20 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

"Section 59-40-20. This chapter is enacted to:
(1) improve student learning;
(2) increase learning opportunities for students;

(3) encourage the use of a variety of productive teaching methods;

(4) establish new forms of accountability for schools;

(5) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;

(6) assist South Carolina in reaching academic excellence; and

(7) create new, innovative, and more flexible ways of educating children within the public school system, with the goal of closing achievement gaps between low performing student groups and high performing student groups."

Definitions added and revised

SECTION 5. Section 59-40-40 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

"Section 59-40-40. As used in this chapter:

(1) A 'charter school' means a public, nonreligious, nonhome-based, nonprofit corporation forming a school that operates by sponsorship of a public school district, the South Carolina Public Charter School District, or a public or independent institution of higher learning, but is accountable to the board of trustees, or in the case of technical colleges, the area commission, of the sponsor which grants its charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools.

(2) A charter school:

(a) is, for purposes of state law and the state constitution, considered a public school and part of the South Carolina Public Charter School District, the local school district in which it is located, or is sponsored by a public or independent institution of higher learning;

(b) is subject to 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; however, an applicant may seek to form a single gender charter school without regard to the gender makeup of that proposed charter school;

(c) must be administered and governed by a governing body in a manner agreed to by the charter school applicant and the sponsor, the governing body to be selected as provided in Section 59-40-50(B)(9);

(d) may not charge tuition or other charges pursuant to Section 59-19-90(8) except as may be allowed by the sponsor and is comparable to the charges of the local school district in which the charter school is located;

(e) is subject to the same fixed asset inventory requirements as are traditional public schools.

(3) 'Applicant' means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with the South Carolina Public Charter School District Board of Trustees, the local school board of trustees in which the charter school is to be located, or the board of trustees or area commission of a public or independent institution of higher learning. The applicant also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation.

(4) 'Sponsor' means the South Carolina Public Charter School District Board of Trustees, the local school board of trustees in which the charter school is to be located, as provided by law, a public institution of higher learning as defined in Section 59-103-5, or an independent institution of higher learning as defined in Section 59-113-50, from which the charter school applicant requested its charter and which granted approval for the charter school's existence. Only those public or independent institutions of higher learning, as defined in this subsection, who register with the South Carolina Department of Education may serve as charter school sponsors, and the department shall maintain a directory of those institutions. The sponsor of a charter school is the charter school's Local Education Agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations under applicable federal, state, and local law.

(5) 'Certified teacher' means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sections 59-27-10 and 59-25-115.

(6) 'Noncertified teacher' means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or university and meets the qualifications outlined in Section 59-25-115.

(7) 'Charter committee' means the governing body of a charter school formed by the applicant to govern through the application

process and until the election of a board of directors is held. After the election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved.

(8) 'Local school district' means any school district in the State except the South Carolina Public Charter School District and does not include special school districts.

(9) 'Charter school contract' means a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(10) 'Resident public school' means the school, other than a charter school, within whose attendance boundaries the charter school student's custodial parent or legal guardian resides."

Powers and duties revised, operation and governance, extracurricular activities

SECTION 6. Section 59-40-50 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

"Section 59-40-50. (A) Except as otherwise provided in this chapter, a charter school is exempt from all provisions of law and regulations applicable to a public school, a school board, or a district, although a charter school may elect to comply with one or more of these provisions of law or regulations.

(B) A charter school must:

(1) adhere to the same health, safety, civil rights, and disability rights requirements as are applied to public schools operating in the same school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located;

(2) meet, but may exceed, the same minimum student attendance requirements as are applied to public schools;

(3) adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools;

(4) be considered a school district for purposes of tort liability under South Carolina law, except that the tort immunity does not include acts of intentional or wilful racial discrimination by the governing body or employees of the charter school. Employees of charter schools must be relieved of personal liability for any tort or contract related to their school to the same extent that employees of traditional public schools in their school district or, in the case of the

South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located are relieved;

(5) in its discretion hire noncertified teachers in a ratio of up to twenty-five percent of its entire teacher staff; however, if it is a converted charter school, it shall hire in its discretion noncertified teachers in a ratio of up to ten percent of its entire teacher staff. However, in either a new or converted charter school, a teacher teaching in the core academic areas as defined by the federal No Child Left Behind law must be certified in those areas or possess a baccalaureate or graduate degree in the subject he or she is hired to teach. Part-time noncertified teachers are considered pro rata in calculating this percentage based on the hours which they are expected to teach;

(6) hire or contract for, in its discretion, administrative staff to oversee the daily operation of the school. At least one of the administrative staff must be certified or experienced in the field of school administration;

(7) admit all children eligible to attend public school to a charter school, subject to space limitations, except in the case of an application to create a single gender charter school. However, it is required that the racial composition of the charter school enrollment reflect that of the local school district in which the charter school is located or that of the targeted student population of the local school district that the charter school proposes to serve, to be defined for the purposes of this chapter as differing by no more than twenty percent from that population. This requirement is also subject to the provisions of Section 59-40-70(D). If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsor;

(8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school, in which case gender may be the only reason to show preference or deny admission to the school; a charter school may give enrollment priority to a sibling of a pupil currently enrolled and attending, or who, within the last six years, attended the school for at least one complete academic year. A charter school also may give priority to children of a charter school employee and children of the charter committee, if priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school;

(9) consist of a board of directors of seven or more individuals with the exact number specified in or fixed in accordance with the bylaws. Members of a board of directors may serve a term of two years, and may serve additional terms. A choice of the membership of the board must take place every two years. Fifty percent of the members of the board as specified by the bylaws must be individuals who have a background in K-12 education or in business, and the bylaws of the charter school also must provide for the manner of selection of these members. In addition, at least fifty percent of the members of the board as specified by the bylaws must be elected by the employees and the parents or guardians of students enrolled in the charter school. Parents or guardians shall have one vote for each student enrolled in the charter school. All members must be residents of the State of South Carolina. A person who has been convicted of a felony must not be elected to a board of directors. If the board of directors consists of an odd number of members, the extra member must be an individual who has a background in K-12 education or in business;

(10) be subject to the Freedom of Information Act, including the charter school and its governing body. A board of directors of a charter school shall notify its sponsor of any regular meeting of the board at least forty-eight hours prior to the date on which it is to occur.

(C)(1) If a charter school denies admission to a student, the student may appeal the denial to the sponsor. The decision is binding on the student and the charter school.

(2) If a charter school suspends or expels a student, other charter schools or the local school district in which the charter school is located has the authority but not the obligation to refuse admission to the student.

(3)(a) A charter school is eligible for federally sponsored, state-sponsored or district-sponsored interscholastic leagues, competitions, awards, scholarships, grants, and recognition programs for students, educators, administrators, staff, and schools to the same extent as all other public schools.

(b) A charter school student is eligible to compete for, and if selected, participate in any extracurricular activities not offered by the student's charter school which are offered at the resident public school he would otherwise attend. A charter school student is eligible to compete for, and if selected, participate in an activity governed by the South Carolina High School League offered at the resident public school he would otherwise attend if the league-governed activity is not offered at the student's charter school.

(c) A charter school student is eligible for extracurricular activities at the student's resident public school consistent with eligibility standards as applied to full-time students of the resident public school.

(d) A school district or resident public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full-time students of the resident public school.

(e) Charter school students shall pay the same fees as other students to participate in extracurricular activities.

(f) Charter school students shall be eligible for the same fee waivers for which other students are eligible.

(D) The State is not responsible for student transportation to a charter school unless the charter school is designated by the local school district as the only school selected within the local school district's attendance area. However, a charter school may enter into a contract with a school district or a private provider to provide transportation to the charter school students.

(E) The South Carolina Public Charter School District Board of Trustees may not use program funding for transportation."

Application and other requirements

SECTION 7. Section 59-40-60 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

"Section 59-40-60. (A) An approved charter application constitutes an agreement between the charter school and the sponsor.

(B) A contract between the charter school and the sponsor must be executed and must reflect all provisions outlined in the application as well as the roles, powers, responsibilities, and performance expectations for each party to the contract. A contract must include the proposed enrollment procedures and dates of the enrollment period of the charter school. All agreements regarding the release of the charter school from school district policies must be contained in the contract. The Department of Education shall develop a contract template to be used by charter schools and the sponsor. The template must serve as a foundation for the development of a contract between the charter school and the sponsor.

(C) A material revision of the terms of the contract between the charter school and the sponsor may be made only with the approval of both parties.

(D) Except as provided in subsection (F), an applicant who wishes to form a charter school shall:

(1) organize the charter school as a nonprofit corporation pursuant to the laws of this State;

(2) form a charter committee for the charter school which includes one or more teachers;

(3) submit a written charter school application to the charter school advisory committee and to the board of trustees or area commission from which the committee is seeking sponsorship.

(E) A charter committee is responsible for and has the power to:

(1) submit an application to operate as a charter school, sign a charter school contract, and ensure compliance with all of the requirements for charter schools provided by law;

(2) employ and contract with teachers and nonteaching employees, contract for services, and develop pay scales, performance criteria, and discharge policies for its employees. All teachers whether certified or noncertified must undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school; and

(3) decide all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures.

(F) The charter school application must include:

(1) the mission statement of the charter school, which must be consistent with the principles of the General Assembly's purposes pursuant to Section 59-40-20;

(2) the goals, objectives, and pupil achievement standards to be achieved by the charter school, and a description of the charter school's admission policies and procedures;

(3) evidence that an adequate number of parents, teachers, pupils, or any combination of them support the formation of a charter school;

(4) a description of the charter school's educational program, pupil achievement standards, and curriculum which must meet or exceed any content standards adopted by the State Board of Education and the sponsor must be designed to enable each pupil to achieve these standards;

(5) a description of the charter school's plan for evaluating pupil achievement and progress toward accomplishment of the school's achievement standards in addition to state assessments, the timeline for meeting these standards, and the procedures for taking corrective action if that pupil achievement falls below the standards;

(6) evidence that the plan for the charter school is economically sound, a proposed budget for the term of the charter, a description of

the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the sponsor, is to be conducted;

(7) a description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

(8) a description of how the charter school plans to ensure that the enrollment of the school is similar to the racial composition of the local school district in which the charter school is to be located or the targeted student population of the local school district that the charter school proposes to serve and provide assurance that the school does not conflict with any school district desegregation plan or order in effect for the school district in which the charter school is to be located;

(9) a description of how the charter school plans to meet the transportation needs of its pupils;

(10) a description of the building, facilities, and equipment and how they shall be obtained;

(11) an explanation of the relationship that shall exist between the proposed charter school and its employees, including descriptions of evaluation procedures and evidence that the terms and conditions of employment have been addressed with affected employees;

(12) a description of a reasonable grievance and termination procedure, as required by this chapter, including notice and a hearing before the governing body of the charter school. The application must state whether or not the provisions of Article 5, Chapter 25, Title 59 apply to the employment and dismissal of teachers at the charter school;

(13) a description of student rights and responsibilities, including behavior and discipline standards, and a reasonable hearing procedure, including notice and a hearing before the board of directors of the charter school before expulsion;

(14) an assumption of liability by the charter school for the activities of the charter school and an agreement that the charter school must indemnify and hold harmless the sponsor, its servants, agents, and employees, from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to persons or property or otherwise which arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school; and

(15) a description of the types and amounts of insurance coverage to be obtained by the charter school.

(G) Nothing in this section shall require a charter school applicant to provide a list of prospective or tentatively enrolled students or prospective employees with the application."

Membership revised, applicant or advisory committee duties

SECTION 8. Section 59-40-70 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

"Section 59-40-70. (A) The Charter School Advisory Committee must be established by the State Board of Education to review charter school applications for compliance with established standards that reflect the requirements and intent of this chapter. Members must be appointed by the State Board of Education unless otherwise indicated.

(1) The advisory committee shall consist of eleven members as follows:

(a) South Carolina Association of School Administrators, the executive director or his designee;

(b) South Carolina Chamber of Commerce, the executive director or his designee and one additional representative from the chamber;

(c) South Carolina Education Oversight Committee, the chair or a business designee;

(d) South Carolina Commission on Higher Education, the chair or his designee;

(e) South Carolina School Boards Association, the executive director or his designee;

(f) South Carolina Alliance of Black Educators, the president or his designee;

(g) one teacher and one parent to be appointed by the State Superintendent of Education; and

(h) one charter school principal and one charter school board member to be appointed by the Governor.

(2) As an application is reviewed, a representative from the board of trustees or area commission from which the committee is seeking sponsorship and a representative of the charter committee shall serve on the advisory committee as ex officio nonvoting members. If the applicant indicates a proposed contractual agreement with the local school district in which the charter school is located, a representative from the local school board of trustees of that district shall serve on the advisory committee as an ex officio, nonvoting member.

(3) Appointing authorities shall give consideration to the appointment of minorities and women as representatives on the committee.

(4) The committee shall establish bylaws for its operation that must include terms of office for its membership.

(5) An applicant shall submit the application to the advisory committee and one copy to the board of trustees or area commission from which it is seeking sponsorship. In the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the applicant shall provide notice of the application to the local school board of trustees in which the charter school will be located for informational purposes only. The advisory committee shall receive input from the school district or the public or independent institution of higher learning from which the applicant is seeking sponsorship and shall request clarifying information from the applicant. An applicant may submit an application to the advisory committee pursuant to State Board of Education regulations and the advisory committee, within ninety days, shall determine whether the application is in compliance. An application that is in compliance must be forwarded to the board or area commission of the school district or the public or independent institution of higher learning from which the applicant is seeking sponsorship with a letter stating the application is in compliance. The letter also shall include a recommendation from the Charter School Advisory Committee to approve or deny the charter. The letter must specify the reasons for its recommendation. This recommendation is nonbinding on the school board of trustees or area commission. If the application is in noncompliance, it must be returned to the applicant with deficiencies noted. The applicant may appeal the decision to the Administrative Law Court.

(6) The advisory committee shall notify the local delegation of a county in which a proposed charter school is to be located upon receipt of a charter school application and also shall provide a copy of the charter school application upon request by a member of the local delegation.

(B) The board of trustees or area commission from which the applicant is seeking sponsorship shall rule on the application for a charter school in a public hearing, upon reasonable public notice, within forty-five days after receiving the application. If there is no ruling within forty-five days, the application is considered approved. Once the application has been approved by the board of trustees or area commission, the charter school may open at the beginning of the following year. However, before a charter school may open, the State

Department of Education shall verify the accuracy of the financial data for the school within forty-five days after approval.

(C) A board of trustees or area commission shall deny an application only if the application does not meet the requirements specified in Section 59-40-50 or 59-40-60, fails to meet the spirit and intent of this chapter, or adversely affects, as defined in regulation, the other students in the district in which the charter school is to be located. It shall provide, within ten days, a written explanation of the reasons for denial, citing specific standards related to provisions of Section 59-40-50 or 59-40-60 that the application violates. This written explanation immediately must be sent to the charter committee and filed with the State Board of Education and the Charter School Advisory Committee.

(D) In the event that the racial composition of an applicant's or charter school's enrollment differs from the enrollment of the local school district in which the charter school is to be located or the targeted student population of the local school district by more than twenty percent, despite its best efforts, the board of trustees or area commission from which the applicant is seeking sponsorship shall consider the applicant's or the charter school's recruitment efforts and racial composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the board of trustees or area commission that the applicant or charter school is operating in a racially discriminatory manner justifies the denial of a charter school application or the revocation of a charter as provided in this section or in Section 59-40-110, as may be applicable. A finding by the board of trustees or area commission that the applicant is not operating in a racially discriminatory manner justifies approval of the charter without regard to the racial percentage requirement if the application is acceptable in all other aspects.

(E) If the board of trustees or area commission from which the applicant is seeking sponsorship denies a charter school application, the charter applicant may appeal the denial to the Administrative Law Court pursuant to Section 59-40-90.

(F) If the board of trustees or area commission approves the application, it becomes the charter school's sponsor and shall sign the approved application. The sponsor shall submit a copy of the charter contract to the State Board of Education.

(G) If a local school board of trustees has information that an approved application by the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor adversely affects the other students in its district, as defined in

regulation, or that the approval of the application fails to meet the spirit and intent of this chapter, the local school board of trustees may appeal the granting of the charter to the Administrative Law Court. The Administrative Law Court, within forty-five days, may affirm or reverse the application for action by the South Carolina Public Charter School District or the public or independent institution of higher learning in accordance with an order of the state board."

Conversion requirements revised, occupancy and unlawful reprisals

SECTION 9. Section 59-40-100 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

"Section 59-40-100. (A)(1) Subject to item (2), an existing public school may be converted into a charter school if two-thirds of the faculty and instructional staff employed at the school and two-thirds of all voting parents or legal guardians of students enrolled in the school agree to the filing of an application with the local school board of trustees for the conversion and formation of that school into a charter school. Parents or legal guardians of students enrolled in the school must be given the opportunity to vote on the conversion. Parents or guardians of a student shall have one vote for each student enrolled in the school seeking conversion. The application must be submitted pursuant to Section 59-40-70(A)(5) by the principal of that school or his designee who must be considered the applicant. The application must include all information required of other applications pursuant to this chapter. The local school board of trustees shall approve or disapprove this application in the same manner it approves or disapproves other applications. The existence of another charter granting authority must not be grounds for disapproving a school desiring to convert to a charter school.

(2)(a) In addition to the vote requirements required in item (1), if a proposed conversion school has outstanding general obligation bond debt owed on it and that debt is resulting from an ordinance originally authorizing the bonds, and the original authorization was no more than ten years prior to the proposed conversion, and the bonds were specifically issued for the construction or improvement of the proposed conversion school, the school may be converted into a charter school only upon a majority vote of the local school board of trustees.

(b) In addition to the vote requirements required in item (1), if a proposed conversion school has outstanding general obligation bond

debt owed on it and that debt is resulting from a referendum originally authorizing the bonds, and the original authorization was no more than ten years prior to the proposed conversion, and the bonds were specifically issued for the construction or improvement of the proposed conversion school, the school may be converted into a charter school only upon a two-thirds vote of the local school board of trustees.

(B) A converted charter school shall offer at least the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion, and also may provide additional grades and further educational offerings.

(C) All students enrolled in the school at the time of conversion must be given priority enrollment. Thereafter, students who reside within the former attendance area of that public school must be given enrollment priority.

(D) All employees of a converted school shall remain employees of the local school district, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor with the same compensation and benefits including any future increases. The converted charter school quarterly shall reimburse the local school district, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor for the compensation and employer contribution benefits paid to or on behalf of these employees and also provide to the sponsor any reports, forms, or data necessary for maintaining retirement coverage and providing South Carolina Retirement Systems benefits to converted school employees. The provisions of Article 5, Chapter 25, Title 59 apply to the employment and dismissal of teachers at a converted school.

(E) For the duration of a converted charter school's contract with a sponsor, a converted charter school shall have the right to retain occupancy and use of the school's facility or facilities and all equipment, furniture, and supplies that were available to the school before it converted, in the same manner as before the school converted, with no additional fees or charges.

(F) The South Carolina Public Charter School District or a public or independent institution of higher learning may not sponsor a public school to convert to a charter school. However, the South Carolina Public Charter School District or a public or independent institution of higher learning may sponsor a converted charter school renewal if the charter school has not committed a material violation of the provisions specified in subsection (C) of Section 59-40-110 and the local school

district board of trustees refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59-40-110(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.

(G) A governing board or a school district employee who has control over personnel actions shall not take unlawful reprisal against another employee of the school district because the employee is directly or indirectly involved in an application to establish a charter school. A governing board or a school district employee shall not take unlawful reprisal against an educational program of the school or the school district because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school.

As used in this subsection, 'unlawful reprisal' means an action that is taken by a governing board or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to another employee or education program and:

(1) with respect to a school district employee, results in:

(a) disciplinary or corrective action;

(b) detail, transfer, or reassignment;

(c) suspension, demotion, or dismissal;

(d) an unfavorable performance evaluation;

(e) a reduction in pay, benefits, or awards;

(f) elimination of the employee's position without a reduction in force by reason of lack of monies or work; or

(g) other significant changes in duties or responsibilities that are inconsistent with the employee's salary or employment classification; and

(2) with respect to an educational program, results in:

(a) suspension or termination of the program;

(b) transfer or reassignment of the program to a less favorable department;

(c) relocation of the program to a less favorable site within the school district; or

(d) significant reduction or termination of funding for the program."

Renewal application

SECTION 10. Section 59-40-110 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

"Section 59-40-110. (A) A charter must be approved or renewed for a period of ten school years; however, the charter only may be revoked or not renewed under the provisions of subsection (C) of this section. The sponsor annually shall evaluate the conditions outlined in subsection (C). The annual evaluation results must be used in making a determination for nonrenewal or revocation.

(B) A charter renewal application must be submitted to the school's sponsor, and it must contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, pupil achievement standards, and other terms of the initially approved charter application; and

(2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that allows comparison of these costs to other schools or other comparable organizations, in a format required by the State Board of Education.

(C) A charter must be revoked or not renewed by the sponsor if it determines that the charter school:

(1) committed a material violation of the conditions, standards, or procedures provided for in the charter application;

(2) failed to meet or make reasonable progress, as defined in the charter application, toward pupil achievement standards identified in the charter application;

(3) failed to meet generally accepted standards of fiscal management; or

(4) violated any provision of law from which the charter school was not specifically exempted.

(D) At least sixty days before not renewing or terminating a charter school, the sponsor shall notify in writing the charter school's governing body of the proposed action. The notification shall state the grounds for the proposed action in reasonable detail. Termination must follow the procedure provided for in this section.

(E) The existence of another charter granting authority must not be grounds for the nonrenewal or revocation of a charter. Grounds for nonrenewal or revocation must be only those specified in subsection (C) of this section.

(F) The charter school's governing body may request in writing a hearing before the sponsor within fourteen days of receiving notice of nonrenewal or termination of the charter. Failure by the school's governing body to make a written request for a hearing within fourteen days must be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable notice to the school's governing body of the hearing date. The sponsor shall conduct a hearing before taking final action. The sponsor shall take final action to renew or not renew a charter by the last day of classes in the last school year for which the charter school is authorized.

(G) A charter school seeking renewal may submit a renewal application to another charter granting authority if the charter school has not committed a material violation of the provisions specified in subsection (C) of this section and the sponsor refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59-40-140(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.

(H) A decision to revoke or not to renew a charter school may be appealed to the Administrative Law Court pursuant to the provisions of Section 59-40-90."

Funding, services, and reports

SECTION 11. Section 59-40-140 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

"Section 59-40-140. (A) A local school board of trustees sponsor shall distribute state, county, and school district funds to a charter school as determined by the following formula: the previous year's audited total general fund revenues, divided by the previous year's weighted students, then increased by the Education Finance Act inflation factor, pursuant to Section 59-20-40, for the years following the audited expenditures, then multiplied by the weighted students enrolled in the charter school, which will be subject to adjustment for student attendance and state budget allocations based on the same criteria as the local school district. These amounts must be verified by the State Department of Education before the first disbursement of funds. All state and local funding must be distributed by the local

school district to the charter school monthly beginning July first following approval of the charter school application and must continue to be disbursed to the charter school for the duration of its charter and for the duration of any subsequent renewals. After verification of student attendance on the fifth day of school at the beginning of each school year, the State Department of Education shall distribute funds to school districts with charter schools: (i) having approved incremental growth and expansion as provided in their charter application; or (ii) for opening of new charter schools in the current fiscal year. These funds must be released to districts on behalf of their charter schools no later than fifteen days after receipt of verified enrollment. Districts shall provide this funding to eligible charters no later than thirty days after receipt from the Department of Education. Necessary adjustments due to enrollment changes must be made pursuant to the Education Finance Act.

(B) The South Carolina Public Charter School District or public or independent institution of higher learning sponsor shall receive and distribute state funds to the charter school as provided by the General Assembly.

(C) During the year of the charter school's operation, as received, and to the extent allowed by federal law, a sponsor shall distribute to the charter school federal funds which are allocated to the sponsor on the basis of the number of special characteristics of the students attending the charter school. These amounts must be verified by the State Department of Education before the first disbursement of funds.

(D) Notwithstanding subsection (C), the proportionate share of state and federal resources generated by students or staff serving them must be directed to the sponsor. After receipt of federal or state categorical aid funds, sponsors shall, within ten business days, supply to the charter school the proportional share of each categorical fund for which the charter school qualifies. If the sponsor fails to do so, the Department of Education may fine the sponsor an amount equivalent to the withheld amounts. Fines imposed must be remitted to the charter school from which the amounts were withheld.

(E) All services centrally or otherwise provided by the sponsor including, but not limited to, food services, custodial services, maintenance, curriculum, media services, libraries, and warehousing are subject to negotiation between a charter school and the sponsor and must be outlined in the contract required pursuant to Section 59-40-70(F), except as otherwise provided or required by law.

(F) All awards, grants, or gifts collected by a charter school must be retained by the charter school.

(G) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use the gifts, donations, or grants in accordance with the conditions prescribed by the donor. A gift or donation must not be required for admission. However, a gift, donation, or grant must not be accepted by the governing board if subject to a condition contrary to law or contrary to the terms of the contract between the charter school and the governing body. All gifts, donations, or grants must be reported to the sponsor in their annual audit report as required in Section 59-40-50(B)(3).

(H) A charter school shall report to its sponsor and the Department of Education any change to information provided under its application. In addition, a charter school shall report at least annually to its sponsor and the sponsor shall compile those reports into a single document which must be submitted to the department. The Department of Education shall develop a template to be used by charter schools for this annual report. The report shall provide all information required by the sponsor or the department and shall include, at a minimum:

(1) the number of students enrolled in the charter school from year to year;

(2) the success of students in achieving the specific educational goals for which the charter school was established;

(3) an analysis of achievement gaps among major groupings of students in both proficiency and growth;

(4) the identity and certification status of the teaching staff;

(5) the financial performance and sustainability of the sponsor's charter schools; and

(6) board performance and stewardship including compliance with applicable laws.

(I) The sponsor shall provide technical assistance to persons and groups preparing or revising charter applications at no expense.

(J) Charter schools may acquire by gift, devise, purchase, lease, sublease, installment purchase agreement, land contract, option, or by any other means provided by law or otherwise, and hold and own in its own name buildings or other property for school purposes and interests in it which are necessary or convenient to fulfill its purposes.

(K) Charter schools are exempt from all state and local taxation, except the sales tax, on their earnings and property. Instruments of conveyance to or from a charter school are exempt from all types of taxation of local or state taxes and transfer fees.

(L) Notwithstanding the above provisions of this section, this subsection applies to converted charter schools that converted into a

charter school after the effective date of this act. For purposes of computing the funding for any year to be provided a converted charter school under the provisions of this section, the computations required shall be made as provided in this section based on the previous year's revenues, expenditures, and other applicable factors pertaining to that particular converted charter school, and also then shall be made as provided in this section for the year immediately preceding the previous year based on the revenues, expenditures, and other applicable factors for that year pertaining to that particular converted charter school. The funding of the converted charter school for the initial year shall be the average of the weighted per pupil unit funding computed for these two prior years, and funding for the converted charter school after the initial year shall be provided by the school district in the same manner as regular public schools in the district."

Immunity from liability extended

SECTION 12. Section 59-40-190(C) of the 1976 Code, as last amended by Act 341 of 2002, is further amended to read:

"(C) A local school district, sponsor, members of the board or area commission of a sponsor, and employees of a sponsor acting in their official capacity are immune from civil or criminal liability with respect to all activities related to a charter school they sponsor. The governing body of a charter school shall obtain at least the amount of and types of insurance required for this purpose."

Membership revised

SECTION 13. Section 59-40-230(A) of the 1976 Code, as added by Act 274 of 2006, is amended to read:

"(A) The South Carolina Public Charter School District must be governed by a board of trustees consisting of not more than nine members:

(1) two appointed by the Governor;

(2) one appointed by the Speaker of the House of Representatives;

(3) one appointed by the President Pro Tempore of the Senate; and

(4) five to be appointed by the Governor upon the recommendation of the:

(a) South Carolina Association of School Administrators;
(b) South Carolina Chamber of Commerce;
(c) South Carolina Education Oversight Committee;
(d) South Carolina School Boards Association; and
(e) South Carolina Alliance of Black Educators.

The seven members appointed by the Governor pursuant to this subsection are subject to advice and consent of the Senate. Membership of the committee must reflect representatives from each of the entities in item (4) or their designee as reflected in their recommendation.

Each member of the board of trustees shall serve terms of three years, except that, for the initial members, two appointed by the Governor, one by the Speaker of the House, and one by the President Pro Tempore of the Senate, shall serve terms of one year and three appointed by the Governor shall serve terms of two years. A member of the board may be removed after appointment pursuant to Section 1-3-240. In making appointments, every effort must be made to ensure that all geographic areas of the State are represented and that the membership reflects urban and rural areas of the State as well as the ethnic diversity of the State."

Participation in State Retirement System

SECTION 14. Section 59-40-130(A) of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

"(A)(1) If an employee of a local school district makes a written request for leave to be employed at a charter school before July 1, 2006, the school district shall grant the leave for up to five years as requested by the employee. The school district may require that the request for leave or extension of leave be made by the date provided for by state law for the return of teachers' contracts. Employees may return to employment with the local school district at its option with the same teaching or administrative contract status as when they left but without assurance as to the school or supplemental position to which they may be assigned.

(2) Notwithstanding the provisions of item (1) and subject to the provisions of subsection (B), a charter school employing after June 30, 2006, an individual on leave from a local school district shall participate in the South Carolina Retirement Systems as a covered employer with respect to that employee on leave through the earlier of the date the employee on leave returns to employment by the district or

June 30, 2011, and only if the charter school and the employee have made required employer and employee contributions to the South Carolina Retirement Systems from the employee's date of employment with the charter school."

Receipt of local funds

SECTION 15. Section 59-40-220(A) of the 1976 Code, as added by Act 274 of 2006, is amended to read:

"(A) The South Carolina Public Charter School District is created as a public body. The South Carolina Public Charter School District must be considered a local education agency and is eligible to receive state and federal funds and grants available for public charter schools and other schools to the same degree as other local education agencies. The South Carolina Public Charter School District may not have a local tax base and may not receive local property taxes. This prohibition does not extend to local funds received by the district on behalf of sponsored charter schools pursuant to Section 59-40-140(B)."

Report cards

SECTION 16. Section 59-18-920 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

"Section 59-18-920. A charter school established pursuant to Chapter 40, Title 59 shall report the data requested by the Department of Education necessary to generate a report card. The Department of Education shall utilize this data to issue a report card with performance ratings to parents and the public containing the ratings and explaining its significance and providing other information similar to that required of other schools in this section. The performance of students attending charter schools sponsored by the South Carolina Public Charter School District must be included in the overall performance ratings of the South Carolina Public Charter School District. The performance of students attending a charter school authorized by a local school district must be reflected on a separate line on the school district's report card and must not be included in the overall performance ratings of the local school district, unless there is a mutual agreement to include the scores in the local school district ratings. An alternative school is included in the requirements of this chapter; however, the purpose of an alternative school must be taken into consideration in determining its performance

rating. The Education Oversight Committee, working with the State Board of Education and the School to Work Advisory Council, shall develop a report card for career and technology schools."

Schools of choice exempt from state laws and regulations

SECTION 17. Article 1, Chapter 19, Title 59 of the 1976 Code is amended by adding:

"Section 59-19-350. (A) A local school district board of trustees of this State desirous of creating an avenue for new, innovative, and more flexible ways of educating children within their district, may create a school of choice within the district that is exempt from state statutes which govern other schools in the district and regulations promulgated by the State Board of Education. To achieve the status of exemption from specific statutes and regulations, the local board of trustees, at a public meeting, shall identify specific statutes and regulations which will be considered for exemption. The exemption may be granted by the governing board of the district only if there is a two-thirds affirmative vote of the board for each exemption and the proposed exemption is approved by the State Board of Education.

(B) In seeking exemptions, the local board of trustees may not exempt:

(1) federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, national origin, religion, ancestry, or need for special education services;

(2) health, safety, civil rights, and disability rights requirements as are applied to other public schools operating in the district;

(3) minimum student attendance requirements;

(4) state assessment requirements; and

(5) certification requirements for teachers in the core academic areas as defined by the federal No Child Left Behind Act, Public Law 107-110; however, up to twenty-five percent of the teaching staff of the school may be employed if the individual possesses a baccalaureate or graduate degree in the subject he is hired to teach.

(C) Any school created pursuant to this section shall admit all children eligible to attend the school subject to space limitations and may not limit or deny admission or show preference in admission decisions to any individual or group of individuals.

(D) A local school district that provides exemptions pursuant to subsection (A) shall provide the State Department of Education with

documentation of the approved exemptions and shall submit evaluation documentation to be reviewed by the State Board of Education after three years of the exemption to ensure that the district continues to meet the needs of its students. Upon review, if the State Board of Education determines the continuation of the exemption does not meet the needs of the students attending the district school of choice, the board may suspend exemptions granted by the local board of trustees with a two-thirds vote. Before suspending the exemptions, the State Board of Education shall notify the district and provide the district with any opportunity to defend the continuation of approved exemptions."

Severability

SECTION 18. 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 19. This act takes effect upon approval by the Governor.

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 165

(R189, H3558)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 25-1-2270 SO AS TO REQUIRE ALL STATE INSTITUTIONS OF HIGHER EDUCATION TO ALLOW STUDENTS TO COMPLETE

ASSIGNMENTS OR TAKE MAKE-UP EXAMINATIONS WHEN AN ABSENCE IS CAUSED BY ATTENDING OR PARTICIPATING IN MILITARY SERVICE, DUTY, TRAINING, OR DISASTER RELIEF EFFORTS.

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

Completion of missed exams and assignments due to military service

SECTION 1. Article 17, Chapter 1, Title 25 of the 1976 Code is amended by adding:

"Section 25-1-2270. Upon notice from a student required to attend or participate in military service, duty, training, or disaster relief efforts, an institution of higher education which receives state funding, either directly or indirectly, including but not limited to state scholarships or grants, shall excuse the student from attending classes or engaging in other mandatory activities, including tests or examinations, in order for the student to fulfill his military obligations and associated military travel requirements. A student whose absence is excused pursuant to this section may not be penalized for his absence and must be allowed to complete all missed assignments or take missed tests or examinations within a reasonable time of his return from the military service, duty, training, or disaster relief efforts. Each of these institutions of higher education shall determine what constitutes a reasonable time to make up the assignments, tests, or examinations missed by reason of military service on a case by case basis, taking into account the individual student's schedule and academic responsibilities. The provisions of this section must be liberally construed and shall apply in the same manner and without distinction to a student's status as a member of the active component, reserve component, or National Guard."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 166

(R190, H3921)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 12 TO TITLE 25 SO AS TO PROVIDE FOR THE MANNER IN WHICH AND CONDITIONS UNDER WHICH THE UNCLAIMED CREMATED REMAINS OF A VETERAN MAY BE INTERRED WITHOUT LIABILITY TO THE FUNERAL HOME, FUNERAL ESTABLISHMENT, MORTUARY, OR ANY MANAGER THEREOF OR A VETERANS' SERVICE ORGANIZATION INVOLVED IN THE INTERMENT.

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

Unclaimed cremated remains of a veteran

SECTION 1. Title 25 of the 1976 Code is amended by adding:

"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.

Section 25-12-30.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 manager of a funeral home, funeral establishment, or mortuary from sharing information with the Veterans Administration, a veterans' service agency or veterans' affairs office, a veterans' 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 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 veterans' service agency or veterans' affairs office, a veterans' 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 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 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 veterans' 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 veterans' section of a cemetery corporation, or a veterans' cemetery if the deceased veteran is eligible for interment in such a manner.

Section 25-12-60. The veterans' service organization, 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 veterans' service organization, 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 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 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 veterans' 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 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 167

(R191, H3923)

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 RENAME THE INMAN MILLS BAPTIST VOTING PRECINCT THE GREATER ST. JAMES VOTING PRECINCT AND REDESIGNATE A MAP NUMBER FOR THE MAP ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE DIVISION 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 designated

SECTION 1. Section 7-7-490 of the 1976 Code, as last amended by Act 54 of 2009, 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 Town Hall
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
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 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 Division 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 Division of Research and Statistics designated as document P-83-12.

(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 and applies to elections conducted after July 15, 2011.

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 168

(R192, H4205)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 33-36-1315 SO AS TO PROVIDE FOR ADDITIONAL CONVERSION PROVISIONS, TERMS, AND LIMITATIONS FOR NOT-FOR-PROFIT CORPORATIONS OF A CERTAIN SIZE THAT PROVIDE WATER SERVICE IN TWO OR MORE COUNTIES; AND TO AMEND SECTION 33-36-1330, RELATING TO THE GOVERNING BOARD AND STRUCTURE OF A CORPORATION WHICH HAS BEEN CONVERTED TO A PUBLIC SERVICE DISTRICT, SO AS TO PROVIDE FOR THE GOVERNING STRUCTURE OF A PUBLIC SERVICE DISTRICT OF A CERTAIN SIZE THAT PROVIDES SERVICE IN TWO OR MORE COUNTIES.

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

Additional conversion provisions provided

SECTION 1. Article 8, Chapter 36, Title 33 of the 1976 Code is amended by adding:

"Section 33-36-1315. (A) Corporations not-for-profit incorporated for the purposes of providing water service which, pursuant to the provisions of this chapter, serve a population of at least twenty thousand persons as shown in the most recent sanitary survey of the South Carolina Department of Health and Environmental Control, and provide water service in two or more counties within the State, may determine, by resolution adopted by the board of directors of the corporation and subject to the additional conditions provided in this section, to become a public service district, a public body politic and corporate. The resolution shall make findings as to: (1) whether the corporation owns assets, including, but not limited to, reserves, that are not reasonably required to continue its operations following its conversion to a public service district and, if so, the amount of the assets; and (2) whether the assets of the corporation have appreciated in value over their original cost and, if so, the amount of the value appreciation. The procedures provided in this section are valid, complete, and sufficient to effect the conversion notwithstanding any contrary provisions of law or the corporation's organizational documents or bylaws.

(B) Notice of the meeting of the board of directors at which the resolution to become a public service district is to be considered must be given by regular mail to each member of the corporation, addressed to the last known address of the member, and mailed not less than ten days before the meeting. Notice is effective upon mailing. The secretary of the corporation shall certify the date of mailing as to each member. The notice shall state the purpose, time, and place of the meeting. At the meeting, the board of directors shall afford any members in attendance an opportunity to speak and be heard in support of or in opposition to the conversion of the corporation to a public service district.

(C) Promptly after adoption by the board of directors of a resolution to become a public service district, the board of directors shall cause notice of the adoption to be mailed by regular mail to each member of the corporation, addressed to the last known address of the member. In addition, the board of directors, not earlier than the mailing required

above, also shall cause the notice of adoption to be published at least once in one or more newspapers of general circulation in the counties in which the corporation provides service. The mailed and published notices shall include the name of the corporation, a statement that the board of directors has determined by resolution that the corporation shall be converted to a public service district, the date of the adoption of the resolution, and a statement that the resolution shall become effective and not subject to further review unless a petition signed by not less than fifteen percent of the membership of the corporation is filed as provided in this section. Within sixty days after the publication of the last notice required by this subsection, a petition signed by the members of the corporation equal in number to at least fifteen percent of the total membership may be filed with the clerk of court for the counties in which the corporation provides service calling for a vote of the membership on the question of whether the corporation shall become a public service district.

(D) Except for a petition being duly and timely filed in accordance with subsection (C), no action whatsoever may be commenced to challenge on any grounds the conversion of the corporation to a public service district more than ninety days after the date of the last publication required by subsection (C).

(E) If a petition is duly and timely filed in accordance with subsection (C), then the board of directors shall call a meeting of the members of the corporation to submit the question of whether the corporation shall become a public service district. Notice of this meeting must be given by regular mail to each member of the corporation, addressed to the last known address of the member, and mailed not less than ten days before the meeting. Notice is effective upon mailing. The secretary of the corporation shall certify the date of mailing as to each member. The notice shall state the purpose, time, and place of the meeting. The question shall be determined upon a majority vote of the members present in person at the meeting and voting. Action taken at the meeting is effective only if a quorum of the members of the corporation is present in person. For purposes of this subsection, a quorum consists of at least fifteen percent of the members of the corporation upon admission to the meeting.

(F) If the membership vote results in a determination to become a public service district, then the corporation promptly shall cause notice of the result to be mailed by regular mail to each member, addressed to the last known address of each member. In addition, the corporation, not earlier than the date of the mailing required above, also shall cause notice of the result to be published once in a newspaper or newspapers

of general circulation in each county in which the corporation provides service. The mailed and published notices shall include the name of the corporation, a statement that the corporation has determined by membership vote to become a public service district, and a statement that no action may be commenced on account of the meeting or the conversion of the corporation to a public service district more than twenty days after the date of the final publication. No action whatsoever may be commenced to challenge on any grounds the conversion of the corporation to a public service district more than twenty days after the date of the final publication as provided in this subsection.

(G) If any member of the corporation that becomes a public service district pursuant to this section has received or been credited in a specified amount any capital stock, revolving fund certificate, retain certificate, certificate of indebtedness, letter of advice, or other written notice from the corporation and the specified amount has been realized as gross income to such member for federal income tax purposes with respect to any period prior to the date of conversion to a public service district, but the corresponding amount of money has not been distributed to the member, then the member is considered to have contributed such amount to the public service district. The resolution of the board of directors provided for in subsection (B) must specify this information, if applicable. If the board of directors has specified in the resolution provided for in subsection (B) that the corporation owns assets in excess of that reasonably required to continue its operations following conversion to a public service district or that there has been appreciation in the value of the assets of the corporation over their original cost, then, prior to conversion to a public service district, the corporation shall cause the amount thereof, as reasonably determined by the board of directors, to be distributed to the members of the corporation on a cooperative basis.

(H) Upon a final, favorable determination, either by vote of the board of directors or by vote of the membership, in the event a petition has been duly and timely filed in accordance with subsection (C), to become a public service district, and upon the expiration of the limitation periods provided by this section, the chief executive officer of the corporation shall petition the Secretary of State to issue a new charter to convert and constitute the nonprofit corporation a public service district, a public body politic and corporate."

Governing board structure revised

SECTION 2. Section 33-36-1330 of the 1976 Code is amended to read:

"Section 33-36-1330. (A) For a corporation converted to a public service district pursuant to Section 33-36-1310, the existing board of directors and officers shall serve until the expiration of their present terms. Thereafter, and not less than forty-five days before any expiration of the term of a board member, the board of directors shall submit to the county legislative delegation the name or names of a person or persons recommended for appointment or reappointment. A letter of recommendation by the board stating why the name or names are recommended shall accompany the submission. The county legislative delegation shall consider the recommendation of the board but is not limited to make a selection for its own recommendation from among those submitted. Upon recommendation of the county legislative delegation, members of the board must be appointed by the Governor for a term of four years. A vacancy may be filled by the board, if the remaining term is less than two years; if more than two years, then in the usual manner for the unexpired term.

(B) For a corporation converted to a public service district pursuant to Section 33-36-1315, the existing directors, who shall constitute the initial governing board of the district, and officers shall serve until the expiration of their current terms. Thereafter, the public service district must be governed by a board comprising the same number of members as the predecessor corporation had as directors; provided that the governing board shall comprise no fewer than five members and no more than nine members. The governing board, by resolution, may decrease the number of members to not less than five and may increase the number of members to not more than nine. The successor members must be recommended by the board and appointed by the respective county legislative delegations in accordance with the following procedures. Each county legislative delegation shall have the right to appoint a number of members who bear the same relationship to the total number of members as the number of customers of the district within the county bears to the total number of customers of the district. The number of customers within each county, and the total number of customers, must be determined by reference to the billing and customer records of the public service district. Not less than forty-five days before the expiration of the term of any member, the governing board shall submit to the county legislative delegation with the right to

appoint the successor member the name of a person recommended for appointment or reappointment to the board. A letter of recommendation by the board stating why the name is recommended shall accompany the submission. The county legislative delegation shall consider the recommendation of the board, but is not limited to that person in making its appointment. Each member must be appointed for a term of four years and until his successor is appointed and qualifies, provided that the terms of the members must be staggered by a county legislative delegation in making its appointments such that approximately one-half of the total members appointed by that county legislative delegation must be appointed or reappointed every two years. No member may be appointed for more than two consecutive terms. A vacancy must be filled for the remainder of the unexpired term in the manner of original appointment.

(C) For a corporation converted to a public service district pursuant to Section 33-36-1310, the governing body of the district, by a resolution adopted by a two-thirds vote of all members of the governing body, may request that board members be elected in a nonpartisan general election. If adopted, a certified copy of the resolution and a map clearly setting out the lines of the boundaries of the district in the county or counties in which the district is situated must be presented to the county election commission before August first of a general election held in an even numbered year for the election to be held at the general election in November of that year. The governing body must be elected from single member election districts.

(D) Notice of the election must be published by the governing body of the district at least three times before the election, including (i) not less than sixty days before the date of the election, (ii) two weeks after the first date of publication, and (iii) a date not more than fifteen and not less than ten days before the date of the election. The notice must appear in a newspaper of general circulation within the district and contain at a minimum the following:

(1) the full name of the district and its governing body;

(2) the names, addresses, and telephone numbers of the members of the district's governing body;

(3) the existing means of appointment of members of the district's governing body;

(4) a brief description of the governmental services provided by the district;

(5) a map showing generally the boundaries of the district;

(6) a list of precincts and polling places in which ballots may be cast; and

(7) an explanation of the procedure to be followed for election of members of the district's governing body and State."

Severability, Voting Rights Act preclearance

SECTION 3. The provisions of this act are declared to be severable and if any one or more of the provisions are deemed to be invalid by a court of competent jurisdiction, then the remainder of the provisions are deemed to be of full force and effect and are a full and complete authorization to the extent of this intent. The enforceability and effectiveness of portions of this act not subject to preclearance under the Voting Rights Act of 1965 (42 U.S.C. Sections 1973, et seq.) shall not be subject to preclearance of any portions of this act, if any, that are subject to preclearance under said Voting Rights Act of 1965.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 169

(R193, H4463)

AN ACT TO AMEND SECTION 22-3-545, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TRANSFER OF CERTAIN CRIMINAL CASES FROM GENERAL SESSIONS COURT TO MAGISTRATES OR MUNICIPAL COURT, SO AS TO CLARIFY THE TYPES OF CASES THAT MAY BE TRANSFERRED INCLUDES CRIMINAL CASES ORIGINALLY CHARGED AND THOSE IN WHICH THE CHARGES ARE PURSUANT TO A PLEA AGREEMENT, TO ALLOW DEFENDANTS TO WAIVE CERTAIN RIGHTS, AND TO DELETE PROVISIONS WHICH REQUIRED THE

APPROVAL OF THE CHIEF JUDGE FOR ADMINISTRATIVE PURPOSES FOR THE GENERAL SESSIONS COURT REGARDING TERMS OF COURT OF THE MAGISTRATES AND MUNICIPAL COURTS FOR THE DISPOSITION OF TRANSFERRED CASES.

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

Transfer of criminal cases to magistrates or municipal court

SECTION 1. Section 22-3-545 of the 1976 Code is amended to read:

"Section 22-3-545.(A) Notwithstanding the provisions of Sections 22-3-540 and 22-3-550, a criminal case, the penalty for which the crime in the case does not exceed five thousand five hundred dollars or one year imprisonment, or both, either as originally charged or as charged pursuant to the terms of a plea agreement, may be transferred from general sessions court if the provisions of this section are followed.

(B)(1) The solicitor, upon ten days' written notice to the defendant, may petition a circuit court judge in the circuit to transfer one or more cases from the general sessions court docket to a docket of a magistrates or municipal court in the circuit for disposition. The solicitor's notice must fully apprise the defendant of his right to have his case heard in general sessions court. The notice must include the difference in jury size in magistrates or municipal court and in general sessions court. The case may be transferred from the general sessions court unless the defendant objects after notification by the solicitor pursuant to the provisions of this item. The objection may be made orally or in writing at any time prior to the trial of the case or prior to the entry of a guilty plea. The objection may be made to the chief judge for administrative purposes in the judicial circuit where the charges are pending, the trial judge, or the solicitor. Before impaneling the jury or accepting the guilty plea of the defendant, the trial judge must receive an affirmative waiver by the defendant, if present, of his right to have the case tried in general sessions court. The defendant must be informed that, if tried in general sessions court, the case would be tried in front of twelve jurors who must reach a unanimous verdict before a finding of guilty of the offense can be rendered in his case, and that if tried in magistrates or municipal court, the case would be tried in front of six jurors who must reach a unanimous verdict before a finding of guilty of the offense can be reached in his case. The

defendant may waive any and all of the rights provided in this subsection, in writing, prior to the impaneling of the jury or the acceptance of the defendant's guilty plea.

(2) A case transferred to a magistrates or municipal court not disposed of in one hundred eighty days from the date of transfer automatically reverts to the docket of the general sessions court.

(C) All cases transferred to the magistrates or municipal court must be prosecuted by the solicitor's office. The chief magistrate of the county or the chief municipal judge of the municipality, upon petition of the solicitor, shall set the terms of court and order the magistrates and municipal judges to hold terms of court on specific times and dates for the disposition of these cases.

(D) Provision for an adequate record must be made by the solicitor's office.

(E) Notwithstanding another provision of law, all fines and assessments imposed by a magistrate or municipal judge presiding pursuant to this section must be distributed as if the fine and assessment were imposed by a circuit court pursuant to Sections 14-1-205 and 14-1-206. This section must not result in increased compensation to a magistrate presiding over a trial or hearing pursuant to this section or in other additional or increased costs to the county."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 170

(R194, H4690)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "JASON FLATT ACT" BY ADDING SECTION 59-26-110 SO AS TO PROVIDE THAT THE DEPARTMENT OF EDUCATION SHALL REQUIRE TWO HOURS OF TRAINING IN YOUTH SUICIDE AWARENESS AND PREVENTION AS A REQUIREMENT FOR

THE RENEWAL OF CREDENTIALS FOR INDIVIDUALS EMPLOYED IN MIDDLE SCHOOLS AND HIGH SCHOOLS; TO REQUIRE THE DEPARTMENT TO DEVELOP GUIDELINES FOR TRAINING AND MATERIALS THAT MAY BE USED BY SCHOOLS AND SCHOOL DISTRICTS AND TO PROVIDE THAT SCHOOL DISTRICTS MAY APPROVE TRAINING MATERIALS FOR TRAINING THEIR EMPLOYEES; TO PROVIDE THAT THIS TRAINING REQUIREMENT MAY BE SATISFIED THROUGH SELF REVIEW OF SUICIDE PREVENTION MATERIALS; AND TO PROVIDE THAT NO CAUSE OF ACTION RESULTS FROM THE IMPLEMENTATION OF THIS ACT.

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

Jason Flatt Act

SECTION 1. This act may be cited as the "Jason Flatt Act".

Youth suicide prevention teacher training

SECTION 2. Chapter 26, Title 59 of the 1976 Code is amended by adding:

"Section 59-26-110.(A) Beginning with the 2013-2014 school year, the Department of Education shall require two hours of training in youth suicide awareness and prevention as a requirement for the renewal of credentials of individuals employed in a middle school or high school as defined in Section 59-1-150. The required training shall count toward the one hundred twenty renewal credits specified in Department of Education regulations for renewal of credentials.

(B)(1) The department shall develop guidelines suitable for training and materials that may be used by schools and districts; however districts may approve materials to be used in providing training for employees.

(2) The training required in this section may be accomplished through self-review of suicide prevention materials that meet guidelines developed by the Department of Education.

(C) No person shall have a cause of action for any loss or damage caused by any act or omission resulting from the implementation of the provisions of this section or resulting from any training, or lack of training, required by this section unless the loss or damage was caused

by wilful or wanton misconduct. The training, or lack of training, required by the provisions of this section must not be construed to impose any specific duty of care."

Time effective

SECTION 3. This act takes effect upon approval of the Governor.

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 171

(R195, H4733)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 21 TO CHAPTER 23, TITLE 57 SO AS TO DESIGNATE CERTAIN HIGHWAYS IN GEORGETOWN COUNTY AS THE PLANTERSVILLE SCENIC BYWAY, AND TO MAKE IT SUBJECT TO REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION AND THE SOUTH CAROLINA SCENIC HIGHWAYS COMMITTEE.

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

Plantersville Scenic Byway

SECTION 1. Chapter 23, Title 57 of the 1976 Code is amended by adding:

"Article 21

Plantersville Scenic Byway

Section 57-23-1150. (A) That portion of Choppee Road (S-22-4) beginning at United States Highway 701 and continuing in a southeasterly direction for approximately 2.2 miles to Plantersville Road (S-22-52) thence, along that portion of Plantersville Road

continuing in a northeasterly direction for approximately ten miles, ending at United States Highway 701 is designated as Plantersville Scenic Byway. The Plantersville Scenic Byway is subject to the regulations promulgated by the South Carolina Department of Transportation and the South Carolina Scenic Highways Committee.

(B) The Department of Transportation shall install markers or signs to implement this designation."

Time effective

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

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 172

(R196, H4787)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 97 TO TITLE 38 SO AS TO ENACT THE "PORTABLE ELECTRONICS INSURANCE ACT", TO PROVIDE CERTAIN DEFINITIONS RELATED TO PORTABLE ELECTRONICS INSURANCE, TO PROVIDE REQUIREMENTS RELATING TO THE SALE OF PORTABLE ELECTRONICS INSURANCE, TO PROVIDE REQUIREMENTS CONCERNING THE MODIFICATION OR TERMINATION OF ELECTRONICS INSURANCE, TO PROVIDE LICENSURE REQUIREMENTS AND PROCEDURES, AND TO PROVIDE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE MAY TAKE CERTAIN MEASURES TO PROTECT THE PUBLIC AND IMPLEMENT THE PROVISIONS OF THIS CHAPTER.

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

Portable Electronics Insurance

SECTION 1. Title 38 of the 1976 Code is amended by adding:

"CHAPTER 97

Portable Electronics Insurance

Section 38-97-10. This chapter may be cited as the 'Portable Electronics Insurance Act'.

Section 38-97-20. For the purposes of this section:

(1) 'Customer' means a person who purchases portable electronics or related services.

(2) 'Enrolled customer' means a customer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics.

(3) 'Location' means any physical location in this State or any website, call center site, or similar location directed to residents of this State.

(4) 'Portable electronics' means electronic devices that are portable in nature, their accessories, and services related to the use of the device.

(5) 'Portable electronics insurance' means insurance covering the repair or replacement of portable electronics. This insurance may provide coverage for portable electronics against loss, theft, and inoperability due to mechanical failure, malfunction, damage, and other similar loss. Portable electronics insurance does not include:

(a) a service contract governed by Section 38-78-20(12);

(b) an insurance policy covering the obligation of a seller or manufacturer under a warranty; and

(c) a homeowner's, renter's, private passenger automobile, commercial multiperil, or similar policies.

(6) 'Portable electronics transaction' means:

(a) the sale or lease of portable electronics by a vendor to a customer; and

(b) the sale of a service related to the use of portable electronics by a vendor to a customer.

(7) 'Supervising entity' means a business entity licensed as a property and casualty insurer or insurance producer with a property and casualty line of authority.

(8) 'Vendor' means a person directly or indirectly engaged in the business of portable electronics transactions.

Section 38-97-30. (A) A vendor must hold a portable electronics insurance license to sell or offer coverage under a policy of portable electronics insurance.

(B) A portable electronics insurance license issued under this section authorizes any employee or authorized representative of the vendor to sell or offer coverage under a policy of portable electronics insurance to a customer at each location at which the vendor engages in portable electronics transactions. Both an employee and an authorized representative of a vendor must have completed the training required by Section 38-97-50.

(C) The supervising entity shall maintain a registry of vendor locations which are authorized to sell or solicit portable electronics insurance coverage in this State. Upon request by the director or his designee and with ten days' notice to the supervising entity, the registry must be open to inspection and examination by the director or his designee during regular business hours of the supervising entity.

(D) Notwithstanding another provision of law, a license issued pursuant to this section authorizes the licensee and its employees or authorized representatives to engage in those activities that are permitted in this section.

Section 38-97-40. (A) A vendor of portable electronics insurance must make certain brochures or other written materials available to its customers in a location where the vendor sells this insurance. The brochures or written materials must:

(1) disclose that portable electronics insurance may provide a duplication of coverage already provided by a homeowner's policy, renter's insurance policy, or other source of insurance coverage of the customer;

(2) state that the enrollment in a portable electronics insurance program is not required for the customer to purchase or lease portable electronics or services from the vendor; and

(3) summarize the material terms of the insurance coverage, including:

(a) the identity of the insurer;

(b) the identity of the supervising entity;

(c) the amount of any applicable deductible and how this deductible must be paid;

(d) benefits of the coverage;

(e) key terms and conditions of coverage such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(f) a summary of the process for filing a claim under the policy, including a description of how to return portable electronics and the maximum fee applicable if an enrolled customer fails to comply with an equipment return requirement; and

(g) a statement that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person who pays the premium must receive a refund of any applicable unearned premium.

(B) Portable electronics insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics for its enrolled customers.

(C) Eligibility and underwriting standards for customers electing to enroll in coverage must be established for each portable electronics insurance program.

Section 38-97-50. (A) The employees and authorized representatives of a vendor may sell or offer portable electronics insurance to customers and may not be subject to licensure as an insurance producer under this title if:

(1) the vendor obtains a portable electronics insurance license to authorize its employees or authorized representatives to sell or offer portable electronics insurance pursuant to this section;

(2) the employee or authorized representative of a vendor of public electronics does not advertise, represent, or otherwise hold himself out as a nonportable electronics insurance licensed insurance producer; and

(3) the insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity to supervise the administration of the program, including development of a training program for employees and authorized representatives of the vendor. An outline of the training materials required by this section must be maintained by the supervising entity and provided to the department upon request. The training may be provided in electronic form. However, if conducted in an electronic form, the supervising entity shall implement a supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed employees of the supervising entity. Training required by this item must:

(a) be delivered to employees and authorized representatives of a vendor who are directly engaged in the activity of selling or offering portable electronics insurance; and

(b) include basic instruction to each employee and authorized representative about the portable electronics insurance offered and the disclosures required under Section 38-97-40.

(B) The charges for portable electronics insurance coverage may be billed and collected by a vendor of portable electronics. A charge to the enrolled customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services must be separately itemized on the enrolled customer's bill. If the portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor shall clearly and conspicuously disclose to the enrolled customer that the portable electronics insurance coverage is included with the purchase of the portable electronics or related services. Vendors billing and collecting these charges must not be required to maintain such funds in a segregated account if the vendor is authorized by the insurer to hold these funds in an alternative manner and remits these amounts to the supervising entity within sixty days following receipt of these amounts. Funds received by a vendor from an enrolled customer for the sale of portable electronics must be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. A vendor may receive compensation for billing and collection services provided by it.

Section 38-97-60. (A) A vendor of portable electronics, its employee, or its authorized representative who violates a provision of this chapter may after proper notice and an opportunity for a hearing be subject by the department to:

(1) administrative penalties as provided in Section 38-2-10. However, administrative penalties shall not exceed thirty thousand dollars in the aggregate for violations of a similar nature; and

(2) other penalties the department considers necessary and reasonable to effectuate the purposes of this chapter, including:

(a) suspending the privilege of transacting portable electronics insurance pursuant to this chapter at specific locations where a violation has occurred;

(b) suspending or revoking the ability of an individual employee or authorized representative to act under the license; and

(c) suspending or revoking the license of the vendor.

Section 38-97-70. (A) Notwithstanding another provision of law, an insurer may terminate coverage or otherwise change the terms and conditions of a policy of portable electronics insurance only as

provided in the policy between the insurer and the policyholder and enrolled customers and only upon providing the policyholder and enrolled customers with at least thirty days' notice.

(B) If an insurer changes these terms and conditions, the insurer shall provide:

(1) the vendor with a revised policy or endorsement; and

(2) each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred and a summary of material changes made.

(C) Notwithstanding subsection (A) of this section, an insurer may:

(1) terminate a customer's enrollment under a portable electronics insurance policy upon fifteen days' notice to the policy holder and enrolled customers for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the coverage; and

(2) immediately terminate a customer's enrollment under a portable electronics insurance policy:

(a) for nonpayment of premium;

(b) if the enrolled customer ceases to have an active service with the vendor of portable electronics; or

(c) if an enrolled customer exhausts the individual aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within thirty days after the exhaustion of this limit. If this notice is not timely sent, enrollment must continue regardless of the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer.

(D) When a portable electronics insurance policy is terminated by a policyholder, the policyholder shall mail or deliver written notice to each enrolled customer advising the enrolled customer of the termination of the policy and the effective date of termination. This written notice must be mailed or delivered to the enrolled customer at least thirty days before termination.

(E) Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to this section or is otherwise required by law, this notice or correspondence must be in writing. Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means as set forth in this section. If the notice or correspondence is mailed, it must be sent to the vendor of portable electronics at the vendor's mailing address specified for such purpose and to its affected enrolled

customers' last known mailing addresses on file with the insurer. The insurer or vendor of portable electronics, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it must be sent to the vendor of portable electronics at the vendor's electronic mail address specified for such purpose and to its affected enrolled customers' last known electronic mail address as provided by each enrolled customer to the insurer or vendor of portable electronics, as the case may be. For purposes of this subsection, an enrolled customer's provision of an electronic mail address to the insurer or vendor of portable electronics, as the case may be, must be considered consent to receive notices and correspondence by electronic means. An insurer or vendor of portable electronics shall maintain proof that the notice or correspondence was sent.

(F) Notice or correspondence required by this section or otherwise required by law may be sent on behalf of an insurer or vendor by the supervising entity appointed by the insurer.

Section 38-97-80. (A) A sworn application for a license under this chapter must be made to and filed with the department on forms prescribed by the department.

(B) An application required under subsection (A) must provide the:

(1) location of the home office of the applicant; and

(2) name, residential address, and other information required by the department for:

(a) an employee or officer of the vendor who is designated by the applicant as the person responsible for the compliance of the vendor with the requirements of this chapter; and

(b) all of its officers, directors, and shareholders of record having a beneficial ownership of ten percent or more of any class of securities registered under federal securities law, but only if the vendor derives more than fifty percent of its revenue from the sale of portable electronics insurance.

(3) Any changes to information provided to the department under this section, must be provided to the department within thirty days of that change being made.

(C) Any vendor engaging in portable electronics insurance transactions on or before the effective date of this act must apply for licensure within ninety days after the application being made available by the department. Any applicant commencing operations after the

effective date of this act must obtain a license prior to offering portable electronics insurance.

(D) A licensee must renew a license issued pursuant to this chapter biennially before August first of every odd-numbered year. If a license is not renewed as required by this section, the license must be canceled. A licensee may reinstate the same license within six months after the compliance deadline by paying the renewal fee and a reinstatement fee equal to the renewal fee.

(E)(1) A vendor of portable electronics insurance licensed under this chapter shall pay to the department a fee of one thousand dollars for an initial portable electronics insurance license and five hundred dollars for a renewal.

(2) The department shall retain any fee or surcharge imposed by this section to use for the administration of Title 38.

Section 38-97-90. The director of the department:

(1) may, by order, require policy forms, rates, and rules concerning portable electronics insurance be filed with, and approved by, the director or his designee before use if considered necessary for the protection of the public, notwithstanding another provision of law; and

(2) may promulgate regulations necessary to implement the provisions of this chapter."

Time effective

SECTION 2. The provisions of this act take effect January 1, 2013.

Ratified the 8th day of May, 2012.

Approved the 14th day of May, 2012.

No. 173

(R199, S220)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-1-148 SO AS TO PROHIBIT THE RESALE FOR HUMAN CONSUMPTION OF MEAT AND MEAT PRODUCTS THAT HAVE BEEN SOLD TO AND RETURNED BY A CONSUMER.

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

Resale for human consumption prohibited for fresh meat or fresh meat products if returned by a consumer

SECTION 1. Chapter 1, Title 44 of the 1976 Code is amended by adding:

"Section 44-1-148. Fresh meat or fresh meat products sold to a consumer may not be offered to the public for resale for human consumption if the fresh meat or fresh meat products have been returned by the consumer."

Time effective

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

Ratified the 23rd day of May, 2012.

Approved the 25th day of May, 2012.

No. 174

(R200, S1149)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "BORN ALIVE INFANT PROTECTION ACT"; TO AMEND SECTION 2-7-30, RELATING TO CONSTRUCTION OF WORDS IN LEGISLATIVE ENACTMENTS, SO AS TO PROVIDE FOR CONSTRUCTION OF THE TERM "BORN ALIVE".

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

Citation

SECTION 1. This act may be referred to and cited as the "Born Alive Infant Protection Act".

Construction of words in legislative enactments, born alive

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

"Section 2-7-30. (A) The words 'person' and 'party' and any other word importing the singular number used in any act or joint resolution shall be held to include the plural and to include firms, companies, associations, and corporations and all words in the plural shall apply also to the singular in all cases in which the spirit and intent of the act or joint resolution may require it. All words in an act or joint resolution importing the masculine gender shall apply to females also and words in the feminine gender shall apply to males. And all words importing the present tense shall apply to the future also.

(B)(1) In determining the meaning of any act or joint resolution of the General Assembly or in a regulation promulgated pursuant to Article 1, Chapter 23, Title 1, unless otherwise defined in the act, joint resolution, or regulation, the words 'person', 'human being', 'child', and 'individual' must include every infant member of the species homo sapiens who is born alive at any stage of development.

(2) As used in this subsection, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from the mother of that member, at any stage of development, who after the expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

(3) Nothing in this subsection may be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point before being born alive as defined in this subsection."

Severability clause

SECTION 3. A provision of this act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event the provision shall be deemed severable here from and shall not affect the remainder hereof or the

application of the provision to other persons not similarly situated or to other, dissimilar circumstances.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 23rd day of May, 2012.

Approved the 25th day of May, 2012.

No. 175

(R201, S1213)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 67 TO TITLE 2 SO AS TO ENACT THE "SOUTH CAROLINA MEDAL OF VALOR ACT OF 2012", TO RECOGNIZE SOUTH CAROLINIANS, OR INDIVIDUALS WITH CERTAIN TIES TO SOUTH CAROLINA, WHO WERE KILLED IN ACTION WHILE SERVING IN THE ARMED FORCES OF THE UNITED STATES OF AMERICA, TO PROVIDE FOR THE SOUTH CAROLINA MEDAL OF VALOR ROLL, AND TO ESTABLISH THE SOUTH CAROLINA MEDAL OF VALOR AWARD CRITERIA.

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

South Carolina Medal of Valor

SECTION 1. Title 2 of the 1976 Code is amended by adding:

"CHAPTER 67

South Carolina Medal of Valor

Section 2-67-10. This chapter must be known and may be cited as the 'South Carolina Medal of Valor Act of 2012'.

Section 2-67-20. (A) There is created the South Carolina Medal of Valor to be awarded to a South Carolinian, or an individual with certain ties to South Carolina, who was killed either while serving in or deploying to a combat zone. The South Carolina Medal of Valor is awarded on behalf of the people of the State of South Carolina and is presented to the families of these fallen service members.

(B) The South Carolina Medal of Valor may be awarded, on behalf of the people of the State of South Carolina, to an individual who was killed in action or died while:

(1) engaged in an action against an enemy of the United States;

(2) engaged in military operations involving conflict with an opposing foreign force;

(3) served with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party; or

(4) served in, or was in the process of deploying to, an area where hostile fire pay or imminent danger pay was authorized pursuant to federal law or regulation.

(C) Recipients of the South Carolina Medal of Valor shall have their names entered on the South Carolina Medal of Valor roll, which is to be maintained by the Adjutant General of the State of South Carolina.

(D) Individuals eligible to receive the South Carolina Medal of Valor include:

(1) members of the South Carolina National Guard who were legal residents of South Carolina at the time of their death;

(2) members of a Reserve Component of the United States Armed Forces who were legal residents of South Carolina at the time of their death;

(3) members of the regular United States Armed Forces who were:

(a) legal residents of South Carolina at the time of their death; or

(b) stationed in South Carolina by a proper order of the United States Department of Defense at the time they were killed in action; or

(4) members of the South Carolina National Guard, a regular or reserve component of the United States Armed Forces who:

(a) attended a public or private educational institution in South Carolina at some period during their lives; and

(b) were killed or died as described in subsection (B).

(E) The South Carolina Medal of Valor shall be awarded solely by a concurrent resolution:

(1) introduced by:
(a) the President Pro Tempore of the Senate; or
(b) the Speaker of the House of Representatives; and
(2) adopted by both houses of the General Assembly.

(F) The Adjutant General shall develop the appropriate design and appearance of the medal. However, nothing in this section requires the Adjutant General to provide or pay for the medal or its design."

Time effective

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

Ratified the 23rd day of May, 2012.

Approved the 25th day of May, 2012.

No. 176

(R203, S1307)

AN ACT TO AMEND SECTION 59-7-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA EDUCATIONAL TELEVISION COMMISSION, SO AS TO ADD A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 59-47-10, RELATING TO THE SOUTH CAROLINA SCHOOL FOR THE DEAF AND THE BLIND BOARD OF COMMISSIONERS, SO AS TO ADD A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 59-48-20, RELATING TO THE SPECIAL SCHOOL OF SCIENCE AND MATHEMATICS BOARD OF TRUSTEES, SO AS TO ADD A BOARD MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT AND TO ELIMINATE THE SEAT HELD BY THE CHAIRMAN OF THE JOINT LEGISLATIVE COMMITTEE TO STUDY THE STATE'S PUBLIC EDUCATION SYSTEM; TO AMEND SECTION 59-50-20, AS AMENDED, RELATING TO THE SOUTH CAROLINA GOVERNOR'S SCHOOL FOR ARTS AND HUMANITIES BOARD OF DIRECTORS, SO AS TO ADD A

MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 59-53-10, RELATING TO THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION, SO AS TO ADD A BOARD MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 59-103-10, RELATING TO THE STATE COMMISSION ON HIGHER EDUCATION, SO AS TO ADD A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 59-123-40, RELATING TO THE MEDICAL UNIVERSITY OF SOUTH CAROLINA BOARD OF TRUSTEES, SO AS TO ADD TWO MEMBERS TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 59-123-50, RELATING TO THE MEDICAL UNIVERSITY OF SOUTH CAROLINA BOARD OF TRUSTEES, SO AS TO PROVIDE FOR THE ELECTION OF A MEMBER OF THE MEDICAL PROFESSION AND A MEMBER OF A NONMEDICAL PROFESSION FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 59-125-20, AS AMENDED, RELATING TO THE WINTHROP UNIVERSITY BOARD OF TRUSTEES, SO AS TO ADD A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 59-125-30, AS AMENDED, RELATING TO THE ELECTION OF THE WINTHROP UNIVERSITY BOARD OF TRUSTEES, SO AS TO DESIGNATE THE SEAT NUMBER FOR THE NEWLY ESTABLISHED BOARD MEMBER FROM THE SEVENTH CONGRESSIONAL DISTRICT FOR THE WINTHROP UNIVERSITY BOARD OF TRUSTEES AND TO ADJUST THE BOARD MEMBER SEAT NUMBERS ACCORDINGLY; TO AMEND SECTION 59-127-20, RELATING TO THE SOUTH CAROLINA STATE UNIVERSITY BOARD OF TRUSTEES, SO AS TO ADD A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT, TO REMOVE AN AT-LARGE MEMBER, AND TO ADJUST THE BOARD MEMBER SEAT NUMBERS ACCORDINGLY; TO AMEND SECTION 59-130-10, AS AMENDED, RELATING TO THE COLLEGE OF CHARLESTON BOARD OF TRUSTEES, SO AS TO ADD TWO MEMBERS TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT AND TO ADJUST THE BOARD MEMBER SEAT NUMBERS ACCORDINGLY;

TO AMEND SECTION 59-133-10, AS AMENDED, RELATING TO THE FRANCIS MARION UNIVERSITY BOARD OF TRUSTEES, SO AS TO REDUCE THE NUMBER OF BOARD MEMBERS FOR EACH CONGRESSIONAL DISTRICT FROM TWO TO ONE, TO ADD A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT, TO MOVE FIVE TRUSTEES TO NEWLY CREATED AT-LARGE SEATS, AND TO ADJUST THE BOARD MEMBER SEAT NUMBERS ACCORDINGLY; TO AMEND SECTION 59-135-10, RELATING TO THE LANDER UNIVERSITY BOARD OF TRUSTEES, SO AS TO REDUCE THE NUMBER OF BOARD MEMBERS FOR EACH CONGRESSIONAL DISTRICT FROM TWO TO ONE, TO ADD A MEMBER TO BE APPOINTED FROM THE NEWLY CREATED SEVENTH CONGRESSIONAL DISTRICT, TO MOVE FIVE TRUSTEES TO NEWLY CREATED AT-LARGE SEATS, AND TO ADJUST THE BOARD MEMBER SEAT NUMBERS ACCORDINGLY; TO AMEND SECTION 59-136-110, RELATING TO THE COASTAL CAROLINA UNIVERSITY BOARD OF TRUSTEES, SO AS TO REDUCE THE NUMBER OF BOARD MEMBERS FOR EACH CONGRESSIONAL DISTRICT FROM TWO TO ONE, TO ADD A MEMBER TO BE APPOINTED FROM THE NEWLY CREATED SEVENTH CONGRESSIONAL DISTRICT, TO MOVE FIVE TRUSTEES TO NEWLY CREATED AT-LARGE SEATS, AND TO ADJUST THE BOARD MEMBER SEAT NUMBERS ACCORDINGLY; TO AMEND SECTION 60-1-10, RELATING TO THE SOUTH CAROLINA STATE LIBRARY BOARD, SO AS TO ADD A MEMBER TO BE APPOINTED FROM THE NEWLY CREATED SEVENTH CONGRESSIONAL DISTRICT AND TO ELIMINATE ONE AT-LARGE SEAT; TO AMEND SECTION 60-13-10, RELATING TO THE SOUTH CAROLINA MUSEUM COMMISSION, SO AS TO INCREASE THE NUMBER OF COMMISSION MEMBERS FOR THE SOUTH CAROLINA MUSEUM COMMISSION AND BY ADDING A MEMBER TO BE APPOINTED FROM THE NEWLY CREATED SEVENTH CONGRESSIONAL DISTRICT; TO PROVIDE THAT ANY PERSON ELECTED OR APPOINTED TO SERVE, OR SERVING, AS A MEMBER OF ANY BOARD OR COMMISSION TO REPRESENT A CONGRESSIONAL DISTRICT WHOSE RESIDENCY IS TRANSFERRED TO ANOTHER DISTRICT BY A CHANGE IN THE COMPOSITION OF THE DISTRICT MAY CONTINUE

TO SERVE THE TERM OF OFFICE FOR WHICH HE WAS ELECTED OR APPOINTED; TO PROVIDE THAT THE APPOINTING OR ELECTING AUTHORITY SHALL APPOINT OR ELECT AN ADDITIONAL MEMBER ON THAT BOARD OR COMMISSION FROM THE DISTRICT WHICH LOSES A RESIDENT MEMBER AS A RESULT OF THE TRANSFER TO SERVE UNTIL THE TERM OF THE TRANSFERRED MEMBER EXPIRES; TO REQUIRE THAT WHEN A VACANCY OCCURS IN THE DISTRICT TO WHICH A MEMBER HAS BEEN TRANSFERRED, THE VACANCY MUST NOT BE FILLED UNTIL THE FULL TERM OF THE TRANSFERRED MEMBER EXPIRES; AND TO ALLOW FOR RETENTION OF CURRENT MEMBERS OF THE VARIOUS BOARDS OF TRUSTEES IN THE EVENT ELECTIONS ARE NOT HELD BEFORE JUNE 30, 2012.

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

South Carolina Educational Television Commission, membership revised

SECTION 1. Section 59-7-10 of the 1976 Code is amended to read:

"Section 59-7-10.There is hereby created the South Carolina Educational Television Commission, which shall be composed of the Superintendent of Education, who shall be a member of the commission, ex officio, and in addition the commission shall be composed of eight members to be appointed by the Governor as follows: One shall be appointed from each of the congressional districts, and one shall be appointed from the State at large, who shall be named by the Governor as chairman of the commission. The term of the member who serves ex officio shall be coterminous with the term of the office to which he was elected, and the terms of the members appointed by the Governor shall be for six years, except that of those first appointed two shall serve for terms of two years, two shall serve for terms of four years and three shall serve for terms of six years, after which the terms of all members shall be for six years."

South Carolina School for the Deaf and the Blind, Board of Commissioners, membership revised

SECTION 2. Section 59-47-10 of the 1976 Code is amended to read:

"Section 59-47-10. The Board of Commissioners of the South Carolina School for the Deaf and the Blind shall consist of eleven members appointed by the Governor for terms of six years and until their successors are appointed and qualify. Each congressional district must be represented by one board member, who must be a resident of that district, and four members must be appointed at large from the State. Of the members appointed at large, one must be deaf, one must be blind, one must represent the interests of persons with multiple handicaps, and one shall represent the general public. Vacancies must be filled in the manner of the original appointment for the remainder of the unexpired term. The State Superintendent of Education and the Executive Officer of the Department of Health and Environmental Control are ex officio members of the board."

Special School of Science and Mathematics, Board of Trustees, membership revised

SECTION 3. Section 59-48-20 of the 1976 Code is amended to read:

"Section 59-48-20.(A) The school is under the management and control of a board of trustees consisting of eleven members, as follows:

(1) one member from each congressional district appointed by the Governor;

(2) two members appointed from this State at large by the Governor;

(3) the State Superintendent of Education, ex officio, or his designee;

(4) the Executive Director of the Commission on Higher Education, ex officio, or his designee.

Members appointed by the Governor shall serve for four years and until their successors are appointed and qualify, except that of those first appointed, the members representing the First, Second, and Third Congressional Districts and one at-large member shall serve for two 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.

In his appointments, the Governor shall seek to obtain the best qualified persons from the business, industrial, and educational communities, including mathematicians and scientists.

The board of trustees shall explore use of the facilities of Coker College for the school's campus.

(B) The Board of Trustees of the Special School of Science and Mathematics shall also include the following six additional members:

(1) the President of the South Carolina Governor's School of Science and Mathematics Foundation, Inc. to serve ex officio;

(2) the provost or vice president for academic affairs from each of the following higher education research institutions to serve ex officio:

(a) Clemson University;

(b) the University of South Carolina;

(c) the Medical University of South Carolina;

(3) two members appointed from the State at large by the Governor to serve for terms of four years each and until their successors are appointed and qualify. Vacancies shall be filled by appointment in the manner of original appointment for the remainder of the unexpired term."

South Carolina Governor's School for Arts and Humanities, Board of Directors, membership revised

SECTION 4. Section 59-50-20 of the 1976 Code, as last amended by Act 84 of 2005, is further amended to read:

"Section 59-50-20. The school is governed by a board of directors composed of seventeen members, as follows:

(1) one member from each congressional district, appointed by the Governor;

(2) six members from the State at large, appointed by the Governor;

(3) the Chairman of the Education Oversight Committee or his designee who serves ex officio;

(4) the State Superintendent of Education or his designee who serves ex officio;

(5) the Executive Director of the Commission on Higher Education or his designee who serves ex officio; and

(6) the chairman of the school's foundation board or his designee who serves ex officio.

Members appointed by the Governor serve for terms of four years and until their successors are appointed and qualify. Members receive mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

In making the appointments, the Governor shall seek to obtain the most qualified persons from business, industry, and the educational and arts communities."

State Board for Technical and Comprehensive Education, membership revised

SECTION 5. Section 59-53-10 of the 1976 Code is amended to read:

"Section 59-53-10. There is hereby created the State Board for Technical and Comprehensive Education (board) as a continuing body and agency and instrumentality of the State. The board shall consist of eleven members, appointed by the Governor for terms of six years and until successors are appointed and qualify. One member must be appointed from each congressional district, with the advice and consent of the legislative delegations of the congressional district involved, and be a resident thereof. There must be four at-large members appointed by the Governor, one of whom must be experienced in the policy development of secondary vocational education and adult basic and adult secondary education and one of whom must be experienced in the policy development of federal job training programs. The initial terms of office of board members representing congressional districts are for a period of years corresponding to the numerical designation of their respective districts. The initial terms of office of the first at-large members of the board are for three and six years determined by lot and the initial term of the at-large member experienced in the policy development of secondary vocational education and adult basic and adult secondary education is three years and the initial term of the at-large member experienced in the policy development of federal job training programs is six years. In addition, the State Superintendent of Education and the Secretary of Commerce shall serve as ex officio members of the board. The chairman must be elected by the board. In case a vacancy shall occur a member must be appointed in the same manner for the remainder of the unexpired term. The board shall enter into contracts and make regulations, including policies and guidelines, as considered necessary to fulfill the intent of Sections 59-5-61, 59-43-20, 59-53-10, 59-53-20, 59-53-40, 59-53-50, 59-53-57, 59-54-10 through 59-54-60, subject to the approval of the General Assembly."

State Commission on Higher Education, membership revised

SECTION 6. Section 59-103-10 of the 1976 Code is amended to read:

"Section 59-103-10. There is created the State Commission on Higher Education. The commission shall consist of fifteen members appointed by the Governor. The membership must consist of one at-large member to serve as chairman, one representative from each of the congressional districts, three members appointed from the State at large, three representatives of the public colleges and universities, and one representative of the independent colleges and universities of South Carolina.

The membership of the Commission on Higher Education must be as follows:

(1) Ten members, seven to represent each of the congressional districts of this State appointed by the Governor upon the recommendation of a majority of the senators and a majority of the members of the House of Representatives comprising the legislative delegation from the district and three members appointed from the State at large upon the advice and consent of the Senate. Each representative of a congressional district must be a resident of the congressional district he represents. In order to qualify for appointment, the representatives from the congressional districts and those appointed at large must have experience in at least one of the following areas: business, the education of future leaders and teachers, management, or policy. A member representing the congressional districts or appointed at large must not have been, during the succeeding five years, a member of a governing body of a public institution of higher learning in this State and must not be employed or have immediate family members employed by any of the public colleges and universities of this State. These members must be appointed for terms of four years and shall not serve on the commission for more than two consecutive terms. However, the initial term of office for a member appointed from an even-numbered congressional district shall be two years.

If the boundaries of the congressional districts are changed, members serving on the commission shall continue to serve until the expiration of their current terms, but successors to members whose terms expire must be appointed from the newly defined congressional districts. If a congressional district is added, the commission must be enlarged to include a representative from that district.

(2) Three members to serve ex officio to represent the public colleges and universities appointed by the Governor with the advice and consent of the Senate. It shall not be a conflict of interest for any voting ex officio member to vote on matters pertaining to their

individual college or university. One member must be serving on the board of trustees of one of the public senior research institutions, one member must be serving on the board of trustees of one of the four-year public institutions of higher learning, and one member must be a member of one of the local area technical education commissions or the State Board for Technical and Comprehensive Education to represent the State Board for Technical and Comprehensive Education. These members must be appointed to serve terms of two years with terms to rotate among the institutions.

(3) One ex officio member to represent the independent colleges and universities by the Governor upon the advice and consent of the Senate. The individual appointed must be serving as a member of the Advisory Council of Private College Presidents. This member must be appointed for a term of two years and shall serve as a nonvoting member.

(4) One at-large member to serve as chairman appointed by the Governor with the advice and consent of the Senate. This member must be appointed for a term of four years and may be reappointed for one additional term; however, he may serve only one term as chairman.

The Governor, by his appointments, shall assure that various economic interests and minority groups, especially women and blacks, are fairly represented on the commission and shall attempt to assure that the graduates of no one public or private college or technical college are dominant on the commission. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term. All members of the commission shall serve until their successors are appointed and qualify."

Medical University of South Carolina, Board of Trustees, membership revised

SECTION 7. Section 59-123-40 of the 1976 Code is amended to read:

"Section 59-123-40. The management and control of the university shall be vested in a board of trustees, to be composed as follows: the Governor or his designee, ex officio, fourteen members to be elected by the General Assembly in joint assembly and one member to be appointed by the Governor. The Governor shall make the appointment based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina."

Medical University of South Carolina, Board of Trustees, election of additional members

SECTION 8. Section 59-123-50 of the 1976 Code is amended to read:

"Section 59-123-50. The present members of the board of trustees shall continue to serve until July 1, 1966, at which time their terms shall terminate and the members of the board to succeed the present members, and to fill the additional membership provided in Section 59-123-40, must be elected at a joint session of the General Assembly on the following dates: On the first Wednesday in February 1966, members representing the medical profession (medical doctor, dentist, registered nurse, or licensed pharmacist) and on the second Wednesday in February 1966, lay members or nonmedical members. One member of the medical profession from each congressional district and one layman or member of a nonmedical profession from each congressional district must be elected. The terms of all members elected commence on July 1, 1966. Of those first elected, the member who represents the medical profession from the first, second, and third congressional districts and lay members or members of a nonmedical profession from the fourth, fifth, and sixth congressional districts must be elected for terms of four years or until their successors are elected and qualify. The member of the board of trustees who represents the medical profession from the fourth, fifth, and sixth congressional districts and the members who are laymen or members of nonmedical professions from the first, second, and third congressional districts must be elected for terms of two years or until their successors are elected and qualify. Effective July 1, 2012, the member who represents the medical profession from the seventh congressional district must be elected to a term of four years and the lay member or member of a nonmedical profession from the seventh congressional district must be elected for an initial term of two years. Their successors must be elected for terms of four years or until their successors are elected and qualify. After its 1984 session, the General Assembly shall elect successors to those members it elects not earlier than the first day of April for a term to begin the following July first. Elections to fill vacancies on the board which are caused by the death, resignation, or removal of an elective trustee may be held earlier than the first day of April of the year in which the unexpired term terminates, but the term of the person elected to succeed the member expires on the last day of June of the year in which the term of the former member would have expired. In electing members of the board,

the General Assembly shall elect members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina.

The term of the at-large trustee appointed by the Governor is effective upon certification to the Secretary of State and is four years. Any vacancy in the office of the member appointed by the Governor must be filled by appointment for the unexpired term in the same manner of original appointment. If the Governor chooses to designate a member to serve in his stead, as permitted by Section 59-123-40, the appointment is effective upon certification to the Secretary of State and shall continue, at the pleasure of the Governor making the appointment, so long as he continues to hold the specified office."

Winthrop University, Board of Trustees, membership revised

SECTION 9. Section 59-125-20 of the 1976 Code, as last amended by Act 50 of 2007, is further amended to read:

"Section 59-125-20. (A) The Board of Trustees of Winthrop University is composed of the Governor and the State Superintendent of Education or their designees who are members ex officio of the board, ten other members each to be elected by the joint vote of the General Assembly, as hereinafter provided, and two graduates of Winthrop University to be appointed by the Winthrop University Alumni Association or its successors, as hereinafter provided.

(B) In addition to the members of the board in subsection (A), there shall be one additional member of the board appointed by the Governor. The Governor shall make the appointment based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina."

Winthrop University, Board of Trustees, membership revised

SECTION 10. Section 59-125-30 of the 1976 Code, as last amended by Act 50 of 2007, is further amended to read:

"Section 59-125-30. Of the ten members to be elected by the General Assembly, one member must be elected from each of the congressional districts and three members must be elected by the General Assembly from the State at large. Each representative of a

congressional district must be a resident of the congressional district represented. The regular term of office of the elective members of the board of trustees is six years. In electing members of the board, the General Assembly shall elect members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina. The elective members of the board of trustees shall continue to serve until the thirtieth day of June of the year in which their terms are scheduled to expire. Those persons elected by the General Assembly shall have their seats designated as the seat number corresponding to the congressional district from which they are elected with the at-large members designated as Seat Eight, Seat Nine, and Seat Ten with the present at-large member of the board deemed to be serving in Seat Eight. The General Assembly shall hold elections to fill vacancies as they occur on the board by the expiration of terms of office, as follows: Seat One in 2006, Seat Two in 2008, Seat Three in 2004, Seat Four in 2004, Seat Five in 2006, Seat Six in 2008, Seat Seven in 2018, Seat Eight in 2005, Seat Nine in 2008, and Seat Ten in 2009. In 2008, the person elected by the General Assembly to fill Seat Nine shall serve a six-year term and in 2009, the person elected by the General Assembly to fill Seat Ten shall serve a six-year term. At the completion of those terms of office, all subsequent members of the board elected by the General Assembly to fill Seats Nine and Ten shall be elected for six-year terms. Elections to fill vacancies which are caused by the death, resignation, or removal of an elective trustee may be held earlier than the first day of April of the year in which the unexpired term terminates, but the term of the person elected to fill the vacancy expires on the last day of June of the year in which the term of the former member would have expired. When there is a vacancy otherwise occurring on the board of trustees among the elected members, the Governor may fill it by appointment until the next session of the General Assembly. The State Superintendent of Education or the superintendent's designee shall serve in Seat Eleven, ex officio. Seat Fourteen shall be a member appointed by the Governor. The Governor or the Governor's designee shall serve in Seat Fifteen, ex officio. In 2006, the person elected by the Winthrop University Alumni Association or its successors to fill Seat Twelve shall serve a six-year term and the person elected by the Winthrop University Alumni Association or its successors to fill Seat Thirteen shall serve a four-year term. At the completion of those terms of office, all subsequent members of the board elected by the Winthrop University Alumni Association or its successors to fill Seats Twelve and Thirteen

shall be elected for six-year terms. The names of those so elected must be certified to the Secretary of State by the president and secretary of the association and they shall take office immediately after the certification. The term of the at-large trustee appointed by the Governor to Seat Fourteen is effective upon certification to the Secretary of State and is coterminous with the term of office of the Governor. Any vacancy in the office of the member appointed by the Governor must be filled by appointment of the Governor for the unexpired term in the same manner of original appointment."

South Carolina State University, Board of Trustees, membership revised

SECTION 11. Section 59-127-20(A) of the 1976 Code is amended to read:

"(A) South Carolina State University is managed and controlled by a board of trustees, composed of thirteen members, twelve of whom are elected by the General Assembly, one member from each congressional district and five at large for terms of four years each and until their successors are elected and qualify. In electing members of the board, the General Assembly shall elect members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina. The Governor of the State or his designee is ex officio, the thirteenth member of the board of trustees. In case of a vacancy on the board, the Governor may fill it by appointment until the next session of the General Assembly. Members of the board are entitled to subsistence, per diem, and mileage authorized for members of state boards, committees, and commissions.

Each position on the board constitutes a separate office and the seats on the board are numbered consecutively, one corresponding in number to each congressional district and Seats Eight-Twelve at large. The Governor or his designee occupies Seat Thirteen. Effective July 1, 2012, the member from former Seat Seven is transferred to Seat Eight, the member from former Seat Eight is transferred to Seat Nine, the member from former Seat Nine is transferred to Seat Ten, the member from former Seat Ten is transferred to Seat Eleven, and the member from former Seat Eleven is transferred to Seat Twelve.

The terms of the present members of the board who are elected by the General Assembly expire on the thirtieth day of June of the year in which the terms are scheduled to expire. The General Assembly shall

elect successors to the elective trustees not earlier than the first day of April for a term to begin the following July first. Elections to fill vacancies on the board which are caused by the death, resignation, or removal of an elective trustee may be held earlier than the first day of April of the year in which the unexpired term terminates, but the term of the person elected to fill the vacancy expires on the last day of June of the year in which the term of the former member would have expired."

College of Charleston, Board of Trustees, membership revised

SECTION 12. Section 59-130-10 of the 1976 Code, as last amended by Act 257 of 2010, is further amended to read:

"Section 59-130-10. The Board of Trustees for the College of Charleston is composed of the Governor of the State or his designee, who is an ex officio of the board, and nineteen members, with seventeen of these members elected by the General Assembly, one member appointed from the State at large by the Governor, and one member appointed by the Governor upon recommendation of the College of Charleston Alumni Association. The General Assembly shall elect and the Governor shall appoint these members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of this State.

Of the seventeen members to be elected, two members must be elected from each congressional district and the remaining three members must be elected by the General Assembly from the State at large.

The term of office of the at-large trustee appointed by the Governor is effective upon certification to the Secretary of State and is coterminous with the term of the Governor appointing him. He shall serve after his term has expired until his successor is appointed and qualifies. The member appointed by the Governor upon recommendation of the College of Charleston Alumni Association shall serve for a term of four years, beginning on July 1, 2010, until his successor is appointed and qualifies. The member must be a South Carolina resident and hold an undergraduate or graduate degree from the College of Charleston.

Each position on the board constitutes a separate office and the seats on the board are numbered consecutively as follows: for the First Congressional District, Seats One and Two; for the Second

Congressional District, Seats Three and Four; for the Third Congressional District, Seats Five and Six; for the Fourth Congressional District, Seats Seven and Eight; for the Fifth Congressional District, Seats Nine and Ten; for the Sixth Congressional District, Seats Eleven and Twelve; for the Seventh Congressional District, Seats Thirteen and Fourteen; for the at-large positions elected by the General Assembly, Seats Fifteen, Sixteen, and Seventeen. The member appointed by the Governor shall occupy Seat Eighteen. The member appointed by the Governor upon recommendation of the alumni association shall occupy Seat Nineteen.

Effective July 1, 1988, the even-numbered seats of those members elected by the General Assembly must be filled for four-year terms expiring June 30, 1992. The remaining elective odd-numbered seats on the board must be filled for two-year terms beginning July 1, 1988, and expiring June 30, 1990. The trustees for the odd-numbered seats must then be elected for four-year terms beginning July 1, 1990, and expiring June 30, 1994. Effective July 1, 2012, the member elected to Seat Thirteen on the board must be elected for two-year terms beginning July 1, 2012, and expiring June 30, 2014, and the member elected to Seat Fourteen on the board must be elected to fill a four-year term beginning July 1, 2012, and expiring June 30, 2016. The General Assembly shall hold elections every two years to select successors of the trustees whose four-year terms are then expiring. Except as otherwise provided in this chapter, no election may be held before April first of the year in which the successor's term is to commence. The term of office of an elective trustee commences on the first day of July of the year in which the trustee is elected.

If an elective office becomes vacant, the Governor may fill it by appointment until the next session of the General Assembly. The General Assembly shall hold an election at any time during the session to fill the vacancy for the unexpired portion of the term. A vacancy occurring in the appointed office on the board must be filled for the remainder of the unexpired term by appointment in the same manner of the original appointment."

Francis Marion University, Board of Trustees, membership revised

SECTION 13. Section 59-133-10 of the 1976 Code, as last amended by Act 355 of 2008, is further amended to read:

"Section 59-133-10. The Board of Trustees for Francis Marion University is composed of the Governor of the State or his designee,

who is an ex officio member of the board, and sixteen members, with fifteen of these members to be elected by the General Assembly and one member to be appointed from the State at large by the Governor. The General Assembly shall elect and the Governor shall appoint these members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of this State.

Of the fifteen members to be elected, one member must be elected from each congressional district and the remaining eight members must be elected by the General Assembly from the State at large.

The term of office of the at-large trustee appointed by the Governor is effective upon certification to the Secretary of State and is coterminous with the term of the Governor appointing him. He shall serve after his term has expired until his successor is appointed and qualifies.

Each position on the board constitutes a separate office and the seats on the board are numbered consecutively: Seats One through Seven corresponding to the number of each congressional district and Seats Eight through Fifteen to be designated at large. The member appointed by the Governor shall occupy Seat Sixteen.

Effective July 1, 2012, the member from former Seat One remains in Seat One, the member from former Seat Three is transferred to Seat Twelve, the member from former Seat Five is transferred to Seat Thirteen, the member from former Seat Seven is transferred to Seat Fourteen, the member from former Seat Nine is transferred to Seat Five, the member from former Seat Eleven is transferred to Seat Six, the member from former Seat Thirteen is transferred to Seat Eight, and the member from former Seat Fifteen is transferred to Seat Ten, with these members continuing to serve until their terms expire on June 30, 2014. A member for Seats Two, Three, Four, Seven, Nine, Eleven, and Fifteen must be elected by the General Assembly in 2012 for a term that expires on June 30, 2016. The General Assembly shall hold elections every two years to select successors of the trustees whose four-year terms are then expiring. Except as otherwise provided in this chapter, no election may be held before April first of the year in which the successor's term is to commence. The term of office of an elective trustee commences on the first day of July of the year in which the trustee is elected. If an elective office becomes vacant, the Governor may fill it by appointment until the next session of the General Assembly. The General Assembly shall hold an election at any time during the session to fill the vacancy for the unexpired portion of the term. A vacancy occurring in the appointed office on the board must be

filled for the remainder of the unexpired term by appointment in the same manner of the original appointment."

Lander University, Board of Trustees, membership revised

SECTION 14. Section 59-135-10 of the 1976 Code is amended to read:

"Section 59-135-10. The Board of Trustees for Lander University is composed of the Governor of the State or his designee, who is an ex officio of the board, and sixteen members, with fifteen of these members to be elected by the General Assembly and one member to be appointed from the State at large by the Governor. The General Assembly shall elect and the Governor shall appoint these members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of this State.

Of the fifteen members to be elected, one member must be elected from each congressional district and the remaining eight members must be elected by the General Assembly from the State at large.

The term of office of the at-large trustee appointed by the Governor is effective upon certification to the Secretary of State and is coterminous with the term of the Governor appointing him. He shall serve after his term has expired until his successor is appointed and qualifies.

Each position on the board constitutes a separate office and the seats on the board are numbered consecutively: Seats One through Seven corresponding to the number of each congressional district and Seats Eight through Fifteen to be designated at large. The member appointed by the Governor shall occupy Seat Sixteen.

Effective July 1, 2012, the member from former Seat One is transferred to Seat Eight, the member from former Seat Three is transferred to Seat Nine, the member from former Seat Five is transferred to Seat Ten, the member from former Seat Seven is transferred to Seat Eleven, the member from former Seat Nine is transferred to Seat Twelve, the member from former Seat Thirteen is to remain in Seat Thirteen, the member from former Seat Fourteen is to remain in Seat Fourteen, and the member from former Seat Fifteen is to remain in Seat Fifteen, with these members continuing to serve until their terms expire on June 30, 2014. The member from former Seat Eleven is transferred to Seat Six with a term that expires on June 30, 2016. A member for Seats One, Two, Three, Four, Five, and Seven

must be elected by the General Assembly in 2012 for a term that expires on June 30, 2016. The General Assembly shall hold elections every two years to select successors of the trustees whose four-year terms are then expiring. Except as otherwise provided in this chapter, no election may be held before April first of the year in which the successor's term is to commence. The term of office of an elective trustee commences on the first day of July of the year in which the trustee is elected.

If an elective office becomes vacant, the Governor may fill it by appointment until the next session of the General Assembly. The General Assembly shall hold an election at any time during the session to fill the vacancy for the unexpired portion of the term. A vacancy occurring in the appointed office on the board must be filled for the remainder of the unexpired term by appointment in the same manner of the original appointment."

Coastal Carolina University, Board of Trustees, membership revised

SECTION 15. Section 59-136-110 of the 1976 Code is amended to read:

"Section 59-136-110. The Board of Trustees for Coastal Carolina University is composed of the Governor of the State or his designee, who is an ex officio member of the board, and sixteen members, with fifteen of these members to be elected by the General Assembly and one member to be appointed from the State at large by the Governor. The General Assembly shall elect and the Governor shall appoint these members based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of this State.

Of the fifteen members to be elected by the General Assembly, one member must be elected from each congressional district and the remaining eight members must be elected from the State at large.

The term of office of the at-large trustee appointed by the Governor is effective upon certification to the Secretary of State and is coterminous with the term of the Governor appointing him.

Each position on the board constitutes a separate office and the seats on the board are numbered consecutively: Seats One through Seven corresponding to the number of each congressional district and Seats Eight through Fifteen to be designated at large. The member appointed by the Governor shall occupy Seat Sixteen.

The General Assembly shall elect those members of the board of trustees it elects during its 1993 Session. Members initially elected from Seats One, Three, Five, Seven, Nine, Eleven, Thirteen, and Fifteen shall be elected for two-year terms and members initially elected from Seats Two, Four, Six, Eight, Ten, Twelve, and Fourteen shall be elected for four-year terms. Thereafter, their successors shall each be elected for four-year terms.

Effective July 1, 2012, the member from former Seat Two is transferred to Seat Twelve, the member from former Seat Three is transferred to Seat Two, the member from former Seat Four is transferred to Seat Fifteen, the member from former Seat Five is transferred to Seat Thirteen, the member from former Seat Six is transferred to Seat Three, the member from former Seat Seven is transferred to Seat Eleven, the member from former Seat Eight is transferred to Seat Four, the member from former Seat Nine is transferred to Seat Ten, the member from former Seat Ten is transferred to Seat Five, the member from former Seat Eleven is transferred to Seat Eight, the member from former Seat Twelve is transferred to Seat Seven, the member from former Seat Thirteen is transferred to Seat Nine, and the member from former Seat Fifteen is transferred to Seat Fourteen.

The General Assembly shall hold elections every two years to select successors of the trustees whose terms are expiring in that year. Except as otherwise provided in this chapter, no election may be held before April first of the year in which the successor's term is to commence. The term of office of an elective trustee commences on the first day of July of the year in which the trustee is elected and all members shall serve until their successors are elected or appointed and qualify.

If an elective office becomes vacant, the Governor may fill it by appointment until the next session of the General Assembly. The General Assembly shall hold an election at any time during the session to fill the vacancy for the unexpired portion of the term. A vacancy occurring in the appointed office on the board must be filled for the remainder of the unexpired term by appointment in the same manner of the original appointment."

South Carolina State Library, State Library Board, membership revised

SECTION 16. Section 60-1-10 of the 1976 Code is amended to read:

"Section 60-1-10. There is created the South Carolina State Library governed by the State Library Board consisting of seven members, one from each congressional district. The members must be appointed by the Governor for terms of five years and until their successors are appointed and qualify. All vacancies must be filled in the manner of the original appointment for the unexpired term.

No person is eligible to serve as a member of the board for more than two successive terms, except that a person appointed to fill an unexpired term may be reappointed for two full terms."

South Carolina Museum Commission, membership revised

SECTION 17. Section 60-13-10 of the 1976 Code is amended to read:

"Section 60-13-10. There is hereby created the South Carolina Museum Commission composed of ten members appointed by the Governor for terms of four years and until their successors are appointed and qualify. One member shall be appointed from each congressional district of the State and three members shall be appointed at large. One of the at-large members shall be appointed chairman of the commission by the Governor. Vacancies for any reason shall be filled in the manner of original appointment for the unexpired term.

Notwithstanding the provisions above prescribing four-year terms for members of the commission, the members appointed from even-numbered congressional districts and one at-large member other than the chairman shall be initially appointed for terms of two years only."

Boards and commissions, residency changes or transfers of members appointed or elected to represent a congressional district

SECTION 18. Notwithstanding any other provision of law to the contrary, any person elected or appointed to serve, or serving, as a member of any board or commission to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board or commission from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to

which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires.

Boards and commissions, retention of members when elections not held

SECTION 19. In the event that elections for incumbent university board of trustees' seats whose terms are expiring this year are not held prior to June 30, 2012, current board members will retain their seats until the General Assembly reconvenes and holds elections.

Time effective

SECTION 20. This act takes effect upon approval by the Governor.

Ratified the 23rd day of May, 2012.

Approved the 25th day of May, 2012.

No. 177

(R205, H3259)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-2-105 SO AS TO DEFINE THE TERM "GATED COMMUNITY", TO PROVIDE THAT AN OWNER OF A GOLF CART MUST OBTAIN A PERMIT DECAL AND REGISTRATION FROM THE DEPARTMENT OF MOTOR VEHICLES TO OPERATE THE GOLF CART DURING DAYLIGHT HOURS, TO PROVIDE CERTAIN RESTRICTIONS UPON A PERSON WHO OPERATES A GOLF CART, TO PROVIDE THAT A POLITICAL SUBDIVISION MAY REDUCE THE AREA IN WHICH A GOLF CART MAY BE OPERATED, AND TO PROVIDE THAT CERTAIN RESTRICTIONS UPON THE OPERATION OF A GOLF CART CONTAINED IN THIS SECTION DO NOT APPLY TO A PUBLIC SAFETY AGENCY IN CONNECTION WITH THE PERFORMANCE OF ITS DUTIES; AND TO REPEAL SECTION 56-3-115 RELATING TO THE ISSUANCE OF PERMITS BY THE DEPARTMENT OF

MOTOR VEHICLES THAT ALLOW A GOLF CART TO BE OPERATED ON A SECONDARY HIGHWAY.

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

Golf cart permit and the operation of a golf cart

SECTION 1. Article 1, Chapter 2, Title 56 of the 1976 Code is amended by adding:

"Section 56-2-105. (A) For the purposes of this section, 'gated community' means any homeowners' community with at least one access-controlled ingress and egress which includes the presence of a guard house, a mechanical barrier, or another method of controlled conveyance.

(B) An individual or business owner of a vehicle commonly known as a golf cart may obtain a permit decal and registration from the Department of Motor Vehicles upon presenting proof of ownership and liability insurance for the golf cart and upon payment of a five dollar fee.

(1) During daylight hours only, a permitted golf cart may be operated within four miles of the address on the registration certificate and only on a secondary highway or street for which the posted speed limit is thirty-five miles an hour or less.

(2) During daylight hours only, a permitted golf cart may be operated within four miles of a point of ingress and egress to a gated community and only on a secondary highway or street for which the posted speed limit is thirty-five miles an hour or less.

(3) During daylight hours only, within four miles of the registration holder's address, and while traveling along a secondary highway or street for which the posted speed limit is thirty-five miles an hour or less, a permitted golf cart may cross a highway or street at an intersection where the highway has a posted speed limit of more than thirty-five miles an hour.

(4) During daylight hours only, a permitted golf cart may be operated along a secondary highway or street for which the posted speed limit is thirty-five miles an hour or less on an island not accessible by a bridge designed for use by automobiles.

(C) A person operating a permitted golf cart must be at least sixteen years of age and hold a valid driver's license. The operator of a permitted golf cart being operated on a highway or street must have in his possession:

(1) the registration certificate issued by the department;
(2) proof of liability insurance for the golf cart; and
(3) his driver's license.

(D)(1) A golf cart permit must be replaced with a new permit every five years, or at the time the permit holder changes his address.

(2) Golf cart owners holding golf cart permits on or before October 1, 2012, will have until September 30, 2015, to obtain a replacement permit.

(E) A political subdivision may, on designated streets or roads within the political subdivision's jurisdiction, reduce the area in which a permitted golf cart may operate from four miles to no less than two miles. However, a political subdivision may not reduce or otherwise amend the other restrictions placed on the operation of a permitted golf cart contained in this section.

(F) The provisions of this section that restrict the use of a golf cart to certain streets, certain hours, and certain distances shall not apply to a golf cart used by a public safety agency in connection with the performance of its duties."

Repeal

SECTION 2. Section 56-3-115 of the 1976 Code is repealed.

Time effective

SECTION 3. This act takes effect October 1, 2012.

Ratified the 23rd day of May, 2012.

Approved the 25th day of May, 2012.

No. 178

(R206, H3417)

AN ACT TO AMEND SECTION 6-11-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AUTHORITY TO ESTABLISH SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICTS, SO AS TO CLARIFY THAT THE PROVISION OF FIRE PROTECTION SERVICES MAY OR MAY NOT

INCLUDE RESCUE RESPONSE SERVICES AS AN AUTHORIZED PURPOSE FOR WHICH A SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICT MAY BE ESTABLISHED.

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

Authority to establish special purpose or public service districts

SECTION 1. Section 6-11-10 of the 1976 Code is amended to read:

"Section 6-11-10. In order to protect the public health, electric lighting districts, water supply districts, fire protection districts, and sewer districts may be established pursuant to this section for the purpose of supplying lights, water, providing fire protection with or without rescue response services related to the provision of fire services, a sewerage collection system, and a sewage treatment plant to a portion of any county in this State which is not included in an incorporated city or town."

Time effective

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

Ratified the 23rd day of May, 2012.

Approved the 25th day of May, 2012.

No. 179

(R207, H3934)

AN ACT TO AMEND SECTION 12-43-225, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MULTIPLE LOT DISCOUNTS, SO AS TO PROVIDE THAT APPLICATION FOR THE DISCOUNTED RATE ONLY MUST BE MADE IN THE FIRST YEAR, TO PROVIDE THAT IF APPLICATION FOR THE DISCOUNTED RATE IS LATE, THE ASSESSOR STILL SHALL GRANT THE DISCOUNT IF ALL OTHER REQUIREMENTS ARE MET AND A LATE APPLICATION PENALTY IS PAID, AND TO PROVIDE AN

ADDITIONAL THREE YEARS OF ELIGIBILITY IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 12-43-224, RELATING TO THE ASSESSMENT OF UNDEVELOPED ACREAGE SUBDIVIDED INTO LOTS, SO AS TO PROVIDE THAT LOTS NOT RECEIVING THE DISCOUNT ON DECEMBER 31, 2011, MAY NOT RECEIVE THE DISCOUNT; TO AMEND SECTION 12-43-220, AS AMENDED, RELATING TO QUALIFICATIONS FOR THE SPECIAL FOUR PERCENT ASSESSMENT RATIO, SO AS TO REQUIRE THE TAXPAYER TO CERTIFY THAT THE TAXPAYER NOR ANY MEMBER OF THE TAXPAYER'S HOUSEHOLD CLAIMS TO BE A RESIDENT OF ANOTHER JURISDICTION OR CLAIMS THE SPECIAL FOUR PERCENT ASSESSMENT RATIO ON ANOTHER RESIDENCE, AND TO PROVIDE FOR AN APPORTIONMENT OF THE SPECIAL FOUR PERCENT ASSESSMENT RATIO IN CERTAIN CIRCUMSTANCES; AND TO AMEND SECTION 12-37-3150, AS AMENDED, RELATING TO ASSESSABLE TRANSFERS OF INTEREST, SO AS TO PROVIDE THAT A TRANSFER OF A FRACTIONAL INTEREST BETWEEN FAMILY MEMBERS FOR ZERO OR DE MINIMIS CONSIDERATION IN CERTAIN CIRCUMSTANCES IS NOT AN ASSESSABLE TRANSFER OF INTEREST.

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

Multiple lot discount, extension

SECTION 1. A. Section 12-43-225 of the 1976 Code, as last amended by Act 89 of 2001, is further amended to read:

"Section 12-43-225. (A) For subdivision lots in a plat recorded on or after January 1, 2001, a subdivision lot discount is allowed in the valuation of the platted lots only as provided in subsection (B) of this section, and this discounted value applies for five property tax years or until the lot is sold or a certificate of occupancy is issued for the improvement on the lot, or the improvement is occupied, whichever of them elapses or occurs first. When the discount allowed by this section no longer applies, the lots must be individually valued as provided by law.

(B) To be eligible for a subdivision lot discount, the recorded plat must contain at least ten building lots. The owner shall apply for the

discount by means of a written application to the assessor on or before May first of the year for which the discount is initially claimed. After initially qualifying for the discount provided in this section, no further application is required, unless ownership of the property changes. A property owner may make a late application for the discount provided in this section until the thirtieth day following the mailing of the property tax bill for the year in which his discount is claimed provided the application is in writing and accompanied by a one hundred dollar late application penalty, payable to the county treasurer for deposit to the county general fund. The value of each platted building lot is calculated by dividing the total number of platted building lots into the value of the entire parcel as undeveloped real property.

(C) If a lot allowed the discount provided by this section is sold to the holder of a residential homebuilder's license or general contractor's license, the licensee shall receive the discount through the first tax year which ends twelve months from the date of sale if the purchaser files a written application for the discount with the county assessor within sixty days of the date of sale.

(D)(1) For lots which received the discount provided in subsection (B) on December 31, 2011, there is granted an additional three years of eligibility for that discount in property tax years 2012, 2013, and 2014, 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 three years of eligibility for that discount in property tax years 2012, 2013, and 2014. 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."

B. No refund is allowed due to the amendments to Section 12-43-225 of the 1976 Code, as contained in this SECTION.

Undeveloped acreage discount

SECTION 2. Section 12-43-224 of the 1976 Code is amended by adding an undesignated paragraph at the end to read:

"No lots platted and recorded not receiving the discount provided in this section on December 31, 2011, may receive the discount provided in this section."

Qualifications for special assessment ratio, apportionment of special assessment ratio

SECTION 3. A. Section 12-43-220(c)(2)(ii) of the 1976 Code, as last amended by Act 76 of 2009, is further amended to read:

"(ii) This item does not apply unless the owner of the property or the owner's agent applies for the four percent assessment ratio 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. In the application the owner or his agent shall provide all information required in the application, and shall certify to the following statement:

'Under penalty of perjury I certify that:

(A) the residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that neither I, nor any member of my household, claim to be a legal resident of a jurisdiction other than South Carolina for any purpose; and

(B) that neither I, nor a member of my household, claim the special assessment ratio allowed by this section on another residence.'"

B. Section 12-43-220(c) of the 1976 Code, as last amended by Act 76 of 2009, is further amended by adding a subitem at the end 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 subitem (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.

For purposes of this subitem, 'immediate family member' means a parent, child, or sibling."

Transfers between family members

SECTION 4. Section 12-37-3150(B) of the 1976 Code, as last amended by Act 275 of 2010, is further amended by adding an appropriately numbered item at the end to read:

"( ) a transfer of a fractional interest between family members for zero monetary consideration, or a de minimis monetary consideration, whereby both the grantor and the grantee owned an interest in the property prior to the transfer. For purposes of this item, a family member includes a spouse, parent, brother, sister, child, grandparent, or grandchild."

Time effective

SECTION 5. This act takes effect upon approval by the Governor and applies to property tax years beginning after 2011.

Ratified the 23rd day of May, 2012.

Approved the 25th day of May, 2012.

No. 180

(R208, H4761)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-5-225 SO AS TO DEFINE THE TERM "FARM TRUCK"; BY ADDING SECTION 56-5-363 SO AS TO PROVIDE WHICH COMMERCIAL MOTOR VEHICLES AND THEIR DRIVERS MUST MEET THE REQUIREMENTS OF THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS; TO AMEND SECTION 56-3-670, AS AMENDED, RELATING TO FEES FOR FARM TRUCK LICENSES, SO AS TO PROVIDE THAT THE DEFINITION OF "FARM TRUCK" DOES NOT INCLUDE CERTAIN VEHICLES THAT TRANSPORT HAZARDOUS MATERIALS OR SIXTEEN OR MORE PEOPLE; TO AMEND SECTION 56-5-4010, RELATING TO SIZE, WEIGHT, AND SPEED LIMITATIONS PLACED ON CERTAIN VEHICLES, SO AS TO PROVIDE THAT THE TRANSPORT POLICE DIVISION HAS THE EXCLUSIVE AUTHORITY TO ENFORCE THE COMMERCIAL MOTOR VEHICLE CARRIER LAWS WHICH INCLUDE FEDERAL MOTOR CARRIER SAFETY REGULATIONS, HAZARDOUS MATERIAL REGULATIONS, AND SIZE AND WEIGHT LAWS AND REGULATIONS; AND TO AMEND SECTION 56-5-4150, RELATING TO THE REGISTRATION OF CERTAIN VEHICLES, SO AS TO PROVIDE THAT CERTAIN "FARM TRUCKS" ARE NOT REQUIRED TO HAVE THE NAME OF THE REGISTERED OWNER, LESSOR, OR LESSEE MARKED ON THE VEHICLE.

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

Farm truck defined

SECTION 1. Subarticle 1, Article 3, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-225. 'Farm truck' is defined as a truck used exclusively by the owner for agricultural, horticultural, dairying,

livestock, and poultry operations and includes transporting farm processed horticultural products, including soil amendments and mulches owned by the truck's owner or another person, including first market. However, farm trucks with an empty weight of less than twenty-six thousand and one pounds may be used for ordinary domestic purposes and general transportation, but must not be used to transport persons or property for hire. No part of this definition may be interpreted to exempt any commercial motor vehicle less than 26,001 pounds GVW/GVWR/GCW/GCWR from all or part of state laws or regulations applicable to intrastate commerce if the vehicle:

(1) transports hazardous materials requiring a placard; or

(2) is designed or used to transport sixteen or more people, including the driver."

Commercial motor vehicle and its driver

SECTION 2. Subarticle 1, Article 3, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-363. (A) Except as otherwise provided by law or through regulations promulgated by the Department of Public Safety, a commercial motor vehicle (CMV) and its driver operating in intrastate commerce with a gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), and gross combination weight rating (GCWR) equal to or exceeding 26,001 pounds must meet the requirements of the Federal Motor Carrier Safety Regulations, as enforced exclusively by the State Transport Police Division of the Department of Public Safety.

(B) CMVs operating below 26,001 pounds are exempt from the regulations cited in subsection (A).

(C) A CMV or its driver is not exempt from the regulations cited in subsection (A) regardless of weight, if the vehicle is:

(1) designed or used to transport sixteen or more passengers, including the driver; or

(2) used in the transportation of hazardous materials and is required to be placarded pursuant to 49 C. F. R. part 172, subpart F."

Farm truck defined

SECTION 3. Section 56-3-670(A) of the 1976 Code, as last amended by Act 398 of 2006, is further amended to read:

"(A) For the purpose of this section, 'farm truck' is defined as a truck used exclusively by the owner for agricultural, horticultural, dairying, livestock, and poultry operations and includes transporting farm processed horticultural products, including soil amendments and mulches owned by the truck's owner or another person, including first market. However, farm trucks with an empty weight of less than seven thousand five hundred pounds may be used for ordinary domestic purposes and general transportation but must not be used to transport persons or property for hire. No part of this definition may be interpreted to exempt any commercial motor vehicle less than 26,001 pounds GVW/GVWR/GCW/GCWR from all or part of state laws or regulations applicable to intrastate commerce if the vehicle:

(1) transports hazardous materials requiring a placard; or

(2) is designed or used to transport sixteen or more people, including the driver."

Transport Police Division of the Department of Public Safety

SECTION 4. Section 56-5-4010 of the 1976 Code is amended to read:

"Section 56-5-4010. (A) It is unlawful for a person to drive or move or for the owner to cause or knowingly to permit to be driven or moved on a highway a vehicle of a size or weight exceeding the limitations stated in this article or otherwise in violation of this article. The maximum size and weight of vehicles herein specified is lawful throughout the State, and local authorities shall have no power or authority to alter these limitations except as express authority may be granted in this article. Provided, that municipalities and their franchisees may operate combinations of vehicles of not more than four units and not more than sixty-five feet in length on city streets within their corporate limits and the operation of these combinations of units is limited to speeds not in excess of twenty miles an hour, and these combination units must be equipped with brakes meeting braking requirements of Section 56-5-4860 and the rear vehicle must be equipped with at least one stoplight.

(B) The Transport Police Division of the Department of Public Safety has exclusive authority in this State for enforcement of the commercial motor vehicle carrier laws, which include Federal Motor Carrier Safety Regulations, Hazardous Material Regulations, and size and weight laws and regulations."

Registration of a vehicle

SECTION 5. Section 56-5-4150 of the 1976 Code is amended to read:

"Section 56-5-4150. (A) The Department of Motor Vehicles upon registering a vehicle, under the laws of this State, which is designed and used primarily for the transportation of property or for the transportation of ten or more persons, may require information and may make investigation or tests necessary to enable it to determine whether the vehicle may be operated safely upon the highways in accordance with all the provisions of this chapter. The department may register the vehicle for a load capacity which, added to the empty or unloaded weight of the vehicle, will result in a permissible gross weight not exceeding the limitations set forth in this chapter. It is unlawful for a person to operate a vehicle or combination of vehicles with a load capacity in excess of that for which it is registered by the department or in excess of the limitations set forth in this chapter. A person making application for a 'farm truck' license shall declare in the form prescribed by the department the true unloaded or empty weight of the vehicle and shall stencil or mark in a conspicuous place on the left side of the vehicle the true unloaded or empty weight if the unloaded or empty weight is over five thousand pounds. A 'farm truck' operating solely in intrastate commerce and otherwise specified in Section 56-5-225 is not required to have the name of the registered owner, lessor, or lessee stenciled or otherwise marked on the vehicle.

(B) A private motor truck or truck tractor equal to or exceeding 26,001 pounds gross weight and a for-hire motor truck or truck tractor must have the name of the registered owner or lessor on the side clearly distinguishable at a distance of fifty feet. These provisions do not apply to two-axle straight trucks hauling raw farm and forestry products. Except as provided in subsection (A) concerning certain 'farm trucks', a truck operating pursuant to the federal motor carrier safety regulations must operate with the owner's, lessor's, or lessee's name as required."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 23rd day of May, 2012.

Approved the 25th day of May, 2012.

No. 181

(R209, H5029)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-15-315 SO AS TO PROVIDE FOR OFF-SITE DISPLAYS OF AUTOMOBILES AND CERTAIN TRUCKS UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS PROVISION.

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

Off-site displays of automobiles or trucks

SECTION 1. Article 3, Chapter 15, Title 56 of the 1976 Code is amended by adding:

"Section 56-15-315. (A) Notwithstanding another provision of law, off-site displays of automobiles or trucks are prohibited except as provided in this section. A licensed South Carolina automobile dealer or dealer of trucks may display not more than ten automobiles or trucks per licensed dealership off-site only at nonselling temporary events lasting no more than ten days hosted by a South Carolina based: charitable organization as defined in the South Carolina Solicitation of Charitable Funds Act for fundraising purposes; school fundraising event; church fundraising event; town fair, town festival; or any other similar festival or event.

(B) Used automobile or truck dealers may display used automobiles or trucks off-site as provided in this section in the county in which their dealership is located.

(C) Displays may be conducted only by South Carolina licensed dealers. Any automobile or truck displayed must be owned by the dealer. Any person or automobile or truck dealer who violates these provisions is subject to a five hundred dollar fine.

(D) Off-site displays are for display purposes only. Sales or attempts to sell as defined in Section 56-15-10(L), or both, are not permitted off-site. An automobile or truck dealer who sells or attempts to affect the off-site sale of any automobile or truck is in violation of

this section and is subject to a two thousand dollar fine. An agent of an automobile or truck dealer who sells or attempts to affect the off-site sale of an automobile or truck is subject to a five hundred dollar fine.

(E) A motor vehicle manufacturer cannot require a franchised automobile or truck dealer to display automobiles or trucks off-site.

(F) Nothing in this section shall prohibit an automobile or truck dealer from participating in one nonselling statewide motor vehicle show in South Carolina per year, or a manufacturer, individual automobile owner or truck owner from displaying their vehicles.

(G) Nothing in this section shall be construed to prevent a licensed dealer from providing vehicles for demonstration or test driving purposes specified in Section 56-3-2320.

(H) The department of Motor Vehicles shall enforce the provisions contained in this section."

Time effective

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

Ratified the 23rd day of May, 2012.

Approved the 25th day of May, 2012.

No. 182

(R210, H5181)

AN ACT TO AMEND SECTION 7-7-80, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN ANDERSON COUNTY, SO AS TO ADD THE "TOWN CREEK" PRECINCT, TO REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION 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 designated

SECTION 1. Section 7-7-80 of the 1976 Code, as last amended by Act 217 of 2008, 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
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
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
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 Division of Research and Statistics of the State Budget and Control Board designated as document P-07-12 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 23rd day of May, 2012.

Approved the 25th day of May, 2012.

No. 183

(R228, H3111)

AN ACT TO AMEND SECTION 42-15-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MANDATORY APPROVAL OF CERTAIN ATTORNEY AND PHYSICIAN FEES BY THE WORKERS' COMPENSATION COMMISSION, SO AS TO PROVIDE FOR THE ADOPTION AND ADJUSTMENT OF FEE SCHEDULES BY THE COMMISSION, TO PROVIDE FOR THE ADJUSTMENT OF PROPOSED FEE SCHEDULES BY THE COMMISSION, AND TO PROVIDE FOR AN APPEAL PROCESS FROM A DECISION OF THE COMMISSION CONCERNING A FEE SCHEDULE; AND TO AMEND SECTION 1-23-600, AS AMENDED, RELATING TO ENUMERATED EXCEPTIONS FROM CONTESTED CASES FROM DEPARTMENTS OF THE EXECUTIVE BRANCH THAT MUST BE HEARD BY THE ADMINISTRATIVE LAW COURT, SO AS TO DELETE THE EXEMPTION OF THE WORKERS' COMPENSATION COMMISSION.

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

Attorney and physician fee schedules for workers' compensation claims

SECTION 1. Section 42-15-90 of the 1976 Code is amended to read:

"Section 42-15-90. (A) Attorney fees, physician fees, and hospital charges for services under this title are subject to the approval of the commission, but a physician or hospital may not collect a fee from an employer or insurance carrier until the physician or hospital has made the reports required by the commission in connection with the case.

(B)(1) A person may not:

(a) receive a fee, gratuity, or other consideration for a service rendered pursuant to this title unless the fee, gratuity, or other consideration is approved by the commission or a court of competent jurisdiction; or

(b) make it a business to solicit employment for an attorney or himself with respect to a claim or award for compensation under this title.

(2) A violation of this section constitutes a misdemeanor and, upon conviction, each offense is subject to a fine of not more than five hundred dollars, imprisonment for not more than one year, or both.

(C)(1) The commission may adopt criteria to establish a new fee schedule or adjust an existing fee schedule to establish maximum allowable payments for medical services provided by medical practitioners exclusive of hospital inpatient services and hospital outpatient services and ambulatory surgery centers based in whole or in part on the requirements of a federally funded program, but if it adopts adjustments to an existing fee schedule, it must adopt these adjustments on an annual basis and the adjustments may not exceed the percentage change indicated by the federally funded program. The commission shall conduct an evidentiary hearing to review a proposed adjustment to increase or reduce these fees by more than ten percent annually to determine whether to:

(a) increase or reduce the proposed adjustment as the commission considers appropriate; or

(b) accept the proposed adjustment.

(2)(a) A decision of the commission to increase or reduce a fee schedule to establish maximum allowable payments for medical services provided by medical practitioners exclusive of hospital inpatient services and hospital outpatient services and ambulatory

surgery centers by more than ten percent is reviewable by expedited appeal to the Administrative Law Court pursuant to the Administrative Procedures Act.

(b) On appeal, the court may:

(i) accept the increase or decrease;

(ii) impose a lesser increase or decrease;

(iii) revert the fee schedule as it was immediately prior to the annual adjustment;

(iv) adjust the appropriate conversion factors as necessary; or

(v) make other adjustments the court considers reasonable.

(c) The court shall issue a decision within ninety days after it receives the appeal.

(d) During the pendency of this appeal, the portion of the fee schedule under review must remain the same as it was immediately prior to the proposed changes, but all other portions of the fee schedule or conversion factors are effective and remain unchanged."

Contested case hearings before Administrative Law Court, exemption of Workers' Compensation Commission contested case hearings deleted

SECTION 2. Section 1-23-600(A)(4) of the 1976 Code, as last amended by Act 334 of 2008, is further amended to read:

"(4) Workers' Compensation Commission, except as provided in Section 42-15-90; or"

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 184

(R229, H3390)

AN ACT TO AMEND SECTION 57-9-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PETITIONING A COURT TO ABANDON OR CLOSE A STREET, ROAD, OR HIGHWAY, SO AS TO PROVIDE THAT A NOTICE OF INTENTION TO FILE A PETITION MUST BE POSTED ALONG THE STREET, ROAD, OR HIGHWAY SUBJECT TO THE APPROVAL OF THE LOCATION OF THE POSTING BY THE GOVERNMENTAL ENTITY RESPONSIBLE FOR MAINTENANCE OF THE STREET, ROAD, OR HIGHWAY, AND TO PROVIDE THAT THE DEPARTMENT OF TRANSPORTATION SHALL PROMULGATE REGULATIONS THAT WILL ESTABLISH THE MINIMUM MANDATORY SIZE, LANGUAGE, AND POSITIONING OF SIGNS PURSUANT TO THIS SECTION.

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

Court petition to abandon or close a street, road, or highway

SECTION 1. Section 57-9-10 of the 1976 Code is amended to read:

"Section 57-9-10. Any interested person, the State or any of its political subdivisions or agencies may petition a court of competent jurisdiction to abandon or close any street, road or highway whether opened or not. Prior to filing the petition, notice of intention to file shall be published once a week for three consecutive weeks in a newspaper published in the county where such street, road or highway is situated. Notice also shall be sent by mail requiring a return receipt to the last known address of all abutting property owners whose property would be affected by any such change, and posted by the petitioning party along the street, road, or highway, subject to approval of the location of the posting by the governmental entity responsible for maintenance of the street, road, or highway. The Department of Transportation shall promulgate regulations which once effective will establish the minimum mandatory size, language, and specific positioning of signs pursuant to this section."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 185

(R230, H3478)

AN ACT TO AMEND SECTION 39-41-235, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PETROLEUM PRODUCTS AND DIESEL FUEL SUITABLE FOR BLENDING, SALE OF UNBLENDED PRODUCTS WITHOUT NECESSARY ADDITIVES, RECORDKEEPING AND REGISTRATION, ENFORCEMENT, WHOLESALER RESPONSIBILITY, LIABILITY, AND NOTICE, SO AS TO PROVIDE THAT THESE REQUIREMENTS APPLY TO EVERY TERMINAL OPERATOR, SUPPLIER, PERMISSIVE SUPPLIER, REFINER, OR ANY OTHER PERSON OR ENTITY INVOLVED IN THE BULK TRANSFER OF MOTOR FUEL, TO PROVIDE THOSE CIRCUMSTANCES WHEN CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS DO NOT APPLY BECAUSE OF SPECIFIED HINDRANCES TO COMPLIANCE, AND TO PROVIDE THOSE CIRCUMSTANCES LIMITING THE LIABILITY OF A REFINER, SUPPLIER, WHOLESALER, OR RETAILER FOR THE DISPENSING OF INCOMPATIBLE MOTOR FUEL AT A RETAIL SITE.

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

Sale of petroleum products

SECTION 1. Subsections (A), (B), (C), (F), and (G) of Section 39-41-235 of the 1976 Code, as added by Act 147 of 2010, are amended to read:

"(A) Regardless of other products offered, every terminal, as defined in Section 12-28-110(56), located within the State, every terminal operator as defined in Section 12-28-110(58), must offer for sale all grades of petroleum products that are not already preblended with ethanol and that are suitable for subsequent blending of the product with ethanol. Every supplier as defined in Section 12-28-110(53), permissive supplier as defined in Section 12-28-110(43), refiner as defined in Section 12-28-110(49), or any other person or entity who is involved in the bulk transfer of motor fuel as defined in Section 12-28-110(8) are responsible for ensuring that every terminal located in this State and every terminal operator are delivered the products set forth in this section.

(B) Regardless of other products offered, every terminal, as defined in Section 12-28-110(56), located within the State, every terminal operator as defined in Section 12-28-110(58), must offer for sale all grades of diesel fuel that are not already preblended to produce biodiesel or a biodiesel blend and that are suitable for subsequent blending to produce biodiesel or biodiesel blends. Every supplier as defined in Section 12-28-110(53), permissive supplier as defined in Section 12-28-110(43), refiner as defined in Section 12-28-110(49), or any other person or entity who is involved in the bulk transfer of motor fuel as defined in Section 12-28-110(8) are responsible for ensuring that every terminal located in this State and terminal operator in this State are delivered the products set forth in this section.

(C) A terminal or terminal operator shall not offer for sale an unblended product that omits any additive found in a product preblended with ethanol. A terminal or terminal operator shall not offer for sale an unblended product that does not contain a comparable amount of any additive found in a product preblended with ethanol. Every supplier, permissive supplier, refiner, or any other person or entity who is involved in the bulk transfer of motor fuel are responsible for ensuring that the products set forth in this statute are delivered to every terminal and every terminal operator located in this State with which they have a contract.

(F) A violation of this article is deemed an unfair trade practice, and each violation is a separate offense. A person or entity violating the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars for each violation. It shall not be a violation of this article when compliance is hindered by any catastrophic event outside the control of the person or

entity such as a natural disaster, severe weather event, act of God, or acts of terrorism, fire, war, or riot.

(G) Wholesalers purchasing gasoline, gasoline blending stock, or diesel are responsible for ensuring that their activities result in gasolines and diesels that meet the standards promulgated by the Commissioner of Agriculture. Refiners, suppliers, and permissive suppliers shall not be liable for fines, penalties, injuries, or damages arising out of the subsequent blending of gasoline, gasoline blending stock, or diesel pursuant to this section. An entity that does not blend the product at issue has no duty with respect to blending and shall not be liable for fines, penalties, injuries, or damages arising out of blending that does not meet those standards. A refiner, supplier, wholesaler, or retailer is not liable for damages caused by the use of incompatible motor fuel dispensed at a retail site if all of the following applies:

(1) the incompatible fuel meets the standards promulgated by the Commissioner of Agriculture;

(2) the incompatible fuel is selected by a person other than the retailer, including an employee or agent of the retailer; and

(3) the incompatible fuel is dispensed from a motor fuel dispenser that correctly labels the type of fuel dispensed.

For the purposes of this subsection, a motor fuel is incompatible with a motor according to the manufacturer of the motor."

Severability clause

SECTION 2. 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.

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 of the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 186

(R231, H3657)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-45-17 SO AS TO PROVIDE MINIMUM CONTINUING EDUCATION COURSE REQUIREMENTS FOR COUNTY TAX COLLECTORS AND PROVIDE EXCEPTIONS; BY ADDING SECTION 12-59-85 SO AS TO ALLOW A COUNTY FORFEITED LAND COMMISSION TO REFUSE TO ACCEPT TITLE TO PROPERTY WHEN REFUSAL IS IN THE PUBLIC INTEREST; AND TO AMEND SECTIONS 12-51-50, AS AMENDED, AND 12-51-70, RELATING TO DELINQUENT TAX SALES, SO AS TO PROVIDE FOR THE SALES DATE AND TO INCREASE FROM THREE HUNDRED TO FIVE HUNDRED DOLLARS THE DAMAGES FOR WHICH A DEFAULTING BIDDER IS LIABLE.

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

County tax collector education requirements

SECTION 1. Chapter 45, Title 12 of the 1976 Code is amended by adding:

"Section 12-45-17. (A) A person serving as the county tax collector shall complete satisfactorily a minimum of six hours of annual continuing education courses that the department establishes or causes to be established. The content, cost, and dates of the courses must be determined by the department.

(B) The department, for reasonable cause, may excuse a person serving as the county tax collector from attending these courses for any year.

(C) The provisions of this section do not apply to a county treasurer who is also the county tax collector and completes satisfactorily the requirements of Section 12-45-15."

Forfeited land commission

SECTION 2. Article 1, Chapter 59, Title 12 of the 1976 Code is amended by adding:

"Section 12-59-85. After land has been bid in by the county auditor and before it has been conveyed to the county's forfeited land commission, the forfeited land commission or a majority of its members may refuse to accept title to the property if the commission determines that to accept title would be against the interest of the public."

Tax sale date

SECTION 3. Section 12-51-50 of the 1976 Code, as last amended by Act 399 of 2000, is further amended to read:

"Section 12-51-50. The property duly advertised must be sold, by the person officially charged with the collection of delinquent taxes, at public auction at the courthouse or other convenient place within the county, if designated and advertised, on the advertised date for legal tender payable in full by cash, cashier's check, certified check, or money order on the date of the sale. If the defaulting taxpayer or the grantee of record of the property has more than one item advertised to be sold, as soon as sufficient funds have been accrued to cover all of

the delinquent taxes, assessments, penalties, and costs, further items must not be sold."

Default bidder

SECTION 4. Section 12-51-70 of the 1976 Code is amended to read:

"Section 12-51-70. If the successful bidder fails to remit in legal tender within the time specified, the person officially charged with the collection of delinquent taxes shall cancel that bid and duly readvertise the same property for sale, in the same manner, on a subsequent delinquent tax sale date. The defaulting bidder is liable for no more than five hundred dollars damages upon default, which may be collected by suit by the person officially charged with the collection of delinquent taxes in the name of the taxing authority."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 187

(R232, H3720)

AN ACT TO AMEND SECTION 12-6-3360, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS OF THE JOBS TAX CREDIT, SO AS TO REVISE THE REQUIREMENTS OF A QUALIFYING SERVICE-RELATED FACILITY AND A TECHNOLOGY INTENSIVE FACILITY; TO AMEND SECTION 12-20-105, AS AMENDED, RELATING TO TAX CREDITS FOR PROVIDING INFRASTRUCTURE, SO AS TO INCREASE THE MAXIMUM AGGREGATE CREDIT TO FOUR HUNDRED THOUSAND DOLLARS ANNUALLY AND TO DEFINE SITE PREPARATION COSTS; TO AMEND SECTION 12-44-30, AS AMENDED, RELATING TO THE DEFINITION OF

'TERMINATION DATE' FOR PURPOSES OF FEE IN LIEU OF TAXES, SO AS TO PROVIDE THAT WITH RESPECT TO A FEE AGREEMENT INVOLVING AN ENHANCED INVESTMENT, THE TERMINATION DATE IS THE LAST DAY OF A PROPERTY TAX YEAR THAT IS NO LATER THAN THE THIRTY-NINTH YEAR FOLLOWING THE FIRST PROPERTY TAX YEAR IN WHICH THE PROPERTY IS PLACED IN SERVICE, AND TO ALLOW FOR AN EXTENSION; TO AMEND SECTIONS 4-12-30, 4-29-67, AND 12-44-90, ALL AS AMENDED, RELATING TO FEE IN LIEU OF TAXES, SO AS TO PROVIDE THAT A COUNTY AUDITOR OR COUNTY ASSESSOR MAY REQUEST AND OBTAIN ANY FINANCIAL BOOKS AND RECORDS FROM A SPONSOR THAT SUPPORT THE SPONSOR'S TAX FORM OR RETURN TO VERIFY THE CALCULATIONS OF THE FEE IN LIEU OF TAXES TAX FORM OR RETURN; AND TO AMEND SECTION 12-36-2120, AS AMENDED, RELATING TO SALES TAX EXEMPTIONS, SO AS TO EXEMPT COMPUTERS, COMPUTER EQUIPMENT, COMPUTER HARDWARE AND SOFTWARE PURCHASES FOR A DATACENTER AND ELECTRICITY USED BY A DATACENTER.

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

Job tax credit definitions

SECTION 1. Section 12-6-3360(M)(13) and (14) of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

"(13) 'Qualifying service-related facility' means:

(a) an establishment engaged in an activity or activities listed under the North American Industry Classification System Manual (NAICS) Section 62, subsectors 621, 622, and 623; or

(b) a business, other than a business engaged in legal, accounting, banking, or investment services (including a business identified under NAICS Section 55) or retail sales, which has a net increase of at least:

(i) one hundred seventy-five jobs at a single location;

(ii) one hundred fifty jobs at a single location comprised of a building or portion of building that has been vacant for at least twelve consecutive months prior to the taxpayer's investment;

(iii) one hundred jobs at a single location and the jobs have an average cash compensation level of more than one and one-half times the lower of state per capita income or per capita income in the county where the jobs are located;

(iv) fifty jobs at a single location and the jobs have an average cash compensation level of more than twice the lower of state per capita income or per capita income in the county where the jobs are located; or

(v) twenty-five jobs at a single location and the jobs have an average cash compensation level of more than two and one-half times the lower of state per capita income or per capita income in the county where the jobs are located.

A taxpayer shall use the most recent per capita income data available as of the end of the taxable year in which the jobs are filled. Determination of the required number of jobs is in accordance with the monthly average described in subsection (F).

(14) 'Technology intensive facility' means:

(a) a facility at which a firm engages in the design, development, and introduction of new products or innovative manufacturing processes, or both, through the systematic application of scientific and technical knowledge. Included in this definition are the following North American Industrial Classification Systems Codes, NAICS, published by the Office of the Management and Budget of the federal government:

(i) 5114 database and directory publishers;

(ii) 5112 software publishers;

(iii) 54151 computer systems design and related services;

(iv) 541511 custom computer programming services;

(v) 541512 computer systems design services;

(vi) 541711 research and development in biotechnology; 2007 NAICS;

(vii) 541712 research and development in physical, engineering, and life sciences; 2007 NAICS;

(viii) 518210 data processing, hosting, and related services;

(ix) 9271 space research and technology; or

(b) a facility primarily used for one or more activities listed under the 2002 version of the NAICS Codes 51811 (Internet Service Providers and Web Search Portals)."

Tax credit

SECTION 2. Section 12-20-105 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

"Section 12-20-105. (A) Any company subject to a license tax under Section 12-20-100 may claim a credit against its license tax liability for amounts paid in cash to provide infrastructure for an eligible project.

(B)(1) To be considered an eligible project for purposes of this section, the project must qualify for income tax credits under Chapter 6, Title 12, withholding tax credit under Chapter 10, Title 12, income tax credits under Chapter 14, Title 12, or fees in lieu of property taxes under either Chapter 12, Title 4, Chapter 29, Title 4, or Chapter 44, Title 12.

(2) If a project is located in an office, business, commercial, or industrial park, or combination of these, and is used exclusively for economic development and is owned or constructed by a county, political subdivision, or agency of this State when the qualifying improvements are paid for, the project does not have to meet the qualifications of item (1) to be considered an eligible project. As provided in subsection (C)(4), the county or political subdivision may sell all or a portion of the business or industrial park.

(C) For the purpose of this section, 'infrastructure' means improvements for water, wastewater, hydrogen fuel, sewer, gas, steam, electric energy, and communication services made to a building or land that are considered necessary, suitable, or useful to an eligible project. These improvements include, but are not limited to:

(1) improvements to both public or private water and sewer systems;

(2) improvements to both public or private electric, natural gas, and telecommunications systems including, but not limited to, ones owned or leased by an electric cooperative, electric utility, or electric supplier, as defined in Chapter 27, Title 58;

(3) fixed transportation facilities including highway, road, rail, water, and air;

(4) for a qualifying project under subsection (B)(2), infrastructure improvements include shell buildings, incubator buildings whose ownership is retained by the county, political subdivision, or agency of the State and the purchase of land for an office, business, commercial, or industrial park, or combination of these, used exclusively for economic development which is owned or

constructed by a county, political subdivision, or agency of this State. The county, political subdivision, or agency may sell the shell building or all or a portion of the park at any time after the company has paid in cash to provide the infrastructure for an eligible project;

(5) for a qualifying project pursuant to subsection (B)(2), infrastructure improvements also include due diligence expenditures relating to environmental conditions made by a county or political subdivision after it has acquired contractual rights to an industrial park. Due diligence expenditures include such items as Phase I and II studies and environmental or archeological studies required by state or federal statutes or guidelines or similar lender requirements. Contractual rights include options to purchase real property or other similar contractual rights acquired before the county or political subdivision files a deed to the property with the Register of Mesne Conveyances; and

(6) for a qualifying project pursuant to subsection (B)(2), site preparation costs include, but are not limited to:

(a) clearing, grubbing, grading, and stormwater retention; and

(b) refurbishment of buildings that are owned or controlled by a county or municipality and are used exclusively for economic development purposes.

(D) A company is not allowed the credit provided by this section for actual expenses it incurs in the construction and operation of any building or infrastructure it owns, leases, manages, or operates.

(E) The maximum aggregate credit that may be claimed in any tax year by a single company is four hundred thousand dollars.

(F) The credits allowed by this section may not reduce the license tax liability of the company below zero. If the applicable credit originally earned during a taxable year exceeds the liability and is otherwise allowable under subsection (D), the amount of the excess may be carried forward to the next taxable year.

(G) For South Carolina income tax and license purposes, a company that claims the credit allowed by this section is ineligible to claim the credit allowed by Section 12-6-3420.

(H) By March first of each year, the Department of Revenue shall issue a report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Secretary of the Department of Commerce outlining the history of the credit allowed pursuant to this section. The report shall include the amount of credit allowed pursuant to this section and the types of infrastructure provided to eligible projects."

Fee in lieu of tax simplification definitions

SECTION 3. Section 12-44-30(21) of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

"(21) 'Termination date' means the date that is the last day of a property tax year that is no later than the twenty-ninth year following the first property tax year in which an applicable piece of economic development property is placed in service. A sponsor may apply to the county prior to the termination date for an extension of the termination date beyond the twenty-ninth year up to ten years. The county council of the county shall approve an extension by resolution upon a finding of substantial public benefit. A copy of the resolution must be delivered to the department within thirty days of the date the resolution was adopted. With respect to a fee agreement involving an enhanced investment, the termination date is the last day of a property tax year that is no later than the thirty-ninth year following the first property tax year in which an applicable piece of economic development property is placed in service. A sponsor may apply to the county before the termination date for an extension of the termination date beyond the thirty-ninth year up to ten years. If the fee agreement is terminated in accordance with Section 12-44-140, the termination date is the date the agreement is terminated."

Fee in lieu of property taxes

SECTION 4. Section 4-12-30(O) of the 1976 Code, as last amended by Act 69 of 2003, is amended by adding an appropriately numbered subitem at the end to read:

"( ) Upon the direction of the governing body of the county, a county official may request and obtain such financial books and records from a sponsor that support the sponsor's fee in lieu of taxes return as may be reasonably necessary to verify the calculations of the sponsor's fee in lieu of taxes payment or the calculations of the sponsor's special source revenue credit."

Fee in lieu of taxes for industrial development projects

SECTION 5. Section 4-29-67(S) of the 1976 Code, as last amended by Act 290 of 2010, is further amended by adding an appropriately numbered subitem at the end to read:

"( ) Upon the direction of the governing body of the county, a county official may request and obtain such financial books and records from a sponsor that support the sponsor's fee in lieu of taxes return as may be reasonably necessary to verify the calculations of the sponsor's fee in lieu of taxes payment or the calculations of the sponsor's special source revenue credit."

Fee in lieu of tax simplification

SECTION 6. Section 12-44-90 of the 1976 Code, as last amended by Act 69 of 2003, is further amended by adding an appropriately numbered subsection at the end to read:

"( ) Upon the direction of the governing body of the county, a county official may request and obtain such financial books and records from a sponsor that support the sponsor's fee in lieu of taxes return as may be reasonably necessary to verify the calculations of the sponsor's fee in lieu of taxes payment or the calculations of the sponsor's special source revenue credit."

Sales tax exemption for datacenters

SECTION 7. Section 12-36-2120 of the 1976 Code, as last amended by Act 32 of 2011, is further amended by adding an appropriately numbered item at the end to read:

"( )(A)(1) original or replacement computers, computer equipment, and computer hardware and software purchases used within a datacenter; and

(2) electricity used by a datacenter and eligible business property to be located and used at the datacenter. This subsubitem does not apply to sales of electricity for any other purpose, and such sales are subject to the tax, including, but not limited to, electricity used in administrative offices, supervisory offices, parking lots, storage warehouses, maintenance shops, safety control, comfort air conditioning, elevators used in carrying personnel, cafeterias, canteens, first aid rooms, supply rooms, water coolers, drink boxes, unit heaters and waste house lights.

(B) As used in this section:

(1) 'Computer' means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(2) 'Computer equipment' means original or replacement servers, routers, switches, power units, network devices, hard drives, processors, memory modules, motherboards, racks, other computer hardware and components, cabling, cooling apparatus, and related or ancillary equipment, machinery, and components, the primary purpose of which is to store, retrieve, aggregate, search, organize, process, analyze, or transfer data or any combination of these, or to support related computer engineering or computer science research. This also includes equipment cooling systems for managing the performance of the datacenter property, including mechanical and electrical equipment, hardware for distributed and mainframe computers and servers, data storage devices, network connectivity equipment, and peripheral components and systems.

(3) 'Computer software' means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(4) 'Concurrently maintainable' means capable of having any capacity component or distribution element serviced or repaired on a planned basis without interrupting or impeding the performance of the computer equipment.

(5) 'Datacenter' means a new or existing facility at a single location in South Carolina:

(i) that provides infrastructure for hosting or data processing services and that has power and cooling systems that are created and maintained to be concurrently maintainable and to include redundant capacity components and multiple distribution paths serving the computer equipment at the facility. Although the facility must have multiple distribution paths serving the computer equipment, a single distribution path may serve the computer equipment at any one time;

(ii)(a) where a taxpayer invests at least fifty million dollars in real or personal property or both over a five year period; or

(b) where one or more taxpayers invests a minimum aggregate capital investment of at least seventy-five million dollars in real or personal property or both over a five year period;

(iii) where a taxpayer creates and maintains at least twenty-five full-time jobs at the facility with an average cash compensation level of one hundred fifty percent of the per capita income of the State or of the county in which the facility is located, whichever is lower, according to

the most recently published data available at the time the facility is certified by the Department of Commerce;

(iv) where the jobs created pursuant to subitem (B)(5)(iii) are maintained for three consecutive years after a facility with the minimum capital investment and number of jobs has been certified by the Department of Commerce; and

(v) which is certified by the Department of Commerce pursuant to subitem (D)(1) under such policies and procedures as promulgated by the Department of Commerce.

(6) 'Eligible business property' means property used for the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other business personal property used for these purposes.

(7) 'Multiple distribution paths' means a series of distribution paths configured to ensure that failure on one distribution path does not interrupt or impede other distribution paths.

(8) 'Redundant capacity components' means components beyond those required to support the computer equipment.

(C)(1) To qualify for the exemption allowed by this item, a taxpayer, and the facility in the case of a seventy-five million dollar investment made by more than one taxpayer, shall notify the Department of Revenue and Department of Commerce, in writing, of its intention to claim the exemption. For purposes of meeting the requirements of subitems (B)(5)(ii) and (B)(5)(iii), capital investment and job creation begin accruing once the taxpayer notifies each department. Also, the five-year period begins upon notification.

(2) Once the taxpayer meets the requirements of subitem (B)(5), or at the end of the five-year period, the taxpayer shall notify the Department of Revenue, in writing, whether it has or has not met the requirements of subitem (B)(5). The taxpayer shall provide the proof the department determines necessary to determine that the requirements have been met.

(D)(1) Upon notifying each department of its intention to claim the exemption pursuant to subitem (C)(1), and upon certification by the Department of Commerce, the taxpayer may claim the exemption on eligible purchases at any time during the period provided in Section 12-54-85(F), including the time period prior to subitem (B)(5)(iv) being satisfied.

(2) For purposes of this section, the running of the periods of limitations for assessment of taxes provided in Section 12-54-85 is suspended for:

(i) the time period beginning with notice to each department pursuant to subitem (C)(1) and ending with notice to the Department of Revenue pursuant to subitem (C)(2); and

(ii) during the three year job maintenance requirement pursuant to subitem (B)(5)(iv).

(E) Any subsequent purchase of or investment in computer equipment, computer hardware and software, and computers, including to replace originally deployed computer equipment or to implement future expansions, likewise shall qualify for the exemption provided in this subitem, regardless of when the taxpayer makes the investments.

(F)(1) If a taxpayer receives the exemption for purchases but fails to meet the requirements of subitem (B)(5) at the end of the five-year period, the department may assess any state or local sales or use tax due on items purchased.

(2) If a taxpayer meets the requirements of subitem (B)(5), but subsequently fails to maintain the number of full-time jobs with the required compensation level at the facility, as previously required pursuant to subitem (B)(5)(iii), the taxpayer is:

(i) not allowed the exemption for items described in subitem (A)(1) until the taxpayer meets the previous qualifying jobs requirements pursuant to subitem (B)(5)(iii); and

(ii) allowed the exemption for electricity pursuant to subitem (A)(2), but the exemption only applies to a percentage of the sale price, calculated by dividing the number of qualifying jobs by twenty-five.

(G) This subitem only applies to a datacenter that is certified by the Department of Commerce pursuant to subitem (D)(1) prior to January 1, 2032. However, this item shall continue to apply to a taxpayer that is certified by December 31, 2031, for an additional ten year period. Upon the end of the ten year period, this subitem is repealed."

Severability clause

SECTION 8. 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 9. This act takes effect upon the approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 188

(R234, H4092)

AN ACT TO AMEND SECTION 44-95-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PLACES WHERE SMOKING IS PROHIBITED, SO AS TO PROVIDE THAT SMOKING IS NOT ALLOWED IN BUILDINGS, PORTIONS OF BUILDINGS, AND AREAS CONTIGUOUS TO THESE BUILDINGS OWNED, LEASED, OR OPERATED BY PUBLIC INSTITUTIONS OF HIGHER LEARNING THAT THE GOVERNING BODY OF THE INSTITUTION HAS DESIGNATED AS NONSMOKING.

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

Smoking not allowed in college buildings if institution's governing board designates as nonsmoking

SECTION 1. Section 44-95-20 of the 1976 Code is amended to read:

"Section 44-95-20. It is unlawful for a person to smoke or possess lighted smoking material in any form in the following public indoor areas except where a smoking area is designated as provided for in this chapter:

(1) public schools and preschools where routine or regular kindergarten, elementary, or secondary educational classes are held including libraries. Private offices and teacher lounges which are not adjacent to classrooms or libraries are excluded. However, this exclusion does not apply if the offices and lounges are included specifically in a directive by the local school board. This section does

not prohibit school district boards of trustees from providing for a smoke-free campus;

(2) all other indoor facilities providing children's services to the extent that smoking is prohibited in the facility by federal law and all other childcare facilities, as defined in Section 63-13-20, which are licensed pursuant to Chapter 13, Title 63;

(3) health care facilities as defined in Section 44-7-130, except where smoking areas are designated in employee break areas. However, nothing in this chapter prohibits or precludes a health care facility from being smoke free;

(4) government buildings, except health care facilities as provided for in this section, except that smoking may be allowed in enclosed private offices and designated areas of employee break areas. However, smoking policies in the State Capitol and Legislative Office Buildings must be determined by the office of government having control over its respective area of the buildings. 'Government buildings' means buildings or portions of buildings which are leased or operated under the control of the State or any of its political subdivisions, except those buildings or portions of buildings which are leased to other organizations or corporations;

(5) elevators;

(6) public transportation vehicles, except for taxicabs;

(7) arenas and auditoriums of public theaters or public performing art centers. However, smoking areas may be designated in foyers, lobbies, or other common areas, and smoking is permitted as part of a legitimate theatrical performance; and

(8) buildings, or portions of buildings, and the outside areas immediately contiguous to these buildings owned, leased, operated, or maintained by a public institution of higher learning, as defined in Section 59-103-5, that the governing board of the institution has designated as nonsmoking."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 189

(R235, H4516)

AN ACT TO AMEND SECTION 43-35-15, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INVESTIGATION OF ABUSE, NEGLECT, AND EXPLOITATION OF VULNERABLE ADULTS IN CERTAIN FACILITIES OPERATED BY THE STATE, SO AS TO PROVIDE THAT NONCRIMINAL REPORTS OF ABUSE, NEGLECT, AND EXPLOITATION OF PERSONS COMMITTED TO THE DEPARTMENT OF MENTAL HEALTH PURSUANT TO THE SEXUALLY VIOLENT PREDATOR ACT MUST BE REFERRED BY THE STATE LAW ENFORCEMENT DIVISION TO THE CLIENT ADVOCACY PROGRAM OF THE DEPARTMENT OF MENTAL HEALTH FOR INVESTIGATION.

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

Vulnerable adult exploitation investigations, transfer from SLED to Department of Mental Health

SECTION 1. Section 43-35-15 of the 1976 Code, as last amended by Act 223 of 2010, is further amended to read:

"Section 43-35-15. (A) The Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division shall receive and coordinate the referral of all reports of alleged abuse, neglect, or exploitation of vulnerable adults in facilities operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs. The unit shall establish a toll free number, which must be operated twenty-four hours a day, seven days a week, to receive the reports. The unit shall investigate or refer to appropriate law enforcement those reports in which there is reasonable suspicion of criminal conduct. The unit also shall investigate vulnerable adult fatalities as provided for in Article 5, Chapter 35, Title 43. The unit shall refer those reports in which there is no reasonable suspicion of criminal conduct to the appropriate investigative entity for investigation. Upon conclusion of a criminal investigation of abuse, neglect, or exploitation of a vulnerable adult, the unit or other law enforcement shall refer the case to the appropriate prosecutor when

further action is necessary. The South Carolina Law Enforcement Division may develop policies, procedures, and memorandum of agreement with other agencies to be used in fulfilling the requirements of this article. However, the South Carolina Law Enforcement Division must not delegate its responsibility to investigate criminal reports of alleged abuse, neglect, and exploitation to the agencies, facilities, or entities that operate or contract for the operation of the facilities. Nothing in this subsection precludes the Department of Mental Health, the Department of Disabilities and Special Needs, or their contractors from performing administrative responsibilities in compliance with applicable state and federal requirements.

(B) Except as otherwise provided in subsection (D), the Long Term Care Ombudsman Program shall investigate or cause to be investigated noncriminal reports of alleged abuse, neglect, and exploitation of vulnerable adults occurring in facilities. The Long Term Care Ombudsman Program may develop policies, procedures, and memoranda of agreement to be used in reporting these incidents and in furthering its investigations. The Long Term Care Ombudsman Program must not delegate its responsibility to investigate noncriminal reports of alleged abuse, neglect, and exploitation to the facilities or to the entities that operate or contract for the operation of the facilities. Nothing in this subsection precludes the Department of Mental Health, the Department of Disabilities and Special Needs, or their contractors from performing administrative responsibilities in compliance with applicable state and federal requirements. The Long Term Care Ombudsman Program shall refer reports of abuse, neglect, and exploitation to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division if there is reasonable suspicion of criminal conduct.

(C) The Adult Protective Services Program in the Department of Social Services shall investigate or cause to be investigated noncriminal reports of alleged abuse, neglect, and exploitation of vulnerable adults occurring in all settings other than those facilities for which the Long Term Care Ombudsman Program is responsible for the investigation pursuant to this section. The Adult Protective Services Program may promulgate regulations and develop policies, procedures, and memoranda of agreement to be used in reporting these incidents, in furthering its investigations, and in providing protective services. The Adult Protective Services Program shall refer reports of abuse, neglect, and exploitation to the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division if there is reasonable suspicion of criminal conduct.

(D) Notwithstanding another provision of law, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division shall refer reports of abuse, neglect, and exploitation involving residents committed to the Department of Mental Health pursuant to Chapter 48, Title 44 in which there is no reasonable suspicion of criminal conduct to the Department of Mental Health Client Advocacy Program for investigation."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 190

(R236, H4689)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-1-143 SO AS TO PROVIDE HEALTH AND SANITARY REQUIREMENTS FOR HOME-BASED FOOD PRODUCTION OPERATIONS, INCLUDING SANITATION REQUIREMENTS, LABELING REQUIREMENTS, AND PROCEDURES FOR PROTECTING FOOD ITEMS WHILE PREPARING, PROCESSING, PACKAGING, STORING, AND DISTRIBUTING; TO PROVIDE THAT THESE OPERATIONS MAY NOT SELL FOOD ITEMS FOR RESALE OR WHOLESALE; TO PROVIDE THAT THESE OPERATIONS ARE NOT RETAIL FOOD ESTABLISHMENTS; TO EXEMPT OPERATIONS WITH A NET EARNINGS OF LESS THAN FIVE HUNDRED DOLLARS ANNUALLY; AND TO PROVIDE THAT AN OPERATION MAY APPLY FOR AN EXEMPTION FROM INSPECTION AND LABEL REVIEW BY THE DEPARTMENT OF AGRICULTURE IF ITS ANNUAL SALES ARE LESS THEN FIFTEEN THOUSAND DOLLARS.

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

Requirements for home-based food production operations

SECTION 1. Chapter 1, Title 44 of the 1976 Code is amended by adding:

"Section 44-1-143. (A) For the purposes of this section:

(1) 'Home-based food production operation' means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person.

(2) 'Nonpotentially hazardous foods' are candy and baked goods that are not potentially hazardous foods.

(3) 'Person' means an individual consumer.

(4) 'Potentially hazardous foods' includes:

(a) an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts; cut melons; cut leafy greens; cut tomatoes or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation; garlic-in-oil mixtures not modified to prevent microorganism growth or toxin formation;

(b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged:

Aw values		pH values	
	4.6 or less	>4.6 - 5.6	>5.6
(1) <0.92	non-PHF	non-PHF	non-PHF
(2) >0.92 - 0.95	non-PHF	non-PHF	PHF
(3) >0.95	non-PHF	PHF	PHF

Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.

(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items, including, but not limited to:

(1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;

(2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;

(3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;

(4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation; and

(5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.

(C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:

(1) department-approved water supply;

(2) a separate storage place for ingredients used in foods intended for sale;

(3) a properly functioning refrigeration unit;

(4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;

(5) adequate facilities for the storage of utensils and equipment;

(6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;

(7) a properly functioning toilet facility;

(8) no evidence of insect or rodent activity; and

(9) department-approved sewage disposal, either onsite treatment or publicly provided.

(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:

(1) the name and address of the home-based food production operation;

(2) the name of the product being sold;

(3) the ingredients used to make the product in descending order of predominance by weight; and

(4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: 'NOT FOR RESALE - PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS.'

(E) Home-based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home-based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home-based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61.25.

(F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61.25.

(G) The provisions of this section do not apply to an operation with net earnings of less than five hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

(H) A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture under Section 39-25-10, et seq., if its annual sales are less than fifteen thousand dollars. Exemption forms must be provided by the South Carolina Department of Agriculture."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 191

(R237, H4705)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-37-60 SO AS TO REQUIRE HOSPITALS TO PROVIDE PARENTS OF NEWBORNS, PRIOR TO DISCHARGE, EDUCATIONAL INFORMATION ON PERTUSSIS DISEASE AND TO REQUIRE THIS INFORMATION TO INCLUDE THE CENTER FOR DISEASE CONTROL'S RECOMMENDATION THAT PARENTS RECEIVE THE TETANUS, DIPHTHERIA, AND PERTUSSIS VACCINE DURING POSTPARTUM TO PROTECT NEWBORNS FROM THE TRANSMISSION OF PERTUSSIS; AND TO PROVIDE THAT HOSPITALS ARE NOT REQUIRED TO PROVIDE OR PAY FOR A VACCINATION AGAINST PERTUSSIS.

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

Information on pertussis disease to be provided to parents of newborns

SECTION 1. Chapter 37, Title 44 of the 1976 Code is amended by adding:

"Section 44-37-60. (A) During the postpartum period and prior to discharge each hospital shall provide parents of newborns educational information on pertussis disease and the availability of a vaccine to protect against pertussis. This educational information must include, but is not limited to, information on the Center for Disease Control's recommendation that parents receive the tetanus, diphtheria, and pertussis vaccine during the postpartum period to protect their newborns from the transmission of pertussis.

(B) Nothing in this section requires a hospital to provide or pay for a vaccination against pertussis."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 192

(R238, H4726)

AN ACT TO AMEND SECTION 6-11-1230, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO POWERS OF PUBLIC SERVICE DISTRICT AND SPECIAL PURPOSE DISTRICT COMMISSIONS, INCLUDING, AMONG OTHER THINGS, THE POWER TO ASSESS THE COST OF THE ESTABLISHMENT AND CONSTRUCTION OF A SEWER LATERAL COLLECTION LINE, SO AS TO PROVIDE THAT IF ON THE EFFECTIVE DATE OF THIS ACT A RESIDENTIAL SUBDIVISION HAD RECEIVED CONCEPTUAL APPROVAL FROM THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL FOR SEPTIC TANK USE AND SUBSEQUENTLY FIVE OR MORE LOTS IN THE SUBDIVISION WERE DENIED PERMITS BY THE DEPARTMENT, AN ASSESSMENT MAY BE LEVIED ON THE ABUTTING PARCELS IN THE SUBDIVISION FOR THE ACTUAL COSTS OF THE SEWER LATERAL COLLECTION LINES, TRANSMISSION LINES, AND ASSOCIATED INFRASTRUCTURE AND TO PROVIDE THAT A LETTER OR CERTIFICATE OF THE DEPARTMENT ESTABLISHES THESE CONDITIONS AUTHORIZING THE ASSESSMENT; AND TO AMEND SECTION 6-11-100, RELATING TO POWERS AND DUTIES OF BOARDS OF COMMISSIONERS OF SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICTS, SO AS TO PROVIDE THAT PROPERTY PURCHASED BY THESE BOARDS MAY BE HELD IN THE NAME OF THE COMMISSION OR THE NAME OF THE DISTRICT.

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

Authority to assess cost of sewer lateral collection lines in residential subdivisions

SECTION 1. Section 6-11-1230 of the 1976 Code, is amended by adding a second undesignated paragraph following item (4) to read:

"If, on the effective date of this paragraph, the area to be served is a residential subdivision that received conceptual approval under Regulation 61-57 for septic tank use and has five or more lots later denied permits for a septic tank system for which the Department of Health and Environmental Control has developed standards, an assessment may be levied on the abutting parcels in the subdivision for the actual costs of sewer lateral collection lines in the subdivision and for transmission lines and associated infrastructure, including, but not limited to, trunk lines, force mains, pump stations, and lift stations, to be constructed to connect the sewer lateral collection lines to other infrastructure of the district. The satisfaction of the preconditions to this subsection may be conclusively established by a letter or certificate of the department."

Property purchased by boards of commissioners

SECTION 2. Section 6-11-100 of the 1976 Code is amended to read:

"Section 6-11-100. The boards of commissioners of these districts must be bodies politic and shall exercise and enjoy all the rights and privileges of such. They may purchase and build or contract for building electric light, water supply, fire protection, and sewerage systems, and may lease, own, hold, and acquire all necessary equipment and property for that purpose. They may operate it and may contract with existing light and water companies and municipalities for light, water, and fire protection, or contract and connect with existing sewerage systems of municipalities or other districts. They may supply and furnish lights and water and provide for fire protection and sewerage disposal to citizens of these districts and may require an exact payment of rates, tolls, rentals, and charges they may establish for the use of lights, water, fire protection, and the sewerage plant. Property purchased by the boards of commissioners may be held in either the name of the commission or the name of the district."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 193

(R242, H5027)

AN ACT TO AMEND SECTION 7-7-200, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN COLLETON COUNTY, SO AS TO ADD THE "WALTERBORO NO. 5" PRECINCT, TO DESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION 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:

Colleton County voting precincts revised

SECTION 1. Section 7-7-200 of the 1976 Code, as last amended by Act 3 of 2005, is further amended to read:

"Section 7-7-200.(A) In Colleton County there are the following voting precincts:

Ashton
Bells
Berea (the boundaries of Berea precinct are hereby extended to include the area formerly included in Pine Grove precinct)
Canady's
Cottageville
Edisto
Green Pond
Hendersonville

Horse Pen
Hudson's Mill
Jacksonboro
Lodge
Maple Cane
Mashawville
Peniel
Peoples
Petits
Rice Patch
Ritter
Round O
Ruffin
Sidney
Smoaks
Sniders
Stokes
Walterboro No. 1
Walterboro No. 2
Walterboro No. 3
Walterboro No. 4
Walterboro No. 5
Williams
Edisto Beach
Wolfe Creek.

(B) The precinct lines defining the above precincts are as shown on maps on file with the Division of Research and Statistics of the State Budget and Control Board designated as document P-29-12 and shown on certified copies provided to the Colleton County Board of Elections and Voter Registration.

(C) The polling places for the precincts provided in this section must be determined by the Colleton County Board of Elections and Voter Registration with the approval of a majority of the Colleton County Legislative Delegation."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 194

(R244, H5166)

AN ACT TO AMEND SECTION 7-7-360, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN LAURENS COUNTY, SO AS TO REDESIGNATE CERTAIN PRECINCTS, TO REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION 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:

Laurens County voting precincts designated

SECTION 1. Section 7-7-360 of the 1976 Code, as last amended by Act 174 of 2004, is further amended to read:

"Section 7-7-360.(A) In Laurens County there are the following precincts:

Bailey
Barksdale-Narnie
Brewerton
Clinton Mill
Clinton 1
Clinton 2
Clinton 3
Cooks
Cross Hill
Ekom
Gray Court
Greenpond
Hickory Tavern
Joanna
Jones
Laurens 1
Laurens 2
Laurens 3
Laurens 4

Laurens 5
Laurens 6
Long Branch
Lydia Mill
Madden
Martins-Poplar Springs
Mount Olive
Mountville
Ora-Lanford
Owings
Princeton
Trinity Ridge
Waterloo
Wattsville
Youngs.

(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map designated as P-59-12 and on file with the Division 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.

(C) The polling places for the precincts listed in subsection (A) must be established by the Registration and Elections Commission for Laurens County with the approval of a majority of the Laurens County Legislative Delegation."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 195

(R252, H3113)

AN ACT TO AMEND SECTION 50-1-60, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DIVISION OF THE STATE INTO SIX GAME ZONES, SO AS TO MOVE HORRY COUNTY FROM GAME ZONE 4 AND PLACE IT IN GAME ZONE 5.

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 is amended to read:

"Section 50-1-60. For the purpose of protection and management of wildlife, the State is divided into six 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, Lexington, and Richland.

(4) Game Zone 4 consists of the counties of Chesterfield, Dillon, Florence, Kershaw, Marion, and Marlboro.

(5) Game Zone 5 consists of the counties of Clarendon, Darlington, Georgetown, Horry, Lee, Sumter, and Williamsburg.

(6) Game Zone 6 consists of the counties of Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Colleton, Dorchester, Hampton, Jasper, and Orangeburg."

Time effective

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

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 196

(R253, H4054)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-11-36 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO HUNT MIGRATORY WATERFOWL ON LAKE KEOWEE WITHIN TWO HUNDRED YARDS OF A DWELLING, AND TO PROVIDE A PENALTY; BY ADDING SECTION 50-11-37 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO HUNT MIGRATORY WATERFOWL ON BROADWAY LAKE WITHIN TWO HUNDRED YARDS OF A DWELLING WITHOUT WRITTEN PERMISSION OF THE OWNER AND OCCUPANT, AND TO PROVIDE A PENALTY; AND BY ADDING SECTION 50-11-38 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO HUNT MIGRATORY WATERFOWL ON LAKE MOULTRIE WITHIN TWO HUNDRED YARDS OF A DWELLING WITHOUT WRITTEN PERMISSION OF THE OWNER AND OCCUPANT, AND TO PROVIDE A PENALTY.

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

Lake Keowee

SECTION 1. Article 1, Chapter 11, Title 50 of the 1976 Code is amended by adding:

"Section 50-11-36. It is unlawful to hunt migratory waterfowl on Lake Keowee within two hundred yards of a dwelling. As used in this section, Lake Keowee includes all waters of Keowee River impounded by the Little River Dam at Newry and the Keowee Dam to Jocassee Dam. This includes all waters upstream of the Little River Dam to the confluence of Cane Creek and Little Cane Creek on Cane Creek, to South Carolina State Highway S-37-175 on Crooked Creek, to South Carolina State Highway S-37-24 (Burnt Tanyard Road) on Little River, and to South Carolina State Highway S-37-200 on Stamp Creek in Oconee County. This includes all waters upstream of the Keowee Dam to the confluence of Eastatoe River and Little Eastatoe Creek on the Eastatoe River; South Carolina State Highway 133 on Cedar, Crowe, and Mile Creeks in Pickens County. A person who violates 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."

Broadway Lake

SECTION 2. Article 1, Chapter 11, Title 50 of the 1976 Code is amended by adding:

"Section 50-11-37. It is unlawful to hunt migratory waterfowl on Broadway Lake in Anderson County within two hundred yards of a dwelling without written permission of the owner and occupant. A person who violates 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."

Lake Moultrie

SECTION 3. Article 1, Chapter 11, Title 50 of the 1976 Code is amended by adding:

"Section 50-11-38. It is unlawful to hunt migratory waterfowl on Lake Moultrie within two hundred yards of a dwelling without written permission of the owner and occupant. As used in this section, Lake Moultrie means all waters impounded by the Pinopolis Dam, including the Diversion Canal and those waters of the Re-diversion Canal within the Santee Cooper project area. A person who violates 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."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 197

(R254, H4652)

AN ACT TO AMEND SECTION 41-7-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PUBLIC POLICY CONCERNING THE RIGHT TO WORK, SO AS TO CLARIFY ARCHAIC LANGUAGE IN THE POLICY; TO AMEND SECTION 41-7-80, RELATING TO PENALTIES FOR A VIOLATION OF RIGHT-TO-WORK LAWS, SO AS TO PROVIDE A RANGE FOR AN APPLICABLE FINE FROM ONE THOUSAND DOLLARS TO A MAXIMUM OF TEN THOUSAND DOLLARS; TO AMEND SECTION 41-7-90, RELATING TO COURT REMEDIES AVAILABLE TO A PERSON FOR A VIOLATION OF HIS RIGHT TO WORK, SO AS TO PERMIT TREBLE DAMAGES, REQUIRE A PERSON SEEKING THIS RELIEF TO CONTEMPORANEOUSLY PROVIDE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION WITH THE BASIS FOR THE LAWSUIT, AND TO PROVIDE AN EXCEPTION; TO AMEND SECTION 41-7-100, RELATING TO CIVIL PENALTIES THE DEPARTMENT MAY ASSESS FOR A VIOLATION AND RELATED APPEALS, SO AS TO PROVIDE A CIVIL PENALTY MAY NOT EXCEED TEN THOUSAND DOLLARS; BY ADDING SECTION 41-7-110 SO AS TO PROVIDE AN EMPLOYER OR AN EMPLOYEE WITH PERMISSION MAY CONSPICUOUSLY POST CERTAIN NOTICE CONCERNING THE RIGHTS OF AN EMPLOYEE; AND BY ADDING SECTION 41-7-130 SO AS TO REQUIRE CERTAIN REPORTS TO BE FILED WITH THE DEPARTMENT OF LABOR, LICENSING AND REGULATION.

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

Denial of right to work for labor organization membership against public policy

SECTION 1. Section 41-7-10 of the 1976 Code is amended to read:

"Section 41-7-10. It is hereby declared to be the public policy of this State that the right of persons to work must not be denied or abridged because of membership or nonmembership in a labor union or labor organization."

Penalties for violating right-to-work laws

SECTION 2. Section 41-7-80 of the 1976 Code is amended to read:

"Section 41-7-80. An employer, labor organization, or other person who violates a provision of this chapter is guilty of a misdemeanor, and, upon conviction, must be punished by imprisonment for not less than ten days nor more than thirty days, a fine of not less than one thousand dollars but not more than ten thousand dollars, or both."

Remedy and relief available for violation of right-to-work laws, treble damages permitted, affidavit stating factual basis of claim required, exception

SECTION 3. Section 41-7-90 of the 1976 Code is amended to read:

"Section 41-7-90. (A) A person whose rights are adversely affected by contract, agreement, assemblage, or other act or thing done or threatened to be done and declared to be unlawful or prohibited by this chapter may apply to a court having general equity jurisdiction for appropriate relief. The court may grant and issue a restraining and other appropriate orders including an injunction restraining and enjoining the performance, continuance, maintenance, or commission of any such contract, agreement, assemblage, act or thing, and may determine and award, as justice may require, actual damages, costs, and attorneys' fees sustained or incurred by a party to the action, and, in the discretion of the court or jury, treble damages and punitive damages in addition to the actual damages. The provisions of this section are cumulative and are in addition to all other remedies provided by law.

(B) Contemporaneously with the filing of an action in court, a person applying for relief pursuant to this section must file, with the director or his designee, a copy of the court pleadings, or an affidavit with the director stating the legal and factual basis for each claim and application for relief based on the available evidence at the time of the filing of the affidavit.

(C) The contemporaneous filing requirement of subsection (B) does not apply to a case in which the period of limitation may expire, or there is a good faith basis to believe it may expire on a claim stated in the complaint within ten days of the date of filing and, because of the time constraints, the plaintiff asserts that an affidavit could not be prepared, or a copy of the pleadings could not be provided. In such a case, the plaintiff has forty-five days after the filing of the court action to file a copy of the pleadings or an affidavit with the director."

Civil penalties for violation of right-to-work laws, employers and labor organizations specifically included as potential assessees

SECTION 4. Section 41-7-100 of the 1976 Code, as added by Act 357 of 2002, is amended to read:

"Section 41-7-100. (A) An employer, labor organization, or other person who violates the provisions of this chapter may be assessed by the Director of the Department of Labor, Licensing and Regulation a civil penalty of not more than ten thousand dollars for each offense.

(B) The director shall promulgate regulations establishing procedures for administrative review of civil penalties assessed under this chapter.

(C) An employer, labor organization, or other person aggrieved by a final action of the department may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the department's decision pending completion of the appellate process."

Right-to-work notice posting by employer of employee permitted, requirements of posting

SECTION 5. Chapter 7, Title 41 of the 1976 Code is amended by adding:

"Section 41-7-110. An employer, or a single employee of that employer with the permission of the employer, may post in a conspicuous place a notice containing the provisions of Sections 41-7-10, 41-7-20, 41-7-30, 41-7-40, 41-7-70, and 41-7-90 printed in at least fourteen point font. This notice must bear a title reading 'Your Rights as a Worker in South Carolina' in at least forty-eight point font. The director or his designee shall furnish the printed form of this notice upon request or make it available electronically on the department's website."

Labor organization with members working in South Carolina shall contemporaneously file with the Department of Labor, Licensing and Regulation documents required by United States Labor-Management Reporting and Disclosure Procedure

SECTION 6. Chapter 7, Title 41 of the 1976 Code is amended by adding:

"Section 41-7-130. A labor organization with members that work in South Carolina shall file with the department contemporaneously copies of the documents required to be filed with the Secretary of Labor, pursuant to 29 U.S.C. Sections 401, et seq. as amended."

Severability

SECTION 7. 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 8. This act takes effect upon approval by the Governor, and the provisions of Section 41-7-90, as amended, shall apply to any actions filed with a court after the effective date.

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 198

(R255, H4654)

AN ACT TO AMEND SECTION 48-1-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROHIBITING THE DISCHARGE OF POLLUTANTS INTO THE ENVIRONMENT AND REMEDIES FOR VIOLATIONS, SO AS TO PROVIDE EXEMPTIONS AND LIMITATIONS ON THESE EXEMPTIONS AND TO SPECIFY THAT NO PRIVATE CAUSE OF ACTION IS CREATED BY OR EXISTS UNDER THE POLLUTION CONTROL ACT; TO AMEND SECTION 48-1-130, RELATING TO FINAL ORDERS OF THE DEPARTMENT DISCONTINUING DISCHARGE OF POLLUTANTS, SO AS TO DELETE PROVISIONS RELATING TO REQUIRED PROCEDURES PRECEDING THE ISSUANCE OF A FINAL ORDER, TO PROVIDE THAT AN ORDER IS SUBJECT TO REVIEW PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT, AND TO PROVIDE THIS SECTION DOES NOT ABROGATE ANY EMERGENCY POWER OF THE DEPARTMENT; TO AMEND SECTION 48-1-250, RELATING TO WHOM BENEFITS FROM CAUSES OF ACTION RESULTING FROM POLLUTION VIOLATIONS INURE, SO AS TO PROVIDE THAT NO PRIVATE CAUSE OF ACTION IS CREATED BY OR EXISTS UNDER THE POLLUTION CONTROL ACT, AND TO MAKE THESE PROVISIONS RETROACTIVE AND EXTINGUISH ANY RIGHT, CLAIM, OR CAUSE OF ACTION ARISING UNDER OR RELATED TO THE POLLUTION CONTROL ACT, SUBJECT TO EXCEPTIONS FOR THE STATE AND ITS SUBDIVISIONS; TO CREATE THE "ISOLATED WETLANDS AND CAROLINA BAYS TASK FORCE" TO REVIEW, STUDY, AND MAKE RECOMMENDATIONS CONCERNING ISSUES RELATED TO ISOLATED WETLANDS AND CAROLINA BAYS IN SOUTH CAROLINA, TO PROVIDE FOR THE OBLIGATIONS OF THE TASK FORCE, AMONG OTHER THINGS; AND TO PROVIDE

THE TERM "PERMIT" AS USED IN THE POLLUTION CONTROL ACT IS INCLUSIVE AND TO SPECIFY ITS INTENDED MEANING.

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

Prohibition on discharge of pollutants in environment, exemptions, construction, administrative procedures, no private right of action

SECTION 1. Section 48-1-90 of the 1976 Code is amended to read:

"Section 48-1-90.(A)(1) It is unlawful for a person, directly or indirectly, to throw, drain, run, allow to seep, or otherwise discharge into the environment of the State organic or inorganic matter, including sewage, industrial wastes, and other wastes, except in compliance with a permit issued by the department.

(2) The permit requirements of subsection (A)(1), Section 48-1-100, and Section 48-1-110 do not apply to:

(a) discharges in a quantity below applicable threshold permitting requirements established by the department;

(b) discharges for which the department has no regulatory permitting program;

(c) discharges exempted by the department from permitting requirements; or

(d) normal farming, silviculture, aquaculture, ranching, and wildlife habitat management activities that are not prohibited by or otherwise subject to regulation.

(3) Subsection (A)(2) must not be construed to:

(a) impair or affect common law rights;

(b) repeal prohibitions or requirements of other statutory law or common law; or

(c) diminish the department's authority to abate public nuisances or hazards to public health or the environment, to abate pollution as defined in Section 48-1-10(7), or to respond to accidental discharges or spills.

(4) A person must first petition the department in writing for a declaratory ruling as to the applicability of a specific, existing regulatory program to a proposed or existing discharge into the environment, provided that the proposed or existing discharge is not exempt or excluded from permitting as is set forth in subsection (A)(2). The person proposing to emit or emitting such discharge must be named on and served with the petition. The department must, within

sixty days after receipt of such petition, issue a declaratory ruling as to the applicability of such program to such discharge. If the department determines a permit is required under such program and that no exception or exclusion exists, including, but not limited to, the exceptions set forth in subsection (A)(2), the department must issue a declaration requiring the submission of an application to permit such discharge pursuant to the applicable permitting program. If the department further determines that immediate action is necessary to protect the public health or property due to such unpermitted discharge, the department may further declare the existence of an emergency and order such action as the department deems necessary to address the emergency. Any person to whom such emergency order is directed may apply directly to the Administrative Law Court for relief and must be afforded a hearing within forty-eight hours. Regardless of whether a hearing is held, the department must revoke all emergency orders as soon as conditions or operations change to the extent that an emergency no longer exists. A party contesting any department decision on a petition may request a contested case hearing in the Administrative Law Court. Notwithstanding the administrative remedy provided for in this section, no private cause of action is created by or exists under this chapter.

(B)(1) A person who discharges organic or inorganic matter into the waters of this State as described in subsection (A) to the extent that the fish, shellfish, aquatic animals, wildlife, or plant life indigenous to or dependent upon the receiving waters or property is damaged or destroyed is liable to the State for the damages. The action must be brought by the State in its own name or in the name of the department.

(2) The amount of a judgment for damages recovered by the State, less costs, must be remitted to the agency, commission, department, or political subdivision of the State that has jurisdiction over the fish, shellfish, aquatic animals, wildlife, or plant life or property damaged or destroyed.

(3) The civil remedy provided in subsection (B)(2) is not exclusive, and an agency, commission, department, or political subdivision of the State with appropriate authority may undertake in its own name an action to recover damages independent of this subsection."

Final orders for discontinuance of discharge, procedural review, no abrogation of emergency powers of DHEC

SECTION 2. Section 48-1-130 of the 1976 Code is amended to read:

"Section 48-1-130. A person discharging sewage, industrial waste, or other waste or air contaminant into the environment of the State, in such manner or quantity as to cause pollution, without regard to the time that the discharge began or whether or not the continued discharge has been by virtue of a permit issued by the department, shall discontinue the discharge upon receipt of an order of the department. An order is subject to review pursuant to Section 44-1-60 and the Administrative Procedures Act. This section does not abrogate any of the department's emergency powers."

Personal causes of action prohibited

SECTION 3. Section 48-1-250 of the 1976 Code is amended to read:

"Section 48-1-250. No private cause of action is created by or exists pursuant to this chapter. A determination by the department that pollution exists or a violation of a prohibition contained in this chapter has occurred, whether or not actionable by the State, creates no presumption of law or fact inuring to or for the benefit of a person other than the State."

Isolated Wetlands and Carolina Bays Task Force created, composition, duties

SECTION 4. (A) There is created the "Isolated Wetlands and Carolina Bays Task Force" to review, study, and make recommendations concerning issues related to isolated wetlands and Carolina Bays in South Carolina. The task force shall be comprised of the following members:

(1) the Chairman of the Senate Agriculture and Natural Resources Committee, ex officio, or his designee, who shall serve as chairman;

(2) the Chairman of the House of Representatives Agriculture, Natural Resources and Environmental Affairs Committee, ex officio, or his designee, who shall serve as vice chairman;

(3) one member representing the South Carolina Chamber of Commerce;

(4) one member representing the Coastal Conservation League;

(5) one member representing the Conservation Voters of South Carolina;

(6) one member representing the South Carolina Association of Realtors;

(7) one member representing the South Carolina Association of Homebuilders, upon consultation with the South Carolina Association of General Contractors;

(8) one member representing the South Carolina Farm Bureau;

(9) one member representing the South Carolina Manufacturer's Alliance;

(10) one member representing the South Carolina Chapter of the Sierra Club;

(11) one member representing the South Carolina Wildlife Federation;

(12) one member representing the Environmental Law Project; and

(13) one member representing the utilities industry.

(B) The task force shall meet as soon as practicable after the effective date of this act for organizational purposes.

(C) The members of the task force shall serve without compensation and may not receive mileage or per diem.

(D) Vacancies on the task force shall be filled in the same manner as the original appointment.

(E) The task force shall compile a comprehensive inventory of existing data and information regarding Carolina Bays and isolated wetlands in South Carolina. The inventory, as far as possible, must identify the number, distribution, size, description, and characteristics of the Carolina Bays and isolated wetlands throughout the State. The task force also must compile a glossary of standard terms and definitions used when describing Carolina Bays and isolated wetlands, their various types, and characteristics.

(F) During its review and study of Carolina Bays and isolated wetlands, and in its findings and recommendations, the task force shall consider at least:

(1) the biological, hydrological, ecological, and economic values and services of Carolina Bays and isolated wetlands;

(2) prior disturbances of Carolina Bays and isolated wetlands and the cumulative impacts of disturbances to isolated wetlands and their functions;

(3) methods to avoid adverse impact on Carolina Bays and isolated wetlands;

(4) methods to minimize adverse impact on Carolina Bays and isolated wetland functions that can be avoided;

(5) manners of compensation for any loss of Carolina Bays and isolated wetland functions that cannot be avoided or minimized;

(6) methods to provide public notice of wetlands permitting applications;

(7) the utility of using a general permitting program for Carolina Bays and isolated wetlands disturbance, where practical;

(8) the proper balance between the economic development value of a proposed permitted activity and the impact on Carolina Bays and isolated wetlands;

(9) achieving a goal of "no net loss" wetlands;

(10) concerning proposals to impact Carolina Bays and isolated wetlands, including those appearing to be geographically isolated, the aggregate benefits and services of similarly situated wetlands in the watershed should be considered;

(11) concerning mitigation for Carolina Bays and isolated wetland impacts, whether a watershed based approach should be followed in order to replace wetland functions and services where they are most needed in the impacted watershed; and

(12) whether, and the extent to which, the standards used by the Department of Health and Environmental Control in evaluating discharges to federal wetlands can and should be used for non-federal wetlands.

(G) The task force shall make a report of its findings and recommendations related to Carolina Bays to the General Assembly on or before January 1, 2013. The task force shall make a report of its findings and recommendations related to isolated wetlands on or before July 1, 2013, at which time the study committee terminates.

(H) The staffing for the task force must be provided by the appropriate committees or offices of the Senate and House of Representatives. The task force may utilize staff of other government agencies with relevant issue area expertise upon request.

Definition and construction of "permit"

SECTION 5. The term "permit" as used in the Pollution Control Act is inclusive and intended to mean all permits, certifications, determinations, or other approvals required by law issued by the department, consistent with the definition of "license" as found in Chapter 23, Title 1 of the Administrative Procedures Act.

Savings clause

SECTION 6. The repeal or amendment by this act of any law or any other provision contained in this act, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, liabilities, or rights and does not amend or repeal any provisions of the South Carolina Pollution Control Act for any federal project for which a final Environmental Impact Statement has been issued but no subsequent record of decision has been issued as of the date of this enactment and for any such project, the Pollution Control Act remains in full force and effect as it existed prior to the passage of this act. 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 or other provisions contained in this act.

Severability clause

SECTION 7. 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 8. This act takes effect upon approval by the Governor.

Ratified the 6th day of June, 2012.

Approved the 6th day of June, 2012.

No. 199

(R256, H4687)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-63-74 SO AS TO REQUIRE DEATH CERTIFICATES TO BE ELECTRONICALLY FILED WITH THE BUREAU OF VITAL STATISTICS, DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, AND ELECTRONICALLY TRANSMITTED BETWEEN THE FUNERAL HOME AND THE PHYSICIAN, CORONER, OR MEDICAL EXAMINER, CERTIFYING THE CAUSE OF DEATH, TO DOCUMENT DEATH CERTIFICATE INFORMATION AND TO PROVIDE EXEMPTIONS; AND TO PROVIDE THAT REQUIRED SIGNATURES MUST BE PROVIDED ELECTRONICALLY AND TO DEFINE "ELECTRONIC SIGNATURE".

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

Electronic filing and transmission of death certificates, electronic signatures, and exemptions

SECTION 1. Chapter 63, Title 44 of the 1976 Code is amended by adding:

"Section 44-63-74. (A) Notwithstanding any other provision of law, death certificates must be electronically filed with the Bureau of Vital Statistics as prescribed by the State Registrar of Vital Statistics. Death certificates must be transmitted electronically between the funeral home director and the physician, coroner, or medical examiner certifying the cause of death in order to document the death certificate information prescribed by this chapter. Required signatures on death certificates must be provided by electronic signature. An individual who acts, without compensation, as a funeral director on behalf of a deceased family member or friend, physicians certifying fewer than twelve deaths per year, and funeral homes that perform fewer than twelve funerals per year are exempt from this requirement.

(B) For purposes of this section, an electronic signature shall be as defined pursuant to the Uniform Electronic Transactions Act, Chapter 6, Title 26."

Time effective

SECTION 2. This act takes effect September 1, 2012.

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 200

(R257, H4758)

AN ACT TO AMEND SECTION 14-7-110 AND SECTION 14-7-140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO JURY COMMISSIONERS FOR THE PURPOSE OF THE SUMMONING OF JURORS IN CIRCUIT COURT AND THE USE OF A COMPUTER FOR THE DRAWING AND SUMMONING OF JURORS IN CIRCUIT COURT, RESPECTIVELY, BOTH SO AS TO DELETE REFERENCES TO JURY COMMISSIONERS AND ALLOW THE CLERK OF COURT OR THE DEPUTY CLERK TO PERFORM THE FUNCTION OF DRAWING AND SUMMONING JURORS.

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

Courts, summoning of jurors by clerk of court

SECTION 1. Section 14-7-110 of the 1976 Code is amended to read:

"Section 14-7-110. The clerk of the court of common pleas of each county in this State shall perform the duties provided in this article for the summoning of jurors."

Courts, summoning of jurors by clerk of court

SECTION 2. Section 14-7-140 of the 1976 Code, as last amended by Act 224 of 2006, is further amended to read:

"Section 14-7-140. Notwithstanding the provisions of this chapter, the clerk of court or deputy clerk of court of a county, when drawing and summoning jurors for the court of common pleas, general sessions, or the grand jury, may utilize a computer for this purpose at the discretion of the governing body of the county. Computer software employed for the purpose of drawing and summoning jurors must be designed so as to ensure a random selection of jurors from the population available for jury service. The computerized drawing and summoning of jurors must take place in the office of the clerk of court as a public event to ensure the absolute integrity of the random selection process. The Supreme Court shall direct by order the appropriate procedures required to implement the provisions of this section."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 201

(R260, H5287)

AN ACT TO AMEND SECTION 22-2-190, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COUNTY JURY AREAS, SO AS TO PROVIDE FOR JURY AREAS IN RICHLAND COUNTY AND TO PROVIDE FOR ONE JURY AREA COUNTYWIDE FOR THE RICHLAND COUNTY MAGISTRATES CENTRALIZED COURT AND TO PROVIDE FOR JURY AREAS IN YORK COUNTY AND TO PROVIDE FOR ONE JURY AREA COUNTYWIDE FOR THE YORK COUNTY CENTRALIZED DUI COURT.

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

Magistrates Court, jury areas for Richland County revised, one jury area for Magistrates Centralized Court

SECTION 1. Section 22-2-190(40) of the 1976 Code is amended to read:

"(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 Division 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."

Magistrates Court, jury areas for York County revised, one jury area countywide for centralized DUI Court

SECTION 2. Section 22-2-190(46) of the 1976 Code is amended to read:

"(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 Division

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 3. This act takes effect on July 1, 2012.

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 202

(R211, S102)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-71-238 SO AS TO PROHIBIT QUALIFIED HEALTH PLANS OFFERED THROUGH A HEALTH CARE EXCHANGE REQUIRED BY THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT" FROM OFFERING ABORTION COVERAGE, AND TO PROVIDE FOR CERTAIN EXCEPTIONS.

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

Health insurance, abortion coverage prohibitions, exceptions

SECTION 1. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

"Section 38-71-238. (A) Abortion coverage may not be provided by a qualified health plan offered by a health insurer, including a group health plan as defined in Section 607(1) of the Employee Retirement Income Security Act of 1974 or health maintenance organization as

defined in Section 38-33-20, through a health insurance exchange created pursuant to the federal 'Patient Protection and Affordable Care Act'.

(B) This limitation shall not apply to an abortion performed when the life of the mother is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused or arising from the pregnancy, or when the pregnancy is the result of rape or incest."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 203

(R212, S149)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "EQUAL ACCESS TO INTERSCHOLASTIC ACTIVITIES ACT" BY ADDING SECTION 59-63-100 SO AS TO PERMIT HOME SCHOOL STUDENTS AND GOVERNOR'S SCHOOL STUDENTS TO PARTICIPATE IN INTERSCHOLASTIC ACTIVITIES OF THE SCHOOL DISTRICT IN WHICH THE STUDENTS RESIDE SUBJECT TO CERTAIN CONDITIONS, AND TO PROVIDE ADDITIONAL REQUIREMENTS FOR CHARTER SCHOOL STUDENTS TO PARTICIPATE IN INTERSCHOLASTIC ACTIVITIES.

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

Act citation

SECTION 1. This act may be cited as the "Equal Access to Interscholastic Activities Act".

Participation in interscholastic activities of public school district by home school, charter school, and Governor's school students

SECTION 2. Article 1, Chapter 63, Title 59 of the 1976 Code is amended by adding:

"Section 59-63-100. (A) As used in this section:

(1) 'Charter school student' is a child enrolled in a charter school established pursuant to Chapter 40, Title 59.

(2) 'Governor's school student' is a child enrolled at a Governor's school established pursuant to this title.

(3) 'Home school student' is a child taught in accordance with Section 59-65-40, 59-65-45, or 59-65-47 and has been taught in accordance with one of these sections for a full academic year prior to participating in an interscholastic activity pursuant to this section.

(4) 'Interscholastic activities' includes, but is not limited to, athletics, music, speech, and other extracurricular activities.

(B) Individual Governor's school students and home school students may not be denied by a school district the opportunity to participate in interscholastic activities if the:

(1) student meets all school district eligibility requirements with the exception of the:

(a) school district's school or class attendance requirements; and

(b) class and enrollment requirements of the associations administering the interscholastic activities;

(2) student's teacher, in the case of a Governor's school student, certifies by submitting an affidavit to the school district that the student fully complies with the law and any attendance, class, or enrollment requirements for a Governor's school. In addition, a charter school student's teacher, in the same manner required by this subsection for a Governor's school student, also must certify by affidavit to the student's school district that the student fully complies with the law and any attendance, class, or enrollment requirements for a charter school in order for the student to participate in interscholastic activities in the manner permitted by Chapter 40 of this title;

(3) student participating in interscholastic activities:

(a) resides within the attendance boundaries of the school for which the student participates; or

(b) in the case of a Governor's school student, resides or attends a Governor's school within the attendance boundaries of the school for which the student participates; and

(4) student notifies the superintendent of the school district in writing of his intent to participate in the interscholastic activity as a representative of the school before the beginning date of the season for the activity in which he wishes to participate.

(C) A public school student who has been unable to maintain academic eligibility is ineligible to participate in interscholastic activities as a charter school student, Governor's school student, or home school student for the following semester. To establish eligibility for subsequent school years, the student's teacher shall certify by submitting an affidavit to the school district that the student meets the relevant policies of the school at which the student wishes to participate.

(D) A Governor's school student or home school student is required to fulfill the same responsibilities and standards of behavior and performance, including related practice requirements, of other students participating in the interscholastic activities of the team or squad and is required to meet the same standards for acceptance on the team or squad.

(E) A Governor's school may not be denied by a school district the opportunity to have a team representing the school participate in interscholastic activities if the team meets the same eligibility requirements of other teams. An individual Governor's school student may not participate in an interscholastic activity of a public school district if the school that the student is enrolled in has a team or squad participating in that interscholastic activity.

(F) A school district may not contract with a private entity that supervises interscholastic activities if the private entity prohibits the participation of charter school students, Governor's school students, or home school students in interscholastic activities."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 204

(R213, S429)

AN ACT TO AMEND SECTION 62-7-918, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE UNIFORM PRINCIPAL AND INCOME ACT, SO AS TO PROVIDE FOR THE PROCESS TO DETERMINE THE ALLOCATION OF PAYMENT MADE FROM A SEPARATE FUND TO CERTAIN TRUSTS AND TO PROVIDE COMMENTS; AND TO AMEND SECTION 62-7-929, RELATING TO THE UNIFORM PRINCIPAL AND INCOME ACT, SO AS TO PROVIDE THE SOURCE OF FUNDS THAT MUST PAY FOR A TAX ON A TRUST'S SHARE OF THE TAXABLE INCOME OF THE ENTITY AND TO PROVIDE COMMENTS.

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

Separate fund

SECTION 1. A. Section 62-7-918 of the 1976 Code is amended to read:

"Section 62-7-918. (A) In this section:

(1) 'Payment' means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future payments. The term includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer. For purposes of subsections (D), (E), (F), and (G), the term also includes a payment from a separate fund, regardless of the reason for the payment.

(2) 'Separate fund' includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(B) To the extent that a payment is characterized as interest, a dividend, or a payment made instead of interest or a dividend, a trustee shall allocate the payment to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(C) If part of a payment is not characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income ten percent of the part that is required to be made during the accounting period and the balance to principal. If a part of a payment is not required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not 'required to be made' to the extent that it is made because the trustee exercises a right of withdrawal.

(D) Except as otherwise provided in subsection (E), subsections (F) and (G) apply, and subsections (B) and (C) do not apply, in determining the allocation of a payment made from a separate fund to:

(1) a trust to which an election to qualify for a marital deduction under Section 2056(b)(7) of the Internal Revenue Code of 1986, as amended, has been made; or

(2) a trust that qualifies for the marital deduction under Section 2056(b)(5) of the Internal Revenue Code of 1986, as amended.

(E) Subsections (D), (F), and (G) do not apply if and to the extent that the series of payments would, without the application of subsection (D), qualify for the marital deduction under Section 2056(b)(7)(C) of the Internal Revenue Code of 1986, as amended.

(F) A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to this act. Upon request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute the internal income to the trust. The trustee shall allocate a payment from the separate fund to income to the extent of the internal income of the separate fund and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the internal income of the separate fund exceeds payments made from the separate fund to the trust during the accounting period.

(G) If a trustee cannot determine the internal income of a separate fund but can determine the value of the separate fund, the internal income of the separate fund is deemed to equal four percent of the fund's value, according to the most recent statement of value preceding the beginning of the accounting period. If the trustee can determine neither the internal income of the separate fund nor the fund's value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments, as determined under Section 7520 of the Internal Revenue Code of 1986,

as amended, for the month preceding the accounting period for which the computation is made.

(H) This section does not apply to payments subject to Section 62-7-919."

REPORTER'S COMMENTS

Scope. Section 62-7-918 applies to amounts received under contractual arrangements that provide for payments to a third party beneficiary as a result of services rendered or property transferred to the payer. While the right to receive such payments is a liquidating asset of the kind described in Section 62-7-919 i.e., "an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration," these payment rights are covered separately in Section 62-7-918 because of their special characteristics.

Section 62-7-918 applies to receipts from all forms of annuities and deferred compensation arrangements, whether the payment will be received by the trust in a lump sum or in installments over a period of years. It applies to bonuses that may be received over two or three years and payments that may last for much longer periods, including payments from an individual retirement account (IRA), deferred compensation plan (whether qualified or not qualified for special federal income tax treatment), and insurance renewal commissions. It applies to a retirement plan to which the settlor has made contributions, just as it applies to an annuity policy that the settlor may have purchased individually, and it applies to variable annuities, deferred annuities, annuities issued by commercial insurance companies, and "private annuities" arising from the sale of property to another individual or entity in exchange for payments that are to be made for the life of one or more individuals. The section applies whether the payments begin when the payment right becomes subject to the trust or are deferred until a future date, and it applies whether payments are made in cash or in kind, such as employer stock (in-kind payments usually will be made in a single distribution that will be allocated to principal under the second sentence of subsection (C).

Prior Acts. Under Section 12 of the 1962 Act and Section 62-7-414 of the 1963 SC Act, receipts from "rights to receive payments on a contract for deferred compensation" are allocated to income each year in an amount "not in excess of 5% per year" of the property's inventory value. While "not in excess of 5%" suggests that the annual allocation may range from zero to five percent of the inventory value, in practice the rule is usually treated as prescribing a five percent allocation. The

inventory value is usually the present value of all the future payments, and since the inventory value is determined as of the date on which the payment right becomes subject to the trust, the inventory value, and thus the amount of the annual income allocation, depends significantly on the applicable interest rate on the decedent's date of death. That rate may be much higher or lower than the average long-term interest rate. The amount determined under the five percent formula tends to become fixed and remain unchanged even though the amount received by the trust increases or decreases.

Allocations Under Section 62-7-918(B). Section 62-7-918(B) applies to plans whose terms characterize payments made under the plan as dividends, interest, or payments in lieu of dividends or interest. For example, some deferred compensation plans that hold debt obligations or stock of the plan's sponsor in an account for future delivery to the person rendering the services provide for the annual payment to that person of dividends received on the stock or interest received on the debt obligations. Other plans provide that the account of the person rendering the services shall be credited with "phantom" shares of stock and require an annual payment that is equivalent to the dividends that would be received on that number of shares if they were actually issued; or a plan may entitle the person rendering the services to receive a fixed dollar amount in the future and provide for the annual payment of interest on the deferred amount during the period prior to its payment. Under Section 62-7-918(B) payments of dividends, interest or payments in lieu of dividends or interest under plans of this type are allocated to income; all other payments received under these plans are allocated to principal.

Section 62-7-918(B) does not apply to an IRA or an arrangement with payment provisions similar to an IRA. IRAs and similar arrangements are subject to the provisions in Section 62-7-918(C).

Allocations Under Section 62-7-918(C). The focus of Section 62-7-918, for purposes of allocating payments received by a trust to or between principal and income, is on the payment right rather than on assets that may be held in a fund from which the payments are made. Thus, if an IRA holds a portfolio of marketable stocks and bonds, the amount received by the IRA as dividends and interest is not taken into account in determining the principal and income allocation except to the extent that the Internal Revenue Service may require them to be taken into account when the payment is received by a trust that qualifies for the estate tax marital deduction (a situation that is provided for in Section 62-7-918(D)). An IRA is subject to federal income tax rules that require payments to begin by a particular date and

be made over a specific number of years or a period measured by the lives of one or more persons. The payment right of a trust that is named as a beneficiary of an IRA is not a right to receive particular items that are paid to the IRA, but is instead the right to receive an amount determined by dividing the value of the IRA by the remaining number of years in the payment period. This payment right is similar to the right to receive a unitrust amount, which is normally expressed as an amount equal to a percentage of the value of the unitrust assets without regard to dividends or interest that may be received by the unitrust.

An amount received from an IRA or a plan with a payment provision similar to that of an IRA is allocated under Section 62-7-918(C) which differentiates between payments that are required to be made and all other payments. To the extent that a payment is required to be made (either under federal income tax rules or, in the case of a plan that is not subject to those rules, under the terms of the plan), ten percent of the amount received is allocated to income and the balance is allocated to principal. All other payments are allocated to principal because they represent a change in the form of a principal asset; Section 62-7-918 follows the rule in Section 62-7-913(2) which provides that money or property received from a change in the form of a principal asset be allocated to principal.

Section 62-7-918(C) produces an allocation to income that is similar to the allocation under the 1962 Act formula and the 1963 SC Act formula if the annual payments are the same throughout the payment period, and it is simpler to administer. The amount allocated to income under Section 62-7-918 is not dependent upon the interest rate that is used for valuation purposes when the decedent dies, and if the payments received by the trust increase or decrease from year to year because the fund from which the payment is made increases or decreases in value, the amount allocated to income will also increase or decrease.

Marital Deduction Requirements. When an IRA or other retirement arrangement (a "plan") is payable to a marital deduction trust, the IRS treats the plan as a separate property interest that itself must qualify for the marital deduction. IRS Revenue Ruling 2006-26 said that, as written, the prior uniform act version of Section 62-7-918 does not cause a trust to qualify for the IRS' safe harbors. Revenue Ruling 2006-26 was limited in scope to certain situations involving IRAs and defined contribution retirement plans. Without necessarily agreeing with the IRS' position in that ruling, the revision to this section is designed to satisfy the IRS' safe harbor and to address concerns that

might be raised for similar assets. No IRS pronouncements have addressed the scope of Code § 2056(b)(7)(C).

Subsection (F) requires the trustee to demand certain distributions if the surviving spouse so requests. The safe harbor of Revenue Ruling 2006-26 requires that the surviving spouse be separately entitled to demand the fund's income (without regard to the income from the trust's other assets) and the income from the other assets (without regard to the fund's income). In any event, the surviving spouse is not required to demand that the trustee distribute all of the fund's income from the fund or from other trust assets. Treas. Reg. § 20.2056(b)-5(f)(8).

Subsection (F) also recognizes that the trustee might not control the payments that the trustee receives and provides a remedy to the surviving spouse if the distributions under subsection (d)(1) are insufficient.

Subsection (G) addresses situations where, due to lack of information provided by the fund's administrator, the trustee is unable to determine the fund's actual income. The bracketed language is the range approved for unitrust payments by Treas. Reg. § 1.643(b)-1. In determining the value for purposes of applying the unitrust percentage, the trustee would seek to obtain the value of the assets as of the most recent statement of value immediately preceding the beginning of the year. For example, suppose a trust's accounting period is January 1 through December 31. If a retirement plan administrator furnishes information annually each September 30 and declines to provide information as of December 31, then the trustee may rely on the September 30 value to determine the distribution for the following year. For funds whose values are not readily available, subsection (G) relies on Code Section 7520 valuation methods because many funds described in Section 62-7-918 are annuities, and one consistent set of valuation principles should apply whether or not the fund is, in fact, an annuity.

Application of Section 62-7-904. Section 62-7-904(A) of this act gives a trustee who is acting under the prudent investor rule the power to adjust from principal to income if, considering the portfolio as a whole and not just receipts from deferred compensation, the trustee determines that an adjustment is necessary. See Example (5) in the comment following Section 62-7-904.

B. Section 62-7-918 of the 1976 Code, as amended in subsection (A) of this section, applies to a trust described in Section 62-7-918(D) on and after the following dates:

(1) if the trust is not funded as of the effective date of this act, the date of the decedent's death;

(2) if the trust is initially funded in the calendar year beginning January 1, 2011, the date of the decedent's death;

(3) if the trust is not described in subsections (1) or (2) of this section, January 1, 2011.

Payment of trusts taxes

SECTION 2. Section 62-7-929 of the 1976 Code is amended to read:

"Section 62-7-929. (A) A tax required to be paid by a trustee based on receipts allocated to income must be paid from income.

(B) A tax required to be paid by a trustee based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

(C) A tax required to be paid by a trustee on the trust's share of the taxable income of the entity must be paid:

(1) from income, to the extent that receipts from the entity are allocated to income;

(2) from principal, to the extent that receipts from the entity are allocated only to principal;

(3) proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and

(4) from principal to the extent that the tax exceeds the total receipts from the entity.

(D) After applying subsections (A) through (C), the trustee shall adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for payments made to a beneficiary."

REPORTER'S COMMENTS

Taxes on Undistributed Entity Taxable Income. When a trust owns an interest in a pass-through entity, such as a partnership or "S" corporation, it must report its share of the entity's taxable income regardless of how much the entity distributes to the trust. Whether the entity distributes more or less than the trust's tax on its share of the entity's taxable income, the trust must pay the taxes and allocate them between income and principal.

Subsection (C) requires the trust to pay the taxes on its share of an entity's taxable income from income or principal receipts to the extent that receipts from the entity are allocable to each. This assures the trust

a source of cash to pay some or all of the taxes on its share of the entity's taxable income. Subsection (D) recognizes that, except in the case of an Electing Small Business Trust (ESBT), a trust normally receives a deduction for amounts distributed to a beneficiary. Accordingly, subsection (D) requires the trust to increase receipts payable to a beneficiary as determined under subsection (C) to the extent the trust's taxes are reduced by distributing those receipts to the beneficiary.

Because the trust's taxes and amounts distributed to a beneficiary are interrelated, the trust may be required to apply a formula to determine the correct amount payable to a beneficiary. This formula should take into account that each time a distribution is made to a beneficiary, the trust taxes are reduced and amounts distributable to a beneficiary are increased. The formula assures that after deducting distributions to a beneficiary, the trust has enough to satisfy its taxes on its share of the entity's taxable income as reduced by distributions to beneficiaries.

Example (1) - Trust T receives a Schedule K-1 from Partnership P reflecting taxable income of $1 million. Partnership P distributes $100,000 to T, which allocates the receipts to income. Both Trust T and income Beneficiary B are in the 35 percent tax bracket.

Trust T's tax on $1 million of taxable income is $350,000. Under subsection (C) T's tax must be paid from income receipts because receipts from the entity are allocated only to income. Therefore, T must apply the entire $100,000 of income receipts to pay its tax. In this case, Beneficiary B receives nothing.

Example (2) - Trust T receives a Schedule K-1 from Partnership P reflecting taxable income of $1 million. Partnership P distributes $500,000 to T, which allocates the receipts to income. Both Trust T and income Beneficiary B are in the 35 percent tax bracket.

Trust T's tax on $1 million of taxable income is $350,000. Under subsection (C), T's tax must be paid from income receipts because receipts from P are allocated only to income. Therefore, T uses $350,000 of the $500,000 to pay its taxes and distributes the remaining $150,000 to B. The $150,000 payment to B reduces T's taxes by $52,500, which it must pay to B. But the $52,500 further reduces T's taxes by $18,375, which it also must pay to B. In fact, each time T makes a distribution to B, its taxes are further reduced, causing another payment to be due B.

Alternatively, T can apply the following algebraic formula to determine the amount payable to B:

D = (C-R*K)/(1-R)

D = Distribution to income beneficiary
C = Cash paid by the entity to the trust
R = tax rate on income
K = entity's K-1 taxable income

Applying the formula to Example (2) above, Trust T must pay $230,769 to B so that after deducting the payment, T has exactly enough to pay its tax on the remaining taxable income from P.

Taxable Income per K-1	$1,000,000
Payment to beneficiary	$230,769 [1]
Trust Taxable Income	$769,231
35 percent tax	$269,231
Partnership Distribution	$500,000
Fiduciary's Tax Liability	($269,231)
Payable to the Beneficiary	$230,769

In addition, B will report $230,769 on his or her own personal income tax return, paying taxes of $80,769. Because Trust T withheld $269,231 to pay its taxes and B paid $80,769 taxes of its own, B bore the entire $350,000 tax burden on the $1 million of entity taxable income, including the $500,000 that the entity retained that presumably increased the value of the trust's investment entity.

If a trustee determines that it is appropriate to do so, it should consider exercising the discretion granted in Section 62-7-930 to adjust between income and principal. Alternatively, the trustee may exercise the power to adjust under Section 62-7-904 to the extent it is available and appropriate under the circumstances, including whether a future distribution from the entity that would be allocated to principal should be reallocated to income because the income beneficiary already bore the burden of taxes on the reinvested income. In exercising the power, the trust should consider the impact that future distributions will have on any current adjustments.

[1] D = (C-R*K)/(1-R) = (500,000 – 350,000)/(1 - .35) = $230,769. (D is the amount payable to the income beneficiary, K is the entity's K-1 taxable income, R is the trust ordinary tax rate, and C is the cash distributed by the entity)

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 205

(R214, S1014)

AN ACT TO AMEND SECTION 17-5-130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO QUALIFICATIONS REQUIRED FOR CANDIDATES FOR CORONER, SO AS TO ELIMINATE TWO YEARS' EXPERIENCE AS A LICENSED PRIVATE DETECTIVE AS A QUALIFICATION FOR THE BALLOT AND ADD AS QUALIFICATIONS BEING A MEDICAL DOCTOR OR HOLDING A BACHELOR OF SCIENCE DEGREE IN NURSING, TO REPLACE ON THE CORONERS TRAINING ADVISORY COMMITTEE THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY WITH THE DIRECTOR OF THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY, AND TO PROVIDE THAT THE COMMITTEE SHALL DETERMINE THOSE FORENSIC SCIENCE DEGREE AND CERTIFICATION PROGRAMS THAT QUALIFY AS "RECOGNIZED" FOR PURPOSES OF THE TRAINING REQUIREMENTS REQUIRED FOR CANDIDATES FOR CORONER.

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

Coroner qualifications

SECTION 1. A. Section 17-5-130(A) of the 1976 Code, as last amended by Act 222 of 2010, is further amended to read:

"(A)(1) A coroner in this State shall have all of the following qualifications, the person shall:

(a) be a citizen of the United States;

(b) be a resident of the county in which the person seeks the office of coroner for at least one year before qualifying for the election to the office;

(c) be a registered voter;

(d) have attained the age of twenty-one years before the date of qualifying for election to the office;

(e) have obtained a high school diploma or its recognized equivalent by the State Department of Education; and

(f) have not been convicted of a felony offense or an offense involving moral turpitude contrary to the laws of this State, another state, or the United States.

(2) In addition to the requirements of subsection (A)(1), a coroner in this State shall have at least one of the following qualifications, the person shall:

(a) have at least three years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(b) have a two-year associate degree and two years of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(c) have a four-year baccalaureate degree and one year of experience in death investigation with a law enforcement agency, coroner, or medical examiner agency;

(d) be a law enforcement officer, as defined by Section 23-23-10(E)(1), who is certified by the South Carolina Law Enforcement Training Council with a minimum of two years of experience;

(e) have completed a recognized forensic science degree or certification program or be enrolled in a recognized forensic science degree or certification program to be completed within one year of being elected to the office of coroner;

(f) be a medical doctor; or

(g) have a bachelor of science degree in nursing."

B. Section 17-5-130(G) of the 1976 Code, as last amended by Act 222 of 2010, is further amended to read:

"(G) The Director of the South Carolina Criminal Justice Academy shall appoint a Coroners Training Advisory Committee to assist in the

determination of training requirements for coroners and deputy coroners and to determine those forensic science degree and certification programs that qualify as 'recognized' pursuant to the requirements of this section. The committee must consist of no fewer than five coroners and at least one physician trained in forensic pathology as recommended by the South Carolina Coroners Association. The members of the committee shall serve without compensation."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 11th day of June, 2012.

No. 206

(R215, S1029)

AN ACT TO AMEND SECTION 50-1-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO GEOGRAPHIC BOUNDARIES OF CERTAIN BODIES OF WATER, SO AS TO GIVE A NUMERICAL DESIGNATION TO EACH BODY OF WATER ENUMERATED IN THE SECTION AND TO MAKE OTHER TECHNICAL CHANGES TO THE SECTION.

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

Numerical designation given to each body of water listed

SECTION 1. Section 50-1-50 of the 1976 Code, as added by Act 200 of 2010, is amended to read:

"Section 50-1-50.The following water bodies have the geographic boundaries as described:

(1) 'Ashepoo River' means all waters of the Ashepoo River from its confluence with Saint Helena Sound upstream to the confluence of

Jones Swamp and Ireland Creeks, near S.C. State Highway 63/U.S. Highway 17A Bridge in Colleton County.

(2) 'Ashley River' means all waters of the Ashley River from its confluence with the Cooper River in Charleston Harbor upstream to the confluence of Great Cypress Swamp and Rumphs Hill Creeks.

(3) 'Back River (Jasper County)' means all waters of Back River from its confluence with the Savannah River upstream to its headwaters on Hutchinson Island.

(4) 'Little Back River (Jasper County)' means all waters of Little Back River from its confluence with Back River upstream to the confluence of McCoy's Creek and Union Creek.

(5) 'Beaufort River (Beaufort County)' means all waters of Beaufort River from its confluence with Port Royal Sound upstream to the confluence with Battery, Cowen, Albergottie, and Brickyard Creeks.

(6) 'Black Creek (Chesterfield, Darlington, and Florence counties)' means all waters of Black Creek from its confluence with the Great Pee Dee River upstream to S.C. State Highway S-13-513 (Griggs Street Bridge) in Chesterfield County.

(7) 'Black Creek (Lexington County)' means all waters of Black Creek from its confluence with North Fork Edisto River upstream to its headwaters at Taylors Pond Dam near S.C. State Highway S-32-77 (Two Notch Road Bridge) in Lexington County.

(8) 'Black Mingo Creek' means all waters of Black Mingo Creek from its confluence with the Black River upstream to the confluence of Paisley Swamp and Cedar Swamp Creeks.

(9) 'Black River' means all waters of Black River from its confluence with the Great Pee Dee River upstream to its headwaters northwest of S.C. State Highway S-31-33 near McCutchens Crossroads in Lee County.

(10) 'Bohicket Creek (Charleston County)' means all waters of Bohicket Creek from its confluence with North Edisto River upstream to its confluence with Church Creek.

(11) 'Broad River' means all waters of Broad River from its confluence with the Saluda River at U.S. Highway 1/U.S. Highway 378 (Gervais Street Bridge) upstream to the North Carolina/South Carolina state line.

(12) 'Lower reach of the Broad River' means all waters of the Broad River from its confluence with the Saluda River at U.S. Highway 1/U.S. Highway 378 (Gervais Street Bridge) upstream to Parr Dam.

(13) 'Upper reach of the Broad River' means all waters of the Broad River from Parr Dam upstream to the North Carolina/South Carolina state line.

(14) 'Broad River (Beaufort County)' means all waters of Broad River from its confluence with Port Royal Sound upstream to the confluence of Whale Branch, Coosawhatchie River, and Pocotaligo River.

(15) 'Buffalo Creek (Newberry County)' means all waters of Buffalo Creek from its confluence with Lake Murray upstream to State Highway S-36-404.

(16) 'Bull Creek (Georgetown and Horry counties)' means all waters of Bull Creek from its divergence from the Great Pee Dee River to its confluence with the Waccamaw River.

(17) 'Bull River (Beaufort County)' means all waters of Bull River from its confluence with Coosaw River upstream to its confluence with Wimbee Creek and Williman Creek.

(18) 'Bulls Bay' means all open bay waters bounded on the east by a line running northeast from the northern tip of Bull Island following the COLREG line to the southern tip of Sandy Point.

(19) 'Bush River' means all waters of Bush River from Lake Murray in Newberry County at S.C. State Highway S-36-41, upstream to its headwaters beyond S.C. State Highway S-30-72 Bridge (Gary Street) in Laurens County.

(20) 'Calibogue Sound' means all waters between Hilton Head Island and Daufuskie Island bounded on the seaward side by a line running due west from the westernmost tip of Hilton Head Island (latitude 32° 6.82' N, longitude 080° 49.78' W) and bounded on the inland side by a line from the northern tip of Daufuskie Island (latitude 32° 8.34' N, longitude 080° 50.35' W) running along the marsh shore of Bull Island to its easternmost point (latitude 32° 11.46' N, longitude 080° 47.37' W) and then running due east to Hilton Head Island, and then following the shoreline in a southwesterly direction across the confluence of Broad Creek to the westernmost tip of Hilton Head Island.

(21) 'Cape Romain Harbor (Charleston County)' means all waters inshore of the COLREG line between Cape Island and Murphy Island and bounded on the eastern side by Cape Island and to its confluence with Romain River, Horsehead Creek, Congaree Boat Creek, and Alligator Creek, and inshore of the COLREG line from Cape Island to Raccoon Key.

(22) 'Catawba River' means all waters of the Catawba River from the backwaters of Fishing Creek Reservoir at S.C. State Highway 9 upstream to the Lake Wylie Dam.

(23) 'Chattooga River' means all waters of the Chattooga River beginning at its confluence with Opossum Creek upstream to the North Carolina/South Carolina state line.

(24) 'East Fork Chattooga River' means all waters of East Fork Chattooga River from its confluence with the Chattooga River upstream to the North Carolina/South Carolina state line.

(25) 'Chauga River' means all waters of the Chauga River from Lake Hartwell upstream to the confluence of Village and East Village Creeks.

(26) 'Chechessee Creek (Beaufort County)' means all waters of Chechessee Creek from its confluence with Chechessee River upstream to the confluence with Colleton River near Manigault Neck.

(27) 'Chechessee River (Beaufort County)' means all waters of Chechessee River from its confluence with Port Royal Sound upstream to the confluence with Hazzard Creek.

(28) 'New Chehaw River (Colleton County)' means all waters of New Chehaw River from its confluence with the Combahee River upstream to its diversion from the Old Chehaw River.

(29) 'Old Chehaw River (Colleton County)' means all waters of Old Chehaw River from its confluence with the Combahee River upstream to its headwaters outside of the town of Green Pond.

(30) 'Cheohee Creek' means all waters of Cheohee Creek from its confluence with Flat Shoal River and Tamassee Creek upstream to its headwaters east of S.C. State Highway 107 in Oconee County.

(31) 'Church Creek (Charleston County)' means all waters of Church Creek from its confluence with Wadmalaw River in Wadmalaw Sound upstream to its confluence with Bohicket Creek.

(32) 'Clark Sound' means all waters bounded on the northwestern side by James Island and on the eastern side by marshes associated with Morris Island.

(33) 'Clark's Creek' means all waters of Clark's Creek from its confluence with the Great Pee Dee River upstream to its divergence from the Lynches River in Florence County.

(34) 'Colleton River (Beaufort County)' means all waters of Colleton River from its confluence with Chechessee River upstream until its confluence with Okatee River.

(35) 'Combahee River' means all waters of the Combahee River from its confluence with the Coosaw River upstream to the confluence of the Salkehatchie and Little Salkehatchie Rivers.

(36) 'Congaree River' means all waters of the Congaree River from its confluence with the Wateree River upstream to the confluence with the Broad and Saluda Rivers at U.S. Highway 1/U.S. Highway 378 (Gervais Street Bridge).

(37) 'Cooper River (Beaufort County)' means all waters of Cooper River from its confluence with Calibogue Sound upstream to its confluence with the New River.

(38) 'Cooper River (Berkeley and Charleston counties)' means all waters of Cooper River from its confluence with the Ashley River in the Charleston Harbor upstream to the confluence of East Branch Cooper River and West Branch Cooper River.

(39) 'Cooper River system (Berkeley and Charleston counties)' means all waters of Cooper River and its fresh water tributaries, from the freshwater/saltwater dividing line to its headwaters including the East and West Branch and the Tailrace Canal.

(40) 'Coosaw River (Beaufort County)' means all waters of Coosaw River from its confluence with Saint Helena Sound upstream to its confluence with Whale Branch, McCalleys Creek, and Brickyard Creek.

(41) 'Coosawhatchie River' means all waters of the Coosawhatchie River from its confluence with the Broad River (Jasper County) upstream to U.S. Highway 301 in Allendale County.

(42) 'Great Cypress Swamp' means all waters of the Great Cypress Swamp from its confluence with the Ashley River upstream to the confluence of Partridge Creek and Wassamasaw Swamp Creek or Big Run Creek.

(43) 'Dawhoo River (Charleston County)' means all waters of Dawhoo River from its confluence with the North Edisto River upstream to its divergence with the South Edisto River.

(44) 'Durbin Creek (Greenville and Laurens counties)' means all waters of Durbin Creek from its confluence with the Enoree River in Laurens County upstream to S.C. State Highway 418 in Laurens County.

(45) 'Eastatoe Creek' means all waters of Eastatoe Creek from Lake Keowee backwaters upstream to the North Carolina/South Carolina state line.

(46) 'Edisto River' means all waters of the Edisto River from its confluence with the South Edisto River and Dawhoo River upstream to the confluence of the North Fork Edisto River and South Fork Edisto River.

(47) 'North Edisto River' means all waters of the North Edisto River from its confluence with the Atlantic Ocean upstream to the confluence of Dawhoo River and Wadmalaw River.

(48) 'South Edisto River' means all waters of the South Edisto River from its confluence with Saint Helena Sound upstream to the confluence of the Edisto River and Dawhoo River.

(49) 'North Fork Edisto River' means all waters of the North Fork Edisto River from its confluence with the South Fork Edisto River upstream to the confluence of Chinquapin Creek and Lightwood Knot Creek in Lexington County.

(50) 'South Fork Edisto River' means all waters of the South Fork Edisto River from its confluence with the North Fork Edisto River upstream to S.C. State Highway S-19-41(Edisto Road) in Edgefield County.

(51) 'Enoree River' means all waters of the Enoree River from its confluence with the Broad River upstream to its headwaters near S.C. State Highway S-23-869 (Tubbs Mt. Road).

(52) 'Five Fathom Creek (Charleston County)' means all waters of Five Fathom Creek from its confluence with Bull's Bay just west of Sandy Point to its divergence from the Intracoastal Waterway.

(53) 'Folly Creek (Charleston County)' means all waters of Folly Creek from its confluence with Folly River upstream to its confluence with Lighthouse Creek.

(54) 'Folly River (Charleston County)' means all waters of Folly River from its confluence with the Atlantic Ocean north of Stono Inlet upstream to the tidal flats behind Folly Island and onto its confluence with Rat Island Creek.

(55) 'Harbor River (Beaufort County)' means all waters of Harbor River from its confluence with Saint Helena Sound and the Atlantic Ocean upstream to its confluence with Station Creek and Trenchards Inlet.

(56) 'Jeffries Creek' means all waters of Jeffries Creek from its confluence with the Great Pee Dee River upstream to S.C. State Highway 403 in Darlington County.

(57) 'Kiawah River (Charleston County)' means all waters of Kiawah River from its confluence with the Atlantic Ocean at Captain Sam's Inlet upstream to its confluence with the Stono River.

(58) 'Little River (Abbeville, Anderson, and McCormick counties)' means all waters of Little River from the backwaters of Lake J. Strom Thurmond in McCormick County upstream to the confluence of Baker Creek (Long Branch) and Corner Creek in Anderson County. 'Little River (Horry County)' means all waters of Little River from its

confluence with the Atlantic Ocean at Little River Inlet upstream to its confluence with the Intercoastal Waterway to the headwaters of Socastee Creek.

(59) 'Little River (Newberry and Laurens counties)' means all waters of Little River from its confluence with the Saluda River upstream to S.C. State Highway S-30-419 (Ghost Creek Road) in Laurens County.

(60) 'Little River (Sumter County)' means all waters of Little River from its confluence with the Wateree River upstream to its divergence from the Wateree River.

(61) 'Log Creek (Edgefield County)' means all waters of Log Creek from its confluence with Turkey Creek upstream to S.C. State Highway 23 (Columbia Highway).

(62) 'Long Cane Creek (McCormick County)' means all waters of Long Cane Creek from the backwaters of Lake J. Strom Thurmond near S.C. State Highway 28 in McCormick County upstream to S.C. State Highway S-1-75 in Abbeville County.

(63) 'Lumber River' means all waters of Lumber River from its confluence with the Little Pee Dee River upstream to the North Carolina/South Carolina state line.

(64) 'Lynches River' means all waters of Lynches River from its confluence with the Great Pee Dee River upstream to the North Carolina/South Carolina state line.

(65) 'May River (Beaufort County)' means all waters of May River from its confluence with Calibogue Sound upstream to its headwaters just past the confluence of Stoney Creek.

(66) 'McCoy's Cut (Jasper County)' means all waters of McCoy's Cut from its divergence from Savannah River to its confluence with Union Creek to form the Little Back River.

(67) 'Mill Creek (Florence County)' means all waters of Mill Creek from its confluence with Muddy Creek upstream to its divergence from Lynches River.

(68) 'Morgan River (Beaufort County)' means all waters of Morgan River from its confluence with Saint Helena Sound upstream to the confluence of Lucy Point Creek and Warsaw Flats.

(69) 'Muddy Creek (Florence and Williamsburg counties)' means all waters of Muddy Creek from its confluence with Clark's Creek upstream to its headwaters near Hemingway, South Carolina.

(70) 'Mulberry Creek (Greenwood County)' means all waters of Mulberry Creek from the backwaters of Lake Greenwood upstream to U.S. Highway 25 in Greenwood County.

(71) 'Mungen Creek (Beaufort County)' means all waters of Mungen Creek from its divergence from the New River to its confluence with the New River.

(72) 'Murrell's Inlet (Georgetown County)' means all saltwaters of Murrell's Inlet from the seaward tip of the Murrell's Inlet jetties inland. This includes these tributary creeks: Main Creek, Woodland Creek, Parsonage Creek, Allston Creek, and Oaks Creek and adjacent marshes.

(73) 'New River' means all waters of New River from its confluence with the Atlantic Ocean upstream to its headwaters at Garrett Lake near U.S. Interstate Highway 95.

(74) 'North Santee Bay' means all waters of the bay west of a line running southwest from the southern tip of South Island to the eastern tip of Cedar Island and upstream to the confluence of Mosquito and Big Duck Creeks.

(75) 'Okatee River (Beaufort County)' means all waters of Okatee River from its confluence with Colleton River upstream to its headwaters near U.S. Highway 278.

(76) 'Oolenoy River' means all waters of Oolenoy River from its confluence with the South Saluda River upstream to its headwaters near US Highway 178 in Pickens County.

(77) 'Pacolet River' means all waters of Pacolet River from its confluence with the Broad River upstream to the Lake H. Taylor Blalock Dam in Spartanburg County.

(78) 'North Pacolet River' means all waters of North Pacolet River from its confluence with the South Pacolet River upstream to the North Carolina/South Carolina state line.

(79) 'South Pacolet River' means all waters of South Pacolet River from Lake William C. Bowen in Spartanburg County upstream to its headwaters near Glassy Mountain in Greenville County.

(80) 'Great Pee Dee River (also known as Pee Dee River or Big Pee Dee River)' means all waters of Great Pee Dee River from its confluence with Winyah Bay upstream to the North Carolina/South Carolina state line.

(81) 'Little Pee Dee River' means all waters of Little Pee Dee River from its confluence with the Great Pee Dee River upstream to Red Bluff Lake Dam at the confluence of Gum Swamp Creek and Beaver Dam Creek in Marlboro County.

(82) 'Pocotaligo River (Beaufort, Hampton, and Jasper counties)' means all waters of Pocotaligo River from its confluence with the Broad River upstream to its headwaters north of U.S. Highway 17 in Jasper County.

(83) 'Pocotaligo River (Clarendon and Sumter counties)' means all waters of Pocotaligo River from its confluence with the Black River upstream to the confluence of Cane Savannah Creek and Turkey Creek in Sumter County.

(84) 'Port Royal Sound' means all waters of Port Royal Sound between Hilton Head Island and Bay Point, bounded on the seaward side by a line running northeasterly from the easternmost tip of Hilton Head Island (latitude 32° 12.97' N, longitude 080° 40.05' W), to the southernmost tip of Bay Point (latitude 32° 15.39' N, longitude 080° 37.92' W), and bounded on the inland side by a line from the northernmost tip of Hilton Head Island (latitude 32° 16.23' N, longitude 080° 43.68' W), running northeasterly to the southern tip of Parris Island (latitude 32° 17.88' N, longitude 080° 40.08' W), and thence running southeasterly to the southern tip of Bay Point.

(85) 'Price Creek (Charleston County)' means all waters of Price Creek from its confluence with the Atlantic Ocean upstream to its divergence from Sewee Bay.

(86) 'Rabon Creek (Laurens County)' means all waters of Rabon Creek from the backwaters of Lake Greenwood upstream to the Lake Rabon Dam in Laurens County.

(87) 'Re-diversion Canal' means all waters of the Re-diversion Canal from its confluence with the Santee River upstream to the St. Stephen Dam and those waters upstream of the dam to its juncture with Lake Moultrie in Berkeley County.

(88) 'Reedy River' means all waters of Reedy River from the backwaters of Lake Greenwood at S.C. State Highway S-30-6 in Laurens County, upstream to Boyd Millpond Dam, and all waters upstream of Boyd Millpond to its headwaters near Renfrew and Travelers Rest in Greenville County at S.C. State Highway S-23-103.

(89) 'Rocky River' means all waters of Rocky River from Lake Secession upstream to the confluence of Little Beaverdam and Beaverdam Creeks in Anderson County.

(90) 'Saint Helena Sound' means all waters of Saint Helena Sound bounded by Edisto Beach, Otter Island, Ashe Island, Morgan Island, St. Helena Island, and Harbor Island, bounded on the seaward side by the COLREG line from Edisto Beach to Hunting Island, and bounded on the inland side by the U.S. Highway 21 bridge in the mouth of Harbor River, from the northern tip of Coffin Point (latitude 32° 26.78' N, longitude 080° 29.01' W), just east of the mouth of Coffin Creek running north crossing the mouth of Morgan River to the eastern tip of Morgan Island marsh (latitude 32° 28.14' N, longitude 080° 28.63' W), and then running north across the mouth of Coosaw River to the

southern tip of Ashe Island (latitude 32° 29.77' N, longitude 080° 28.35' W), and by a line running due west from the western tip of Ashe Island (latitude 32° 30.19' N, longitude 080° 27.33' W), crossing the mouth of Rock Creek to Hutchinson Island, and by a line running south across the mouth of the Ashepoo River to the eastern side of Otter Island (latitude 32° 28.72' N, longitude 080° 25.15' W) and extending to the southern tip of Edisto Beach (latitude 32° 28.64' N, longitude 080° 20.30' W).

(91) 'Salkehatchie River' means all waters of Salkehatchie River from its confluence with the Little Salkehatchie River upstream to the confluence of Buck Creek and Rosemary Creek near S.C. State Highway S-06-166 in Barnwell County.

(92) 'Little Salkehatchie River' means all waters of Little Salkehatchie River from its confluence with the Salkehatchie River upstream to the Lake Cynthia Dam in Barnwell County.

(93) 'Middle Saluda River' means all waters of Middle Saluda River from its confluence with South Saluda River upstream to its headwaters near U.S. Highway 276 in Greenville County.

(94) 'North Saluda River' means all waters of North Saluda River from its confluence with South Saluda River upstream to the North Saluda Reservoir (Poinsett Reservoir) Dam.

(95) 'South Saluda River' means all waters of South Saluda River from its confluence with Saluda River and North Saluda River upstream to the Table Rock Dam in Greenville County.

(96) 'Lower reach of the Saluda River' means all waters of Saluda River from its confluence with Broad River upstream to the Lake Murray Dam.

(97) 'Middle reach of the Saluda River' means all waters of Saluda River from the backwaters of Lake Murray at S.C. State Highway 395, upstream to the Lake Greenwood Dam.

(98) 'Upper reach of the Saluda River' means all waters of Saluda River from the backwaters of Lake Greenwood upstream to the confluence of North Saluda River and South Saluda River.

(99) 'Little Saluda River' means all waters of Little Saluda River from the backwaters of Lake Murray upstream to the confluence of Mine Creek and Red Bank Creek near U.S. Highway 378 in Saluda County.

(100) 'Sampit River' means all waters of Sampit River from its confluence with Winyah Bay upstream to U.S. Highway 17A in Georgetown County.

(101) 'Santee River' means all waters of Santee River from its confluence with North Santee River and South Santee River upstream

to the Lake Marion Dam and from the backwaters of Lake Marion at the railroad trestle bridge near Rimini upstream to the confluence of the Congaree and Wateree Rivers.

(102) 'North Santee River' means all waters of North Santee River from its confluence with North Santee Bay upstream to its confluence with the Santee River and South Santee River.

(103) 'South Santee River' means all waters of South Santee River from its confluence with the Atlantic Ocean upstream to its confluence with Santee River and North Santee River.

(104) 'Lower reach of the Santee River' means all waters of Santee River from its confluence with the Atlantic Ocean upstream via the North Santee River, the South Santee River, and the Santee River to the Lake Marion Dam including the waters of the Re-diversion Canal upstream to the St. Stephen Dam.

(105) 'Upper reach of the Santee River' means all waters of Santee River from the backwaters of Lake Marion at the railroad trestle bridge near Rimini upstream to the confluence of the Congaree and Wateree Rivers.

(106) 'Santee River system' means all waters of Santee River including tributaries from the saltwater/freshwater dividing line on the North and South Santee Rivers upstream to the Lake Murray Dam on the Saluda River, the Canal Dam on the Broad River, and the Wateree Dam on the Wateree River.

(107) 'Savannah River' means all waters of Savannah River from its confluence with the Atlantic Ocean upstream to the Lake J. Strom Thurmond Dam and from the backwaters of Richard B. Russell Lake upstream to the Lake Hartwell Dam.

(108) 'Lower reach of the Savannah River' means all waters of Savannah River from its confluence with the Atlantic Ocean or mouth of the Savannah River as defined by a line from Jones Island, South Carolina (also known as Oysterbed Island) point at latitude 32° 02.30' N, longitude 080° 53.35' W; across Cockspur Island, Georgia, point at latitude 32° 01.97' N, longitude 080° 52.93' W to Lazaretto Creek, Georgia, point at latitude 32° 01.03' N, longitude 080° 52.85' W upstream to the Lake J. Strom Thurmond Dam.

(109) 'Upper reach of the Savannah River' means all waters of Savannah River from S.C. State Highway 181 (the backwaters of Richard B. Russell Lake) upstream to the Lake Hartwell Dam.

(110) 'Socastee Creek (Horry County)' means all waters of Socastee Creek from its confluence with Waccamaw River upstream to the Intercoastal Waterway to the headwaters of Little River.

(111) 'Stevens Creek' means all waters of Stevens Creek from the back waters of Stevens Creek Reservoir upstream to the confluence of Hard Labor Creek and Cuffytown Creek in McCormick County.

(112) 'Stono River (Charleston County)' means all waters of Stono River from its confluence with the Atlantic Ocean at Stono Inlet upstream to its confluence with Wadmalaw River in Wadmalaw Sound.

(113) 'Story River (Beaufort County)' means all waters of Story River from its confluence with Fripp Inlet upstream to its confluence with Trenchards Inlet.

(114) 'Thicketty Creek' means all waters of Thicketty Creek, excluding private impoundments, from its confluence with the Broad River upstream to the Lake Thicketty Dam in Cherokee County.

(115) 'Trenchards Inlet (Beaufort County)' means all waters of Trenchards Inlet from its confluence with the Atlantic Ocean upstream to its confluence with Station Creek and Harbor River.

(116) 'Tulifinny River' means all waters of Tulifinny River from its confluence with the Coosawhatchie River upstream to its divergence from the Coosawhatchie River.

(117) 'Turkey Creek (Edgefield County)' means all waters of Turkey Creek from its confluence with Stevens Creek upstream to S.C. State Highway 23 in Edgefield County.

(118) 'Tyger River' means all waters of Tyger River from its confluence with Broad River upstream to the confluence of the North Tyger River and South Tyger River.

(119) 'Middle Tyger River' means all waters of Middle Tyger River from its confluence with the North Tyger River upstream to its headwaters just north of S.C. State Highway 11, excluding Lake Lyman.

(120) 'North Tyger River' means all waters of North Tyger River from its confluence with the South Tyger River upstream to its headwaters south of S.C. State Highway 11 in Spartanburg County.

(121) 'South Tyger River' means all waters of South Tyger River from its confluence with the North Tyger River upstream to the confluence of Mush Creek and Barton Creek in Greenville County, excluding the lakes.

(122) 'Union Creek (Jasper County)' means all waters of Union Creek from its confluence with McCoy's Cut and Little Back River upstream to its headwaters near Chisolm Cemetery.

(123) 'Waccamaw River' means all waters of Waccamaw River from its confluence with Winyah Bay upstream to the North Carolina/South Carolina state line.

(124) 'Wadmalaw River (Charleston County)' means all waters of Wadmalaw River from its confluence with the North Edisto River to its junction with the Intracoastal Waterway and Church Creek.

(125) 'Wando River' means all waters of Wando River from its confluence with the Cooper River upstream to its headwaters.

(126) 'Warrior Creek' means all waters of Warrior Creek from its confluence with the Enoree River upstream to its headwaters just west of S.C. State Highway S-30-660 in Laurens County.

(127) 'Wateree River' means all waters of Wateree River from its confluence with the Congaree River upstream to the Lake Wateree Dam.

(128) 'Whale Branch (Beaufort County)' means all waters of Whale Branch from its confluence with Coosaw River, McCalleys Creek, and Brickyard Creek upstream to its junction with the Broad River.

(129) 'Wilson Creek (Greenwood County)' means all waters of Wilson Creek from its confluence with the Saluda River upstream to U.S. Highway 25/U.S. Highway 221/U.S. Highway 178 Bypass in Greenwood County.

(130) 'Winyah Bay' means all waters of Winyah Bay east of a line running south from the southern tip of North Island to the eastern tip of Sand Island, and extending to the mouths of the Sampit, Great Pee Dee, and Waccamaw Rivers.

(131) 'Wright River (Jasper County)' means all waters of Wright River from its confluence with the Atlantic Ocean upstream to its headwaters in Jasper County.

(132) 'Lake H. Taylor Blalock' means all waters of Pacolet River impounded by the Lake Blalock Dam upstream to the confluence with North Pacolet River below Reservoir #1 (Rainbow Lake) Dam in Spartanburg County.

(133) 'Lake William C. Bowen' means all waters of South Pacolet River impounded by the Lake Bowen Dam upstream to S.C. State Highway 11.

(134) 'Cedar Creek Lake (also known as Stumpy Pond or Rocky Creek Lake)' means all waters of Catawba River impounded by the Cedar Creek/Rocky Creek Dam upstream to the Dearborn Powerhouse on Rocky Creek and U.S. Highway 21 on Rocky Creek. This includes waters between the Cedar Creek Hydro Station on the west bank upstream to the base of the shoals north of Hill Island (Bypass Reach).

(135) 'Lake Cooley' means all waters of Jordan Creek impounded by the Lake Cooley Dam upstream to S.C. State Highway S-42-784 (Ballenger Road) in Spartanburg County.

(136) 'Lake Cunningham' means all waters of South Tyger River impounded by the Lake Cunningham Dam upstream to S.C. State Highway 101 in Greenville County.

(137) 'Fishing Creek Reservoir' means all waters of Catawba River impounded by the Fishing Creek Dam upstream to S.C. State Highway 9. This includes all waters upstream of the Fishing Creek Dam to the confluence of Rum Creek and Cane Creek on Cane Creek and to Catawba Ridge Boulevard on Bear Creek.

(138) 'Goose Creek Reservoir' means all waters of Goose Creek impounded by the Goose Creek Reservoir Dam upstream to U.S. Highway 52 in Berkley County.

(139) 'Lake Greenwood' means all waters of Saluda River impounded by the Buzzard's Roost (Lake Greenwood) Dam upstream to U.S. Highway 25 including the tributaries of Cane Creek upstream to S.C. State Highway 72, Rabon Creek upstream to S.C. State Highway S-30-54 in Laurens County, and the Reedy River upstream to S.C. State Highway S-30-6 in Laurens County.

(140) 'Lake Hartwell' means all waters of Savannah River impounded by the Lake Hartwell Dam upstream to the Lake Yonah Dam on the Tugaloo River and to the Lake Keowee Dam on the Keowee River. This includes all waters upstream of Hartwell Dam to S.C. State Highway S-04-97 on Six and Twenty Creek in Anderson County.

(141) 'Lake Hartwell Tailwater' means all waters of Savannah River upstream of S.C. State Highway 181 to Lake Hartwell Dam.

(142) 'Lake Jocassee' means all waters of Keowee, Toxaway, and Whitewater Rivers impounded by the Lake Jocassee Dam upstream to the elevation of 1110 msl.

(143) 'Lake Keowee' means all waters of Keowee River impounded by the Little River Dam at Newry and the Keowee Dam to Jocassee Dam. This includes all waters upstream of the Little River Dam to the confluence of Cane Creek and Little Cane Creek on Cane Creek, to S.C. State Highway S-37-175 on Crooked Creek, to S.C. State Highway S-37-24 (Burnt Tanyard Road) on Little River, and to S.C. State Highway S-37-200 on Stamp Creek in Oconee County. This includes all waters upstream of the Keowee Dam to the confluence of Eastatoe River and Little Eastatoe Creek on the Eastatoe River; S.C. State Highway 133 on Cedar, Crowe, and Mile Creeks in Pickens County.

(144) 'Louther's Lake' means the oxbow lake off of the Great Pee Dee River in eastern Darlington County near S.C. State Highway S-16-495.

(145) 'Lake Lyman' means all waters of Middle Tyger River impounded by the Lake Lyman Dam upstream to S.C. State Highway S-42-75 in Spartanburg County.

(146) 'Lake Marion' means all waters of the Santee River and its tributaries impounded by the Lake Marion Dam including the flooded backwater areas within the Santee Cooper project area in Calhoun and Sumter Counties.

(147) 'Lake Monticello' means all waters impounded by the Frees Creek Dam including the recreational subimpoundment in Fairfield County.

(148) 'Lake Moultrie' means all waters impounded by the Pinopolis Dam including the Diversion Canal and those waters of the Re-diversion Canal within the Santee Cooper project area.

(149) 'Lake Murray' means all waters of Saluda River impounded by the Lake Murray Dam upstream to S.C. State Highway 395 and the Little Saluda River arm up to Big Creek.

(150) 'Parr Reservoir' means all waters of Broad River impounded by the Parr Reservoir Dam upstream to S.C. State Highway 34.

(151) 'Reservoir #1 (Rainbow Lake)' means all waters of South Pacolet River impounded by the Reservoir #1 Dam upstream to Lake William C. Bowen Dam in Spartanburg County.

(152) 'Lake Robinson (Darlington and Chesterfield counties)' means all waters of Black Creek and its tributaries impounded by the Lake Robinson Dam upstream to its headwaters west of S.C. State Highway S-13-46 in Chesterfield County.

(153) 'Lake Robinson (Greenville County)' means all waters of South Tyger River impounded by the Lake Robinson Dam upstream to S.C. State Highway S-23-114.

(154) 'Lake Russell' means all waters of Savannah River impounded by the Lake Richard B. Russell Dam upstream to the Lake Hartwell Dam including the tributary Rocky River upstream to the Lake Secession Dam.

(155) 'Saluda Lake (Pickens and Greenville counties)' means all the waters of the Saluda River and its tributaries impounded by the Saluda Dam upstream to the S.C. State Highway S-39-183 (Farr's Bridge Road).

(156) 'Lake Secession' means all the waters of Rocky River impounded by the Lake Secession Dam upstream to S.C. State Highway 413.

(157) 'Stevens Creek Reservoir' means all waters of Savannah River upstream of the Stevens Creek Dam to the Lake J. Strom Thurmond Dam including the tributary of Stevens Creek upstream to

the confluence of Dry Branch, Cheves Creek, and Stevens Creek in Edgefield County.

(158) 'Lake J. Strom Thurmond (formerly Clarks Hill Lake)' means all waters of Savannah River impounded by the Lake J. Strom Thurmond Dam upstream to the Richard B. Russell Dam, including the tributaries of Little River to Calhoun Mill at the S.C. State Highway 823 Bridge and Long Cane Creek to Patterson Bridge at S.C. State Highway S-33-117 in McCormick County.

(159) 'Lake Tugaloo' means all waters of Tugaloo River impounded by the Lake Tugaloo Dam upstream to the confluence of the Chattooga River and Opossum Creek in Oconee County.

(160) 'Lake Wateree' means all waters of Catawba and Wateree Rivers impounded by the Lake Wateree Dam upstream to the Cedar Creek Hydro Station and Rocky Creek Hydro Station and the dam between the two. This includes the waters to the confluence of Colonel Creek and the first unnamed tributary on Colonel Creek; to the confluence of Fox (June) Creek and the first unnamed tributary on Fox (June) Creek; to S.C. State Highway S-28-101 on Rochelle Creek; to the confluence of Dutchman's Creek and the first unnamed tributary on the south side of Dutchman's Creek; to the confluence of Taylor Creek and the first unnamed tributary on the north side of Taylor Creek; to U.S. Highway 21 on Little Wateree Creek and Big Wateree Creek; to Wildlife Road on Singletons Creek; to S.C. State Highway S-28-13 on Beaver Creek and to S.C. State Highway 97 on White Oak Creek.

(161) 'Lake Wylie' means all waters of Catawba River impounded by the Lake Wylie Dam upstream to the southern end of Sunset Island, which constitutes the North Carolina/South Carolina state line, and bounded on the east by the North Carolina/South Carolina state line, which follows the middle of the course of the Catawba River. This includes all waters impounded by the Lake Wylie Dam to S. C. State Highway 274 on Little Allison Creek; to the confluence of Big Branch and Allison Creek on Big Allison Creek; to Vineyard Road on Torrance Creek; to the confluence of Beaver Dam Creek and Crowder's Creek on Crowder's Creek; to the confluence of the first unnamed tributary on Mill Creek and Mill Creek; to the North Carolina/South Carolina state line on Catawba Creek. The upper boundary of Lake Wylie is the North Carolina/South Carolina state line located mid channel of the Catawba River at the confluence of the Catawba River and South Fork Catawba River.

(162) 'Lake Yonah' means all waters of Tugaloo River impounded by the Lake Yonah Dam upstream to the Lake Tugaloo Dam."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 207

(R216, S1033)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING CHAPTER 43, TITLE 46 RELATING TO THE MIGRANT FARM WORKERS COMMISSION, ITS MEMBERS, POWERS, AND DUTIES.

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

Migrant Farm Workers Commission repealed

SECTION 1. Chapter 43, Title 46 of the 1976 Code is repealed.

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 208

(R221, S1247)

AN ACT TO AMEND SECTION 58-3-250, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SERVICE OF FINAL ORDERS AND DECISIONS OF THE PUBLIC SERVICE

COMMISSION, SO AS TO ALLOW THE COMMISSION TO SERVE A FINAL ORDER OR DECISION BY ELECTRONIC SERVICE, REGISTERED MAIL, OR CERTIFIED MAIL.

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

Final orders and decisions of the Public Service Commission, methods of service

SECTION 1. Section 58-3-250(B) of the 1976 Code, as added by Act 175 of 2004, is amended to read:

"(B) A copy of every final order or decision under the seal of the commission must be served by electronic service, registered or certified mail, upon all parties to the proceeding or their attorneys. Service of every final order or decision upon a party or upon the attorney must be made by emailing a copy of the order to the party's email address provided to the commission or by mailing a copy to the party's last known address. If no email or other address is known, however, service shall be made by leaving a copy with the chief clerk of the commission. The order takes effect and becomes operative when served unless otherwise designated and continues in force either for a period designated by the commission or until changed or revoked by the commission. If, in the judgment of the commission, an order cannot be complied with within the time designated, the commission may grant and prescribe additional time as is reasonably necessary to comply with the order and, on application and for good cause shown, may extend the time for compliance fixed in its order."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 209

(R223, S1331)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 13-17-89 SO AS TO PROVIDE THAT NO PROVISION IN CHAPTER 17, TITLE 13 MAY BE CONSTRUED TO AUTHORIZE THE SOUTH CAROLINA RESEARCH AUTHORITY TO COMMIT THE CREDIT AND TAXING POWER OF THE STATE, TO PROVIDE A WRITTEN NOTICE REQUIREMENT WHEN THE AUTHORITY HAS CERTAIN RELATIONSHIPS WITH A NONPROFIT ENTITY THAT ESTABLISHES A FOR-PROFIT ENTITY, AND TO PROVIDE THAT A FAILURE TO PROVIDE THIS NOTICE MAY NOT BE CONSTRUED TO INDICATE THE AUTHORITY MAY PLEDGE THE CREDIT AND TAXING POWER OF THE STATE; TO AMEND SECTION 13-17-40, AS AMENDED, RELATING TO THE MEMBERSHIP AND TERMS OF THE BOARD OF TRUSTEES AND EXECUTIVE COMMITTEE OF THE AUTHORITY, SO AS TO PROVIDE FOR THE ELECTION OF TWO ADDITIONAL TRUSTEES, TO PERMIT A UNIVERSITY PRESIDENT WHO IS AN EX OFFICIO MEMBER OF THE BOARD TO DESIGNATE THE CHIEF RESEARCH OFFICER OF HIS UNIVERSITY TO PARTICIPATE AND VOTE IN NO MORE THAN TWO MEETINGS OF THE EXECUTIVE COMMITTEE EACH YEAR, TO PROVIDE FOR MEMBERS' TERMS, FILLING OF VACANCIES, AND REMOVAL OF EXECUTIVE COMMITTEE MEMBERS, AND TO ALLOW THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE AND THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE, OR THEIR DESIGNEES, TO SERVE ON THE BOARD, AND TO DELETE ARCHAIC REFERENCES; TO AMEND SECTION 13-17-70, AS AMENDED, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES OF THE AUTHORITY, SO AS TO PROVIDE THE BOARD MAY PROVIDE GUARANTEES AS SECURITY FOR CERTAIN OBLIGATIONS; TO AMEND SECTION 13-17-87, AS AMENDED, RELATING TO COSTS ASSOCIATED WITH INNOVATION CENTERS ESTABLISHED BY THE AUTHORITY, SO AS TO MAKE CERTAIN FINANCING OPTIONAL RATHER THAN MANDATORY, TO EXPAND THE SOURCES OF FUNDING AVAILABLE FOR

FINANCING THESE COSTS, AND TO PROHIBIT THE USE OF A PLEDGE OF CREDIT AND TAXING POWER OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE TO FINANCE THESE COSTS; AND TO AMEND SECTION 8-13-770, AS AMENDED, RELATING TO MEMBERS OF THE GENERAL ASSEMBLY SERVING ON BOARDS, SO AS TO MAKE CONFORMING CHANGES.

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

SCRA, prohibition on pledging credit of State

SECTION 1. Chapter 17, Title 13 of the 1976 Code is amended by adding:

"Section 13-17-89. A provision of this chapter may not be construed to authorize the SCRA to commit the credit and taxing power of the State. Where the SCRA establishes, controls, funds, supports, or is otherwise involved with a nonprofit entity or appoints some or all of the directors of a nonprofit entity, and this nonprofit entity has established or establishes a for-profit entity, has acquired or acquires an ownership interest in a for-profit entity, the SCRA shall provide written notice to both this nonprofit entity and this for-profit entity that the SCRA may not pledge the credit and taxing power of the State. A failure to provide this written notice may not be construed to indicate the SCRA may pledge the credit and taxing power of the State."

SCRA board membership

SECTION 2. Section 13-17-40 of the 1976 Code, as last amended by Act 83 of 2007, is further amended to read:

"Section 13-17-40. (A)(1) The SCRA shall consist of a board of twenty-four trustees that includes the following ex officio members: President of the Council of Private Colleges of South Carolina, Chairman of the South Carolina Commission on Higher Education, President of Clemson University, President of the Medical University of South Carolina, President of South Carolina State College, President of the University of South Carolina, Director of Savannah River National Laboratory, President of Francis Marion University, Chairman of the State Board for Technical and Comprehensive Education, Governor of South Carolina or his designee, Chairman of

the House Ways and Means Committee or his designee, Chairman of the Senate Finance Committee or his designee, and the Secretary of Commerce or his designee.

(2) The Governor shall name the chairman who must not be a public official and who serves at the pleasure of the Governor. The remaining ten trustees must be elected by the board of trustees from a list of nominees submitted by an ad hoc committee named by the chairman and composed of the members serving as elected trustees. Each of the Congressional Districts of South Carolina must have at least one of the ten trustees.

(3) Terms of elected trustees are for four years, and half expire every two years. An elected trustee may not serve more than two consecutive four-year elected terms. Vacancies must be filled for the unexpired term in the manner of original appointment. A vacancy occurs upon the expiration of the term of service, death, resignation, disqualification, or removal of a trustee.

(B)(1) The President of Clemson University, President of the Medical University of South Carolina, President of the University of South Carolina at Columbia, the Governor or his designee, the Chairman of the House Ways and Means Committee or his designee, the Chairman of the Senate Finance Committee or his designee, and the Chairman of the Board of Trustees shall serve on the executive committee of the board of trustees. The executive committee shall elect two additional members of the executive committee, who shall be trustees at the time of their election, by the affirmative vote of a majority of the members of the executive committee then serving. Each of the three university presidents, with respect to no more than two executive committee meetings each calendar year, may designate in his place that university's chief research officer, as determined in the sole discretion of the designating president, to participate in and vote at executive committee meetings specified in the designation. The executive committee has all powers and authority of the board of trustees. The board shall have an advisory role only and shall advise the executive committee of the actions recommended by the board.

(2) Terms of elected executive committee members are for four years, and half expire every two years. An elected executive committee member may not serve more than two consecutive four-year elected terms. A vacancy must be filled for the unexpired term in the manner of original election, and occurs upon the expiration of the term of service, death, resignation, disqualification, or removal of an elected executive committee member. An elected executive committee member need not continue to be a trustee in order to complete his term

as an executive committee member. An elected executive committee member may be removed from office by the affirmative vote of two-thirds of the executive committee members serving.

(3) The executive committee shall appoint a business and science advisory board to include representatives from each research university, the venture capital industry, relevant industry leaders, and the Department of Commerce. The purpose of the advisory board is to advise the board of trustees when requested by it. The advisory board shall ensure that the authority has the input of the research and business communities in implementing its programs and services.

(C) A trustee may not receive a salary for his services as a trustee; however, a trustee must be reimbursed for actual expenses incurred in service to the authority.

(D) The board annually shall submit a report to the General Assembly including information on all acts of the board of trustees together with a financial statement and full information as to the work of the authority.

(E) The board shall hire an executive director of the SCRA who has administrative responsibility for the SCRA. The executive director shall maintain, through a designated agent, accurate and complete books and records of account, custody, and responsibility for the property and funds of the authority and control over the authority bank account. The executive director, with the approval of the board, has the power to appoint officers and employees, to prescribe their duties, and to fix their compensation. The board of trustees shall select a reputable certified public accountant to audit the books of account at least once each year.

(F) Regular meetings of the board of trustees must be held at a time and place the chairman may determine. Special meetings of the board of trustees may be called by the chairman when reasonable notice is given."

SCRA authority to provide certain guarantees

SECTION 3. Section 13-17-70(12) of the 1976 Code, as last amended by Act 133 of 2005, is further amended to read:

"(12) to provide guarantees as security for notes, bonds, evidences of indebtedness, or other obligations of affiliates as defined in Section 35-2-201, or of other entities with respect to which the authority has the right to appoint one or more board members, and to mortgage, pledge, hypothecate, or otherwise encumber the property, real,

personal, or mixed, or facilities, or revenues of the authority as security for or relating to these guarantees, or for notes, bonds, evidences of indebtedness, or other obligations of the authority; provided, the authority shall have no authority to pledge the credit and the taxing power of the State or any of its political subdivisions;"

Research innovation centers costs

SECTION 4. Section 13-17-87(E) of the 1976 Code, as added by Act 133 of 2005, is amended to read:

"(E) Costs associated with the physical space for the innovation centers including, but not limited to, the costs to acquire, lease, or build the physical space and to up fit the physical space, may be financed through the issuance of general obligation debt to the maximum extent allowed by Chapter 51, Title 11, the South Carolina Research University Infrastructure Act, by private match funding, from the budget of the authority, or by other means; provided, however, that in no event shall there be a pledge of the credit and taxing power of the State or a political subdivision of the State in connection with this financing. The facilities and programs at each site may be tailored to the predominant research focuses of that area. Each may contain wet and dry laboratory space, office space, prototype production facilities, pilot operations, clean rooms, and other specialized facilities."

Exemption from prohibition on serving on state board

SECTION 5. Section 8-13-770 of the 1976 Code, as last amended by Act 103 of 2005, is further amended to read:

"Section 8-13-770. A member of the General Assembly may not serve in any capacity as a member of a state board or commission, except for the State Budget and Control Board, the Advisory Commission on Intergovernmental Relations, the Legislative Audit Council, the Legislative Council, the Legislative Information Systems, the Judicial Council, the Commission on Prosecution Coordination, the South Carolina Tobacco Community Development Board, the Tobacco Settlement Revenue Management Authority, the South Carolina Transportation Infrastructure Bank, the Commission on Indigent Defense, the South Carolina Research Authority, and the joint legislative committees."

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 210

(R224, S1364)

AN ACT TO AMEND SECTIONS 50-5-1705 AND 50-5-1710, BOTH AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LAWFUL SIZE AND CATCH LIMITS FOR CERTAIN FISH, SO AS TO PROVIDE LAWFUL SIZE AND CATCH LIMITS FOR SHEEPSHEAD (ARCHOSARGUS PROBATOCEPHALUS).

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

Lawful catch limits for sheepshead

SECTION 1. Section 50-5-1705 of the 1976 Code, as last amended by Act 169 of 2010, 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) It is unlawful for a person to take or have in possession more than ten spotted seatrout in any one day.

(C) It is unlawful for a person to take or have in possession more than three red drum in any one day.

(D) It is unlawful for a person to take or have in possession more than one tarpon in any one day.

(E) It is unlawful for a person to take or have in possession more than five black drum Pogonias cromis in any one day.

(F) It is unlawful for a person to take or possess more than twenty flounder (Paralichthys species) taken by means of gig, spear, hook and line, or similar device in any one day, not to exceed forty flounder in any one day on any boat.

(G) It is unlawful for a person to take or have in possession more than one weakfish Cynoscion regalis in any one day.

(H) 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.

(I) It is unlawful to take or possess Hardhead Catfish Ariopsis felis or Gafftopsail Catfish Bagre marinus.

(J) It is unlawful to gig for spotted seatrout or red drum from December first, through the last day of February inclusive.

(K) 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."

Lawful size limits for sheepshead

SECTION 2. Section 50-5-1710(A) of the 1976 Code, as last amended by Act 85 of 2007, is further amended to read:

"(A) Except as provided in Article 21, it is unlawful to take, possess, land, sell, purchase, or attempt to sell or purchase:

(1) spotted seatrout (Cynoscion nebulosus) (winter trout) of less than fourteen inches in total length;

(2) flounder (Paralichthys) of less than fourteen inches total length;

(3) red drum (Sciaenops ocellatus) (channel bass or spottail bass) of less than fifteen inches in total length, or more than twenty-three inches in total length;

(4) black drum Pogonias cromis of less than fourteen inches or more than twenty-seven inches in total length;

(5) weakfish Cynoscion regalis of less than twelve inches in total length; or

(6) sheepshead (Archosargus probatocephalus) of less than fourteen inches in total length."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 211

(R225, S1392)

AN ACT TO AMEND SECTION 34-13-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TOTAL LIABILITIES OF ANY ONE BORROWER TO A BANK, SO AS TO DEFINE "TOTAL LIABILITIES" WHICH SHALL INCLUDE "DERIVATIVE TRANSACTIONS" AND TO ALSO DEFINE "DERIVATIVE TRANSACTIONS" FOR THIS PURPOSE; AND TO AMEND SECTION 34-13-70, RELATING TO THE MAXIMUM AMOUNT OF LOANS BY A STATE BANK TO A BORROWER, SO AS TO DEFINE "LOAN" WHICH SHALL INCLUDE "DERIVATIVE TRANSACTIONS", AND TO ALSO DEFINE "DERIVATIVE TRANSACTIONS" FOR THIS PURPOSE.

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

Total liabilities permitted of a borrower to a bank, definitions added

SECTION 1. Section 34-13-50 of the 1976 Code, as last amended by Act 295 of 1998, is further amended to read:

"Section 34-13-50. (A) The total liabilities, direct and indirect, of any one borrower to a bank, including in the liabilities of a company or firm the liabilities of its several members, may never exceed ten percent of the bank's unimpaired capital, except by two-thirds vote of the directors of the bank, in which case liabilities other than those of officers and directors as described in Section 34-13-80 may be extended to fifteen percent of the bank's unimpaired capital. However, liabilities may be extended by an additional amount not to exceed thirty-five percent of the unimpaired capital of the bank when the additional loans are secured by direct obligations of the United States Government or direct obligations of this State. The discount of bills of exchange drawn in good faith against existing values and the discount of commercial or business paper are not considered money borrowed.

(B) For purposes of this section, 'unimpaired capital' means the total of the amount of:

(1) unimpaired common stock;

(2) perpetual preferred stock;

(3) surplus;

(4) undivided profits, excluding disallowed intangibles;

(5) reserve for contingencies and other capital reserves, excluding accrued dividends on perpetual and limited life preferred stock;

(6) mandatory convertible debt;

(7) allowance for loan losses; and

(8) capital debentures or notes, convertible or otherwise, having an average original maturity of at least seven years and having been designated specifically as part of the bank's unimpaired capital by resolution duly adopted by the board of directors of the bank.

(C) For purposes of this section, 'total liabilities' include any credit exposure of a bank to a borrower arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between a bank and that borrower.

(D) For purposes of this section, 'derivative transaction' means any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event relating to one or more commodities, securities, currencies, interest, or other rates, indices, or assets."

Maximum amount of loans by a state bank to a borrower, definitions added

SECTION 2. Section 34-13-70 of the 1976 Code is amended to read:

"Section 34-13-70. (A) In no case shall a loan be made by any state bank which when added to the then existing total loans to the borrower thereof would increase the total to more than twenty-five percent of the capital, surplus, and deposits of the bank, less the amount invested in real estate, bonds, or other securities.

(B) For purposes of this section, 'loan' includes any credit exposure to a borrower arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between a bank and that borrower.

(C) For purposes of this section, 'derivative transaction' means any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event relating to one or more commodities, securities, currencies, interest, or other rates, indices, or assets."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 212

(R241, H5026)

AN ACT TO AMEND SECTION 1-23-600, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HEARINGS AND PROCEEDINGS BEFORE THE ADMINISTRATIVE LAW COURT, SO AS TO DELETE AN OBSOLETE REFERENCE EXEMPTING APPEALS FROM THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE TO THE COURT; TO AMEND SECTION 56-1-286, AS AMENDED, RELATING TO THE SUSPENSION OR DENIAL OF THE DRIVER'S LICENSE, PERMIT, OR NONRESIDENT'S OPERATING PRIVILEGE OF A PERSON WHO DRIVES AN AUTOMOBILE WHILE HAVING AN ALCOHOL CONCENTRATION OF TWO-HUNDREDTHS OF ONE PERCENT, SO AS TO PROVIDE HE MAY SEEK A CONTESTED CASE HEARING BEFORE THE OFFICE OF MOTOR VEHICLE HEARINGS FOR A SUSPENSION UNDER THIS SECTION, TO MAKE CONFORMING CHANGES, TO PROVIDE THE DEPARTMENT AND ARRESTING OFFICER HAVE THE BURDEN OF PROOF IN THIS CONTESTED CASE, AND TO PROVIDE THE HEARING OFFICER SHALL RESCIND THE SUSPENSION IF NEITHER THE DEPARTMENT NOR ARRESTING OFFICER APPEAR AT

THE HEARING, REGARDLESS OF WHETHER THE PERSON REQUESTING THE HEARING OR HIS ATTORNEY APPEARS AT THE HEARING; TO AMEND SECTION 56-5-2942, AS AMENDED, RELATING TO MANDATORY IMMOBILIZATION OF CERTAIN MOTOR VEHICLES, SO AS TO PROVIDE THE DEPARTMENT MAY ISSUE A DETERMINATION PERMITTING OR DENYING THE RELEASE OF THE VEHICLE TO ITS REGISTERED OWNER OR A MEMBER OF THE HOUSEHOLD OF THE REGISTERED OWNER BASED ON AN AFFIDAVIT FROM HIM CONTAINING CERTAIN INFORMATION, AND TO PROVIDE FOR AN APPEAL FROM A DEPARTMENT DETERMINATION TO THE OFFICE OF MOTOR VEHICLES FOR A CONTESTED HEARING PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT AND THE RULES AND PROCEDURES OF THE DEPARTMENT; TO AMEND SECTION 56-5-2951, AS AMENDED, RELATING TO THE SUSPENSION OR DENIAL OF THE DRIVER'S LICENSE, PERMIT, OR NONRESIDENT'S OPERATING PRIVILEGE OF A PERSON WHO REFUSES TO SUBMIT TO CERTAIN ALCOHOL CONCENTRATION TESTING, AMONG OTHER THINGS, SO AS TO PROVIDE A PERSON MAY SEEK A CONTESTED CASE HEARING BEFORE THE OFFICE OF MOTOR VEHICLE HEARINGS FOR A SUSPENSION UNDER THIS SECTION, TO MAKE CONFORMING CHANGES, AND TO PROVIDE THE DEPARTMENT AND ARRESTING OFFICER HAVE THE BURDEN OF PROOF IN THIS CONTESTED CASE, AND TO PROVIDE THE HEARING OFFICER SHALL RESCIND THE SUSPENSION IF NEITHER THE DEPARTMENT NOR ARRESTING OFFICER APPEAR AT THE HEARING, REGARDLESS OF WHETHER THE PERSON REQUESTING THE HEARING OR HIS ATTORNEY APPEARS AT THE HEARING; AND TO AMEND SECTION 56-5-2952, AS AMENDED, RELATING TO THE FILING FEE FOR A CONTESTED CASE HEARING, SO AS TO INCREASE THE FEE TO TWO HUNDRED DOLLARS OR AS OTHERWISE PROVIDED BY THE OFFICE OF MOTOR VEHICLES, AND TO PROVIDE FUNDS RECEIVED FROM THE FEE MUST BE RETAINED BY THE ADMINISTRATIVE LAW COURT AND MUST FIRST BE USED TO MEET THE EXPENSES OF THE OFFICE OF MOTOR VEHICLE HEARINGS IN A CERTAIN MANNER.

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

Appeals from Department of Employment and Workforce to Administrative Law Courts, obsolete references corrected

SECTION 1. Section 1-23-600(D) of the 1976 Code, as last amended by Act 334 of 2008, is further amended to read:

"(D) An administrative law judge also shall preside over all appeals from final decisions of contested cases pursuant to the Administrative Procedures Act, Article I, Section 22, Constitution of the State of South Carolina, 1895, or another law, except that an appeal from a final order of the Public Service Commission and the State Ethics Commission is to the Supreme Court or the court of appeals as provided in the South Carolina Appellate Court Rules, an appeal from the Procurement Review Panel is to the circuit court as provided in Section 11-35-4410, and an appeal from the Workers' Compensation Commission is to the court of appeals as provided in Section 42-17-60. An administrative law judge shall not hear an appeal from an inmate in the custody of the Department of Corrections involving the loss of the opportunity to earn sentence-related credits pursuant to Section 24-13-210(A) or Section 24-13-230(A) or an appeal involving the denial of parole to a potentially eligible inmate by the Department of Probation, Parole and Pardon Services."

Contested hearings and burden of proof for suspension of driver's license for persons driving with certain alcohol concentration

SECTION 2. Section 56-1-286 of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

"Section 56-1-286. (A) The Department of Motor Vehicles must 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 his 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 direction of the officer, 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 he 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 SLED 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 its provisions. The costs of the tests administered at the direction of the officer must be paid from the general fund of the State. 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 must 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 his 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 failure or inability of the person tested to obtain additional tests does not preclude the admission of evidence relating to the tests or samples taken at the direction of the officer. The officer must 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, SLED must 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 any judicial or administrative proceeding.

(E) A qualified person and his employer who obtain samples or administer the tests or assist in obtaining samples or administering of tests at the direction of the primary investigating officer 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 request of the primary investigating officer to submit to chemical tests as provided in subsection (C), the department must suspend his license, permit, or any nonresident operating privilege, or deny the issuance of a license or permit to him for:

(1) six months; or

(2) one year, if the person, within the five years preceding the violation of this section, has been previously convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945 or any other 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 or has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2950, or 56-5-2951.

(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 must suspend his license, permit, or

any nonresident operating privilege, or deny the issuance of a license or permit to him for:

(1) three months; or

(2) six months, if the person, within the five years preceding the violation of this section, has been previously convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945 or any other 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 or has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2950, or 56-5-2951.

(H) A person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension under subsection (F) or (G) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program in which he is enrolled. After the person's driving privilege is restored, he must continue to participate in the Alcohol and Drug Safety Action Program in which he 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 he completes the Alcohol and Drug Safety Action Program. A person must be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 before his driving privilege can 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) he does not have to take the test or give the samples but that his privilege to drive must be suspended or denied for at least six months if he refuses to submit to the tests and that his refusal may be used against him in court;

(2) his privilege to drive must be suspended for at least three months if he takes the test or gives the samples and has an alcohol concentration of two one-hundredths of one percent or more;

(3) he has the right to have a qualified person of his own choosing conduct additional independent tests at his expense;

(4) he has the right to request an administrative hearing within thirty days of the issuance of the notice of suspension; and

(5) he must enroll in an Alcohol and Drug Safety Action Program within thirty days of the issuance of the notice of suspension if he does not request an administrative hearing or within thirty days of

the issuance of notice that the suspension has been upheld at the administrative hearing.

The primary investigating officer must notify promptly the department of the refusal of a person to submit to a test requested pursuant to this section as well as the test result of any 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 must 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, must enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 if he 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 his 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 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 must be retained by 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 its 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 must enroll in an Alcohol and Drug Safety Action Program and his 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 must have his driver's license, permit, or nonresident operating privilege 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, he shall have waived his right to the hearing and his 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 his 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 he does not request a contested case hearing within thirty days of the issuance of the notice of suspension, he must enroll in an Alcohol and Drug Safety Action Program, and he waives his 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 his license was suspended before he 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 he was stopped, the person whose license is suspended had an alcohol concentration that was less than eight one-hundredths of one percent."

Determinations by Department of Motor Vehicles on release of immobilized vehicles

SECTION 3. Section 56-5-2942(G) of the 1976 Code, as added by Act 61 of 2003, is amended to read:

"(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."

Contested hearings and burden of proof for suspension of driver's license for refusal to submit to alcohol concentration testing

SECTION 4. Section 56-5-2951 of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

"Section 56-5-2951. (A) The Department of Motor Vehicles must 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 must 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 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 must be retained by 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 its 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 he 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 its 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 must enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990;

(b) the suspension is overturned, the person must have his 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, he waives his right to the hearing, and his suspension must not be stayed but continues for the period provided for in subsection (I).

(E) The notice of suspension must advise the person of his right to obtain a temporary alcohol driver's license and to request a contested case hearing before the Office of Motor Vehicle Hearings. The notice of suspension 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 suspension, he waives his right to the administrative hearing, and the suspension continues for the period provided for in subsection (I). The notice of suspension also must advise the person that if the suspension is upheld at the contested case hearing or if he does not request a contested case hearing, he must 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 his license was suspended before he 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 its appellate rules. The filing of an appeal stays the suspension until a final decision is issued on appeal.

(H)(1) If the suspension is upheld at the contested case hearing, the person must enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 and may apply for a restricted license if he is employed or enrolled in a college or university. 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 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 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, or 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.

(2) If the department issues a restricted license, it 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 attendance of his court-ordered drug program, or residence must be reported immediately to the department by the licensee.

(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 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 expenses of the Department of Motor Vehicles.

(4) Driving a motor vehicle outside the time limits and route imposed by a restricted license by the person issued that license is a violation of Section 56-1-460.

(I)(1) 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 any other 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, and who has had no previous suspension imposed pursuant to Section 56-5-2950 or 56-5-2951 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, an arrested person who has been convicted previously for violating Section 56-5-2930, 56-5-2933, or 56-5-2945, or any other 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 56-5-2950 or 56-5-2951 within the ten years preceding a violation of this section is:

(a) for a second offense, nine months if he refuses to submit to a test pursuant to Section 56-5-2950 or two months if he 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 he refuses to submit to a test pursuant to Section 56-5-2950 or three months if he 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 he refuses to submit to a test pursuant to Section 56-5-2950 or four months if he takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more.

(J) A person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension under subsection (I) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program in which he is enrolled. After the person's driving privilege is restored, he must continue the services of the Alcohol and Drug Safety Action Program in which he 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 completion of the Alcohol and Drug Safety Action Program. A person must be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 before his driving privilege can be restored at the conclusion of the suspension period.

(K) When a nonresident's privilege to drive a motor vehicle in this State has been suspended under the provisions of this section, the department must 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.

(L) The department must 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 under 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 may 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, 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 based solely on the violation unless he is convicted of the violation.

(O) The department must administer the provisions of this section and must promulgate regulations necessary to carry out its provisions.

(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."

Filing fee for certain contested case hearings, retention and use

SECTION 5. Section 56-5-2952 of the 1976 Code, as last amended by Act 279 of 2008, is further amended to read:

"Section 56-5-2952. The filing fee to request a contested case hearing before the Office of Motor Vehicle Hearings of the Administrative Law Court is two hundred dollars, or as otherwise prescribed by the rules of procedure for the Office of Motor Vehicle Hearings. Funds generated from the collection of this fee must be retained by the Administrative Law Court, provided, however, that these funds first must be used to meet the expenses of the Office of Motor Vehicle Hearings, including the salaries of its employees, as directed by the chief judge of the Administrative Law Court."

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 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 213

(R243, H5051)

AN ACT TO AMEND SECTION 59-103-15, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HIGHER EDUCATION MISSION AND GOALS FOR ALL PUBLIC HIGHER EDUCATION INSTITUTIONS IN THIS STATE, SO AS TO ALLOW A FOUR YEAR COLLEGE OR UNIVERSITY, WITH APPROVAL OF THE COMMISSION ON HIGHER EDUCATION, TO OFFER A DOCTORAL DEGREE IN MARINE SCIENCE.

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

Four year higher education institutions may offer doctorate in Marine Science with approval of Commission on Higher Education

SECTION 1. Section 59-103-15(B) of the 1976 Code is amended to read:

"(B) The General Assembly has determined that the primary mission or focus for each type of institution of higher learning or other post-secondary school in this State is as follows:

(1) Research institutions

(a) college-level baccalaureate education, master's, professional, and doctor of philosophy degrees which lead to continued education or employment;

(b) research through the use of government, corporate, nonprofit-organization grants, or state resources, or both;

(c) public service to the State and the local community;

(2) Four-year colleges and universities

(a) college-level baccalaureate education and selected master's degrees which lead to employment or continued education, or both, except for doctoral degrees currently being offered;

(b) doctoral degree in Marine Science approved by the Commission on Higher Education;

(c) limited and specialized research;

(d) public service to the State and the local community;

(3) Two-year institutions - branches of the University of South Carolina

(a) college-level pre-baccalaureate education necessary to confer associates' degrees which lead to continued education at a four-year or research institution;

(b) public service to the State and the local community;

(4) State technical and comprehensive education system

(a) all post-secondary vocational, technical, and occupational diploma and associate degree programs leading directly to employment or maintenance of employment and associate degree programs which enable students to gain access to other post-secondary education;

(b) up-to-date and appropriate occupational and technical training for adults;

(c) special school programs that provide training for prospective employees for prospective and existing industry in order to enhance the economic development of South Carolina;

(d) public service to the State and the local community;

(e) continue to remain technical, vocational, or occupational colleges with a mission as stated in item (4) and primarily focused on technical education and the economic development of the State."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 214

(R259, H4887)

AN ACT TO AMEND SECTION 7-27-275, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CLARENDON COUNTY ELECTION COMMISSION AND THE CLARENDON

COUNTY BOARD OF REGISTRATION, SO AS TO COMBINE THE CLARENDON COUNTY ELECTION COMMISSION AND THE CLARENDON COUNTY BOARD OF REGISTRATION INTO A SINGLE ENTITY.

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

Clarendon County Election Commission and Board of Registration combined

SECTION 1. Section 7-27-275 of the 1976 Code, as added by Act 312 of 2008, is amended to read:

"Section 7-27-275. Notwithstanding another provision of law:

(A)(1) There is established the Board of Elections and Voter Registration of Clarendon County, to be composed of five members appointed by a majority of the Clarendon County Legislative Delegation.

(2) Two of the initial appointees shall serve two-year terms, and three of the 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.

(3) 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.

(4) A majority of senators representing the county and a majority of members of the House of Representatives representing the county shall appoint the board's chairman. The chairman shall serve a term of four years and may be reappointed to that office for any number of successive terms without limitation.

(5) The board may choose to elect a vice chair, a secretary, and other officers the board considers appropriate. The initial director must be employed by a majority of the Clarendon County Legislative Delegation. Subsequently, the board shall employ the director, determine the compensation, and determine the number and compensation of other staff positions. Salaries must be consistent with the compensation schedules established by the county for similar positions.

(6) The director is responsible for hiring and management of the staff positions established by the board that report to the director. 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.

(B) The Clarendon County Legislative Delegation shall notify the State Election Commission in writing of the appointments made pursuant to subsection (A).

(C) The Board of Elections and Voter Registration of Clarendon County shall notify the State Election Commission in writing of the name of the person elected as chairman of the board pursuant to subsection (A).

(D) A member who misses three consecutive meetings of the board is considered to have resigned his office, and a vacancy on the board exists, which must be filled in the manner provided in subsection (A). This section does not apply to a member who presents a verifiable doctor's certificate that illness prevented his attendance at a meeting.

(E) Except as otherwise specifically provided in subsections (A), (B), (C), and (D), the provisions of law contained in Title 7, relating to county boards of voter registration and county election commissions, apply to the Board of Elections and Voter Registration of Clarendon County, mutatis mutandis.

(F)(1) The Clarendon County Board of Voter Registration is abolished effective within sixty days after this section is approved by the Governor, and its functions, duties, and powers are devolved upon the Board of Elections and Voter Registration of Clarendon County, as established pursuant to subsection (A).

(2) The Clarendon County Election Commission is abolished effective within sixty days after this section is approved by the Governor, and its functions, duties, and powers are devolved upon the Board of Elections and Voter Registration of Clarendon County, as established pursuant to subsection (A).

(G)(1) The terms of the members of the Clarendon County Board of Voter Registration, regardless of when these members were appointed to office, or when their current terms would otherwise have expired, expire for all purposes upon the abolishment of that board pursuant to subsection (F)(1).

(2) The terms of the members of the Clarendon County Election Commission, regardless of when these members were appointed to office, or when their current terms would otherwise have expired, expire for all purposes upon abolishment of that commission pursuant to subsection (F)(2).

(3) Notwithstanding items (1) and (2) of this subsection or another provision of law, a person serving as a member of the

Clarendon County Board of Voter Registration or the Clarendon County Election Commission may not be removed from office, and neither the board nor the commission may be abolished until this section has been given final approval by the United States Department of Justice."

Time effective

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

Ratified the 6th day of June, 2012.

Approved the 11th day of June, 2012.

No. 215

(R217, S1059)

AN ACT TO AMEND SECTION 48-4-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COMPOSITION OF THE GOVERNING BOARD OF THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO ADJUST THE COMPOSITION OF THE BOARD TO REFLECT THE ADDITION OF THE NEW CONGRESSIONAL DISTRICT, TO REVISE THE PROCEDURES BY WHICH A BOARD MEMBER IS APPOINTED CHAIRMAN, AND TO STAGGER THE MEMBERS' TERMS; TO AMEND SECTION 48-4-60, RELATING TO THE APPOINTMENT OF THE DIRECTOR OF THE GOVERNING BOARD OF THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO PROVIDE THAT THE DIRECTOR MUST BE APPOINTED, WITH THE ADVICE AND CONSENT OF THE SENATE; TO AMEND SECTION 48-4-50, RELATING TO THE DUTIES OF THE GOVERNING BOARD, SO AS TO CLARIFY THAT THE GOVERNING BOARD HAS NO DUTY OR AUTHORITY CONCERNING THE MANAGEMENT OF, CONTROL OVER, OR ADMINISTRATION OF THE DAY TO DAY AFFAIRS OF THE DEPARTMENT; AND TO CLARIFY THE EFFECT OF CONGRESSIONAL REAPPORTIONMENT UPON THE

MEMBERSHIP AND COMPOSITION OF THE GOVERNING BOARD.

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

Composition of Department of Natural Resources governing board

SECTION 1. Section 48-4-30 of the 1976 Code is amended to read:

"Section 48-4-30.(A) The department must be governed by a board consisting of nonsalaried board members to be appointed and constituted in a manner provided by law. The Governor shall appoint one member to serve as chairman upon the advice and consent of the Senate. The appointment to chairman is subject to the advice and consent of the Senate, even if the person appointed to serve as chairman is already a current member of the board.

(B) All board members must be appointed by the Governor with the advice and consent of the Senate. One member must be appointed from each congressional district of the State.

(C) Notwithstanding subsection (B), membership on the board also shall include the at-large board member serving on the board on March 1, 2012. The at-large board member may continue to serve on the board until that board member's term expires, he is removed from the board as provided by law, or he resigns from the board. At the expiration of the at-large board member's term, or upon his removal from or resignation from the board, the provisions of this subsection no longer apply to the composition of the membership of the board.

(D) 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 the 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. Board members must possess sound moral character, superior knowledge in the fields of wildlife, marine, and natural resource management, and proven administrative ability.

(E) The Governor may remove a board member pursuant to Section 1-3-240.

(F) Terms of the members must be for four years and until their successors are appointed and qualify. If a vacancy occurs when the General Assembly is not in session, it must be filled by the Governor's

appointment for the unexpired term, subject to confirmation by the Senate at the next session of the General Assembly.

(G) Each board member, within thirty days after notice of appointment and before taking office, shall take and file with the Secretary of State the oath of office prescribed by the State Constitution.

(H) Notwithstanding subsection (E), the terms of members representing congressional districts serving on the board on March 1, 2012, shall terminate on the dates provided in this subsection. The terms of the members representing the Fourth and the Sixth Congressional Districts shall expire July 1, 2012. The terms of the members representing the First, Second, Third, and Fifth Congressional Districts shall expire on July 1, 2014.

(I) Notwithstanding subsection (E), the initial term of the member representing the Seventh Congressional District shall expire July 1, 2016."

Appointment of director of governing board

SECTION 2. Section 48-4-60 of the 1976 Code is amended to read:

"Section 48-4-60. The board shall appoint a director upon the advice and consent of the Senate. The director shall serve at the pleasure of the board and must be the administrative head of the department. The director must carry out the policies of the board and administer the affairs of the department. The director may exercise all powers belonging to the board within the guidelines and policies established by the board. The director shall manage the administration and organization of the department and may appoint such assistants or deputies the director considers necessary. The director may hire these employees as the director considers necessary for the proper administration of the affairs of the department. The director must prescribe the duties, powers, and functions of all assistants, deputies, and employees of the department."

Duties of governing board

SECTION 3. Section 48-4-50 of the 1976 Code is amended to read:

"Section 48-4-50. The board must be vested with the duty and authority to set the policies for the department subject only to the laws of this State and the United States. The board has no duty or authority

concerning the management of, control over, or administration of the day to day affairs of the department."

Effect of congressional reapportionment

SECTION 4. Notwithstanding another provision of law to the contrary, a person appointed to serve, or serving, as a member of the Department of Natural Resources Board to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, as the representative of the district to which he was transferred for the term of office for which he was appointed; however, the appointing authority shall appoint an additional member to the board from the district which loses a resident member on it as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires.

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 216

(R220, S1143)

A JOINT RESOLUTION TO ESTABLISH SOUTH CAROLINA CIVIL WAR HERITAGE TRAILS AS THE OFFICIAL CIVIL WAR ERA HISTORIC DRIVING TRAILS OF SOUTH CAROLINA; TO PERMIT SOUTH CAROLINA CIVIL WAR HERITAGE TRAILS TO CONSULT WITH THE SOUTH CAROLINA CIVIL WAR SESQUICENTENNIAL ADVISORY BOARD AND THE DEPARTMENT OF ARCHIVES AND HISTORY CONCERNING THE PLANNING, DEVELOPMENT, ESTABLISHMENT, MAINTENANCE, AND MARKETING OF

THE TRAILS; TO ENCOURAGE THE DEPARTMENT OF TRANSPORTATION TO WORK WITH SOUTH CAROLINA CIVIL WAR HERITAGE TRAILS CONCERNING THE PLACEMENT OF SIGNS ADJACENT TO THE STATE HIGHWAY SYSTEM; AND TO ENCOURAGE THE APPROPRIATE GOVERNMENT AGENCIES TO COOPERATE WITH SOUTH CAROLINA CIVIL WAR HERITAGE TRAILS CONCERNING EDUCATIONAL AND MARKETING MATERIALS.

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

Findings

SECTION 1. The General Assembly of South Carolina finds that:

(1) The State of South Carolina contains countless sites relating to the American Civil War era, including antebellum, military, civilian, African-American, women, and Reconstruction.

(2) Many of these historic sites would be greatly enhanced, both educationally for our children, and as tourist attractions, if properly interpreted on site and adequately promoted through the establishment of historic driving trails.

(3) A comprehensive history of South Carolina's Civil War era can be told through three historic driving trails by dividing the State into three historic regions: the Coastal War, Sherman's March, and the pursuit of Jefferson Davis.

(4) It is in the interests of the State of South Carolina to work with South Carolina Civil War Heritage Trails to provide comprehensive, historically accurate, and cohesive Civil War era historic driving trails.

Agency cooperation

SECTION 2. The South Carolina Civil War Sesquicentennial Advisory Board and the Department of Archives and History may, and are encouraged to, cooperate and coordinate with South Carolina Civil War Heritage Trails in the planning, development, establishment, maintenance, and marketing of Civil War era historic driving trails in South Carolina.

Highway markers

SECTION 3. The Department of Transportation may, and is encouraged to, cooperate and coordinate with South Carolina Civil War Heritage Trails to determine the proper placement of historic interpretive markers and roadway directional signage located in rights of way adjacent to the state highway system.

Agency cooperation

SECTION 4. The Department of Parks, Recreation and Tourism, the State Museum, and other appropriate state agencies may, and are encouraged to, cooperate and coordinate with South Carolina Civil War Heritage Trails concerning educational and marketing materials related to the trails.

Time effective

SECTION 5. This joint resolution takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 217

(R222, S1319)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-75-1010 SO AS TO PROVIDE THAT A TITLE INSURER MAY ISSUE CLOSING OR SETTLEMENT INSURANCE, TO PROVIDE FOR LOSS AGAINST WHICH THIS INSURANCE MAY INDEMNIFY AN INSURED, AND TO PROVIDE THAT A PREMIUM CHARGED PURSUANT TO THIS SECTION MUST BE APPROVED BY THE DEPARTMENT AND MUST NOT BE SUBJECT TO ANY AGREEMENT REQUIRING A DIVISION OF FEES OR PREMIUMS COLLECTED ON BEHALF OF THE TITLE INSURER.

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

Title insurers, issuance of closing or settlement insurance

SECTION 1. Article 11, Chapter 75, Title 38 of the 1976 Code is amended by adding:

"Section 38-75-1010. (A) Notwithstanding Section 38-5-30, a title insurer may issue closing or settlement protection to a person who is a party to a transaction in which a title insurance policy will be issued, but may not provide any other coverage that purports to indemnify against improper acts or omissions of a person with regard to settlement or closing services.

(B) Closing or settlement protection may indemnify a person only against loss of closing or settlement funds because of one of the following acts of a settlement agent under the terms and conditions of the closing or settlement protection:

(1) theft or misappropriation of settlement funds in connection with a transaction in which a title insurance policy will be issued by or on behalf of the title insurer issuing the closing or settlement protection, but only to the extent that the theft relates to the status of the title to that interest in land or to the validity, enforceability, and priority of the lien of the mortgage on that interest in land; or

(2) failure to comply with the written closing instructions when agreed to by the settlement agent, title agent, or employee of the title insurer, but only to the extent that the failure to follow the instructions relates to the status of the title to that interest in land or the validity, enforceability, and priority of the lien of the mortgage on that interest in land.

(C) A premium charged by a title insurer for each party receiving closing or settlement protection must be submitted to and approved by the department in accordance with this article and must not be subject to any agreement requiring a division of fees or premiums collected on behalf of the title insurer."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 11th day of June, 2012.

No. 218

(R226, S1429)

AN ACT TO AMEND ARTICLE 3, CHAPTER 36, TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ALZHEIMER'S DISEASE AND RELATED DISORDERS RESOURCE COORDINATION CENTER AND ITS ADVISORY COUNCIL, SO AS TO CLARIFY THAT THIS CENTER IS IN THE OFFICE OF THE LIEUTENANT GOVERNOR.

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

Clarifies that center is in the Office of the Lieutenant Governor

SECTION 1. Article 3, Chapter 36, Title 44 of the 1976 Code is amended to read:

"Article 3

Alzheimer's Disease and Related Disorders
Resource Coordination Center

Section 44-36-310. There is created in the Office of the Lieutenant Governor, Division on Aging, the Alzheimer's Disease and Related Disorders Resource Coordination Center to provide statewide coordination, service system development, information and referral, and caregiver support services to individuals with Alzheimer's disease and related disorders, their families, and caregivers.

Section 44-36-320. The center shall:

(1) initiate the development of systems which coordinate the delivery of programs and services;

(2) facilitate the coordination and integration of research, program development, planning, and quality assurance;

(3) identify potential users of services and gaps in the service delivery system and expand methods and resources to enhance statewide services;

(4) serve as a resource for education, research, and training and provide information and referral services;

(5) provide technical assistance for the development of support groups and other local initiatives to serve individuals, families, and caregivers;

(6) recommend public policy concerning Alzheimer's disease and related disorders to state policymakers;

(7) submit an annual report to the Chairman of the Medical Affairs Committee of the Senate and the Chairman of the Medical, Military, Public and Municipal Affairs Committee of the House of Representatives in addition to publishing the report on the Lieutenant Governor's website.

Section 44-36-330. (A) The Alzheimer's Disease and Related Disorders Resource Coordination Center must be supported by an advisory council appointed by the Lieutenant Governor including, but not limited to, representatives of:

(1) Alzheimer's Association Chapters;

(2) American Association of Retired Persons;

(3) Clemson University;

(4) Department of Disabilities and Special Needs;

(5) Department of Health and Environmental Control;

(6) Department of Mental Health;

(7) Department of Social Services;

(8) Department of Health and Human Services;

(9) Medical University of South Carolina;

(10) National Association of Social Workers, South Carolina Chapter;

(11) South Carolina Adult Day Care Association;

(12) South Carolina Association of Area Agencies on Aging;

(13) South Carolina Association of Council on Aging Directors;

(14) South Carolina Association of Nonprofit Homes for the Aging;

(15) South Carolina Association of Residential Care Homes;

(16) South Carolina Health Care Association;

(17) South Carolina Home Care Association;

(18) South Carolina Hospital Association;

(19) South Carolina Medical Association;

(20) South Carolina Nurses' Association;

(21) Statewide Alzheimer's Disease and Related Disorders Registry;

(22) University of South Carolina;

(23) South Carolina State University.

(B) Members of the advisory council are not entitled to mileage, per diem, subsistence, or any other form of compensation."

Time effective

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

Ratified the 5th day of June, 2012.

Approved the 7th day of June, 2012.

No. 219

(R247, S512)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-11-36 SO AS TO PROHIBIT HUNTING MIGRATORY WATERFOWL ON LAKE MOULTRIE WITHIN TWO HUNDRED YARDS OF A DWELLING WITHOUT WRITTEN PERMISSION AND TO PROVIDE A PENALTY FOR A VIOLATION.

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

Wildlife, prohibition on hunting of migratory waterfowl on Lake Moultrie near a dwelling, penalty

SECTION 1. Article 1, Chapter 11, Title 50 of the 1976 Code is amended by adding:

"Section 50-11-36. It is unlawful to hunt migratory waterfowl on Lake Moultrie within two hundred yards of a dwelling without written permission of the owner and occupant. As used in this section, Lake Moultrie means all waters impounded by the Pinopolis Dam, including the Diversion Canal and those waters of the Re-diversion Canal within the Santee Cooper project area. A person who violates 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."

Time effective

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

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 220

(R248, S788)

AN ACT TO AMEND CHAPTER 21, TITLE 47, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FARM ANIMAL AND RESEARCH FACILITIES PROTECTION ACT, SO AS TO PROVIDE THAT THIS CHAPTER ALSO APPLIES TO "CROP OPERATIONS", TO DEFINE THE TERM "CROP OPERATION", TO PROVIDE ADDITIONAL LIABILITY EXEMPTIONS TO VETERINARIANS AND PEOPLE WHO HOLD A SUPERIOR INTEREST IN CERTAIN PROPERTY, TO PROVIDE FOR A CIVIL CAUSE OF ACTION FOR A PERSON THAT SUFFERS DAMAGES AS A RESULT OF VIOLATIONS OF THIS CHAPTER RELATING TO ANIMAL FACILITY OPERATIONS, TO PROVIDE THAT IT IS UNLAWFUL TO TAMPER OR INTERFERE WITH CROP OPERATIONS, AND FRAUDULENTLY GAIN ACCESS TO CROP OPERATIONS, TO PROVIDE FOR A CIVIL CAUSE OF ACTION AND CRIMINAL PENALTIES FOR CERTAIN VIOLATIONS RELATED TO CROP OPERATIONS, AND TO MAKE TECHNICAL CHANGES; AND BY ADDING SECTION 47-4-170 SO AS TO PROVIDE THAT CERTAIN INFORMATION PREPARED, OWNED, USED, SUBMITTED TO, IN POSSESSION OF, OR RETAINED BY THE STATE LIVESTOCK-POULTRY HEALTH COMMISSION OR THE STATE VETERINARIAN IS EXEMPT FROM DISCLOSURE.

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

Farm Animal, Crop Operation, and Research Facilities Protection Act

SECTION 1. Chapter 21, Title 47 of the 1976 Code is amended to read:

"CHAPTER 21

Farm Animal, Crop Operation, and Research Facilities Protection Act

Article 1

Citation and Definitions

Section 47-21-10. This chapter may be cited as the 'Farm Animal, Crop Operation, and Research Facilities Protection Act'.

Section 47-21-20. As used in this chapter:

(1) 'Actor' means a person accused of any of the offenses defined in this chapter.

(2) 'Animal' means a warm- or cold-blooded animal used in food or fiber production, agriculture, research, testing, or education, including poultry, fish, and insects.

(3) 'Animal facility' includes a vehicle, building, structure, or premises where an animal is kept, tested, handled, housed, exhibited, bred, or offered for sale and includes a research facility where research or testing on animals is conducted.

(4) 'Consent' means assent in fact, whether express or apparent.

(5) 'Crop operation' includes a vehicle, building, structure, or premises where a crop is raised, maintained, tested, handled, housed, exhibited, or offered for sale and includes a research facility where research on or testing of crops is conducted.

(6) 'Deprive' means:

(a) to withhold an animal or other property from the owner permanently or for such an extended time that a major portion of the value or enjoyment of the animal or property is lost to the owner;

(b) to restore the animal or other property only upon payment for reward or other compensation; or

(c) to dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely.

(7) 'Effective consent' includes consent by a person legally authorized to act for the owner. Consent is not effective if:

(a) induced by force, threat, false pretenses, or fraud;

(b) given by a person the actor knows is not legally authorized to act for the owner;

(c) given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable decisions; or

(d) given solely to detect the commission of an offense.

(8) 'Owner' means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the actor.

(9) 'Person' means an individual, corporation, association, nonprofit corporation, joint-stock company, firm, trust, partnership, two or more persons having a joint or common interest, or other legal entity.

(10) 'Possession' means actual care, custody, control, or management.

Article 3

Animal Facilities

Section 47-21-30. Without the effective consent of the owner, it is unlawful for a person to acquire or otherwise exercise control over an animal facility, an animal from an animal facility, or other property from an animal facility with the intent to deprive the owner of the facility, animal, or property, and to disrupt or damage the enterprise conducted at the animal facility.

Section 47-21-40. Without the effective consent of the owner, it is unlawful for a person to damage or destroy an animal facility, an animal, or property in or on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility.

Section 47-21-50. Without the effective consent of the owner, and with the intent to disrupt or damage the enterprise conducted at the animal facility, it is unlawful for a person to:

(1) enter an animal facility, not then open to the public, with intent to commit an act prohibited by this section;

(2) remain concealed, with intent to commit an act prohibited by this section, in an animal facility; or

(3) enter an animal facility and commit or attempt to commit an act prohibited by this section.

Section 47-21-60. (A) Without the effective consent of the owner, it is unlawful for a person to enter or remain in an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility, and the person:

(1) had notice that the entry was forbidden; or

(2) received notice to depart but failed to do so.

(B) For purposes of this section, 'notice' means:

(1) oral or written communication by the owner or someone with apparent authority to act for the owner;

(2) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or

(3) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

Section 47-21-70. This chapter does not apply to, affect, or otherwise prohibit actions taken by:

(1) the Department of Agriculture, any other federal, state, or local department or agency, or an official or employee of these entities while in the exercise or performance of a power or duty imposed by law or regulation;

(2) a licensed veterinarian practicing veterinary medicine pursuant to Chapter 69, Title 40 and according to customary standards of care; or

(3) a person holding a legal interest in an animal facility, an animal from an animal facility, or other property in or on an animal facility who has an interest in the facility, animal, or other property superior to the interest held by the person incurring damages.

Section 47-21-80. (A) A person violating Sections 47-21-30, 47-21-40, and 47-21-50 is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both.

(B) A person violating Section 47-21-60 is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

Section 47-21-90. A person who suffers damages resulting from the commission of an act prohibited by this article has a civil cause of

action for treble the amount of his actual damages, for consequential damages, for punitive damages, an injunction, and any other appropriate relief in law or equity. Upon prevailing in the civil action, the plaintiff may recover reasonable attorney's fees and costs.

Article 5

Crop Operations

Section 47-21-200. Without the effective consent of the owner, it is unlawful for a person to acquire or otherwise exercise control over a crop operation, a crop from a crop operation, or other property from a crop operation with the intent to deprive the owner of the operation, crop, or property, and to disrupt or damage the enterprise conducted at the crop operation.

Section 47-21-210. Without the effective consent of the owner, it is unlawful for a person to damage or destroy a crop operation, a crop, or property in or on a crop operation with the intent to disrupt or damage the enterprise conducted at the crop operation.

Section 47-21-220. Without the effective consent of the owner, and with the intent to disrupt or damage the enterprise conducted at the crop operation, it is unlawful for a person to:

(1) enter a crop operation, not then open to the public, with intent to commit an act prohibited by this section;

(2) remain concealed, with intent to commit an act prohibited by this section, in a crop operation; or

(3) enter a crop operation and commit or attempt to commit an act prohibited by this section.

Section 47-21-230. (A) Without the effective consent of the owner, it is unlawful for a person to enter or remain in a crop operation with the intent to disrupt or damage the enterprise conducted at the crop operation, and the person:

(1) had notice that the entry was forbidden; or

(2) received notice to depart but failed to do so.

(B) For purposes of this section, 'notice' means:

(1) oral or written communication by the owner or someone with apparent authority to act for the owner;

(2) fencing or other enclosure obviously designed to exclude intruders or to contain a crop; or

(3) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

Section 47-21-240. This chapter does not apply to, affect, or otherwise prohibit actions taken by:

(1) the Department of Agriculture, any other federal, state, or local department or agency, or an official or employee of these entities while in the exercise or performance of a power or duty imposed by law or regulation; or

(2) a person holding a legal interest in a crop operation, a crop from a crop operation, or other property in or on a crop operation who has an interest in the operation, crop, or other property superior to the interest held by the person incurring damages.

Section 47-21-250. (A) A person violating Sections 47-21-200, 47-21-210, and 47-21-220 is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both.

(B) A person violating Section 47-21-230 is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

Section 47-21-260. A person who suffers damages resulting from the commission of an act prohibited by this article has a civil cause of action for treble the amount of his actual damages, for consequential damages, for punitive damages, an injunction, and any other appropriate relief in law or equity. Upon prevailing in the civil action, the plaintiff may recover reasonable attorney's fees and costs."

Confidential information

SECTION 2. Chapter 4, Title 47 of the 1976 Code is amended by adding:

"Section 47-4-170. Information prepared, owned, used, submitted to, in the possession of, or retained by the commission or the State Veterinarian related to the exercise of its official duties pursuant to this chapter, including, but not limited to, certificates of veterinary inspection, animal medical records, laboratory reports, or other records that may be used to identify a person or private business activities subject to regulation by the commission is confidential and exempt

from disclosure pursuant to Chapter 4, Title 30 unless the State Veterinarian determines that disclosure is necessary to implement the programs contained in this chapter or the State Veterinarian determines that disclosure is necessary to prevent the spread of animal disease or to protect the public health. Information prepared, owned, used, submitted to, in the possession of, or retained by the commission or the State Veterinarian related to the exercise of its official duties pursuant to this chapter concerning the receipt and expenditure of public funds and summaries of agency activities are not subject to the exemption from Chapter 4, Title 30 provided in this section."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 221

(R249, S836)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 10 TO TITLE 44 SO AS TO ENACT THE "INTERSTATE HEALTHCARE COMPACT", TO PROVIDE THAT COMPACT MEMBERS MUST TAKE ACTION TO OBTAIN CONGRESSIONAL CONSENT TO THE COMPACT, TO PROVIDE THAT THE LEGISLATURE IS VESTED WITH THE RESPONSIBILITY TO REGULATE HEALTHCARE DELIVERED IN THEIR STATE, TO PROVIDE FOR HEALTHCARE FUNDING, TO ESTABLISH THE INTERSTATE ADVISORY HEALTH CARE COMMISSION AND TO PROVIDE ITS COMPOSITION, POWERS, DUTIES, AND AUTHORITY, TO PROVIDE THE EFFECTIVE DATE OF THE COMPACT, TO PROVIDE FOR AMENDING THE COMPACT, TO PROVIDE FOR THE MANNER OF WITHDRAWAL FROM THE COMPACT, TO PROVIDE THE PARTICIPATION OF SOUTH CAROLINA IN THE COMPACT DOES NOT INCLUDE THE

ADMINISTRATION OF MEDICARE OR THE CHILDREN'S HEALTH INSURANCE PROGRAM ABSENT SPECIFIC AUTHORIZATIONS BY THE GENERAL ASSEMBLY, AND TO PROVIDE NECESSARY DEFINITIONS.

Whereas, the separation of powers, both between the branches of the federal government and between federal and state governments, is essential to the preservation of individual liberty; and

Whereas, the United States Constitution creates a federal government of limited and enumerated powers and reserves to the states or to the people those powers not granted to the federal government; and

Whereas, the federal government has enacted many laws that have preempted state laws with respect to health care and placed increasing strain on state budgets, impairing other responsibilities such as education, infrastructure, and public safety; and

Whereas, the member states seek to protect individual liberty and personal control over health care decisions and believe the best method to achieve these ends is by vesting regulatory authority over health care with the states; and

Whereas, by acting in concert, the member states may express and inspire confidence in the ability of each member state to govern health care effectively; and

Whereas, the member states recognize that congressional consent may be more easily secured if the member states collectively seek consent through an interstate compact. Now, therefore,

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

Interstate Healthcare Compact

SECTION 1. Title 44 of the 1976 Code is amended by adding:

"CHAPTER 10

Interstate Healthcare Compact

Section 44-10-10. This chapter may be referred to and cited as the 'Interstate Healthcare Compact'.

Section 44-10-20. The Interstate Healthcare Compact is hereby enacted into law and entered into by this State with any other states legally joining the compact in a form substantially similar to the form contained in this chapter.

Section 44-10-30. As used in this chapter:

(1) 'Commission' means the Interstate Advisory Health Care Commission.

(2) 'Effective date' means the date upon which this compact shall become effective for purposes of the operation of state and federal law in a member state, which shall be the later of:

(a) the date upon which this compact shall be adopted under the laws of the member state; and

(b) the date upon which this compact receives the consent of the United States Congress pursuant to Article I, Section 10 of the United States Constitution, after it is adopted by at least two member states.

(3) 'Health care' means care, services, supplies, or plans related to the health of an individual and includes, but is not limited to:

(a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body; and

(b) sale or dispensing of a drug, device, equipment, or other item pursuant to a prescription; and

(c) an individual or group plan that provides, or pays the cost of care, services, or supplies related to the health of an individual, except any care, services, supplies, or plans provided by the United States Department of Defense and United States Department of Veteran Affairs, or provided to Native Americans.

(4) 'Member state' means a state that is a signatory to this compact and has adopted it under the laws of that state.

(5) 'Member state base funding level' means a number equal to the total federal spending on health care in the member state during federal fiscal year 2010. On or before the effective date, each member state shall determine the member state base funding level for its state, and that number shall be binding upon that member state. The preliminary estimate of member state base funding level for the State of South Carolina is $11,144,000,000.

(6) 'Member state current year funding level' means the member state base funding level multiplied by the member state current year population adjustment factor multiplied by the current year inflation adjustment factor.

(7) 'Member state current year population adjustment factor' means the average population of the member state in the current year less the average population of the member state in federal fiscal year 2010, divided by the average population of the member state in federal fiscal year 2010, plus one. Average population in a member state shall be determined by the United States Census Bureau.

(8) 'Current year inflation adjustment factor' means the total gross domestic product deflator in the current year divided by the total gross domestic product deflator in federal fiscal year 2010. The total gross domestic product deflator shall be determined by the Bureau of Economic Analysis of the United States Department of Commerce.

Section 44-10-40. Member states shall take joint and separate action to secure congressional consent to this compact in order to return the authority to regulate health care to the member states consistent with the goals and principles articulated in this compact. Member states shall improve health care policy within their respective jurisdictions and according to the judgment and discretion of each member state.

Section 44-10-50. The legislature of each member state has the primary responsibility to regulate health care in their state.

Section 44-10-60. Each member state, within its jurisdiction, may enact legislation to suspend the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with the laws, rules, regulations, and orders adopted by the member state pursuant to this compact. Federal and state laws, rules, regulations, and orders regarding health care will remain in effect unless a member state expressly suspends them pursuant to its authority under this compact. For any federal law, rule, regulation, or order that remains in effect in a member state after the effective date, that member state shall be responsible for the associated funding obligations in its State.

Section 44-10-70. (A) Each federal fiscal year, each member state shall have the right to federal monies up to an amount equal to its member state current year funding level for that federal fiscal year, funded by Congress as mandatory spending and not subject to annual

appropriation, to support the exercise of member state authority under this compact. This funding shall not be conditional on any action of or regulation, policy, law, or rule being adopted by the member state.

(B) By the start of each federal fiscal year, Congress shall establish an initial member state current year funding level for each member state, based upon reasonable estimates. The final member state current year funding level shall be calculated, and funding shall be reconciled by the Congress based upon information provided by each member state and audited by the United States Government Accountability Office.

Section 44-10-80. (A) The Interstate Advisory Health Care Commission is established. The commission consists of members appointed by each member state through a process to be determined by each member state. A member state may not appoint more than two members to the commission and may withdraw membership from the commission at any time. Each commission member is entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the commission's total membership.

(B) The commission may elect from among its membership a chairman. The commission may adopt and publish bylaws and policies that are not inconsistent with this compact. The commission shall meet at least once a year and may meet more frequently.

(C) The commission may study issues of health care regulation that are of particular concern to the member states. The commission may make nonbinding recommendations to the member states. The legislatures of the member states may consider these recommendations in determining the appropriate health care policies in their respective states.

(D) The commission shall collect information and data to assist the member states in their regulation of health care, including assessing the performance of various state health care programs and compiling information on the prices of health care. The commission shall make this information and data available to the legislatures of the member states. Notwithstanding any other provision in this compact, no member state shall disclose to the commission the health information of any individual, nor shall the commission disclose the health information of any individual.

(E) The commission shall be funded by the member states as agreed to by the member states. The commission shall have the responsibilities and duties as may be conferred upon it by subsequent

action of the respective legislatures of the member states in accordance with the terms of this compact.

(F) The commission shall not take any action within a member state that contravenes any state law of that member state.

Section 44-10-90. This compact shall be effective on its adoption by at least two member states and congressional consent. This compact shall be effective unless the United States Congress, in consenting to it, alters its fundamental purposes, which are to:

(1) secure the right of the member states to regulate health care in their respective states pursuant to this compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their states; and

(2) secure federal funding for member states that choose to invoke their authority under this compact.

Section 44-10-100. Member states, by unanimous agreement, may amend this compact from time to time without prior congressional consent or approval and any amendment shall be effective unless, within one year, the Congress disapproves that amendment. Any state may join this compact after the date by adoption into law under its state constitution.

Section 44-10-110. A member state may withdraw from this compact by adopting a law to that effect, but no such withdrawal shall take effect until six months after the withdrawing member state has given notice of the withdrawal to the other member states. A withdrawing state shall be liable for any obligations that it may have incurred prior to the date on which its withdrawal becomes effective. This compact shall be dissolved upon the withdrawal of all but one of the member states.

Section 44-10-120. South Carolina's participation in the compact does not include the administration of Medicare (42 U.S.C. 1395, et seq.) or the Children's Health Insurance Program unless the General Assembly takes action that specifically authorizes inclusion of the Medicare program or the Children's Health Insurance Program in the compact."

Time effective

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

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 222

(R250, S1127)

AN ACT TO AMEND SECTION 1-30-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING, AMONG OTHER THINGS, TO THE CREATION OF THE DEPARTMENTS OF STATE GOVERNMENT AND THEIR GOVERNING AUTHORITY, SO AS TO ELIMINATE THE SPECIFIC NUMBER OF BOARD MEMBERS THAT MUST BE APPOINTED TO GOVERN A DEPARTMENT; TO AMEND SECTIONS 40-9-30 AND 40-9-37, BOTH RELATING TO MEMBERSHIP ON THE BOARD OF CHIROPRACTIC EXAMINERS, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE NEWLY CREATED SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 40-15-20, RELATING TO MEMBERSHIP ON THE STATE BOARD OF DENTISTRY, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT AND BY ADDING AN ELECTED DENTAL HYGIENIST MEMBER; TO AMEND SECTION 40-33-10, RELATING TO MEMBERSHIP ON AND DUTIES OF THE STATE BOARD OF NURSING, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT AND TO DELETE THE PROVISION AUTHORIZING THE BOARD TO ESTABLISH A FEE SCHEDULE IN REGULATIONS; TO AMEND SECTION 40-43-40, RELATING TO MEMBERSHIP ON THE STATE BOARD OF PHARMACY, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 40-45-10, RELATING TO MEMBERSHIP ON THE STATE BOARD OF PHYSICAL THERAPY

EXAMINERS, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT AND BY ADDING AN ADDITIONAL MEMBER FROM THE GENERAL PUBLIC; TO AMEND SECTION 40-47-10, RELATING TO MEMBERSHIP ON AND DUTIES OF THE STATE BOARD OF MEDICAL EXAMINERS, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT AND TO DELETE THE PROVISION AUTHORIZING THE BOARD TO ESTABLISH AN INITIAL FEE SCHEDULE IN REGULATIONS; TO AMEND SECTION 40-47-11, RELATING TO MEMBERSHIP ON THE MEDICAL DISCIPLINARY COMMISSION, SO AS TO DECREASE COMMISSION PHYSICIAN MEMBERSHIP FROM THIRTY-SIX TO THIRTY-FIVE BY CONTINUING TO APPOINT FIVE PHYSICIAN COMMISSIONERS FROM EACH CONGRESSIONAL DISTRICT, BY ELIMINATING THE SIX AT-LARGE PHYSICIAN COMMISSIONERS, AND BY DECREASING LAY COMMISSION MEMBERSHIP FROM TWELVE TO SEVEN BY APPOINTING ONE, RATHER THAN TWO, LAY COMMISSIONERS FROM EACH CONGRESSIONAL DISTRICT; TO AMEND SECTION 40-75-10, RELATING TO MEMBERSHIP ON THE BOARD OF EXAMINERS FOR THE LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND PSYCHO-EDUCATIONAL SPECIALIST, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 44-1-20, RELATING TO MEMBERSHIP ON THE BOARD OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO INCREASE BOARD MEMBERSHIP BY ADDING A MEMBER TO BE APPOINTED FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 44-9-30 AND SECTIONS 44-20-210 AND 44-20-225, BOTH AS AMENDED, RELATING, RESPECTIVELY, TO MEMBERSHIP ON THE SOUTH CAROLINA MENTAL HEALTH COMMISSION, MEMBERSHIP ON THE SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS, AND MEMBERSHIP ON CONSUMER ADVISORY BOARDS TO THE COMMISSION ON DISABILITIES AND

SPECIAL NEEDS, SO AS TO MAINTAIN THE SEVEN MEMBER MENTAL HEALTH COMMISSION, THE SEVEN MEMBER COMMISSION ON DISABILITIES AND SPECIAL NEEDS, AND THE SEVEN MEMBER CONSUMER ADVISORY BOARDS BY PROVIDING THAT ONE MEMBER MUST BE APPOINTED FROM EACH CONGRESSIONAL DISTRICT AND BY ELIMINATING THE ONE STATE AT LARGE MEMBER FROM EACH COMMISSION AND FROM EACH BOARD; TO PROVIDE TRANSITION PROVISIONS FOR CONGRESSIONAL DISTRICT MEMBERS ADDED AND TRANSFERRED AND FOR CHANGES IN BOARD COMPOSITION AND OTHERWISE UNREPRESENTED CONGRESSIONAL DISTRICTS; TO DELETE OBSOLETE LANGUAGE AND TO MAKE CHANGES NECESSARY TO CONFORM TO THE PROVISIONS OF THIS ACT.

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

Technical correction

SECTION 1. Section 1-30-10(B)(1)(ii) of the 1976 Code is amended to read:

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

Seventh Congressional District board member added

SECTION 2. Section 40-9-30 of the 1976 Code is amended to read:

"Section 40-9-30.(A) There is created the South Carolina Board of Chiropractic Examiners consisting of nine members. One licensed chiropractor must be appointed by the Governor from each congressional district and must be a chiropractor residing and practicing in the district the chiropractor represents. The board shall certify in writing to the Governor the names of the two nominees who received the highest number of votes in each district's election conducted pursuant to Section 40-9-37. The Governor may reject any or all of the nominees upon satisfactory showing of the unfitness of those rejected. If the Governor declines to appoint any of the nominees submitted, additional nominees must be submitted in the same manner. One member of the board, who must be a licensed and practicing

chiropractor, must be appointed by the Governor from the State at large, and one member, who may not be a member of the chiropractic or medical profession, must be appointed by the Governor from the State at large. The conduct of the balloting for the nominees for the board from the respective congressional districts is the responsibility of the Board of Chiropractic Examiners. Each chiropractic member must be a licensed and practicing chiropractor in South Carolina in good standing for a period of five years preceding the date of appointment to the board.

(B) All terms are for four years and until their successors are appointed and qualify. The Governor may remove a member of the board who is guilty of continued neglect of board duties, guilty of a misdemeanor or a felony, or who is found to be incompetent. No member may be removed without first giving the member an opportunity to refute the charges filed against that member who must be given a copy of the charges at the time they are filed.

(C) The South Carolina Board of Chiropractic Examiners shall meet at least twice a year at a time and place as determined by the board. The board shall hold elections for its officers each year. The board may call additional meetings when necessary for the transaction of board business. The board shall adopt regulations for its government, for judging the professional and ethical competence of chiropractors, including compliance with the code of chiropractic ethics, and for the discipline of chiropractors. A majority of the board constitutes a quorum for the transaction of business.

(D) The board may:

(1) establish suitable procedures for carrying out its duties pursuant to this chapter;

(2) execute certificates which must be accepted in the courts of this State and by an administrative law judge as provided under Article 5, Chapter 23, Title 1 as the best evidence of the minutes of the board and the best evidence of whether a person is registered under the requirements of this chapter;

(3) promulgate regulations not inconsistent with the law as may be necessary to carry out this chapter including, but not limited to, regulations concerning patient care and treatment, solicitation of patients, and advertising; however, the board may not prohibit or discriminate against advertising in any particular media;

(4) conduct investigations and cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for this;

(5) keep a record of all its proceedings;

(6) fix the time for holding its meetings;

(7) examine, license, and renew the licenses of qualified applicants and certify applicants as to their ability and as to the degree of their practice of chiropractic as authorized under the laws of this State; however, the nonchiropractic member of the board may not participate in the examination of a license applicant on matters of technical or professional nature; the board shall use the National Board Examination of the National Board of Chiropractic Examiners in lieu of the state written examination for persons graduating from an approved chiropractic college pursuant to Section 40-9-40 after July 1, 1982;

(8) judge the professional and ethical competence of chiropractors, establish a code of chiropractic ethics, and provide for the discipline of chiropractors;

(9) order the revocation, suspension, or restriction of the license of a licensee to practice chiropractic or take other disciplinary action, including assessing a civil fine for a violation of this chapter;

(10) assess and collect costs from a licensee for investigating a complaint and conducting proceedings pursuant to this chapter."

Obsolete provisions deleted

SECTION 3. Section 40-9-37 of the 1976 Code is amended to read:

"Section 40-9-37. Each chiropractor, licensed pursuant to Chapter 9, Title 40, Code of Laws of South Carolina, 1976, and residing within the congressional district from which the appointment is to be made, shall be entitled to vote in the advisory election. A ballot shall be sent by certified mail to each licensed chiropractor residing in that congressional district from which the appointment is to be made. The ballot shall contain the name of each chiropractor licensed pursuant to this chapter and residing within the congressional district from which the appointment is to be made, as indicated by the records of the Board of Chiropractic Examiners or its predecessor. A space shall be provided for write-in votes for qualified candidates whose names do not appear on the ballot. The ballot shall specify the date by which the returned ballot must be received by the agency conducting the advisory election. The ballots shall be opened at 9:00 A.M. on the day following the date specified for the receipt of the ballots and the results shall be tabulated. The tabulated results shall be immediately forwarded to the Governor."

Seventh Congressional District board member added, one dental hygienist elected, board member added

SECTION 4. Section 40-15-20 of the 1976 Code is amended to read:

"Section 40-15-20. (A) There is created the State Board of Dentistry (board) to be composed of eleven members, one of whom shall be a lay member from the State at large, one of whom shall be a dentist from the State at large, one of whom shall be a dental hygienist from the State at large, one of whom shall be a dental hygienist from the State at large nominated pursuant to subsection (C) and seven of whom shall be dentists representing each congressional district. Dentists shall be licensed, practicing dentists and residents of the State and of the congressional district which they represent. The dental hygienists shall be licensed, practicing dental hygienists and residents of the State. The terms of the members shall be for six years and until successors are appointed and qualify. No member shall be allowed successive terms of office.

(B) The dentist at large, a dental hygienist at large and lay member shall be appointed by the Governor. All appointments to the board of the seven members of the board representing the congressional districts shall be made upon the recommendation of the board, which recommendation shall be based upon an annual election conducted by the board. This election shall be conducted on a rotating basis in the seven congressional districts in numerical order so that each year the licensed dentists residing in the subject district shall elect from among themselves a member of the board. The board at its regular annual meeting shall certify in writing to the Governor the name of the person winning the election and the name of the person the nominee replaces on the board. The Governor may reject any or all of the nominees upon satisfactory showing as to the unfitness of those rejected. If the Governor declines to appoint any of such nominees so submitted, additional nominees shall be submitted in the same manner. Vacancies shall be filled in a like manner by appointment by the Governor for the unexpired portion of the term.

(C) The board shall conduct an election to nominate a dental hygienist when such seat shall be vacant. This election shall provide for participation by all dental hygienists currently licensed and residing in South Carolina. The name of the nominee shall be forwarded to the Governor for appointment. The Governor may reject the nominee upon satisfactory showing as to the unfitness of the nominee. If the Governor declines to appoint any nominee so submitted, additional

nominees shall be submitted in the same manner. Vacancies shall be filled in a like manner by appointment by the Governor for the unexpired portion of the term. No person shall be eligible for appointment who has a financial interest or serves as an officer in a business organized under the laws of this State to sell dental supplies, equipment, or appurtenances or who is officially connected with a school of dentistry or dental hygiene.

(D) Vacancies shall be filled in a like manner by appointment by the Governor for the unexpired portion of the term.

(E) All members of the board have full voting rights except that the lay member is exempt from voting on examinations for licensure and the dental hygienists are exempt from voting on examination for licensure for dentists.

(F) The Governor may remove any member of the board who has been guilty of continued neglect of his duties or who is found to be incompetent, unprofessional, or dishonorable. No member shall be removed without first giving him an opportunity to refute the charges filed against him. He shall be given a copy of the charges at the time they are filed."

Seventh Congressional District board member added, authority removed to promulgate fees in regulation

SECTION 5. Section 40-33-10 of the 1976 Code is amended to read:

"Section 40-33-10. (A) There is created the State Board of Nursing composed of eleven members. Two must be licensed practical nurses from the State at large, and two must be lay members from the State at large. Seven must be registered nurses, each representing one congressional district, and at least one must be employed in a hospital setting and at least one must be licensed as an advanced practice registered nurse. When appointing members to the board, consideration should be given to including a diverse representation of principal areas of nursing including, but not limited to, hospital, acute care, advanced practice, community health, and nursing education. Registered nurse and licensed practical nurse members must be licensed in South Carolina, must be employed in nursing, must have at least three years of practice in their respective professions immediately preceding their appointment, and shall reside in the district they represent. Lay members must not be licensed or employed as a health care provider but shall represent the public at large as a consumer of nurse services. No member may serve as an officer of a professional

health related state association. The chairman or designee of the State Board of Medical Examiners shall serve as an advisory nonvoting member to the board to provide consultation on matters requested by the Board of Nursing.

(B) Members shall serve terms of four years and until their successors are appointed and qualify. Board members must be appointed by the Governor with the advice and consent of the Senate. An individual, group, or association may nominate qualified persons and submit them to the Governor for consideration. Vacancies must be filled for the unexpired portion of a term by appointment of the Governor.

(C) The Governor may remove members pursuant to Section 1-3-240(C) or members who have been guilty of continued neglect of their duties or members who are found to be incompetent, unprofessional, or dishonorable. No members may be removed without first giving them the opportunity to refute the charges filed against them. The member must be given copies of the charges at the time they are filed.

(D) A board member, or person authorized and approved by the board, engaged in business for the board may receive for board service the usual per diem, mileage, and subsistence as provided by law. These expenses must be paid from the fees received by the board under this chapter.

(E) The board may have and use an official seal bearing the words: 'State Board of Nursing for South Carolina'. The board may promulgate regulations as it considers necessary for the purposes of carrying out the provisions of this chapter.

(F) The board shall meet at least quarterly for the purpose of transacting business. A majority of the members of the board constitutes a quorum; however, if there is a vacancy on the board, a majority of the members serving constitutes a quorum. A board member is required to attend meetings or to provide proper notice and justification of inability to do so. Unexcused absences from meetings may result in removal from the board as provided in Section 1-3-245.

(G) A chairman, a vice chairman, and a secretary comprise the officers of the board. The election of the chairman must be from the registered nurse members of the board, and the vice chairman and secretary must be elected from the members. Officers shall serve terms of one year and until their successors are elected. The administrator shall certify to the Governor the names of the officers elected for regular and unexpired terms.

(H) The Chairman of the State Board of Nursing, or the chairman's designee, shall serve as an advisory nonvoting member of the State Board of Medical Examiners to provide consultation on matters requested by the State Board of Medical Examiners. The Board of Medical Examiners shall send written notice at least ten days before meetings that the Board of Medical Examiners wants the chairman or designee of the State Board of Nursing to attend. The Chairman of the State Board of Nursing, or the chairman's designee, and the State Board of Medical Examiners shall meet at least twice a year and more often as necessary.

(I) In addition to the powers and duties enumerated in Section 40-1-70, the board may:

(1) publish advisory opinions and position statements relating to nursing practice procedures or policies authorized or acquiesced to by any agency, facility, institution, or other organization that employs persons authorized to practice under this chapter to comply with acceptable standards of nursing practice;

(2) develop minimum standards for continued competency of licensees continuing in or returning to practice;

(3) conduct surveys of educational enrollments and licensure and report to the public;

(4) conduct investigations and hearings concerning alleged violations of this chapter;

(5) develop minimum standards for nursing education programs;

(6) approve nursing education programs that meet the prescribed standards;

(7) deny or withdraw approval or limit new student admissions of nursing education programs that fail to meet the prescribed standards;

(8) use minimum standards as a basis for evaluating safe and effective nursing practice;

(9) examine, license, and renew the authorizations to practice of qualified applicants;

(10) join organizations that develop and regulate the national nursing licensure examinations and promote the improvement of the practice of nursing for the protection of the public;

(11) collect any information the board considers necessary, including social security numbers or alien identification numbers, in order to report disciplinary actions to national databanks of disciplinary information;

(12) establish guidelines to assist employers of nurses when errors in nursing practice can be handled through corrective action in the employment setting."

Seventh Congressional District board member added

SECTION 6. Section 40-43-40 of the 1976 Code is amended to read:

"Section 40-43-40. (A) There is created the State Board of Pharmacy to be composed of nine members, appointed by the Governor with advice and consent of the Senate, one of whom must be a lay member from the State at large, one of whom must be a pharmacist from the State at large, and seven of whom must be pharmacists representing each of the seven congressional districts. However, if no hospital pharmacist is selected to represent any of the seven congressional districts, the Governor shall appoint a hospital pharmacist as the pharmacist at large.

(B) The pharmacist at large and the lay member shall serve coterminously with the appointing Governor and until their successors are appointed and qualify. The board shall conduct an election to nominate three pharmacists from each congressional district to be submitted to the Governor for consideration for appointment. The Governor shall appoint one pharmacist to represent each congressional district from among the nominees submitted for that district. The election shall provide for participation by all pharmacists currently licensed and residing in the congressional district for which the nomination is being made. The pharmacists must be residents of the congressional district they represent, licensed, in good standing to practice pharmacy in this State, and actively engaged in the practice of pharmacy in this State. The members of the board representing the seven congressional districts shall serve terms of six years and until their successors are appointed and qualify. No member may serve more than two successive terms of office except that a member serving an unexpired term may be reelected and reappointed for two successive terms.

(C) Before December first in the year in which the term expires for a member representing a congressional district, a qualified pharmacist desiring to be a candidate for the board shall submit to the administrator of the board a biography and a petition bearing the signatures of a minimum of fifteen pharmacists practicing in that pharmacist's congressional district. The administrator shall prepare ballots for mailing to all pharmacists licensed and residing in the

congressional district for which the nomination is being made. The ballots must be in a form so as to make tabulation quick and easy and shall contain the names of the nominees in alphabetical order. Enclosures to accompany the ballots shall include the envelope in which the ballot is to be sealed and an envelope addressed to the secretary of the board. The addressed envelope shall contain a statement headed 'information required' on which must be typed or printed the name of the voter and a space for the voter's signature certifying that the voter:

(1) is the person whose name appears on the statement;

(2) is eligible to vote in this election;

(3) has personally cast the ballot.

(D) All ballots must be mailed by the administrator before January fifteenth to the last known mailing address of all pharmacists residing in the congressional district for which the nomination is being made and must be returned to the administrator postmarked before February fifteenth and received by the office before February twenty-fifth. The administrator of the board shall certify these ballots to be true and valid.

(E) Before March first, the board shall certify in writing to the Governor the name of the three persons winning the election and the name of the person the nominee replaces on the board, and the member, when appointed by the Governor, takes office the first of July of that year.

(F) Notwithstanding subsection (B), if a nominee is judged unfit by the Governor, the board must be informed and other nominees must be submitted in like manner.

(G) Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

(H) The Governor may remove a member of the board who is guilty of continued neglect of board duties or who is found to be incompetent, unprofessional, or dishonorable. No member may be removed without first giving the member an opportunity to refute the charges filed against that member."

Seventh Congressional District board member and one general public member added

SECTION 7. Section 40-45-10 of the 1976 Code is amended to read:

"Section 40-45-10. (A) There is created the State Board of Physical Therapy Examiners to license physical therapists and physical therapist

assistants under the administration of the Department of Labor, Licensing and Regulation. The purpose of this board is to protect the public through regulation of professionals who identify, assess, and provide treatment for individuals with physical disabilities through the administration and enforcement of this chapter and any regulations promulgated under the chapter.

(B) The board consists of eleven members appointed by the Governor, seven of whom must be licensed physical therapists, with one from each congressional district, two of whom must be physical therapist assistants, and two from the general public. The South Carolina Physical Therapy Association, Inc. shall submit recommendations to the Governor of at least two names for each physical therapist and physical therapist assistant member. The Governor also shall consider nominations from any other individual, group, or association. The physical therapist and the physical therapist assistant member each must have had at least three years' experience before being appointed and while serving on the board be actively practicing in this State. Members shall serve terms of four years and until their successors are appointed and qualify. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term."

Seventh Congressional District board member added, authority removed to promulgate fees in regulation

SECTION 8. Section 40-47-10 of the 1976 Code is amended to read:

"Section 40-47-10. (A)(1) There is created the State Board of Medical Examiners to be composed of thirteen members, three of whom must be lay members, one of whom must be a doctor of osteopathic medicine, two of whom must be physicians from the State at large, and seven of whom must be physicians, each representing one of the seven congressional districts. All members of the board must be residents of this State, and each member representing a congressional district shall reside in the district the member represents. All physician members of the board must be licensed by the board, must be without prior disciplinary action or conviction of a felony or other crime of moral turpitude, and must be practicing their profession in this State. All lay members of the board must hold a baccalaureate degree or higher, must not have been convicted of a felony or a crime of moral turpitude, and must not be employed or have a member of their immediate family employed in a health or medically related field.

(2) The members of the board shall serve for terms of four years or until their successors are appointed and qualify. Members of the board may only serve three consecutive terms.

(3) All members of the board have full voting rights.

(4) The one lay member and one physician from the State at large must be appointed by the Governor, with the advice and consent of the Senate. Two lay members must be appointed by the Governor, with the advice and consent of the Senate, one upon the recommendation of the President Pro Tempore of the Senate and one upon the recommendation of the Speaker of the House of Representatives.

(5) The board shall conduct an election to nominate one physician from the State at large. The election must provide for participation by all physicians currently permanently licensed and residing in South Carolina. To nominate the physicians who will represent the seven congressional districts, the board shall conduct an election within each district. These elections must provide for participation by all permanently licensed physicians residing in the particular district. The board shall conduct an election to nominate the doctor of osteopathic medicine from the State at large, and this election must provide for participation by any physician currently permanently licensed in this State as a doctor of osteopathic medicine. The board shall certify in writing to the Governor the results of each election. The Governor may reject any or all of the nominees upon satisfactory showing of the unfitness of those rejected. If the Governor declines to appoint any of the nominees submitted, additional nominees must be submitted in the same manner following another election. Vacancies must be filled in the same manner of the original appointment for the unexpired portion of the term.

(6) Vacancies that occur when the General Assembly is not in session may be filled by an interim appointment of the Governor in the manner provided by Section 1-3-210.

(B) Public and lay members of boards and panels must be appointed in accordance with Section 40-1-45.

(C) Board members and persons authorized by the board to engage in business for the board must be compensated for their services at the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions and may be reimbursed for actual and necessary expenses incurred in connection with and as a result of their work as members or persons acting on behalf of the board.

(D) The board annually shall elect from among its members a chairman, vice chairman, secretary, and other officers as the board determines necessary. The board may promulgate regulations reasonably necessary for the performance of its duties and the governance of its operations and proceedings, for the practice of medicine, for judging the professional and ethical competence of physicians, including a code of medical ethics, and for the discipline of persons licensed or otherwise authorized to practice pursuant to this chapter.

(E) The board shall meet at least four times a year and at other times upon the call of the chair or a majority of the board.

(F) A majority of the members of the board constitutes a quorum; however, if there is a vacancy on the board, a majority of the members serving constitutes a quorum.

(G) A board member is required to attend meetings or to provide proper notice and justification of inability to do so. The Governor may remove members from the board for absenteeism, as well as for other grounds provided for in Section 1-3-240.

(H) The Chairman of the State Board of Medical Examiners, or the chairman's designee, shall serve as an advisory nonvoting member of the State Board of Nursing to provide consultation on matters requested by the State Board of Nursing. The Board of Nursing shall send written notice at least ten days before meetings that the Board of Nursing wants the Chairman of the State Board of Medical Examiners, or the chairman's designee, to attend. The Chairman of the State Board of Medical Examiners, or the chairman's designee, and the State Board of Nursing shall meet at least twice a year and more often as necessary.

(I) In addition to the powers and duties enumerated in Section 40-1-70, the board may:

(1) publish advisory opinions and position statements relating to practice procedures or policies authorized or acquiesced to by any agency, facility, institution, or other organization that employs persons authorized to practice under this chapter to comply with acceptable standards of practice;

(2) develop minimum standards for continued competency of licensees continuing in or returning to practice;

(3) adopt rules governing the proceedings of the board and may promulgate regulations for the practice of medicine and as necessary to carry out the provisions of this chapter;

(4) conduct hearings concerning alleged violations of this chapter;

(5) use minimum standards as a basis for evaluating safe and effective medical practice;

(6) license and renew the authorizations to practice of qualified applicants;

(7) approve temporary licenses, limited licenses, and other authorizations to practice in its discretion as it considers in the public interest;

(8) join organizations that develop and regulate the national medical licensure examinations and promote the improvement of the practice of medicine for the protection of the public;

(9) collect any information the board considers necessary, including social security numbers or alien identification numbers, in order to report disciplinary actions to national databanks of disciplinary information as otherwise required by law;

(10) establish guidelines to assist employers of licensees when errors in practice can be handled through corrective action in the employment setting."

Seventh Congressional District physician commission members added, removal of at-large physician members, reduction of lay membership

SECTION 9. Section 40-47-11 of the 1976 Code is amended to read:

"Section 40-47-11. (A) There is created the Medical Disciplinary Commission of the State Board of Medical Examiners to be composed of thirty-five physician members appointed by the board and seven lay members appointed by the Governor. The physician members of the commission must be licensed physicians practicing their profession, and they must be without prior disciplinary action or conviction of a felony or other crime of moral turpitude. Five physician commissioners must be appointed from each of the seven congressional districts and must reside in the district, which they are appointed to represent. The members of the commission are limited to three consecutive terms. A member of the Board of Medical Examiners may not simultaneously serve as a commissioner. In case of a vacancy by way of death, resignation, or otherwise, the board shall appoint a successor to serve for the unexpired portion of the term. Where justice, fairness, or other circumstances so require, the board may appoint past commissioners to hear complaints in individual cases.

(B) All lay commissioners must hold a baccalaureate degree or higher, must not have been convicted of a felony or other crime of

moral turpitude, and must not be employed or have a member of their immediate family employed in a health or medically related field. One lay commissioner must be appointed by the Governor from each of the seven congressional districts, with the advice and consent of the Senate. Each lay commissioner must be a registered voter and reside in the congressional district he represents throughout his term. Each lay commissioner initially appointed from each district shall serve for a term of three years and until his successor is appointed and qualified. Vacancies must be filled in the manner of the original appointment for the remainder of the unexpired portion of the term. The Governor may appoint a lay commissioner to serve a full term; however, a lay commissioner may not serve more than three consecutive terms.

(C) The commission is empowered to hear those formal complaints filed against practitioners authorized to practice under this chapter, unless otherwise provided in this chapter. These hearings must be conducted in accordance with the Administrative Procedures Act and with regulations promulgated by the Board of Medical Examiners and must be before a panel composed of not more than three physician commissioners and one lay commissioner. The panel is empowered to hear the matters complained of and to recommend findings of fact and conclusions of law to the board. The panel shall submit a certified report of its proceedings, including its findings of fact, conclusions of law, and mitigating and aggravating circumstances, for consideration by the board in rendering a final decision and shall file this report with the department.

(D) The physician members of the commission may serve as expert reviewers and witnesses in investigations and proceedings pursuant to this chapter. A physician commissioner who serves as an expert reviewer or witness in an investigation or proceeding may not serve on the hearing panel for that particular matter or related matters."

Seventh Congressional District board member added

SECTION 10. Section 40-75-10 of the 1976 Code is amended to read:

"Section 40-75-10. (A) There is created the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists composed of nine members appointed by the Governor. Of the nine members, seven must be professional members, one from each congressional district in the State. Of the professional members, three must be licensed

professional counselors, one of whom must be a certified addictions counselor, three must be marriage and family therapists, and one must be a psycho-educational specialist. The remaining two members must be at large from the general public and must not be associated with, or financially interested in, the practice of professional counseling, marriage and family therapy, or psycho-educational services.

(B) The membership must be representative of race, ethnicity, and gender. The seven professional members must have been actively engaged in the practice of their respective professions or in the education and training of professional counselors, marriage and family therapists, or psycho-educational specialists for at least five years prior to appointment. Members may be licensed as a licensed professional counselor and a marriage and family therapist. Members are eligible for reappointment. Vacancies must be filled in the same manner as the original appointment for the unexpired portion of the term. Each member shall receive per diem, subsistence, and mileage as allowed by law for members of state boards, commissions, and committees for each day actually engaged in the duties of the office, including a reasonable number of days, as determined by board regulation, for preparation and reviewing of applications and examinations in addition to time actually spent in conducting examinations."

Seventh Congressional District board member added

SECTION 11. Section 44-1-20 of the 1976 Code is amended to read:

"Section 44-1-20.There is created the South Carolina Department of Health and Environmental Control which shall be administered under the supervision of the South Carolina Board of Health and Environmental Control. The board shall consist of eight members, one from each congressional district, and one from the State at large to be appointed by the Governor, upon the advice and consent of the Senate. The member who is appointed at large shall serve as the chairman of the board. The Governor may remove the chairman of the board pursuant to Section 1-3-240(B); however, the Governor only may remove the other board members pursuant to Section 1-3-240(C). The terms of the members shall be for four years and until their successors are appointed and qualify. All vacancies shall be filled in the manner of the original appointment for the unexpired portion of the term only. In making these appointments, race, gender, and other demographic factors should be considered to ensure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the

population of the 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."

Seventh Congressional District commission member added, at-large member removed

SECTION 12. Section 44-9-30 of the 1976 Code is amended to read:

"Section 44-9-30.(A)(1) There is created the governing board for the State Department of Mental Health known as the South Carolina Mental Health Commission. The commission shall consist of seven members, one from each congressional district, appointed by the Governor, upon the advice and consent of the Senate.

(2) The Governor shall consider consumer and family representation when appointing members.

(B) The members serve for terms of five years and until their successors are appointed and qualify. The terms of no more than two members may expire in one year. The Governor may remove a member pursuant to the provisions of Section 1-3-240. A vacancy must be filled by the Governor for the unexpired portion of the term.

(C) The commission shall determine policies and promulgate regulations governing the operation of the department and the employment of professional and staff personnel.

(D) The members shall receive the same subsistence, mileage, and per diem provided by law for members of state boards, committees, and commissions."

Seventh Congressional District commission member added

SECTION 13. Section 44-20-210 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

"Section 44-20-210. There is created the South Carolina Commission on Disabilities and Special Needs. The commission consists of seven members. One member must be a resident of each congressional district appointed by the Governor upon the advice and consent of the Senate. They shall serve for four years and until their successors are appointed and qualify. Members of the commission are subject to removal by the Governor pursuant to the provisions of

Section 1-3-240. A vacancy may be filled by the Governor for the unexpired portion of the term."

Seventh Congressional District member added to each advisory board, lay member removed from each advisory board

SECTION 14. Section 44-20-225 of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

"Section 44-20-225. (A) The Governor shall appoint a seven-member consumer advisory board with the advice and consent of the Senate for each of the following divisions: the Intellectual Disability Division, the Autism Division, and the Head and Spinal Cord Injury Division. One member must be a resident of each congressional district. The membership of each advisory board must consist of persons with knowledge and expertise in the subject area of that division. In making such appointments, race, gender, and other demographic factors should be considered to ensure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the 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.

(B) The members of the commission shall receive subsistence, mileage, and per diem as may be provided by law for members of state boards, committees, and commissions.

(C) Terms of the members shall be for four years and until their successors are appointed and qualify."

Transition provisions

SECTION 15. Notwithstanding any other provision of law to the contrary, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member on it as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred,

the vacancy must not be filled until the full term of the transferred member expires.

Time effective

SECTION 16. This act takes effect upon approval by the Governor.

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 223

(R251, S1329)

AN ACT TO AMEND SECTION 24-21-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, AND THE MEMBERS OF THE BOARD OF PROBATION, PAROLE AND PARDON SERVICES, SO AS TO PROVIDE THAT THE MEMBER OF THE BOARD WHO IS APPOINTED ON AN AT-LARGE BASIS MUST BE SELECTED FROM ONE OF THE CONGRESSIONAL DISTRICTS AND AT LEAST ONE APPOINTEE SHALL POSSESS THE QUALIFICATIONS THAT THE AT-LARGE APPOINTEE FORMERLY MET.

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

Board of Probation, Parole and Pardon Services

SECTION 1. Section 24-21-10(B) of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"(B) The Board of Probation, Parole and Pardon Services is composed of seven members. The terms of office of the members are for six years. Each of the seven members must be appointed from each of the congressional districts. At least one appointee shall have at least five years of work or volunteer experience in one or more of the

following fields: parole, probation, corrections, criminal justice, law, law enforcement, psychology, psychiatry, sociology, or social work. Vacancies must be filled by gubernatorial appointment with the advice and consent of the Senate for the unexpired term. If a vacancy occurs during a recess of the Senate, the Governor may fill the vacancy by appointment for the unexpired term pending the consent of the Senate, provided the appointment is received for confirmation on the first day of the Senate's next meeting following the vacancy. A chairman must be elected annually by a majority of the membership of the board. The chairman may serve consecutive terms."

Time effective

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

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

No. 224

(R261, S105)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 8 TO CHAPTER 25, TITLE 57, SO AS TO CREATE THE AGRITOURISM AND TOURISM-ORIENTED SIGNAGE PROGRAM, TO DEFINE NECESSARY TERMS, TO DIRECT THE DEPARTMENT OF TRANSPORTATION TO CREATE AND SUPERVISE A STATEWIDE PROGRAM RELATED TO PROVIDING DIRECTIONAL SIGNS ALONG THE STATE'S RURAL CONVENTIONAL HIGHWAYS AND NONINTERSTATE SCENIC BYWAYS LEADING TO AGRITOURISM AND TOURISM-ORIENTED FACILITIES, TO PROVIDE FOR AN OVERSIGHT COMMITTEE TO APPROVE APPLICATIONS FOR SIGNAGE; TO DIRECT THE DEPARTMENTS OF AGRICULTURE AND PARKS, RECREATION AND TOURISM TO DEVELOP LOGOS TO BE UTILIZED FOR THE SIGNAGE; AND BY ADDING SECTION 57-7-90 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO CAMP WITHIN THE RIGHT OF

WAY OF A HIGHWAY UNDER CERTAIN CIRCUMSTANCES AND TO PROVIDE A PENALTY.

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

Agritourism and Tourism-Oriented Signage Program

SECTION 1. Chapter 25, Title 57 of the 1976 Code is amended by adding:

"Article 8

Agritourism and Tourism-Oriented Signage Program

Section 57-25-800. As used in this article:

(1) 'Agritourism-oriented facility' means a type of location where an agritourism activity, as defined in Section 46-53-10(1), is carried out by an agritourism professional, as defined in Section 46-53-10(2), or another type of agricultural facility recommended by the Department of Agriculture and incorporated into regulations of the Department of Transportation pursuant to Section 57-25-830(A).

(2) 'Tourism-oriented facility' means a type of facility recommended by the Department of Parks, Recreation and Tourism and incorporated into regulations of the Department of Transportation pursuant to Section 57-25-830(A).

(3) 'Conventional highway' means a highway with at-grade intersections and without control of access.

(4) 'Rural' means an area outside the limits of an incorporated municipality having a population of five thousand or more according to the most recent decennial census of the United States Bureau of Census.

Section 57-25-810. In an effort to promote and assist South Carolina facilities that have an interest in educating, sharing, and selling their programs and products to the general public, the Department of Transportation is directed to create and supervise a coordinated, self-funded, statewide program related to providing directional signs along certain of the state's rural conventional highways and noninterstate scenic byways leading to agritourism and tourism-oriented facilities. The statewide program shall be operated according to standards and regulations consistent with the Manual on Uniform Traffic Control Devices authorized to be adopted and

promulgated by the Department of Transportation. The standards and regulations may provide for the use of official logos developed by the Department of Parks, Recreation and Tourism and the Department of Agriculture in compliance with the federal Manual on Uniform Traffic Control Devices. The standards and regulations also may provide for cooperative agreements between the department and private interests for the administration of the program and for the use and display of names for tourism and agritourism information signs on the highway right of way.

Section 57-25-820. (A) The Department of Transportation shall be responsible for the erection and maintenance of the official signs giving specific information to the traveling public providing directions to agritourism and tourism-oriented facilities. All signs must conform to department rules and regulations regarding the size and placement of the signs and be in compliance with all federal and state regulations.

(B) The Department of Transportation shall coordinate with the Department of Agriculture and the Department of Parks, Recreation and Tourism, as applicable, to allow those departments to promote agritourism and tourism-oriented facilities participating in this directional signage program.

(C) The criteria for selection of qualified agritourism facilities shall be recommended by the Department of Agriculture and incorporated into regulations of the Department of Transportation pursuant to Section 57-25-830(A). The criteria for selection of qualified tourism facilities shall be recommended by the Department of Parks, Recreation and Tourism and incorporated into regulations of the Department of Transportation pursuant to Section 57-25-830(A).

(D) The approval of applications for signs for agritourism and tourism-oriented facilities must be determined by an oversight committee. The oversight committee shall consist of the following members and shall meet at the call of the chairman semiannually to consider applications for signage:

(1) Secretary of the Department of Transportation, or his designee, serving as chairman;

(2) Director of the Department of Parks, Recreation and Tourism, or his designee;

(3) Commissioner of the Department of Agriculture, or his designee;

(4) President of the South Carolina Association of Tourism Regions (SCATR), or his designee, and a member of SCATR appointed by its president;

(5) President of the South Carolina Travel and Tourism Coalition, or his designee, and a member of the SCTTC appointed by its president; and

(6) President of the Outdoor Advertising Association of South Carolina, or his designee, and a member of the Outdoor Advertising Association appointed by its president.

Section 57-25-830. (A) Qualified facilities which elect to participate in the directional signage program must submit an application to the Department of Transportation on a form to be supplied by the department. Eligibility and approval to participate in the signage program must be determined by written criteria to be set forth by the Department of Transportation in regulation.

(B) Participating facilities are responsible for the cost of the signs and their installation and maintenance."

Department of Agriculture and the Department of Parks, Recreation and Tourism to develop logos for signage

SECTION 2. The Department of Agriculture and the Department of Parks, Recreation and Tourism must develop logos to be utilized for the signage authorized by this act. The logos developed may be used by those departments for other promotional purposes associated with tourism and agritourism.

Highways, unlawful to camp within right of way of a highway

SECTION 3. Article 1, Chapter 7, Title 57 of the 1976 Code, is amended by adding:

"Section 57-7-90.(A) For purposes of this section, the term 'camp' means camping for more than forty-eight hours.

(B) It is unlawful for any person to camp, set fires, or cook within the right of way of a highway open to vehicular traffic. A person who violates the provisions of this section 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 such other lesser disposition, penalty, or nonpenalty, as the court determines."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 225

(R262, S168)

AN ACT TO AMEND SECTION 16-11-580, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PENALTIES FOR CUTTING, REMOVING, OR TRANSPORTING FOREST PRODUCTS WITHOUT THE CONSENT OF THE LANDOWNER, SO AS TO REVISE THE PENALTIES AND PROVIDE GRADUATED PENALTIES FOR FIRST AND SECOND OR SUBSEQUENT OFFENSES BASED ON THE VALUE OF THE FOREST PRODUCTS.

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

Forest products, unlawful cutting, destroying, or removing, penalties revised

SECTION 1. Section 16-11-580 of the 1976 Code, as last amended by Act 273 of 2004, is further amended to read:

"Section 16-11-580. (A) It is unlawful for a person to knowingly and wilfully:

(1) cut, destroy, or remove forest products without the consent of the landowner;

(2) aid, hire, or counsel another person to cut, destroy, or remove forest products without the consent of the landowner;

(3) obtain or acquire forest products under false pretenses or with fraudulent intent; or

(4) transport forest products if the person knows that the forest products have been cut, removed, obtained, or acquired from the property of a landowner in violation of the provisions of this subsection.

(B) If the value of the forest products is one thousand dollars or less, a person who violates the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not more than fifteen hundred dollars or imprisoned for not more than thirty days, or both; and

(2) for a second or subsequent offense, must be fined not less than two thousand dollars and not more than five thousand dollars or imprisoned for not more than sixty days, or both.

(C) If the value of the forest products is more than one thousand dollars but less than five thousand dollars, a person who violates the provisions of subsection (A):

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not less than five thousand dollars and not more than ten thousand dollars or imprisoned for not more than five years, or both; and

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars and not more than twenty thousand dollars or imprisoned for not more than ten years.

(D) If the value of the forest products is five thousand dollars or more, a person who violates the provisions of subsection (A):

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not less than ten thousand dollars and not more than twenty thousand dollars or imprisoned for not more than ten years, or both; and

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars and not more than twenty thousand dollars or imprisoned for not more than ten years.

(E) As used in this section, ‘forest products’ include, but are not limited to, timber, trees, logs, lumber, or pine straw or any other products in the forest, whether merchantable or nonmerchantable, and which are located on any land in this State, whether publicly or privately owned.”

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 July 1, 2012.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 226

(R263, S263)

AN ACT TO AMEND SECTION 56-5-2910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RECKLESS HOMICIDE, SO AS TO PROVIDE THAT THE OFFENSE SHALL BE DESIGNATED AS RECKLESS VEHICULAR HOMICIDE, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 56-5-2946, RELATING TO THE REQUIREMENT THAT A PERSON MUST SUBMIT TO CHEMICAL TESTS OF HIS BREATH, BLOOD, OR URINE FOR THE PURPOSE OF DETERMINING WHETHER HE IS UNLAWFULLY OPERATING A VEHICLE, SO AS TO PROVIDE THAT THE OFFICER WHO DIRECTS THAT THE TESTS MUST BE ADMINISTERED DOES NOT HAVE TO HAVE PROBABLE CAUSE TO BELIEVE THAT THE PERSON IS GUILTY OF FELONY DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR ANOTHER SUBSTANCE; AND BY ADDING SECTION 56-5-2948 SO AS TO PROVIDE THAT WHEN A PERSON IS SUSPECTED OF CAUSING A MOTOR VEHICLE INCIDENT RESULTING IN THE DEATH OF

ANOTHER PERSON, THE DRIVER MUST SUBMIT TO FIELD SOBRIETY TESTS IF HE IS PHYSICALLY ABLE TO SUBMIT TO THE TESTS.

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

Reckless vehicular homicide

SECTION 1. Section 56-5-2910 of the 1976 Code is amended to read:

"Section 56-5-2910. (A) When the death of a person ensues within three years as a proximate result of injury received by the driving of a vehicle in reckless disregard of the safety of others, the person operating the vehicle is guilty of reckless vehicular homicide. A person who is convicted of, pleads guilty to, or pleads nolo contendere to reckless vehicular homicide is guilty of a felony, and must be fined not less than one thousand dollars nor more than five thousand dollars or imprisoned not more than ten years, or both. The Department of Motor Vehicles shall revoke for five years the driver's license of a person convicted of reckless vehicular homicide.

(B) After one year from the date of revocation, the person may petition the circuit court in the county of the person's residence for reinstatement of the person's driver's license. The person shall serve a copy of the petition upon the solicitor of the county. The solicitor shall notify the representative of the victim of the reckless vehicular homicide of the person's intent to seek reinstatement of the person's driver's license. The solicitor or his designee within thirty days may respond to the petition and demand a hearing on the merits of the petition. If the solicitor or his designee does not demand a hearing, the circuit court shall consider any affidavit submitted by the petitioner and the solicitor or his designee when determining whether the conditions required for driving privilege reinstatement have been met by the petitioner. The court may order the reinstatement of the person's driver's license upon the following conditions:

(1) intoxicating alcohol, beer, wine, drugs, or narcotics were not involved in the vehicular accident which resulted in the reckless homicide conviction or plea;

(2) the petitioner has served the term of imprisonment or paid the fine, assessment, and restitution in full, or both; and

(3) the person's overall driving record, attitude, habits, character, and driving ability would make it safe to reinstate the privilege of operating a motor vehicle.

The circuit court may order the reinstatement of the driver's license before the completion of the full five-year revocation period, or the judge may order the granting of a route restricted license for the remainder of the five-year period to allow the person to drive to and from employment or school, or the judge may place other restrictions on the driver's license reinstatement. The order of the judge must be transmitted to the Department of Motor Vehicles within ten days.

(C) If the person's privilege to operate a motor vehicle is reinstated, a subsequent violation of the motor vehicle laws for any moving violation requires the automatic cancellation of the person's driver's license and imposition of the full period of revocation for the reckless vehicular homicide violation."

Chemical tests of breath, blood, or urine

SECTION 2. Section 56-5-2946 of the 1976 Code is amended to read:

"Section 56-5-2946. (A) Notwithstanding any other provision of law, a person must submit to either one or a combination of chemical tests of his breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or a combination of alcohol and drugs if there is probable cause to believe that the person violated or is under arrest for a violation of Section 56-5-2945.

(B) The tests must be administered at the direction of a law enforcement officer. The administration of one test does not preclude the administration of other tests. The resistance, obstruction, or opposition to testing pursuant to this section is evidence admissible at the trial of the offense which precipitated the requirement for testing. A person who is tested or gives samples for testing may have a qualified person of his choice conduct additional tests at his expense and must be notified 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.

(C) The provisions of Section 56-5-2950, relating to the administration of tests to determine a person's alcohol concentration, additional tests at the person's expense, the availability of other evidence on the question of whether or not the person was under the influence of alcohol, drugs, or a combination of them, availability of test information to the person or his attorney, and the liability of medical institutions and persons administering the tests are applicable to this section and also extend to the officer requesting the test, the State or its political subdivisions, or governmental agency, or entity

which employs the officer making the request, and the agency, institution, or employer, either governmental or private, of persons administering the tests. Notwithstanding any other provision of state law pertaining to confidentiality of hospital records or other medical records, information regarding tests performed pursuant to this section must be released, upon subpoena, to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of Section 56-5-2945."

Field sobriety tests

SECTION 3. Article 23, Chapter 5, Title 56 of the 1976 Code is amended by adding:

"Section 56-5-2948. When a person is suspected of causing a motor vehicle incident resulting in the death of another person by the investigating law enforcement officer on the scene of the incident, the driver must submit to field sobriety tests if he is physically able to do so."

Time effective

SECTION 4. This act takes effect six months after approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 227

(R264, S300)

AN ACT TO AMEND SECTION 63-19-1440, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COMMITMENT OF JUVENILES TO THE DEPARTMENT OF JUVENILE JUSTICE, SO AS TO AUTHORIZE THE DEPARTMENT OF JUVENILE JUSTICE TO ALLOW A JUVENILE WHO IS TEMPORARILY COMMITTED TO ITS CUSTODY, AFTER BEING ADJUDICATED FOR A STATUS OFFENSE,

MISDEMEANOR OFFENSE, OR A PROBATION VIOLATION OR CONTEMPT, TO UNDERGO A COMMUNITY EVALUATION WHILE RESIDING IN HIS HOME OR IN HIS HOME COMMUNITY WITH CERTAIN SAFEGUARDS AND EXCEPTIONS; AND BY ADDING SECTION 63-19-1835 SO AS TO PROVIDE THAT THE DEPARTMENT OF JUVENILE JUSTICE MAY GRANT UP TO A TEN-DAY REDUCTION EACH MONTH TO PROBATIONERS AND PAROLEES WHO ARE COMPLIANT WITH THE TERMS OF THEIR SUPERVISION.

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

Department of Juvenile Justice, community evaluations

SECTION 1. Section 63-19-1440(C) of the 1976 Code is amended to read:

"(C) The court, before committing a child as a delinquent or as a part of a sentence including commitments for contempt, shall order a community evaluation or temporarily commit the child to the Department of Juvenile Justice for not more than forty-five days for evaluation. A community evaluation is equivalent to a residential evaluation, but it is not required to include all components of a residential evaluation. However, in either evaluation the department shall make a recommendation to the court on the appropriate disposition of the case and shall submit that recommendation to the court before final disposition. The department is authorized to allow any child adjudicated delinquent for a status offense, a misdemeanor offense, or violation of probation or contempt for any offense who is temporarily committed to the department's custody for a residential evaluation, to reside in that child's home or in his home community while undergoing a community evaluation, unless the committing judge finds and concludes in the order for evaluation, that a community evaluation of the child must not be conducted because the child presents an unreasonable flight or public safety risk to his home community. The court may waive in writing the evaluation of the child and proceed to issue final disposition in the case if the child:

(1) has previously received a residential evaluation or a community evaluation and the evaluation is available to the court;

(2) has been within the past year temporarily or finally discharged or conditionally released for parole from a correctional

institution of the department, and the child's previous evaluation or other equivalent information is available to the court; or

(3) receives a determinate commitment sentence not to exceed ninety days."

Department of Juvenile Justice, compliance reductions for probationers and parolees

SECTION 2. Article 17, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-1835. The department may grant up to a ten-day reduction of the probationary or parole term to probationers and parolees who are under the department's supervision for each month they are compliant with the terms and conditions of their probation or parole order."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 228

(R266, S741)

AN ACT TO AMEND SECTION 50-11-710, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NIGHT HUNTING PROHIBITIONS AND EXCEPTIONS, SO AS TO PROVIDE FOR THE LAWFUL NIGHT HUNTING OF FERAL HOGS AND COYOTES IN SPECIFIC CIRCUMSTANCES, TO DEFINE A RELATED TERM, AND TO PROVIDE PENALTIES FOR VIOLATIONS; TO AMEND SECTION 50-11-740, RELATING TO THE CONFISCATION, FORFEITURE, AND SALE OF PROPERTY USED IN UNLAWFUL HUNTING, SO AS TO INCLUDE TRAILERS AND OTHER MEANS OF CONVEYANCE, AND MAKE

APPLICABLE TO VIOLATIONS OF UNLAWFUL NIGHT HUNTING; AND TO AMEND SECTION 50-16-70, AS AMENDED, RELATING TO PENALTIES FOR UNLAWFUL IMPORTATION OF WILDLIFE, SO AS TO INCLUDE SUSPENSION OF HUNTING LICENSES AND CONFISCATION, FORFEITURE, AND SALE OF CERTAIN ASSOCIATED PROPERTY, TO PROVIDE EACH UNLAWFULLY IMPORTED ANIMAL CONSTITUTES A SEPARATE OFFENSE, AND TO GIVE EXCLUSIVE JURISDICTION TO THE MAGISTRATES COURT.

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

Night hunting of feral hogs and coyotes with or without bait, electronic calls, artificial light, or night vision devices in certain circumstances permitted, definitions, penalties for violations

SECTION 1. Section 50-11-710 of the 1976 Code, as last amended by Act 243 of 2010, is further amended to read:

"Section 50-11-710. (A) Night hunting in this State is unlawful except that:

(1) Raccoons, opossums, foxes, mink, and skunk may be hunted at night; however, they may not be hunted with artificial lights except when treed or cornered with dogs, and may not be hunted with buckshot or any shot larger than a number four, or any rifle ammunition larger than a twenty-two rimfire.

(2) Feral hogs may be hunted at night with or without the aid of bait, electronic calls, artificial light, or night vision devices:

(a) during any time of the year with a bow and arrow other than a crossbow, or pistol having iron sights, a barrel length not exceeding nine inches, and which is not equipped with a butt-stock, scope, or laser site;

(b) from the last day of February to the first day of July of that same year with any legal firearm, bow and arrow, or crossbow when notice is given to the department pursuant to subsection (D). When hunting at night with a center fire rifle pursuant to this item, a hunter must be at an elevated position at least ten feet from the ground; and

(c) at any time of the year under authority of and pursuant to the conditions contained in a depredation permit issued by the department pursuant to Section 50-11-2570.

(3) Coyotes and armadillos may be hunted at night with or without the aid of bait, electronic calls, artificial light, or night vision devices:

(a) during any time of the year with a bow and arrow other than a crossbow, a rimfire rifle, a shotgun with shot size no larger than a BB, or a pistol of any caliber having iron sights, a barrel length not exceeding nine inches, and which is not equipped with a butt-stock, scope, or laser light;

(b) from the last day of February to the first day of July of that same year with any legal firearm, bow and arrow, or crossbow when notice is given to the department pursuant to subsection (D). When hunting at night with a center fire rifle pursuant to this item, a hunter must be at an elevated position at least ten feet from the ground; and

(c) at any time of the year under authority of and pursuant to the conditions contained in a depredation permit issued by the department pursuant to Section 50-11-2570.

(B) The provisions contained in items (2)(b) and (3)(b) of subsection (A) do not apply to a person who has violated any provision contained in Article 4, Chapter 11, Title 50, except Section 50-11-708 and Section 50-11-750, during the previous five years.

(C) For the purposes of this section, 'night' means that period of time between one hour after official sundown of a day and one hour before official sunrise of the following day.

(D) For the purposes of this section, 'notice to the department' means that the landowner upon which the animals will be taken has either called the department at least forty-eight hours prior to hunting or registered the property as otherwise prescribed by the department. The notice must include the name of each person participating in the hunt, the hunting license number of each person participating in the hunt, and the location of the hunt. Property must be registered only one time during each season, or annually for year-round hunts.

(E) Any person violating the provisions of this section, upon conviction, must be fined for the first offense not more than one thousand dollars, or be imprisoned for not more than one year, or both; for the second offense within two years from the date of conviction for the first offense, not more than two thousand dollars nor less than four hundred dollars, or be imprisoned for not more than one year nor for less than ninety days, or both; for a third or subsequent offense within two years of the date of conviction for the last previous offense, not more than three thousand dollars nor less than five hundred dollars, or be imprisoned for not more than one year nor for less than one hundred twenty days, or both. Any person convicted under this section after

more than two years have elapsed since his last conviction must be sentenced as for a first offense.

(F)(1) A person who violates items (2) and (3) of subsection (A) 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.

(2) In addition to any other penalty, any person convicted for a second or subsequent offense under this section within three years of the date of conviction for a first offense shall have his privilege to hunt in this State suspended for a period of two years. No hunting license may be issued to an individual while his privilege is suspended, and any license mistakenly issued is invalid. The penalty for hunting in this State during the period of suspension, upon conviction, must be imprisonment for not more than one year nor less than ninety days.

(G) The provisions of this section may not be construed to prevent any owner of property from protecting the property from destruction by wild game as provided by law.

(H) It is unlawful for a person to use artificial lights at night, except vehicle headlights while traveling in a normal manner on a public road or highway, while in possession of or with immediate access to both ammunition of a type prohibited for use at night by the first paragraph of this section and a weapon capable of firing the ammunition. A violation of this paragraph is punishable as provided by Section 50-11-720."

Confiscation, forfeiture, and sale of property used in unlawful hunting to include trailers and other means of conveyance, application to violations of unlawful night hunting

SECTION 2. Section 50-11-740 of the 1976 Code is amended to read:

"Section 50-11-740. Every vehicle, boat, trailer, other means of conveyance, animal, and firearm used in the hunting of deer or bear at night, or used in connection with a violation of Section 50-11-710, is forfeited to the State and must be confiscated by any peace officer who shall forthwith deliver it to the department.

'Hunting' as used in this section in reference to a vehicle, boat, or other means of conveyance includes the transportation of a hunter to or from the place of hunting or the transportation of the carcass, or any part of the carcass, of a deer, bear, coyote, armadillo, or feral hog which has been unlawfully killed at night.

For purposes of this section, a conviction for unlawfully hunting deer, bear, coyote, armadillo, or feral hog at night is conclusive as against any convicted owner of the above-mentioned property."

Penalties for unlawful importation of wildlife to include suspension of hunting license and confiscation, forfeiture, and sale of certain associated property, each unlawfully imported animal constitutes a separate offense, exclusive jurisdiction of magistrates court

SECTION 3. Section 50-16-70 of the 1976 Code, as last amended by Act 211 of 2010, is further amended to read:

"Section 50-16-70. (A) A person violating the provisions of this chapter, or any condition of a permit issued pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than six months, or both. The department must suspend the hunting privileges of a person convicted of violating this chapter for one year from the date of the conviction.

(B) In addition to any other penalties provided by law, a person convicted of a violation of subsection (A) is also subject to the confiscation, forfeiture, and sale provisions contained in Section 50-11-740 for any property, vehicle, trailer, or other means of conveyance utilized to import, possess, or transport the animal.

(C) For the purposes of this section, each animal imported in violation of subsection (A) constitutes a separate offense.

(D) Notwithstanding Chapter 3, Title 22, magistrates court shall have jurisdiction over actions arising under this section."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 229

(R267, S947)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 33 TO TITLE 49 SO AS TO ESTABLISH THE LAKE PAUL A. WALLACE AUTHORITY TO MANAGE, MAINTAIN, AND OPERATE THE LAKE, TO PROVIDE FOR THE MEMBERSHIP OF THE GOVERNING BODY OF THE AUTHORITY, TO PROVIDE FOR THEIR POWERS AND DUTIES, AND TO PROVIDE FOR RELATED MATTERS.

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

Lake Paul A. Wallace Authority

SECTION 1. Title 49 of the 1976 Code is amended by adding:

"CHAPTER 33

Lake Paul A. Wallace Authority

Section 49-33-10. As used in this chapter, unless the context otherwise requires:

(1) 'Authority' means the Lake Paul A. Wallace Authority, a body corporate and politic created to receive, manage, maintain, and operate the property known as Lake Paul A. Wallace located in Marlboro County.

(2) 'Department' means the Department of Natural Resources.

(3) 'Lake' means Lake Paul A. Wallace.

Section 49-33-20. (A) There is hereby created a body corporate and politic to be known as the 'Lake Paul A. Wallace Authority'.

(B) The function of the authority is to:

(1) be the body politic and corporate to manage, maintain, and operate the Lake Paul A. Wallace;

(2) ensure that the primary purpose of the lake is for public fishing and recreation in compliance with the federal law under which the lake was established; and

(3) provide that the wildlife habitat remain a protected area as long as this function does not contravene with the provisions contained in item (1) of this subsection.

Section 49-33-30. (A) The authority shall be composed of seven members appointed by the Marlboro County Legislative Delegation, as follows:

(1) two members nominated by the city council of Bennettsville;

(2) two members nominated by the county council of Marlboro County; and

(3) three members at large who reside near or have a demonstrable history of recreational use of Lake Paul A. Wallace.

(B) The members shall serve for terms of four years, except that of the members first appointed, one nominated by city council, one nominated by county council, and one at-large member will serve for terms of two years for their initial appointment.

(C) One of the at-large members must be designated by the Marlboro County Legislative Delegation to serve as the chairman of the authority.

(D) A vacancy must be filled in the same manner as the appointment for the vacant position is made, and the successor appointed to fill the vacancy shall hold office for the remainder of the unexpired term.

(E) The following shall serve ex officio as a nonvoting member: the Director of the Department of Natural Resources or his designee.

Section 49-33-40. (A) The members of the authority, at the discretion of the city, county, or authority may receive such per diem and mileage as is provided by law for members of boards, commissions, and committees.

(B) The city council of Bennettsville, the county council of Marlboro, and the authority may provide the per diem, mileage, and staff for the authority.

Section 49-33-50. The authority shall convene upon the call of the chairman and organize by electing a vice chairman, a secretary, and a treasurer, whose terms of office shall be for such period as the authority shall determine in its bylaws.

Section 49-33-60. The secretary of the authority shall file in the offices of the clerk of court for Marlboro County and the Secretary of

State appropriate certificates, showing the personnel of the authority and the duration of the terms of the respective members.

Section 49-33-70. The authority has the following powers to:

(1) have perpetual succession;

(2) sue and be sued;

(3) adopt, use, and alter a corporate seal;

(4) define a quorum for its meetings;

(5) maintain a principal office, which shall be located in Bennettsville;

(6) make bylaws for the management and regulation of its affairs;

(7) acquire, hold, and manage real estate;

(8) make contracts of all sorts and to execute all instruments necessary or convenient for the carrying on of the business of the authority; and

(9) do all other acts and things necessary or convenient to carry out any function or power committed or granted to the authority.

Section 49-33-80. The authority is empowered to receive and spend any funding available through (1) the department, (2) the municipal, county, state, or federal government, or (3) any other source in order to finance the management, maintenance, and operation of the lake that is in compliance with federal and state law."

Severability clause

SECTION 2. 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 chapter, 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 3. This act shall take effect July 1, 2012.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 230

(R268, S1007)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 57-3-755 SO AS TO PROVIDE THE DEPARTMENT OF TRANSPORTATION SHALL MAINTAIN AN ONLINE TRANSACTION REGISTER OF ALL EXPENDED FUNDS IN A SPECIFIC MANNER, TO SPECIFY RELATED INFORMATION THAT MUST BE INCLUDED, TO PROVIDE THE REGISTER BE PROMINENTLY POSTED ON THE INTERNET WEBSITE OF THE DEPARTMENT, AND TO PROVIDE THE DEPARTMENT MAY CONSULT WITH THE COMPTROLLER GENERAL FOR CERTAIN QUESTIONS OR ISSUES CONCERNING THE REGISTER.

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

Department of Transportation online transaction register of all funds expended, exemption, role of Comptroller General

SECTION 1. Article 7, Chapter 3, Title 57 of the 1976 Code is amended by adding:

"Section 57-3-755. (A) The Department of Transportation shall maintain a transaction register that includes a complete record of all funds expended, from whatever source for whatever purpose. The register must be prominently posted on the department's Internet website and made available for public viewing and downloading.

(1)(a) The register must include for each expenditure:

(i) the transaction amount;

(ii) the name of the payee;

(iii) the identification number of the transaction; and

(iv) a description of the expenditure, including the source of funds, a category title, and an object title for the expenditure.

(b) The register must include all reimbursements for expenses, but must not include an entry for salary, wages, or other compensation paid to individual employees.

(c) The register must not include a social security number.

(d) The register must be accompanied by a complete explanation of any codes or acronyms used to identify a payee or an expenditure.

(e) At the option of the department, the register may exclude any information that can be used to identify an individual employee.

(f) This section does not require the posting of any information that is not required to be disclosed under Chapter 4, Title 30.

(2) The register must be searchable and updated at least once a month. Each monthly register must be maintained on the Internet website for at least three years.

(B) The department shall be responsible for providing on its Internet website a link to the Internet website of any agency, other than the department, that posts on its Internet website the institution's monthly state procurement card statements or monthly reports containing all or substantially all of the same information contained in the monthly state procurement card statements. The link must be to the specific webpage or section on the website of the agency where the state procurement card information for the institution can be found. The information posted may not contain the state procurement card number.

(C) Any information that is expressly prohibited from public disclosure by federal or state law or regulation must be redacted from any posting required by this section.

(D) In the event the department has a question or issue relating to technical aspects of complying with the requirements of this section or the disclosure of public information under this section, it shall consult with the Office of Comptroller General, which may provide guidance.

(E) The Department of Transportation may fulfill the requirements of this section by providing, on its Internet website, a link to the Internet website of another state agency, to the extent that the link provides the information required by this section."

Time effective

SECTION 2. This act takes effect upon approval by the Governor, and the Department of Transportation shall have one year from the effective date of this act to comply with its requirements.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 231

(R283, H3028)

AN ACT TO AMEND SECTION 59-26-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INDUCTION, ANNUAL, AND CONTINUING CONTRACTS FOR TEACHERS, SO AS TO INCREASE THE INDUCTION CONTRACT PERIOD FROM ONE YEAR TO THREE YEARS, AND FURTHER PROVIDE FOR PROVISIONS OF LAW PERTAINING TO TEACHER CONTRACTS AND EMPLOYMENT.

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

Induction contract period revised

SECTION 1. Section 59-26-40(C) of the 1976 Code, as last amended by Act 283 of 2004, is further amended to read:

"(C) At the end of each year of the three-year induction period, the district may employ the teacher under another induction contract, an annual contract, or may terminate his employment. If employment is terminated, the teacher may seek employment in another school district at the induction contract level. At the end of the three-year induction contract period, a teacher shall become eligible for employment at the annual contract level. At the discretion of the local school district in which the induction teacher was employed, the district may employ the teacher under an annual contract or the district may terminate his employment. If employment is terminated, the teacher may seek employment in another school district at the annual contract level. A person must not be employed as an induction teacher for more than three years. This subsection does not preclude his employment under an emergency certificate in extraordinary circumstances if the employment is approved by the State Board of Education. During the

induction contract period, the employment dismissal provisions of Article 3, Chapter 19 and Article 5, Chapter 25 of this title do not apply."

Induction contract period revised

SECTION 2. Section 59-26-40(J) of the 1976 Code, as last amended by Act 283 of 2004, is further amended to read:

"(J) After successfully completing an induction contract period, not to exceed three years, and an annual contract period, a teacher shall become eligible for employment at the continuing contract level. This contract status is transferable to any district in this State. A continuing contract teacher shall have full procedural rights that currently exist under law relating to employment and dismissal. A teacher employed under a continuing contract must be evaluated on a continuous basis. At the discretion of the local district and based on an individual teacher's needs and past performance, the evaluation may be formal or informal. Formal evaluations must be conducted with a process developed or adopted by the local district in accordance with State Board of Education regulations. The formal process also must include an individualized professional growth plan established by the school or district. Professional growth plans must be supportive of district strategic plans and school renewal plans. Informal evaluations which should be conducted for accomplished teachers who have consistently performed at levels required by state standards, must be conducted with a goals-based process in accordance with State Board of Education regulations. The professional development goals must be established by the teacher in consultation with a building administrator and must be supportive of district strategic plans and school renewal plans."

Induction contract period revised

SECTION 3. Section 59-26-40(L) of the 1976 Code, as last amended by Act 283 of 2004, is further amended to read:

"(L) A teacher certified under the career and technology education work-based certification process is exempt from the provisions of the South Carolina Education Improvement Act of 1984 which require the completion of scholastic requirements for teaching at an approved college or university. After completing the induction contract period, not to exceed three years, the teacher may be employed for a maximum

of four years under an annual contract to establish his eligibility for employment as a continuing contract teacher. Before being eligible for a continuing contract, a teacher shall pass a basic skills examination developed in accordance with Section 59-26-30, a state approved skill assessment in his area, and performance evaluations as required for teachers who are employed under annual contracts. Certification renewal requirements for teachers are those promulgated by the State Board of Education."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 232

(R285, H3433)

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 REVIEW AND RENAME CERTAIN VOTING PRECINCTS OF BEAUFORT COUNTY AND TO REDESIGNATE A MAP NUMBER FOR THE MAP ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE DIVISION 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 Designated

SECTION 1. Section 7-7-110 of the 1976 Code, as last amended by Act 4 of 2007, 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 3B
Bluffton 4A
Bluffton 4B
Bluffton 4C
Bluffton 5
Burton 1A
Burton 1B
Burton 1C
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 3A
Ladys Island 3B
Moss Creek
Mossy Oaks 1A
Mossy Oaks 1B
Mossy Oaks 2
Port Royal 1
Port Royal 2
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 1A
Sun City 1B
Sun City 2
Sun City 3A
Sun City 3B

Sun City 4A
Sun City 4B
Sun City 5
Sun City 6

(B) The precinct lines defining the above precincts are as shown on the official map prepared by and on file with the Division of Research and Statistics of the State Budget and Control Board designated as document P-13-12 and as shown on copies provided to the Beaufort County Board of Elections and Registration by the Division 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 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 233

(R286, H3506)

AN ACT TO AMEND SECTION 12-14-80, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INVESTMENT TAX CREDIT FOR MANUFACTURING AND PRODUCTIVE EQUIPMENT, SO AS TO EXPAND THE CREDIT TO CERTAIN ACTIVITIES WHERE THE TAXPAYER COMMITS TO EMPLOYING ONE THOUSAND TWO HUNDRED FULL-TIME EMPLOYEES IN THIS STATE AND COMMITS TO INVEST FOUR HUNDRED MILLION DOLLARS IN CAPITAL INVESTMENT IN THIS STATE, TO DEFINE TERMS, AND TO SET FORTH THE PROCESS BY WHICH A TAXPAYER QUALIFIES FOR THE CREDIT AND THE PROCESS BY WHICH THE AMOUNT OF THE CREDIT IS DETERMINED; AND BY ADDING SECTION

12-54-87 SO AS TO PROVIDE THAT FOR PURPOSES OF DISCOUNTS ALLOWED FOR TIMELY FILING OF RETURNS, IF THE DEPARTMENT OF REVENUE WAIVES ALL PENALTIES FOR LATE FILING DUE TO REASONABLE CAUSE, THE DISCOUNT MUST BE ALLOWED.

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

Investment tax credit for manufacturing and productive equipment

SECTION 1. Section 12-14-80 of the 1976 Code, as last amended by Act 354 of 2008, is further amended to read:

"Section 12-14-80. (A) There is allowed an investment tax credit for any taxable year in which qualified manufacturing and productive equipment acquired or leased by the taxpayer is placed in service if the taxpayer:

(1)(a) is engaged in this State in an activity or activities listed under the North American Industry Classification System Manual (NAICS) Section 326;

(b) is employing five thousand or more full-time workers in this State and having a total capital investment in this State of not less than two billion dollars; and

(c) commits to invest five hundred million dollars in capital investment in this State between January 1, 2006, and July 1, 2011; or

(2)(a) is engaged in this State in an activity or activities listed under the North American Industry Classification System Manual (NAICS) Section 326;

(b) commits to employing one thousand two hundred full-time employees in this State by January 1, 2022; and

(c) commits to invest four hundred million dollars in capital investment in this State between September 1, 2011, and January 1, 2022.

(B) For purposes of this section:

(1) 'Qualified manufacturing and productive equipment property' means property that satisfies the requirements of Section 12-14-60(B)(1)(a), (b), and (c);

(2) 'Taxpayer' includes the taxpayer and any person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the taxpayer. For

purposes of this item, a person controls another person if that person holds fifty percent ownership interest in the other person.

(3) 'Capital investment in this State' includes property that is:

(a) capitalized by the taxpayer;

(b) subject to a capital lease with the taxpayer; or

(c) subject to an operating lease with the taxpayer.

Qualified manufacturing and productive equipment property that is leased to the taxpayer shall be treated as placed in service by the taxpayer on the date the lease begins.

(C)(1) The amount of the credit allowed by this section is equal to the aggregate amount computed based on Section 12-14-60(A)(2).

(2) Notwithstanding item (1), in the event that the taxpayer is the lessee of the property for which the credit is allowable and is not treated as the income tax owner of such property, the basis of the property for purposes of calculating the amount of the credit for the taxpayer and the capital investment made by the taxpayer with respect to the property shall be the then determined tax basis, as of the date the lease begins, for purposes of calculating income tax in this State in such property of the income tax owner of such property. In this instance, the taxpayer must include a certification that:

(a) the lessor has provided a written statement to the lessee as to the lessor's then depreciated income tax basis;

(b) the property has not been subject to a prior investment tax credit under this section; and

(c) the taxpayer will include in taxable income the amounts required under subsection (H). Notwithstanding Section 12-54-240, the department may share between and among the taxpayer or the lessor information related to the items certified pursuant to subitems (a) and (b) or to the class life of equipment with respect to which a credit under this section has been claimed.

(D) A taxpayer that qualifies for the tax credit allowed by this section may claim the credit allowed by this section in addition to the credit allowed by Section 12-6-3360 as a credit against withholding taxes imposed by Chapter 8 of this title. The taxpayer must first apply the credit allowed by this section and Section 12-6-3360 against income tax liability. To the extent that the taxpayer has unused credit pursuant to this section, including the credit allowed by Section 12-6-3360, for the taxable year after the application of the credits allowed by this section and Section 12-6-3360 against income tax liability, the taxpayer may claim the excess credit as a credit against withholding taxes on its four quarterly withholding tax returns for the taxpayer's taxable year; except that the credit claimed against

withholding tax may not exceed fifty percent of the withholding tax shown as due on the return before the application of other credits including other credits pursuant to Section 12-10-80 or 12-10-81. For the period July 1, 2007, to June 30, 2008, a taxpayer using this section may not reduce its state withholding tax to less than the withholding tax remitted for the period June 30, 2006, to July 1, 2007.

(E) Unused credits allowed pursuant to this section may be carried forward for use in a subsequent tax year. During the first ten years of each tax credit carryforward, the credit may not reduce a taxpayer's state income tax liability by more than fifty percent, and for a subsequent year the credit carryforward may not reduce a taxpayer's state income tax liability by more than twenty-five percent. Investment tax credit carryforwards pursuant to this section and credit carryforwards pursuant to Section 12-6-3360 must first be used as a credit against income taxes for that year. Any excess may be used pursuant to subsection (D) as a credit against withholding taxes; except that the limitations of subsection (D) apply each year and the credit carryforwards that existed on the effective date of Act 83 of 2007 for taxpayers qualifying under subsection (A)(1) and on the effective date of the qualification for taxpayers qualifying under subsection (A)(2), may not be used to reduce withholding tax liabilities pursuant to this section.

(F) The amount of credit used against withholding taxes must reduce the amount of credit that may be used against income tax liability.

(G) If the taxpayer disposes of or removes qualified manufacturing and productive equipment property from the State during any taxable year and before the end of applicable recovery period for such property as determined under Section 168(e) of the Internal Revenue Code, then the income tax due pursuant to this chapter for the current taxable year must be increased by an amount of any credit claimed in prior years with respect to that property, determined by assuming the credit is earned ratably over the useful life of the property and recapturing pro rata the unearned portion of the credit. This recapture applies to credit previously claimed as a credit against income taxes pursuant to this chapter or withholding tax pursuant to Chapter 8. For purposes of this subsection, the following rules apply for determining whether a taxpayer that is a lessee of qualified manufacturing and productive equipment property has disposed of the property:

(1) a transfer of the property by the lessee to the lessor in a sale-leaseback transaction shall be ignored;

(2) a disposition by the lessor of the property shall not be treated as a disposition provided that the lease is not terminated and the taxpayer remains lessee thereunder;

(3) if the taxpayer lessee actually purchases the property in any taxable year, the purchase shall not be treated as a disposition; and

(4) if the lease is terminated and the property is transferred by the lessee to the lessor or to any other person, other than the taxpayer, the transfer is considered to be a disposition by the taxpayer lessee.

(H)(1) For South Carolina income tax purposes, except as otherwise provided in item (2), the basis of the qualified manufacturing and productive equipment property must be reduced by the amount of any credit claimed with respect to the property, whether claimed as a credit against income taxes or withholding. If a taxpayer is required to recapture the credit in accordance with subsection (G), the taxpayer may increase the basis of the property by the amount of basis reduction attributable to claiming the credit in prior years. The basis must be increased in the year in which the credit is recaptured.

(2) Notwithstanding item (1), if the taxpayer is the lessee of the qualified manufacturing and productive equipment property for which credit has been taken by the taxpayer, in lieu of any adjustment to the basis of such property, the taxpayer shall include in its taxable income for South Carolina income tax purposes, an amount equal to the amount of the credit that is earned during such taxable year in accordance with subsection (G).

(I)(1) For taxpayers qualifying under subsection (A)(1), a credit must not be taken pursuant to this section for capital investments placed in service until the taxpayer has invested two hundred million dollars of the five hundred million-dollar investment requirement described in subsection (A)(1)(c) and the taxpayer files a statement with the department stating that it: (i) commits to invest a total of five hundred million dollars in this State between January 1, 2006, and July 1, 2011; and (ii) shall refund any credit received with interest at the rate provided for underpayments of tax if it fails to meet the requirement of subsection (A)(1)(c).

(2) For taxpayers qualifying under subsection (A)(2), a credit must not be taken pursuant to this section for capital investments in this State until the taxpayer has invested two hundred million dollars of the four hundred million-dollar investment requirement described in subsection (A)(2)(c) and the taxpayer files a statement with the department stating that it:

(a) commits to invest a total of four hundred million dollars in this State between September 1, 2011, and January 1, 2022;

(b) commits to employ a total of one thousand two hundred full-time employees in this State by January 1, 2022; and

(c) shall refund any credit received with interest at the rate provided for underpayments of tax if it fails to meet the requirements of subsection (A)(2)(b) or (c).

The statement and proof of qualification must be filed with the notice required in subsection (J). Credit is not allowed pursuant to this section for property placed in service before June 30, 2007, for taxpayers qualifying under subsection (A)(1) or for property placed in service before September 1, 2011 for taxpayers qualifying under subsection (A)(2). For credit claimed before the investment of the full five hundred million dollars pursuant to subsection (A)(1)(c) or four hundred million dollars pursuant to subsection (A)(2)(c), the company claiming the credit must execute a waiver of the statute of limitations pursuant to Section 12-54-85, allowing the department to assess the tax for a period commencing with the date that the return on which the credit is claimed is filed and ending three years after the company notifies the department that the applicable capital investment commitment has been made. A waiver of the statute of limitations must accompany the return on which the credit is claimed.

(J) The taxpayer shall notify the department as provided in subsection (I) before taking any credits pursuant to this section. Additionally, in a taxable year after the year of qualification for credit pursuant to this section, the taxpayer shall include with its tax return for that year: (i) a statement that the taxpayer has continued to meet the requirements of subsections (A)(1)(a) and (b) or subsections (A)(2)(a) and (b); (ii) the reconciliation required in subsection (D); and (iii) any statement and support for subsection (I).”

Timely filing discount

SECTION 2. Chapter 54, Title 12 of the 1976 Code is amended by adding:

“Section 12-54-87. Notwithstanding any other provision of law, for purposes of discounts allowed for timely filing of returns, if the department waives all penalties for late filing due to reasonable cause, the discount must be allowed despite the late filing.”

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 234

(R287, H3527)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 24-3-970 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR AN INMATE INCARCERATED IN A STATE DEPARTMENT OF CORRECTIONS FACILITY, OR A PERSON ACTING ON BEHALF OF OR ENABLING SUCH AN INMATE, TO USE AN INTERNET-BASED SOCIAL NETWORKING WEBSITE TO HARASS, INTIMIDATE, OR CONTACT A CRIME VICTIM AND TO PROVIDE PENALTIES.

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

Misdemeanor created for Department of Corrections inmate using Internet-based social networking site to be in contact with victim

SECTION 1. Article 9, Chapter 3, Title 24 of the 1976 Code is amended by adding:

"Section 24-3-970. It is unlawful for an inmate, or a person acting on behalf of or enabling an inmate, to utilize any Internet-based social networking website for purposes of harassing, intimidating, or otherwise contacting a crime victim. An inmate or person acting on behalf of an inmate utilizing an Internet-based social networking website for purposes described herein 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.

The provisions of this section apply only to inmates incarcerated in a State Department of Corrections facility."

Time effective

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

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 235

(R291, H3747)

AN ACT TO AMEND SECTION 12-36-2120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SALES TAX EXEMPTIONS, SO AS TO EXEMPT INJECTABLE MEDICATIONS AND INJECTABLE BIOLOGICS SO LONG AS THE MEDICATION OR BIOLOGIC IS ADMINISTERED BY OR PURSUANT TO THE SUPERVISION OF A PHYSICIAN IN AN OFFICE WHICH IS UNDER THE SUPERVISION OF A PHYSICIAN, OR IN A CENTER FOR MEDICARE OR MEDICAID SERVICES (CMS) CERTIFIED KIDNEY DIALYSIS FACILITY, AND TO DEFINE "BIOLOGICS" FOR THE PURPOSES OF THE EXEMPTION.

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

Certain injectable medications and injectable biologics exempted from sales tax

SECTION 1. Section 12-36-2120 of the 1976 Code, as last amended by Act 280 of 2010, is further amended by adding a new item at the end to read:

"( )(a) Effective on July first immediately following a forecast meeting the requirements of subitem (b), injectable medications and injectable biologics, so long as the medication or biologic is administered by or pursuant to the supervision of a physician in an office which is under the supervision of a physician, or in a Center for Medicare or Medicaid Services (CMS) certified kidney dialysis facility. For purposes of this exemption, 'biologics' means the

products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms.

(b) Beginning with the February 15, 2013, forecast by the Board of Economic Advisors of annual general fund revenue growth for the upcoming fiscal year, and annually thereafter until the conditions of this item are met, if the forecast of that growth equals at least two percent of the most recent estimate by the board of general fund revenues for the current fiscal year, then on July first, the exemption described in subitem (a) shall apply to fifty percent of the gross proceeds of sales of the described items. Beginning the next July first, the exemption shall apply to one hundred percent of the gross proceeds of sales of the described items. If the February fifteenth forecast meets the requirement for a rate reduction, the board promptly shall certify this result in writing to the Department of Revenue."

Time effective

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

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 236

(R295, H4042)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-57-75 SO AS TO PROVIDE FOR PROCEDURES THAT MUST BE FOLLOWED WHEN AN INSURED HAS SUFFERED DAMAGE TO VEHICLE GLASS, TO PROHIBIT AN INSURER FROM REQUIRING VEHICLE GLASS REPAIR WORK TO BE DONE BY A PARTICULAR PROVIDER, TO PROVIDE CERTAIN DISCLOSURES, AND TO PROVIDE PROCEDURES WHEN AN INSURED CHOOSES A PROVIDER WHO IS NOT A MEMBER OF THE INSURER'S OR THIRD PARTY ADMINISTRATOR'S PREFERRED PROVIDER LIST, TO PROVIDE THAT A

VEHICLE GLASS REPAIR OR REPLACEMENT FACILITY IS PROHIBITED FROM THREATENING AN INSURER TO FILE A CLAIM OR FROM ENGAGING IN AN OTHERWISE UNFAIR OR DECEPTIVE PRACTICE, TO PROVIDE EXCEPTIONS, AND TO PROVIDE THAT VIOLATIONS OF THIS SECTION ARE SUBJECT TO THE PROVISIONS OF THE SOUTH CAROLINA INSURANCE UNFAIR CLAIM PRACTICES ACT; AND BY ADDING SECTION 39-5-180 SO AS TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON WHO SELLS, REPAIRS, OR REPLACES VEHICLE GLASS TO SUBMIT FALSE CLAIMS OR MAKE OTHER MATERIAL MISREPRESENTATIONS, AMONG OTHER THINGS, REGARDING VEHICLE GLASS REPAIRS.

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

Insurance, vehicle glass repair procedures

SECTION 1. Chapter 57, Title 38 of the 1976 Code is amended by adding:

"Section 38-57-75. (A) When an insured has suffered damage to the glass of a motor vehicle, 'vehicle glass', both the insurer providing glass coverage and the third party administrator that administers glass coverage for that insurer must not require that repairs be made to the insured's vehicle by a particular provider of glass repair work.

(B) In processing a vehicle glass claim, a third party administrator must immediately disclose to the insured that the third party administrator is acting on behalf of the insurer.

(C) Immediately after verification of coverage and evaluation of the damage, an insurer or third party administrator must ascertain whether an insured has a provider of choice.

(D) When an insured requests to have covered glass repair work performed by a specific provider of choice, the insurer or third party administrator must determine whether the selected shop is a member of the insurer's or third party administrator's vehicle glass repair program or preferred provider list. If the provider of choice is a member of the insurer's vehicle repair program or preferred provider network, the insurer or its third party administrator must assign the claim and provide a claim or reference number at that time to the provider of choice.

(E) When an insured requests to have covered glass repair work performed by a provider who is not a member of the insurer's or third party administrator's vehicle repair program or preferred provider list, the insurer or third party administrator:

(1) must confirm that the provider agrees to perform the repair at the insurer's fair and reasonable rate of reimbursement. If the provider refuses to accept the rate, the insurer or third party administrator may inform the insured that he will be responsible for additional costs. If the provider agrees to accept the fair and reasonable rates, no further statements regarding costs shall occur and the provider must be paid the agreed fair and reasonable rate of reimbursement;

(2) must inform the insured that he or she may use the requested provider of choice; and

(3) must not make statements regarding the warranty offered by the provider of choice. If an insured asks the insurer or third party administrator questions regarding a provider's warranty, the insurer or third party administrator must refer the insured to the provider for clarification.

(F) When an insured does not request to have covered glass repair work performed by a specific provider of choice, the insurer or third party administrator may refer the repair to a vehicle glass repairer who is a member of the insurer's or third party administrator's preferred network of providers.

(G) A vehicle glass repair or replacement facility, including any agent, contractor, vendor, representative, or anyone acting on its behalf, must not:

(1) threaten, coerce, or intimidate an insured to file a claim for vehicle glass repair or replacement;

(2) engage in unfair or deceptive practices to induce an insured to file a vehicle glass repair claim;

(3) induce an insured to file a vehicle glass repair claim when the damage to the vehicle glass is insufficient to warrant vehicle glass repair or replacement;

(4) perform vehicle glass repair or replacement services under an insurance policy without first obtaining insurer approval;

(5) make any representations to an insured as to the vehicle glass coverage available under the insurance policy, including, but not limited to, representations that the insured is entitled to a free windshield; or

(6) represent verbally, electronically, or in any other way, including, but not limited to, advertisements, websites, or any

marketing materials that a claim for a windshield replacement under an insurance policy is free.

(H) The owner, lessee, or insured driver of the vehicle, or the designee of the owner, lessee, or insured driver of the vehicle, if any, must be party to the filing of a vehicle glass repair claim, otherwise known as first notice of loss. A provider of vehicle glass repair services may not serve as the designee for the insured.

(I) When an insurer or third party administrator determines that an insured's requested glass repair must be physically inspected, and the inspection is carried out by a representative of a third party administrator, that representative must not make any offer to make repairs, engage in any discussion of other glass repair facilities, or recommend any glass repair facility during the course of the inspection.

(J) An insurer, agent, or third party administrator only may provide information about a claim to a vehicle glass repairer after the insured has selected that repairer to provide glass services.

(K) The provisions of this section do not apply to insurers or third party administrators who do not have a ten percent or greater ownership interest in a vehicle glass repair business.

(L) Violations of this section are subject to the provisions of the South Carolina Insurance Unfair Claim Practices Act.

(M) Notwithstanding the provisions of this chapter, the insurer has the right to inform the insured that the insurer will not guarantee the work performed by a provider that is not in the network of the insurer or third party administrator."

Unfair Claim Practices, vehicle glass repairs, false claims

SECTION 2. Article 1, Chapter 5, Title 39 of the 1976 Code is amended by adding:

"Section 39-5-180. It is an unlawful practice for a person who sells, repairs, or replaces vehicle glass to knowingly:

(1) submit a claim to an insurer or a third party administrator for vehicle glass repair, replacement, or related services:

(a) if the vehicle glass was not damaged prior to repair or replacement;

(b) if the services were not provided;

(c) showing work performed in a geographical area that in fact was not the location where the services were provided and that results in a higher payment than would otherwise be paid to the person by the policyholder's insurer;

(d) without having an authorization by the owner, lessee, or insured driver of the vehicle for the repair of the vehicle;

(e) showing work performed on a date other than the date the work was actually performed and resulting in a change of insurance coverage status; or

(f) making any other material misrepresentation related to the repair or an insurance claim submitted in relation to that repair;

(2) advise a policyholder to falsify the date of damage to the vehicle glass that results in a change of insurance coverage for repair or replacement of the vehicle glass;

(3) falsely sign on behalf of a policyholder or another person a work order, insurance assignment form, or other related form in order to submit a claim to an insurer for vehicle glass repair or replacement or for related services;

(4) intentionally misrepresent to a policyholder or other person:

(a) the price of the proposed repairs or replacement being billed to the policyholder's insurer; or

(b) that the insurer or third party administrator has authorized the repairs or replacement of the glass of the insured vehicle;

(5) represent to a policyholder or other person that the repair or replacement will be paid for entirely by the policyholder's insurer and at no cost to the policyholder unless the insurance coverage has been verified by a person who is employed by, or is a producer contracted with the policyholder's insurer, or is a third party administrator contracted with the insurer;

(6) add to the damage of vehicle glass before repair in order to increase the scope of repair or replacement or encourage a policyholder or other person to add to the damage of vehicle glass before repair;

(7) perform work clearly and substantially beyond the level of work necessary to repair or replace the vehicle glass to put the vehicle back into a pre-loss condition in accordance with accepted or approved reasonable and customary glass repair or replacement techniques;

(8) engage in business practices that have the effect of providing rebates or something of value to an insured who files a claim to pay for the glass repair or replacement services provided; or

(9) intentionally misrepresent the relationship of the glass repair facility to the policyholder's insurer. For the purposes of determining whether a person intended the misrepresentation, the person presumably intended the misrepresentation if he was engaged in a regular and consistent pattern of misrepresentation. For the purposes of determining whether a defendant knew of any particular element of the

prohibited activity, the person presumably had knowledge if he was engaged in a regular and consistent pattern of the prohibited activity."

Time effective

SECTION 3. SECTION 1 of this act takes effect on January 1, 2013. SECTION 2 of this act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 237

(R297, H4093)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-1-713A SO AS TO DESIGNATE THE HONOR AND REMEMBER FLAG AS THE OFFICIAL STATE EMBLEM OF THE SERVICE AND SACRIFICE BY THOSE IN THE UNITED STATES ARMED FORCES WHO HAVE GIVEN THEIR LIVES IN THE LINE OF DUTY.

Whereas, while war deaths have been a part of our heritage since the birth of this nation, the United States has not instituted an official symbol commemorating fallen servicemembers; and

Whereas, House Resolution Number 546 of the 112th Congress designates the Honor and Remember Flag, created by Honor and Remember, Inc., to officially recognize and honor fallen members of the United States Armed Forces; and

Whereas, the Honor and Remember Flag's red field represents the brave men and women who sacrificed their lives for freedom. The flag's blue star is a symbol of active service in military conflict that dates back to World War I, and the flag's white border recognizes the purity of sacrifice. The flag's gold star signifies the ultimate sacrifice of a warrior in active service who is not returning home and reflects the value of the life given. The folded flag element highlights this nation's

final tribute to a fallen serviceperson and a family's sacrifice. The flag's flame symbolizes the eternal spirit of the departed; and

Whereas, the Honor and Remember Flag is a unifying symbol recognizing this nation's solemn debt to the estimated 1.6 million fallen servicemembers throughout history and the families and communities who mourn their loss. Now, therefore,

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

Honor and Remember Flag designated official state emblem of United States Armed Forces who have given their lives in the line of duty

SECTION 1. Article 9, Chapter 1, Title 1 of the 1976 Code is amended by adding:

"Section 1-1-713A. The Honor and Remember Flag is designated as the official State Emblem of Service and Sacrifice by those in United States Armed Forces who have given their lives in the line of duty."

Time effective

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

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 238

(R298, H4473)

AN ACT TO AMEND SECTION 63-7-2340, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FINGERPRINT REVIEWS OF POTENTIAL FOSTER PARENTS, SO AS TO PROVIDE THAT A PERSON WHO IS APPLYING FOR APPROVAL FOR ADOPTION PLACEMENT ALSO MUST UNDERGO A FINGERPRINT REVIEW; TO AMEND SECTION

63-7-2345, RELATING TO PAYMENT OF COSTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR FINGERPRINT REVIEWS, SO AS TO PROVIDE THAT THE DEPARTMENT OF SOCIAL SERVICES MAY USE FUNDS APPROPRIATED FOR FOSTER CARE TO PAY FOR FINGERPRINT REVIEWS CONDUCTED BY THE FEDERAL BUREAU OF INVESTIGATION FOR FOSTER CARE FAMILIES RECRUITED AND SELECTED AS POTENTIAL FOSTER CARE AND ADOPTIVE FAMILIES FOR CHILDREN IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES; TO AMEND SECTION 63-7-2350, RELATING TO RESTRICTIONS ON FOSTER CARE PLACEMENTS, SO AS TO RESTRICT THE PLACEMENT OF A CHILD IN FOSTER CARE OR FOR ADOPTION PLACEMENT WITH A PERSON WHO HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO CERTAIN OFFENSES OR IF A PERSON RESIDING IN THE HOME WHO IS EIGHTEEN YEARS OF AGE OR OLDER HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO CERTAIN OFFENSES.

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

Children's Code, fingerprint reviews before adoption placement

SECTION 1. Section 63-7-2340 of the 1976 Code is amended to read:

"Section 63-7-2340. (A) A person applying for licensure as a foster parent or for approval for adoption placement and a person eighteen years of age or older, residing in a home in which a person has applied to be licensed as a foster parent or an approved adoption placement, must undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprinting review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.

(B) Any fee charged by the Federal Bureau of Investigation for the fingerprint review must be paid by the individual."

Children's Code, fingerprint review costs

SECTION 2. Section 63-7-2345 of the 1976 Code is amended to read:

"Section 63-7-2345. Notwithstanding the provisions of Section 63-7-2350, the department is authorized to pay from funds appropriated for foster care the costs of Federal Bureau of Investigation fingerprint reviews for foster care families recruited and selected as potential adoption and foster care providers for children in the custody of the department."

Children's Code, restrictions on foster care and adoption placement with persons convicted of certain offenses

SECTION 3. Section 63-7-2350 of the 1976 Code is amended to read:

"Section 63-7-2350. (A) No child in the custody of the Department of Social Services may be placed in foster care or for adoption with a person if the person or anyone eighteen years of age or older residing in the home:

(1) has a substantiated history of child abuse or neglect; or

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

(a) an 'Offense Against the Person' as provided for in Chapter 3, Title 16;

(b) an 'Offense Against Morality or Decency' as provided for in Chapter 15, Title 16;

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

(d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

(e) criminal domestic violence as defined in Section 16-25-20;

(f) criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65;

(g) a felony drug-related offense under the laws of this State;

(h) unlawful conduct toward a child as provided for in Section 63-5-70;

(i) cruelty to children as provided for in Section 63-5-80;

(j) child endangerment as provided for in Section 56-5-2947; or

(k) criminal sexual conduct with a minor in the first degree as provided for in Section 16-3-655(A).

(B) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in subsection (A) when the crime was

committed in another jurisdiction or under federal law is subject to the restrictions set out in this section.

(C) This section does not prevent foster care placement or adoption placement when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in subsection (A) has been pardoned. However, notwithstanding the entry of a pardon, the department or other entity making placement or licensing decisions may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited to provide foster care services."

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 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 239

(R300, H4513)

AN ACT TO AMEND SECTION 43-35-310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MEMBERSHIP OF THE ADULT PROTECTION COORDINATING COUNCIL, SO AS TO REVISE THE MEMBERSHIP AND MAKE TECHNICAL CORRECTIONS; AND TO AMEND SECTION 43-35-330, RELATING TO THE DUTIES OF THE ADULT PROTECTION COORDINATING COUNCIL, SO AS TO REVISE THE DUTIES OF THE COUNCIL AND ADD THE REQUIREMENT THAT THE COUNCIL ANNUALLY PREPARE AND DISTRIBUTE TO THE MEMBERSHIP, VARIOUS MEMBERS OF THE GENERAL ASSEMBLY, AND OTHER INTERESTED PARTIES A REPORT OF THE COUNCIL'S ACTIVITIES AND ACCOMPLISHMENTS FOR THE CALENDAR YEAR AND TO REQUIRE THE REPORT TO BE PUBLISHED ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES' WEBSITE.

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

Adult Protection Coordinating Council, membership revised

SECTION 1. Section 43-35-310 of the 1976 Code, as added by Act 110 of 1993, is amended to read:

"Section 43-35-310. (A) There is created the Adult Protection Coordinating Council under the auspices of the South Carolina Department of Health and Human Services and is comprised of:

(1) one member from the institutional care service provision system who is a consumer or a family member of a consumer of that system and one member from the home and community-based service provision system who is a consumer or a family member of a consumer of that system, both of whom must be appointed by the council for terms of two years; and

(2) these members who shall serve ex officio:

(a) Attorney General or a designee;

(b) Office on Aging, Executive Director, or a designee;

(c) Criminal Justice Academy, Executive Director, or a designee;

(d) South Carolina Department of Health and Environmental Control, Commissioner, or a designee;

(e) State Department of Mental Health, Director, or a designee;

(f) South Carolina Department of Disabilities and Special Needs, Director, or a designee;

(g) Adult Protective Services Program, Director, or a designee;

(h) South Carolina Department of Health and Human Services, Executive Director, or a designee;

(i) Police Chiefs' Association, President, or a designee;

(j) South Carolina Commission on Prosecution Coordination, Executive Director, or a designee;

(k) Protection and Advocacy for People with Disabilities, Inc., Executive Director, or a designee;

(l) South Carolina Sheriff's Association, Executive Director, or a designee;

(m) South Carolina Law Enforcement Division, Chief, or a designee;

(n) Long Term Care Ombudsman or a designee;

(o) South Carolina Medical Association, Executive Director, or a designee;

(p) South Carolina Health Care Association, Executive Director, or a designee;

(q) South Carolina Home Care Association, Executive Director, or a designee;

(r) South Carolina Department of Labor, Licensing and Regulation, Director, or a designee;

(s) executive director or president of a provider association for home and community-based services selected by the members of the council for terms of two years, or a designee;

(t) South Carolina Court Administration, Executive Director, or a designee;

(u) executive director or president of a residential care facility organization selected by the members of council for terms of two years, or a designee.

(B) Vacancies on the council must be filled in the same manner as the initial appointment."

Adult Protection Coordinating Council, duties revised, report required

SECTION 2. Section 43-35-330 of the 1976 Code, as added by Act 110 of 1993, is amended to read:

"Section 43-35-330. (A) Duties of the council are subject to the appropriation of funding and allocation of personnel sufficient to carry out the functions of the council. Staffing for the council must be provided by the South Carolina Department of Health and Human Services.

(B) Duties of the council are to:

(1) provide and promote coordination and communication among groups and associations which may be affected by the council's actions and recommended changes in the system;

(2) identify and promote training on critical issues in adult protection, facilitate arrangements for continuing education seminars and credits, when appropriate, and determine and target problem areas for training based on analysis of the data;

(3) coordinate data collection and conduct analyses including periodic monitoring and evaluation of the incidence and prevalence of adult abuse, neglect, and exploitation;

(4) assist with problem resolution and facilitate interagency coordination of efforts to address unmet needs and gaps in the system;

(5) promote and enhance public awareness;

(6) promote prevention and intervention activities to ensure quality of care for vulnerable adults and their families; and

(7) annually prepare a report of the council's activities and accomplishments for the calendar year and distribute the report to council members, the Chairman of the Medical Affairs Committee of the Senate, the Chairman of the Medical, Military and Municipal Affairs Committee of the House of Representatives, directors or chairs of member agencies or entities who have a designee serving on the council, and other interested parties as well as publishing the report on the department's website."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 240

(R302, H4665)

AN ACT TO AMEND ACT 571 OF 1967, AS AMENDED, RELATING TO THE EDGEFIELD COUNTY WATER AND SEWER AUTHORITY, THE BOUNDARIES OF WHICH PURSUANT TO THIS ACT INCLUDE AREAS IN EDGEFIELD AND AIKEN COUNTIES, SO AS TO REVISE THE MANNER IN WHICH MEMBERS OF THE GOVERNING BODY OF THE AUTHORITY SHALL BE APPOINTED AND FROM WHAT AREAS.

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

Manner of appointment

SECTION 1. Section 2 of Act 571 of 1967, as last amended by Act 337 of 1973, is further amended to read:

"Section 2. The authority shall be composed of seven members, who shall be resident electors of either Edgefield or Aiken Counties; provided, however, that no more than two members may be resident electors of Aiken County. Those members of the authority who are resident electors of Edgefield County must be appointed by the Governor, upon the recommendation of a majority of the members of the Edgefield County Council with the approval of the Edgefield County Legislative Delegation. The Governor, upon the recommendation of the members of the Edgefield County Legislative Delegation, may appoint no more than two members of the authority who must be resident electors of Aiken County and who must reside within the service area of the authority in Aiken County. Of those originally appointed, two shall be appointed for terms of two years, two for terms of four years, and one for a term of six years. Upon the termination of the terms of the original members, their successor shall be appointed by the Governor, in the same manner as is provided for

the original appointment, for terms of six years. Any vacancy occurring by reason of death, resignation, or otherwise shall be filled for the remainder of the unexpired term by appointment of the Governor in the same manner as is provided for the original appointment. All members of the authority shall hold office until their successors shall have been appointed and shall have qualified."

Time effective

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

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 241

(R303, H4699)

AN ACT TO AMEND SECTION 14-5-610, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DIVISION OF THE STATE INTO SIXTEEN JUDICIAL CIRCUITS AND ADDITIONAL AT-LARGE CIRCUIT JUDGES, SO AS TO INCREASE THE NUMBER OF AT-LARGE CIRCUIT COURT JUDGES FROM THIRTEEN TO SIXTEEN; AND TO AMEND SECTION 63-3-40, RELATING TO FAMILY COURT JUDGES ELECTED FROM EACH JUDICIAL CIRCUIT, SO AS TO ADD SIX ADDITIONAL FAMILY COURT JUDGES WHO SHALL BE AT LARGE AND MUST BE ELECTED WITHOUT REGARD TO THEIR COUNTY OR CIRCUIT OF RESIDENCE.

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

Additional at-large circuit judges

SECTION 1. Section 14-5-610 of the 1976 Code, as last amended by Act 155 of 1997, is further amended to read:

"Section 14-5-610. (A) The State is divided into sixteen judicial circuits as follows:

(1) The first circuit is composed of the counties of Calhoun, Dorchester, and Orangeburg.

(2) The second circuit is composed of the counties of Aiken, Bamberg, and Barnwell.

(3) The third circuit is composed of the counties of Clarendon, Lee, Sumter, and Williamsburg.

(4) The fourth circuit is composed of the counties of Chesterfield, Darlington, Marlboro, and Dillon.

(5) The fifth circuit is composed of the counties of Kershaw and Richland.

(6) The sixth circuit is composed of the counties of Chester, Lancaster, and Fairfield.

(7) The seventh circuit is composed of the counties of Cherokee and Spartanburg.

(8) The eighth circuit is composed of the counties of Abbeville, Greenwood, Laurens, and Newberry.

(9) The ninth circuit is composed of the counties of Charleston and Berkeley.

(10) The tenth circuit is composed of the counties of Anderson and Oconee.

(11) The eleventh circuit is composed of the counties of Lexington, McCormick, Saluda, and Edgefield.

(12) The twelfth circuit is composed of the counties of Florence and Marion.

(13) The thirteenth circuit is composed of the counties of Greenville and Pickens.

(14) The fourteenth circuit is composed of the counties of Allendale, Hampton, Colleton, Jasper, and Beaufort.

(15) The fifteenth circuit is composed of the counties of Georgetown and Horry.

(16) The sixteenth circuit is composed of the counties of York and Union.

(B) One judge must be elected from the second, sixth, and twelfth circuits. Two judges must be elected from the first, third, fourth, seventh, eighth, tenth, eleventh, fourteenth, fifteenth, and sixteenth circuits. Three judges must be elected from the fifth and ninth circuits. Four judges must be elected from the thirteenth circuit.

(C) In addition to the above judges authorized by this section, there must be sixteen additional circuit judges elected by the General Assembly from the State at large for terms of office of six years. These

additional judges must be elected without regard to county or circuit of residence. Each office of the at-large judges is a separate office and is assigned numerical designations of Seat No. 1 through Seat No. 16, respectively."

Six at-large family court judges

SECTION 2. Section 63-3-40 of the 1976 Code is amended to read:

"Section 63-3-40.(A) The General Assembly shall elect a number of family court judges from each judicial circuit as follows:

First Circuit	Three Judges
Second Circuit	Two Judges
Third Circuit	Three Judges
Fourth Circuit	Three Judges
Fifth Circuit	Four Judges
Sixth Circuit	Two Judges
Seventh Circuit	Three Judges
Eighth Circuit	Three Judges
Ninth Circuit	Six Judges
Tenth Circuit	Three Judges
Eleventh Circuit	Three Judges
Twelfth Circuit	Three Judges
Thirteenth Circuit	Six Judges
Fourteenth Circuit	Three Judges
Fifteenth Circuit	Three Judges
Sixteenth Circuit	Two Judges

(B) In the following judicial circuits at least one family court judge must be a resident of each county in the circuit: fifth, seventh, tenth, twelfth, thirteenth, fifteenth, and sixteenth. In those judicial circuits made up of three or more counties, at least one family court judge must be a resident of one of the counties which does not have the largest population in the circuit. In the ninth circuit, both counties in the circuit must have at least two resident family court judges.

(C) No county in the sixth circuit shall have more than one resident family court judge.

(D) In addition to the judges authorized by this section, there must be six additional family court judges elected by the General Assembly from the State at large for terms of office of six years. These additional judges must be elected without regard to county or circuit of residence. Each office of the at-large judges is a separate office and is assigned numerical designations of Seat No. 1 through Seat No. 6, respectively."

Nomination and election

SECTION 3. The Judicial Merit Selection Commission shall begin the process of nominating candidates for the judicial offices authorized by the provisions of SECTIONS 1 and 2, and the General Assembly then shall elect these judges from the nominees of the commission; except that, the nominating process may not begin until funding for the additional judges is provided in the general appropriations act.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 242

(R269, S1031)

AN ACT TO AMEND SECTION 16-11-523, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO UNLAWFULLY OBTAINING NONFERROUS METALS, SO AS TO REVISE THE DEFINITION OF "NONFERROUS METALS", AND TO PROVIDE FOR THE REVOCATION OF A PERMIT TO PURCHASE NONFERROUS METALS HELD BY A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION; TO AMEND SECTION 16-17-680, AS AMENDED, RELATING TO SECONDARY METALS RECYCLERS' PERMITS TO PURCHASE NONFERROUS METALS AND TRANSPORT AND SELL NONFERROUS METALS, SO AS TO REVISE THE DEFINITIONS OF CERTAIN TERMS, AND TO REVISE THE PROVISIONS THAT REGULATE SECONDARY METALS RECYCLERS WHO PURCHASE NONFERROUS METALS; TO AMEND SECTIONS 40-27-10 AND 40-27-20, BOTH RELATING TO REQUIRING A PERSON WHO BUYS JUNK TO KEEP A RECORD OF PERSONS WHO SELL JUNK TO HIM AND KEEP EACH ARTICLE OF JUNK PURCHASED

FOR A SEVENTY-TWO HOUR PERIOD, SO AS TO PROVIDE THAT THESE PROVISIONS APPLY TO JUNK THAT DOES NOT CONSIST OF NONFERROUS METALS; TO AMEND SECTION 56-3-1380, RELATING TO THE RETURN OF THE REGISTRATION CARD, LICENSE PLATE, AND REVALIDATION STICKER TO THE DEPARTMENT OF MOTOR VEHICLES OF A MOTOR VEHICLE THAT HAS BEEN DISMANTLED OR WRECKED, SO AS TO PROVIDE THAT A PERSON WHO DISPOSES OF A VEHICLE TO A DEMOLISHER OR SECONDARY METALS RECYCLER CAN SURRENDER THE TITLE CERTIFICATE TO THE DEMOLISHER OR SECONDARY METALS RECYCLER SO THAT THE DEMOLISHER OR SECONDARY METAL RECYCLER CAN SURRENDER THE TITLE CERTIFICATE TO THE DEPARTMENT OF MOTOR VEHICLES; TO AMEND SECTION 56-5-5640, RELATING TO THE SALE OF UNCLAIMED VEHICLES, SO AS TO PROVIDE THAT THE OFFICE OF COURT ADMINISTRATION SHALL DESIGN A UNIFORM MAGISTRATES ORDER OF SALE AND DISTRIBUTE IT TO MAGISTRATES AND PROVIDE THAT THE ORDER OF SALE MUST BE SUFFICIENT TITLE FOR TRANSFERRING A VEHICLE TO A DEMOLISHER OR SECONDARY METALS RECYCLER; TO REPEAL SECTION 56-5-5660 RELATING TO APPLICATIONS FOR AND THE ISSUANCE OF DISPOSAL AUTHORITY CERTIFICATES; TO AMEND SECTIONS 56-5-5670 AND 56-5-5945, BOTH AS AMENDED, RELATING TO THE DUTIES THAT A DEMOLISHER WHO PURCHASES OR ACQUIRES CERTAIN VEHICLES OR NONFERROUS METALS MUST PERFORM, SO AS TO PROVIDE DEFINITIONS FOR CERTAIN TERMS, PROVIDE THAT A DEMOLISHER OR SECONDARY METALS RECYCLER MAY NOT DISPOSE OF A VEHICLE WITHOUT RECEIVING A VALID CERTIFICATE OF TITLE, A VALID MAGISTRATE'S ORDER OF SALE, OR A VALID SHERIFF'S DISPOSAL AUTHORITY CERTIFICATE, TO PROVIDE THE CIRCUMSTANCES IN WHICH A VEHICLE MAY BE DISPOSED OF BY A DEMOLISHER OR SECONDARY METALS RECYCLER WHEN A CERTIFICATE OF TITLE, MAGISTRATE'S ORDER OF SALE, OR SHERIFF'S DISPOSAL AUTHORITY CERTIFICATE IS NOT AVAILABLE, TO REVISE THE RECORD KEEPING PROVISIONS THAT APPLY TO DEMOLISHERS AND SECONDARY METAL

RECYCLERS, TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL CONVENE A WORKING GROUP FOR THE PURPOSE OF ASSISTING IN THE DEVELOPMENT OF FORMS AND REGULATIONS TO IMPLEMENT THE PROVISIONS CONTAINED IN THIS SECTION, AND TO REVISE THE PENALTY FOR A VIOLATION OF THESE PROVISIONS; AND TO AMEND SECTION 56-19-480, RELATING TO THE TRANSFER AND SURRENDER OF CERTIFICATES OF TITLE, LICENSE PLATES, REGISTRATION CARDS AND MANUFACTURERS SERIAL PLATES OF VEHICLES SOLD AS SALVAGE, ABANDONED, SCRAPPED, OR DESTROYED, SO AS TO PROVIDE THAT THIS PROVISION DOES NOT APPLY TO A DEMOLISHER OR SECONDARY METALS RECYCLER, AND TO PROVIDE THAT A PERSON WHO DISPOSES OF A VEHICLE TO A DEMOLISHER OR SECONDARY METALS RECYCLER SHALL PROVIDE THE VEHICLE'S TITLE CERTIFICATE TO THE DEMOLISHER OR SECONDARY METALS RECYCLER SO THAT THEY CAN SURRENDER IT TO THE DEPARTMENT OF MOTOR VEHICLES.

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

Obtaining nonferrous metals

SECTION 1. Section 16-11-523 of the 1976 Code, as last amended by Act 68 of 2011, is further amended to read:

"Section 16-11-523. (A) For purposes of this section, 'nonferrous metals' means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, copper 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.

(B) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure any personal or real property, including any fixtures or improvements, for the purpose of obtaining nonferrous metals in any amount.

(C) A person who violates a provision of this section is guilty of a:

(1) misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both,

if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is less than five thousand dollars; or

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is five thousand dollars or more.

(D)(1) A person who violates the provisions of this section and the violation results in great bodily injury to another person is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years. For purposes of this subsection, '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.

(2) A person who violates the provisions of this section and the violation results in the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(E) A person who violates the provisions of this section and the violation results in disruption of communication or electrical service to critical infrastructure or more than ten customers of the communication or electrical service is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

(F) If a person is convicted of violating the provisions of this section and the person has been issued a permit pursuant to Section 16-17-680, the permit must be revoked.

(G)(1) A public or private owner of personal or real property is not civilly liable to a person who is injured during the theft or attempted theft, by the person or a third party, of nonferrous metals in any amount.

(2) A public or private owner of personal or real property is not civilly liable for a person's injuries caused by a dangerous condition created as a result of the theft or attempted theft of nonferrous metals in any amount, of the owner when the owner of personal or real property did not know and could not have reasonably known of the dangerous condition.

(3) This subsection does not create or impose a duty of care upon a owner of personal or real property that would not otherwise exist under common law."

Secondary metals recyclers

SECTION 2. Section 16-17-680 of the 1976 Code, as last amended by Act 68 of 2011, is further amended to read:

"Section 16-17-680. (A) For purposes of this section:

(1) '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.

(2) '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.

(3) '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.

(B)(1) A secondary metals recycler shall obtain a permit to purchase nonferrous metals. A secondary metals recycler's employee is not required to obtain a separate permit to purchase nonferrous metals provided that the employee is acting within the scope and duties of their employment with the secondary metals recycler. A secondary metals recycler's employee who intends to purchase nonferrous metals on behalf of the secondary metals recycler at a location other than a fixed site shall have a copy of the secondary metals recycler's permit readily available for inspection.

(2) If a secondary metals recycler intends to purchase nonferrous metals at a fixed site or fixed sites, the secondary metals recycler shall obtain a permit from the sheriff of the county in which each of the secondary metals recycler's fixed sites are located. The sheriff may issue the permit to the secondary metals recycler, if the secondary metals recycler:

(a) has a fixed site or fixed sites located in the sheriff's county;

(b) has not been convicted of a violation of Section 16-11-523 or this section; and

(c) declares on an application provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

(3) If a secondary metals recycler intends to purchase nonferrous metals at a location other than a fixed site, the secondary metals recycler shall obtain a permit from the sheriff of each county in which the secondary metals recycler intends to purchase nonferrous metals. The sheriff may issue the permit to the secondary metals recycler if the secondary metals recycler:

(a) can sufficiently demonstrate to the sheriff the secondary metals recycler's ability to comply with the provisions of this section;

(b) has not been convicted of a violation of Section 16-11-523 or this section; and

(c) declares on an application provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

(4) The South Carolina Law Enforcement Division shall develop the application and permit in consultation with the state's sheriffs and representatives from the secondary metals recyclers' industry.

(5) A sheriff may investigate a secondary metals recycler's background prior to issuing a permit for purposes of determining if the secondary metals recycler qualifies to be issued a permit.

(6) A sheriff may charge and retain a two hundred dollar fee for each permit.

(7) A sheriff shall keep a record of all permits issued containing, at a minimum, the date of issuance, and the name and address of the secondary metals recycler.

(8) A permit is valid for twenty-four months.

(9) A permit may be denied, suspended, or revoked at any time if a sheriff discovers that the information on an application is inaccurate, a secondary metals recycler does not comply with the requirements of this section, or a secondary metals recycler is convicted of a violation of Section 16-11-523 or this section.

(10) A sheriff shall issue permits during regular business hours.

(C)(1) A person or entity who wants to transport or sell nonferrous metals to a secondary metals recycler shall obtain a permit to transport and sell the nonferrous metals. An entity's employee is not required to obtain a separate permit to transport or sell nonferrous metals provided that the employee is acting within the scope and duties of their employment with the entity. An entity's employee who intends to

transport and sell nonferrous metals on behalf of an entity shall have a copy of the entity's permit readily available for inspection.

(2) If a person is a resident of South Carolina or an entity is located in South Carolina, the person or entity shall obtain a permit from the sheriff of the county in which the person resides or has a secondary residence or in which the entity is located or has a secondary business. The sheriff may issue the permit to the person or entity if the:

(a) person resides or has a secondary residence or the entity is located or has a secondary business in the sheriff's county;

(b) person or entity has not been convicted of a violation of Section 16-11-523 or this section; and

(c) person or entity declares on an application provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.

(3) If a person is not a resident of South Carolina or an entity is not located in South Carolina, the person or entity shall obtain a permit from any sheriff of any county. The sheriff may issue the permit to the person or entity if the:

(a) person is not a resident of South Carolina or the entity is not located in South Carolina;

(b) person or entity has not been convicted of a violation of Section 16-11-523 or this section; and

(c) person or entity declares on an application provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.

(4) The South Carolina Law Enforcement Division shall develop the application and permit in consultation with the state's sheriffs and representatives of the secondary metals recyclers' industry.

(5) A sheriff may investigate a person or entity's background prior to issuing a permit for purposes of determining if the person or entity qualifies to be issued a permit.

(6) A sheriff may not charge a fee for a permit. A sheriff may charge a ten dollar fee to replace a permit that has been lost or destroyed. If the original permit is later found by the person or entity, the person or entity must turn the original permit into the sheriff or destroy the original permit.

(7) A sheriff shall keep a record of all permits issued containing, at a minimum, the date of issuance, the name and address of the person or entity, a photocopy of the person's identification or of the employee's identification, and the person's photograph or the entity's employee's photograph.

(8) A permit is valid statewide and expires on the person's birth date on the second calendar year after the calendar year in which the permit is issued, or, if the permittee is an entity, the permit expires on the date of issuance on the second calendar year after the calendar year in which the permit is issued.

(9) A permit may be denied, suspended, or revoked at any time if a sheriff discovers that the information on an application is inaccurate, a person or entity does not comply with the requirements of this section, or a person or entity is convicted of a violation of Section 16-11-523 or this section.

(10)(a) It is unlawful for a person or entity to obtain a permit to transport and sell nonferrous metals for the purpose of transporting or selling stolen nonferrous metals.

(b) A person who violates a provision of this subitem is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The person or entity's permit must be revoked.

(11) A sheriff shall issue permits during regular business hours.

(D)(1) It is unlawful to purchase nonferrous metals in any amount for the purpose of recycling the nonferrous metals from a seller unless the purchaser is a secondary metals recycler who has a valid permit to purchase nonferrous metals issued pursuant to subsection (B) and the seller has a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C). A secondary metals recycler may hold a seller's nonferrous metals while the seller obtains a permit to transport and sell nonferrous metals pursuant to subsection (C).

(2) A secondary metals recycler shall maintain a record containing, at a minimum, the date of purchase, the name and address of the seller, a photocopy of the seller's identification, a photocopy of the seller's permit to transport and sell nonferrous metals, if applicable, the license plate number of the seller's motor vehicle, if available, the seller's photograph, the weight and size or other description of the nonferrous metals purchased, the amount paid for the nonferrous metals, and a signed statement from the seller stating that the seller is the rightful owner or is entitled to sell the nonferrous metals being sold. If the secondary metals recycler has the seller's photograph on file, the secondary metals recycler may reference the photograph on file without making a photograph for each transaction; however, the secondary metals recycler shall update the seller's photograph on an annual basis. A secondary metals recycler may use a video of the seller in lieu of a photograph provided the secondary metals recycler maintains the video for at least one hundred twenty days. A secondary

metals recycler may maintain a record in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

(3) All nonferrous metals that are purchased by and are in the possession of a secondary metals recycler and all records required to be kept by this section must be maintained and kept open for inspection by law enforcement officials or local and state governmental agencies during regular business hours. The records must be maintained for one year from the date of purchase.

(4) A secondary metals recycler shall not enter into a cash transaction in payment for the purchase of copper, catalytic converters, and beer kegs. Payment for the purchase of copper, catalytic converters, and beer kegs 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.

(5) A secondary metals recycler shall prominently display a twenty-inch by thirty-inch sign in the secondary metals recycler's fixed site that states: 'NO NONFERROUS METALS, INCLUDING COPPER, MAY BE PURCHASED BY A SECONDARY METALS RECYCLER FROM A SELLER UNLESS THE SELLER IS A HOLDER OF A RETAIL LICENSE, AN AUTHORIZED WHOLESALER, A CONTRACTOR LICENSED PURSUANT TO ARTICLE 1, CHAPTER 11, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, A GAS, ELECTRIC, COMMUNICATIONS, WATER, PLUMBING, ELECTRICAL, OR CLIMATE CONDITIONING SERVICE PROVIDER, OR THE SELLER PRESENTS THE SELLER'S VALID PERMIT TO TRANSPORT AND SELL NONFERROUS METALS ISSUED PURSUANT TO SECTION 16-17-680, CODE OF LAWS OF SOUTH CAROLINA, 1976.'

(6) A purchaser who violates a provision of this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third offense or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For

an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

If the purchaser obtained a permit to purchase nonferrous metals pursuant to subsection (B), the permit must be revoked.

(E)(1)(a) It is unlawful to sell nonferrous metals in any amount to a secondary metals recycler unless the secondary metals recycler has a valid permit to purchase nonferrous metals issued pursuant to subsection (B) and the seller has a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C).

(b) A seller who violates a provision of this subitem:

(i) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than one year, or both;

(ii) 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

(iii) 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.

If the seller obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

(2)(a) It is unlawful to purchase or otherwise acquire nonferrous metals in any amount from a seller who does not have a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C) with the intent to resell the nonferrous metals in any amount to a secondary metals recycler using the purchaser's valid permit to transport and sell nonferrous metals issued pursuant to subsection (C).

(b) A purchaser who violates a provision of this subitem is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The purchaser's permit must be revoked.

(F)(1) When a law enforcement officer has reasonable cause to believe that any item of nonferrous metal in the possession of a secondary metals recycler has been stolen, the law enforcement officer may issue a hold notice to the secondary metals recycler. The hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the notice, the secondary metals

recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metal recycler's fixed site for fifteen calendar days after receipt of the notice unless released prior to the fifteen-day period by the law enforcement officer.

(2) No later than the expiration of the fifteen-day period, a law enforcement officer may issue a second hold notice to the secondary metals recycler, which shall be an extended hold notice. The extended hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the extended hold notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the extended hold notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metals recycler's fixed site for thirty calendar days after receipt of the extended hold notice unless released prior to the thirty-day period by the law enforcement officer.

(3) At the expiration of the hold period or, if extended, at the expiration of the extended hold period, the hold is automatically released and the secondary metals recycler may dispose of the nonferrous metals unless other disposition has been ordered by a court of competent jurisdiction.

(4) A secondary metals recycler who violates a provision of this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense shall constitute a prior offense within the meaning of this subsection.

The secondary metals recycler's permit to purchase nonferrous metals issued pursuant to subsection (B) must be revoked.

(G)(1) It is unlawful to transport nonferrous metals in a vehicle or have nonferrous metals in a person's possession in a vehicle on the highways of this State.

(2) Subsection (G)(1) does not apply if:

(a) the person can present a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C); or

(b) the person can present a valid bill of sale for the nonferrous metals.

(3) If a law enforcement officer determines that one or more of the exceptions listed in subsection (G)(2) applies, or the law enforcement officer determines that the nonferrous metals are not stolen goods and are in the rightful possession of the person, the law enforcement officer shall not issue a citation for a violation of this subsection.

(4) A person who violates a provision of subsection (G)(1):

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

(5) If a person transports nonferrous metals that the person knows are stolen in a vehicle or has in the person's possession in a vehicle on the highways of this State nonferrous metals that the person knows are stolen, is operating a vehicle used in the ordinary course of business to transport nonferrous metals that the person knows are stolen, presents a valid or falsified permit to transport and sell nonferrous metals that the person knows are stolen, or presents a valid or falsified bill of sale for nonferrous metals that the person knows to be stolen, the person is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. If the person obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

(H) For purposes of this section, the only acceptable identification is a valid:

(1) South Carolina driver's license issued by the Department of Motor Vehicles;

(2) South Carolina identification card issued by the Department of Motor Vehicles;

(3) driver's license from another state that contains the licensee's picture on the face of the license; or

(4) military identification card.

(I) A secondary metals recycler must not purchase or otherwise acquire an iron or steel:

(1) manhole cover; or

(2) drainage grate.

(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 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 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) organizations, corporations, or associations registered with the State as charitable organizations or any 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).

(K) This section preempts local ordinances and regulations governing the purchase, sale, or transportation of nonferrous metals in any amount, except to the extent that such ordinances pertain to zoning or business license fees. Political subdivisions of the State may not

enact ordinances or regulations more restrictive than those contained in this section."

Junk dealers

SECTION 3. Section 40-27-10 of the 1976 Code is amended to read:

"Section 40-27-10. A person or entity buying junk other than junk that consists of nonferrous metals, as defined by Section 16-17-680, or vehicles shall keep a book that the person or entity shall keep open to the inspection of all persons, wherein the person or entity shall set down the name and address, city, and street of every person selling junk and an itemized statement of all junk bought from such persons and the purchase dates. A person or entity buying junk that consists of nonferrous metals, as defined by Section 16-17-680, is subject to the provisions of Section 16-17-680. A person or entity buying junk that consists of vehicles is subject to the provisions of Sections 56-5-5670 and 56-5-5945."

Junk dealers

SECTION 4. Section 40-27-20 of the 1976 Code is amended to read:

"Section 40-27-20. A person or entity shall keep each article of junk purchased other than junk that consists of nonferrous metals, as defined by Section 16-17-680, and vehicles for a period of seventy-two hours following the purchase and shall keep the junk open to the inspection of all persons. A person or entity buying junk that consists of nonferrous metals, as defined by Section 16-17-680, is subject to the provisions of Section 16-17-680. A person or entity buying junk that consists of vehicles is subject to the provisions of Sections 56-5-5670 and 56-5-5945."

Return of registration cards and license plates

SECTION 5. Section 56-3-1380 of the 1976 Code is amended to read:

"Section 56-3-1380. An owner who dismantles or wrecks a vehicle registered and licensed pursuant to this chapter shall forward to the Department of Motor Vehicles the registration card, license plate, and revalidation sticker last issued for the vehicle. A person or entity who disposes of a vehicle to a demolisher or secondary metals recycler shall

provide the vehicle's title certificate to the demolisher or secondary metals recycler so that the demolisher or secondary metals recycler can surrender the title certificate to the Department of Motor Vehicles pursuant to Sections 56-5-5670 and 56-5-5945."

Sale of unclaimed vehicles

SECTION 6. Section 56-5-5640 of the 1976 Code is amended to read:

"Section 56-5-5640. If an abandoned vehicle has not been reclaimed pursuant to Section 56-5-5630, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may have the abandoned vehicle sold at a public auction pursuant to Section 29-15-10. The vehicle's purchaser shall take title to the vehicle free and clear of all liens and claims of ownership, shall receive a magistrate's order of sale, and is entitled to register the purchased vehicle and receive a certificate of title. The Office of Court Administration shall design a uniform magistrate's order of sale for purposes of this section, Section 56-5-5670, and Section 56-5-5945, and shall make the order available for distribution to the magistrates. The magistrate's order of sale given at the sale must be sufficient title for purposes of transferring the vehicle to a demolisher or secondary metals recycler for demolition, wrecking, or dismantling, and in such case no further titling of the vehicle is necessary. The expenses of the auction, the costs of towing, preserving, and storing the vehicle which resulted from placing the vehicle in custody, and all notice and publication costs incurred pursuant to Section 29-15-10 must be reimbursed up to the amount of the auction sale price from the vehicle's sale proceeds. The remaining sale proceeds must be held for the vehicle's owner or entitled lienholder for ninety days. The magistrate shall notify the vehicle's owner and all lienholders by certified or registered mail, return receipt requested, that the vehicle's owner or lienholder has ninety days to claim the proceeds from the vehicle's sale. If the vehicle's proceeds are not collected within ninety days from the day after the notice to the vehicle's owner and all lienholders is mailed, then the vehicle's proceeds must be deposited in the county or municipality's general fund."

Repeal

SECTION 7. Section 56-5-5660 of the 1976 Code is repealed.

Duties of demolishers

SECTION 8. Section 56-5-5670 of the 1976 Code, as last amended by Act 26 of 2009, is further amended to read:

"Section 56-5-5670. (A) For purposes of this section, 'vehicle' has the same meaning as defined by Section 56-5-120 and includes, but is not limited to, a 'trailer', as defined by Section 56-5-240, a 'semitrailer', as defined by Section 56-5-250, and a 'pole trailer', as defined by Section 56-5-260.

(B)(1) Except as provided by subsections (C), (D), and (E), a person or entity may not dispose of a vehicle to a demolisher or secondary metals recycler without a valid title certificate for the vehicle in the person or entity's name. The person or entity shall provide the vehicle's title certificate to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the certificate of title to the Department of Motor Vehicles for cancellation.

(3) The Department of Motor Vehicles shall issue forms and regulations governing the surrender of certificates of title as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a title certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(C)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid magistrate's order of sale in lieu of a title certificate, if the person or entity purchases the vehicle at a public auction pursuant to Section 56-5-5640. The person or entity shall provide the magistrate's order of sale to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been

demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the magistrate's order of sale to the Department of Motor Vehicles.

(3) The Office of Court Administration shall design a uniform magistrate's order of sale for purposes of this subsection and Section 56-5-5640, and shall make the order available for distribution to the magistrates. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of magistrates' orders of sale as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a magistrate's order of sale pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(D)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid sheriff's disposal authority certificate in lieu of a title certificate, if the vehicle is abandoned upon the person or entity's property or into the person or entity's possession and the vehicle does not meet the requirements of subsection (E)(1). The person or entity shall provide the sheriff's disposal authority certificate to the demolisher or secondary metals recycler.

(2) The person or entity shall apply to the sheriff of the jurisdiction in which the vehicle is located for a disposal authority certificate to dispose of the vehicle to a demolisher or secondary metals recycler. The application must provide, at a minimum, the person or entity's name and address, the year, make, model, and identification number of the vehicle, if ascertainable, along with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment. The person or entity shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. If the sheriff determines that the application is executed in proper form, and the application demonstrates that the vehicle has been abandoned upon the person or entity's property or into the person or entity's possession, the notification procedures set forth in Section 56-5-5630 must be followed. If the vehicle is not reclaimed pursuant to Section 56-5-5630, the sheriff shall give the applicant a certificate of authority to dispose of the vehicle to a demolisher or secondary metals recycler. A disposal authority certificate may contain multiple listings.

(3) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the sheriff's disposal authority certificate to the Department of Motor Vehicles.

(4) The South Carolina Law Enforcement Division shall design a uniform sheriff's disposal authority certificate for purposes of this subsection and shall make the certificate available for distribution to the sheriffs. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of sheriffs' disposal authority certificates as appropriate.

(5) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a sheriff's disposal authority certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(E)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler without a title certificate, magistrate's order of sale, or sheriff's disposal authority certificate, if:

(a) the vehicle is abandoned upon the person or entity's property or into the person or entity's possession, or if the person or entity is the owner of the vehicle and the vehicle's title certificate is faulty, lost, or destroyed; and

(b) the vehicle:

(i) is lawfully in the person or entity's possession;

(ii) is twelve model years old or older;

(iii) does not have a valid registration plate affixed; and

(iv) has no engine or is otherwise totally inoperable.

(2) The person or entity shall complete and sign a form affirming that the vehicle complies with the requirements of subsection (E)(1). The demolisher or secondary metals recycler shall maintain the original form affidavit in the transaction records as required by this section.

(3) The Department of Motor Vehicles shall develop a form affidavit for purposes of this subsection and shall make the form affidavit available for distribution to the demolishers and secondary metals recyclers.

(4) Prior to completion of the transaction, the demolisher or secondary metals recycler shall verify with the Department of Motor

Vehicles whether the vehicle has been reported stolen. The Department of Motor Vehicles shall develop an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen. The Department of Motor Vehicles shall not charge a demolisher or secondary metals recycler a fee for verifying whether a vehicle has been reported stolen. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has been reported stolen, the demolisher or secondary metals recycler shall not complete the transaction and shall notify the appropriate law enforcement agency. The demolisher or secondary metals recycler is under no obligation to apprehend the person attempting to sell the vehicle. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has not been reported stolen, the demolisher or secondary metals recycler may proceed with the transaction. In such case, the demolisher or secondary metals recycler is not criminally or civilly liable if the vehicle later turns out to be a stolen vehicle, unless the demolisher or secondary metals recycler had some other knowledge that the vehicle was a stolen vehicle.

(5) The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations at the time of the transaction or no later than the end of the day of the transaction. A demolisher or secondary metals recycler who reports vehicles to the National Motor Vehicle Title Information System through a third party consolidator and complies with the requirements of this item if the demolisher or secondary metals recycler reports the vehicle to the third party consolidator so that the third party consolidator is able to transmit the vehicle information to the National Motor Vehicle Title Information System in compliance with federal laws and regulations no later than the end of the day of the transaction.

(6) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a form affidavit pursuant to this subsection shall not wreck, dismantle, demolish, or otherwise dispose of the vehicle until at least three business days after the transaction has taken place.

(F) A demolisher or secondary metals recycler who purchases or otherwise acquires nonferrous metals, as defined by Section 16-17-680, shall comply with and is subject to the provisions of Section 16-17-680.

(G)(1) A demolisher or secondary metals recycler shall keep an accurate and complete record of all vehicles purchased or received by the demolisher or secondary metals recycler in the course of business. A demolisher, but not a secondary metals recycler, also shall keep an accurate and complete record of all vehicle parts with a total weight of twenty-five pounds or more purchased or received by the demolisher in the course of business. These records must contain, at a minimum:

(a) the demolisher or secondary metals recycler's name and address;

(b) the name of the demolisher or secondary metals recycler's employee entering the information;

(c) the name and address of the person or entity from whom the vehicle or vehicle parts, as applicable, were purchased or received;

(d) a photo or copy of the person's driver's license or other government issued picture identification card that legibly shows the person's name and address. If the vehicle or vehicle parts, as applicable, are being purchased or received from an entity, the demolisher or secondary metals recycler shall obtain a photo or copy of the entity's agent's driver's license or other government issued picture identification card. If the demolisher or secondary metals recycler has a photo or copy of the person or entity's agent's identification on file, the demolisher or secondary metals recycler may reference the identification on file without making a photocopy for each transaction;

(e) the date when the purchases or receipts occurred;

(f) the year, make, model, and identification number of the vehicle or vehicle parts, as applicable and if ascertainable, along with any other identifying features; and

(g) a copy of the title certificate, magistrate's order of sale, sheriff's disposal authority certificate, or an original form affidavit, as applicable.

(2) The records must be kept open for inspection by any law enforcement officer at any time during normal business hours. All vehicles on the demolisher or secondary metals recycler's property or otherwise in the possession of the demolisher or secondary metals recycler must be available for inspection by any law enforcement officer at any time during normal business hours.

(3) Records required by this section must be kept by the demolisher or secondary metals recycler for at least one year after the transaction to which it applies. A demolisher or secondary metals recycler may maintain records in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

(H)(1) A person who violates the provisions of this section for a first offense is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than sixty days, or both. Each violation constitutes a separate offense. For a second or subsequent offense, the person is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars for each offense not to exceed ten thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than three years, or both. Each violation constitutes a separate offense.

(2) A person who falsifies any information on an application, form, or affidavit required by this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars, or imprisoned for not less than one year nor more than three years, or both.

(3) In lieu of criminal penalties, the Department of Motor Vehicles' director, or the director's designee, may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, or the director's designee, after a hearing, determines that a demolisher or secondary metals recycler has unknowingly and unwilfully violated any provisions of this section. The hearing and any administrative review must be conducted in accordance with the procedure for contested cases under the Administrative Procedures Act. The proceeds from the administrative fine must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of implementing this section.

(4) A vehicle used to transport a vehicle or vehicle parts, as applicable, illegally disposed of in violation of this section may be seized by law enforcement and is subject to forfeiture; provided, however, that no vehicle is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle is a consenting party or privy to the commission of the crime, and a forfeiture of the vehicle encumbered by a security interest is subject to the interest of the secured party who had no knowledge of or consented to the act. The seizure and forfeiture must be accomplished in accordance with the provisions of Section 56-29-50.

(I) The Department of Motor Vehicles shall convene a working group chaired by the Director of the Department of Motor Vehicles, or the director's designee, for the purpose of assisting in the development of a form affidavit to be used for the disposal of vehicles to

demolishers or secondary metals recyclers, the development of an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen, and assisting in the development of forms and regulations pursuant to this section. The working group must consist of representatives from the demolishing industry, secondary metals recycling industry, the trucking industry, law enforcement agencies, and other relevant agencies, organizations, or industries as determined by the director, or the director's designee."

Duties of demolishers

SECTION 9. Section 56-5-5945 of the 1976 Code, as last amended by Act 26 of 2009, is further amended to read:

"Section 56-5-5945. (A) For purposes of this section, 'vehicle' has the same meaning as defined by Section 56-5-120, and includes, but is not limited to, a 'trailer', as defined by Section 56-5-240, a 'semitrailer', as defined by Section 56-5-250, and a 'pole trailer', as defined by Section 56-5-260.

(B)(1) Except as provided by subsections (C), (D), and (E), a person or entity may not dispose of a vehicle to a demolisher or secondary metals recycler without a valid title certificate for the vehicle in the person or entity's name. The person or entity shall provide the vehicle's title certificate to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the certificate of title to the Department of Motor Vehicles for cancellation.

(3) The Department of Motor Vehicles shall issue forms and regulations governing the surrender of certificates of title as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a title certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor

Vehicle Title Information System in compliance with federal laws and regulations.

(C)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid magistrate's order of sale in lieu of a title certificate, if the person or entity purchases the vehicle at a public auction pursuant to Section 56-5-5640. The person or entity shall provide the magistrate's order of sale to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the magistrate's order of sale to the Department of Motor Vehicles.

(3) The Office of Court Administration shall design a uniform magistrate's order of sale for purposes of this subsection and Section 56-5-5640, and shall make the order available for distribution to the magistrates. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of magistrates' orders of sale as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a magistrate's order of sale pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(D)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid sheriff's disposal authority certificate in lieu of a title certificate, if the vehicle is abandoned upon the person or entity's property or into the person or entity's possession and the vehicle does not meet the requirements of subsection (E)(1). The person or entity shall provide the sheriff's disposal authority certificate to the demolisher or secondary metals recycler.

(2) The person or entity shall apply to the sheriff of the jurisdiction in which the vehicle is located for a disposal authority certificate to dispose of the vehicle to a demolisher or secondary metals recycler. The application must provide, at a minimum, the person or entity's name and address, the year, make, model, and identification number of the vehicle, if ascertainable, along with any other identifying features, and must contain a concise statement of the facts surrounding

the abandonment. The person or entity shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. If the sheriff determines that the application is executed in proper form, and the application demonstrates that the vehicle has been abandoned upon the person or entity's property or into the person or entity's possession, the notification procedures set forth in Section 56-5-5630 must be followed. If the vehicle is not reclaimed pursuant to Section 56-5-5630, the sheriff shall give the applicant a certificate of authority to dispose of the vehicle to a demolisher or secondary metals recycler. A disposal authority certificate may contain multiple listings.

(3) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the sheriff's disposal authority certificate to the Department of Motor Vehicles.

(4) The South Carolina Law Enforcement Division shall design a uniform sheriff's disposal authority certificate for purposes of this subsection and shall make the certificate available for distribution to the sheriffs. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of sheriffs' disposal authority certificates as appropriate.

(5) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a sheriff's disposal authority certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(E)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler without a title certificate, magistrate's order of sale, or sheriff's disposal authority certificate, if:

(a) the vehicle is abandoned upon the person or entity's property or into the person or entity's possession, or if the person or entity is the owner of the vehicle and the vehicle's title certificate is faulty, lost, or destroyed; and

(b) the vehicle:

(i) is lawfully in the person or entity's possession;

(ii) is twelve model years old or older;

(iii) does not have a valid registration plate affixed; and

(iv) has no engine or is otherwise totally inoperable.

(2) The person or entity shall complete and sign a form affirming that the vehicle complies with the requirements of subsection (E)(1). The demolisher or secondary metals recycler shall maintain the original form affidavit in the transaction records as required by this section.

(3) The Department of Motor Vehicles shall develop a form affidavit for purposes of this subsection and shall make the form affidavit available for distribution to the demolishers and secondary metals recyclers.

(4) Prior to completion of the transaction, the demolisher or secondary metals recycler shall verify with the Department of Motor Vehicles whether the vehicle has been reported stolen. The Department of Motor Vehicles shall develop an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen. The Department of Motor Vehicles shall not charge a demolisher or secondary metals recycler a fee for verifying whether a vehicle has been reported stolen. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has been reported stolen, the demolisher or secondary metals recycler shall not complete the transaction and shall notify the appropriate law enforcement agency. The demolisher or secondary metals recycler is under no obligation to apprehend the person attempting to sell the vehicle. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has not been reported stolen, the demolisher or secondary metals recycler may proceed with the transaction. In such case, the demolisher or secondary metals recycler is not criminally or civilly liable if the vehicle later turns out to be a stolen vehicle, unless the demolisher or secondary metals recycler had some other knowledge that the vehicle was a stolen vehicle.

(5) The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations at the time of the transaction or no later than the end of the day of the transaction. A demolisher or secondary metals recycler who reports vehicles to the National Motor Vehicle Title Information System through a third party consolidator and complies with the requirements of this item if the demolisher or secondary metals recycler reports the vehicle to the third party consolidator so that the third party consolidator is able to transmit the vehicle information to the National Motor Vehicle Title Information System in compliance with federal laws and regulations no later than the end of the day of the transaction.

(6) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a form affidavit pursuant to this subsection shall not wreck, dismantle, demolish, or otherwise dispose of the vehicle until at least three business days after the transaction has taken place.

(F) A demolisher or secondary metals recycler who purchases or otherwise acquires nonferrous metals, as defined by Section 16-17-680, shall comply with and is subject to the provisions of Section 16-17-680.

(G)(1) A demolisher or secondary metals recycler shall keep an accurate and complete record of all vehicles purchased or received by the demolisher or secondary metals recycler in the course of business. A demolisher, but not a secondary metals recycler, also shall keep an accurate and complete record of all vehicle parts with a total weight of twenty-five pounds or more purchased or received by the demolisher in the course of business. These records must contain, at a minimum:

(a) the demolisher or secondary metals recycler's name and address;

(b) the name of the demolisher or secondary metals recycler's employee entering the information;

(c) the name and address of the person or entity from whom the vehicle or vehicle parts, as applicable, were purchased or received;

(d) a photo or copy of the person's driver's license or other government issued picture identification card that legibly shows the person's name and address. If the vehicle or vehicle parts, as applicable, are being purchased or received from an entity, the demolisher or secondary metals recycler shall obtain a photo or copy of the entity's agent's driver's license or other government issued picture identification card. If the demolisher or secondary metals recycler has a photo or copy of the person or entity's agent's identification on file, the demolisher or secondary metals recycler may reference the identification on file without making a photocopy for each transaction;

(e) the date when the purchases or receipts occurred;

(f) the year, make, model, and identification number of the vehicle or vehicle parts, as applicable and if ascertainable, along with any other identifying features; and

(g) a copy of the title certificate, magistrate's order of sale, sheriff's disposal authority certificate, or an original form affidavit, as applicable.

(2) The records must be kept open for inspection by any law enforcement officer at any time during normal business hours. All vehicles on the demolisher or secondary metals recycler's property or

otherwise in the possession of the demolisher or secondary metals recycler must be available for inspection by any law enforcement officer at any time during normal business hours.

(3) Records required by this section must be kept by the demolisher or secondary metals recycler for at least one year after the transaction to which it applies. A demolisher or secondary metals recycler may maintain records in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

(H)(1) A person who violates the provisions of this section for a first offense is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than sixty days, or both. Each violation constitutes a separate offense. For a second or subsequent offense, the person is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars for each offense not to exceed ten thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than three years, or both. Each violation constitutes a separate offense.

(2) A person who falsifies any information on an application, form, or affidavit required by this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars, or imprisoned for not less than one year nor more than three years, or both.

(3) In lieu of criminal penalties, the Department of Motor Vehicles' director, or the director's designee, may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, or the director's designee, after a hearing, determines that a demolisher or secondary metals recycler has unknowingly and unwilfully violated any provisions of this section. The hearing and any administrative review must be conducted in accordance with the procedure for contested cases under the Administrative Procedures Act. The proceeds from the administrative fine must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of implementing this section.

(4) A vehicle used to transport a vehicle or vehicle parts, as applicable, illegally disposed of in violation of this section may be seized by law enforcement and is subject to forfeiture; provided, however, that no vehicle is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle is a consenting party

or privy to the commission of the crime, and a forfeiture of the vehicle encumbered by a security interest is subject to the interest of the secured party who had no knowledge of or consented to the act. The seizure and forfeiture must be accomplished in accordance with the provisions of Section 56-29-50.

(I) The Department of Motor Vehicles shall convene a working group chaired by the Director of the Department of Motor Vehicles, or the director's designee, for the purpose of assisting in the development of a form affidavit to be used for the disposal of vehicles to demolishers or secondary metals recyclers, the development of an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen, and assisting in the development of forms and regulations pursuant to this section. The working group must consist of representatives from the demolishing industry, secondary metals recycling industry, trucking industry, law enforcement agencies, and other relevant agencies, organizations, or industries as determined by the director, or the director's designee."

Transfer and surrender of certificates, license plates, registration cards

SECTION 10. Section 56-19-480(A) of the 1976 Code is amended to read:

"(A) An owner who scraps, dismantles, destroys, or in any manner disposes to another, except to a demolisher or secondary metals recycler, as wreckage or salvage, a motor vehicle otherwise required to be titled in this State immediately shall mail or deliver to the Department of Motor Vehicles the vehicle's certificate of title notifying the department to whom the vehicle is delivered together with a report indicating the type and severity of any damage to the vehicle. A person or entity who disposes of a vehicle to a demolisher or secondary metals recycler shall provide the vehicle's title certificate to the demolisher or secondary metals recycler so that the demolisher or secondary metals recycler can surrender the title certificate to the Department of Motor Vehicles pursuant to Sections 56-5-5670 and 56-5-5945."

Savings clause

SECTION 11. 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 clause

SECTION 12. 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, 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 13. Subsection (H) of Section 56-5-5670 of the 1976 Code as contained in SECTION 8 and subsection (H) of Section 56-5-5945 of the 1976 Code as contained in SECTION 9 take effect upon approval by the Governor. All other provisions of this act take effect one hundred eighty days after approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 243

(R270, S1044)

AN ACT TO AMEND SECTION 38-59-250, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO NOTICE REQUIREMENTS FOR THE INITIATION OF OVERPAYMENT RECOVERY EFFORTS PURSUANT TO THE SOUTH CAROLINA HEALTH CARE FINANCIAL RECOVERY AND PROTECTION ACT, SO AS TO ADD REQUIREMENTS CONCERNING AN APPEAL.

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

Notice requirement for initiation of claim for recovery under Health Care Financial Recovery and Protection Act, information required concerning appeals process

SECTION 1. Section 38-59-250(A)(2) of the 1976 Code, as added by Act 356 of 2008, is amended to read:

"(2) The written notice required by this section shall include:
(a) the patient's name;
(b) the service date;
(c) the payment amount received by the provider;
(d) a reasonably specific explanation of the change in payment; and
(e) if the claim is submitted pursuant to a provider contract that includes an appeals process, the telephone number or a mailing address through which the provider may initiate an appeal, and the deadline by which an appeal must be received."

Time effective

SECTION 2. This act takes effect ninety days after approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 244

(R271, S1055)

AN ACT TO AMEND SECTION 14-27-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COMPOSITION OF THE JUDICIAL COUNCIL, SO AS TO PROVIDE FOR TWO ADDITIONAL MEMBERS OF THE COUNCIL, THE CHIEF JUDGE OF THE SOUTH CAROLINA COURT OF APPEALS AND A PERSON RECOMMENDED BY THE CHARLESTON SCHOOL OF LAW, TO CHANGE THE PERSON SERVING FROM THE SOUTH CAROLINA BAR FROM THE PRESIDENT OF THE SOUTH CAROLINA BAR TO ONE PERSON RECOMMENDED BY THE SOUTH CAROLINA BAR, AND TO ADD A MUNICIPAL COURT JUDGE AS A MEMBER IN LIEU OF ONE OF THE TWO MAGISTRATE COURT JUDGES; TO AMEND SECTION 14-27-30, AS AMENDED, RELATING TO MEMBERS APPOINTED BY THE CHIEF JUSTICE, SO AS TO PROVIDE FOR THE APPOINTMENT OF TWO SUMMARY COURT JUDGES IN LIEU OF TWO MAGISTRATE COURT JUDGES, AND TO PROVIDE FOR THE APPOINTMENT OF ONE PERSON RECOMMENDED BY THE CHARLESTON SCHOOL OF LAW; AND TO AMEND SECTION 14-27-40, AS AMENDED, RELATING TO THE TERMS OF SERVICE, SO AS TO PROVIDE THAT THE CHIEF JUDGE SERVES DURING THE TERM OF HIS OFFICE, THE PERSON RECOMMENDED BY THE SOUTH CAROLINA BAR AND APPOINTED BY THE CHIEF JUSTICE SERVES COTERMINOUS WITH THE TERM OF THE PRESIDENT OF THE SOUTH CAROLINA BAR WHO RECOMMENDED HIS APPOINTMENT, AND THE PERSON RECOMMENDED BY THE CHARLESTON SCHOOL OF LAW SERVES FOR A FOUR-YEAR TERM.

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

Composition of Judicial Council altered

SECTION 1. Section 14-27-20 of the 1976 Code, as last amended by Act 678 of 1988, is further amended to read:

"Section 14-27-20. The Judicial Council is composed of the following:

(1) the Chief Justice of the Supreme Court of South Carolina or some other member of the court designated by him or her;

(2) the Chief Judge of the South Carolina Court of Appeals;

(3) two circuit court judges of the State;

(4) two family court judges of the State;

(5) two probate judges of the State;

(6) the Attorney General or one of the Assistant Attorneys General or one of the circuit solicitors;

(7) the Dean or a member of the faculty of the Law School of the University of South Carolina;

(8) one person recommended by the Charleston School of Law;

(9) the President of the South Carolina Bar or his designee;

(10) the Lieutenant Governor or his designee;

(11) the Speaker of the House of Representatives or his designee;

(12) the Chairman of the Senate Finance Committee or his designee;

(13) the Chairman of the House Ways and Means Committee or his designee;

(14) the Chairman of the Senate Judiciary Committee or his designee;

(15) the Chairman of the House Judiciary Committee or his designee;

(16) the Director of the Legislative Council;

(17) six other members, of whom at least four must be members of the bar of this State;

(18) two summary court judges: one shall be a magistrate court judge, and one shall be a municipal court judge; and

(19) two masters-in-equity."

Members of Judicial Council appointed by Chief Justice altered

SECTION 2. Section 14-27-30 of the 1976 Code, as last amended by Act 678 of 1988, is further amended to read:

"Section 14-27-30. The Chief Justice of the Supreme Court shall appoint the following members to the Judicial Council: the two circuit court judges; the two family court judges; the two probate judges; the two summary court judges; the two masters-in-equity; the Attorney General or one of the Assistant Attorneys General or one of the circuit solicitors; the Dean or member of the faculty of the Law School of the University of South Carolina; one person recommended by the

Charleston School of Law; and the six remaining members of the Judicial Council.

The Lieutenant Governor, the Speaker of the House or their designees, the Chairmen of the Senate Finance Committee, House Ways and Means Committee, Senate Judiciary Committee, and House Judiciary Committee or their designees, the Director of the Legislative Council, and the President of the South Carolina Bar or his designee all serve ex officio."

Terms of members of Judicial Council

SECTION 3. Section 14-27-40 of the 1976 Code, as last amended by Act 678 of 1988, is further amended to read:

"Section 14-27-40. Members of the Judicial Council serve for the following terms:

(1) If he designates no other member of the Supreme Court, the Chief Justice serves during his term of office. If the Chief Justice designates some other member of the court, the other member serves during his term of office.

(2) The Lieutenant Governor, Speaker of the House or their designees, and the Chairmen of the Senate Finance Committee, House Ways and Means Committee, Senate Judiciary Committee, and House Judiciary Committee or their designees serve during their respective terms as those officers.

(3) The person recommended by the South Carolina Bar and appointed by the Chief Justice serves coterminous with the term of the President of the South Carolina Bar who makes the recommendation of the person for appointment.

(4) The Chief Judge of the South Carolina Court of Appeals serves during his term of office.

(5) The member of the legal department of the State (Attorney General, one of the Assistant Attorneys General, or one of the circuit solicitors) serves for a period of four years.

(6) The Dean or member of the faculty of the Law School of the University of South Carolina and the person recommended by the Charleston School of Law serve for a period of four years.

(7) The two circuit court judges serve for a period of four years each.

(8) The two family court judges serve for a period of four years each.

(9) The two judges of the probate courts serve for a period of four years each.

(10) The Director of the Legislative Council serves during his term of office.

(11) The two summary court judges serve for a period of four years each.

(12) The two masters-in-equity serve for a period of four years each.

(13) Three of the remaining six members of the Judicial Council must be appointed initially for terms of two years each, and three members must be appointed initially for terms of four years each. After the initial appointments, all six members must be appointed for terms of four years each.

The members designated in items (4), (5), (6), (7), (8), (9), (11), and (12) cease to be members of the Judicial Council before the expiration of their respective terms if they cease to hold the official positions entitling them to membership on the Judicial Council."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 245

(R272, S1087)

AN ACT TO AMEND SECTION 50-9-730, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ABILITY OF THE DEPARTMENT OF NATURAL RESOURCES TO DESIGNATE "FREE FISHING DAYS" AND SANCTION FISHING EVENTS EXEMPT FROM FISHING LICENSE REQUIREMENTS, SO AS TO DELETE THE PROVISION THAT ALLOWS THE DEPARTMENT TO DESIGNATE "FREE FISHING DAYS", TO DESIGNATE JULY FOURTH AND NATIONAL MEMORIAL DAY AS DAYS WHEN A RESIDENT IS NOT REQUIRED TO POSSESS A LICENSE OR PERMIT FOR FRESHWATER RECREATIONAL FISHING, TO LIMIT

DEPARTMENT-SANCTIONED EVENTS THAT ARE EXEMPT FROM FISHING LICENSE REQUIREMENTS TO FRESHWATER EVENTS, TO EXEMPT CERTAIN COMMERCIAL FISHERMEN FROM THE PROVISIONS OF THIS SECTION, AND TO DIRECT THE DEPARTMENT TO DESIGNATE TWO DAYS A YEAR AS "FREE HUNTING DAYS"; TO AMEND SECTION 50-1-160, RELATING TO THE RELEASE OF THE SEIZED PROPERTY TO AN INNOCENT OWNER BY THE DEPARTMENT, SO AS TO CLARIFY APPLICATION OF THE SECTION TO PROPERTY SEIZED FOR A VIOLATION OF TITLE 50; AND TO AMEND SECTION 50-9-410, AS AMENDED, RELATING TO CIRCUMSTANCES IN WHICH A COMMERCIAL FISHING LICENSE IS REQUIRED, SO AS TO MODIFY SPECIFICS PERTAINING TO TROTLINES, TAGS, AND HOOKS.

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

July fourth and National Memorial Day exempt from freshwater recreational fishing license and permit requirements, exceptions, "free hunting days" must be established

SECTION 1. Section 50-9-730 of the 1976 Code is amended to read:

"Section 50-9-730. (A) A resident is not required to possess a license or permit for recreational fishing in the freshwaters of this State on the following days:

(1) the fourth day of July; and

(2) the date observed by the State for National Memorial Day.

(B) The department also may designate department-sanctioned fishing events in the freshwaters of the State as exempt from recreational freshwater fishing license requirements. However, the events may not exceed one for each county a year.

(C) This section does not apply to individuals fishing for a commercial purpose or when a commercial fishing license is required to use certain nongame fishing devices.

(D) The department must designate two days a year as 'free hunting days' during which state residents may hunt without procuring the necessary licenses and permits. These days need not be consecutive."

Release of seized property to innocent owner

SECTION 2. Section 50-1-160(A) of the 1976 Code, as added by Act 114 of 2012, is amended to read:

"Section 50-1-160. (A) Notwithstanding another provision of law, the department may release a vehicle, boat, motor, or fishing device seized from a person charged with a violation of this title to an innocent owner or lien holder of the property."

Circumstances when commercial fishing license required

SECTION 3. Section 50-9-410(C) of the 1976 Code, as added by Act 200 of 2010, is amended to read:

"(C) A commercial freshwater license is required to:
(1) fish six or more crayfish traps;
(2) fish three or more eel pots;
(3) fish an Elver fyke net;
(4) fish four or more gill nets or a total of more than one hundred yards of net;
(5) fish two or more hoop nets;
(6) fish three or more traps;
(7) fish two or more trotlines;
(8) acquire more than one trotline tag or fish a trotline with more than fifty hooks;
(9) take freshwater fish for commercial purposes."

Time effective

SECTION 4. This act takes effect July 1, 2012.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 246

(R273, S1099)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63-19-650 SO AS TO PROVIDE THAT MEMBERS OF THE BOARD OF JUVENILE PAROLE SHALL RECEIVE COMPENSATION IN AN AMOUNT PROVIDED BY THE GENERAL ASSEMBLY IN THE ANNUAL GENERAL APPROPRIATIONS ACT; AND TO AMEND SECTION 24-21-55, RELATING TO A HEARING FEE FOR THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES, SO AS TO INSTEAD PROVIDE FOR COMPENSATION TO BE RECEIVED IN AN AMOUNT PROVIDED BY THE GENERAL ASSEMBLY IN THE ANNUAL GENERAL APPROPRIATIONS ACT.

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

Compensation

SECTION 1. Article 5, Chapter 19, Title 63 of the 1976 Code is amended by adding:

"Section 63-19-650. Members of the Board of Juvenile Parole shall receive compensation in an amount provided by the General Assembly in the annual general appropriations act."

Compensation

SECTION 2. Section 24-21-55 of the 1976 Code is amended to read:

"Section 24-21-55. The Department of Probation, Parole and Pardon Services shall receive compensation in an amount provided by the General Assembly in the annual general appropriations act."

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 247

(R274, S1125)

AN ACT TO AMEND SECTION 41-35-120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DISQUALIFICATIONS FROM UNEMPLOYMENT BENEFITS, SO AS TO PROVIDE DISCHARGE FOR MISCONDUCT AS A BASIS FOR DISQUALIFICATION, TO SUBJECT A PERSON DISCHARGED FOR MISCONDUCT TO A PERIOD OF INELIGIBILITY FOR BENEFITS AND A SUBSEQUENT PERIOD OF REDUCED BENEFITS, TO DELETE OBSOLETE PROVISIONS RELATED TO DISCHARGE FOR CAUSE, TO SUBJECT A PERSON DISCHARGED FOR CAUSE OTHER THAN MISCONDUCT TO A PERIOD OF INELIGIBILITY FOR BENEFITS AND A SUBSEQUENT PERIOD OF REDUCED BENEFITS, AND TO PROVIDE DISCHARGE FOR CERTAIN SUBSTANDARD PERFORMANCE IS NOT A BASIS FOR DISQUALIFICATION FROM BENEFITS UNDER THIS SECTION; TO AMEND SECTION 41-35-130, AS AMENDED, RELATING TO BENEFIT PAYMENTS NOT CHARGEABLE TO A FORMER EMPLOYER, SO AS TO PROVIDE A BENEFIT PAID TO A CLAIMANT MAY NOT BE CHARGED TO AN EMPLOYER WHO IS SUBJECT TO THE PAYMENT OF CONTRIBUTIONS IF THE CLAIMANT WAS DISCHARGED BY HIS MOST RECENT BONA FIDE EMPLOYER FOR MISCONDUCT OF CLAIMANT CONNECTED TO HIS EMPLOYMENT, AND TO DEFINE TERMINOLOGY; AND TO AMEND SECTION 41-41-40, AS AMENDED, RELATING TO RECOVERY OF BENEFITS BY A PERSON NOT ENTITLED TO BENEFITS, SO AS TO PROVIDE UPON DETERMINATION BY THE DEPARTMENT OF A FRAUDULENT OVERPAYMENT, THE EMPLOYER WHOSE ACCOUNT WAS DEBITED FOR THE OVERPAYMENT MUST BE CREDITED THE AMOUNT OF

THE OVERPAYMENT, SUBJECT TO CERTAIN EXCEPTIONS.

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

Discharge for misconduct as basis for disqualification from unemployment benefits, periods of ineligibility from benefits and reduction of benefits for discharge for misconduct and discharge for cause other than misconduct, exception for substandard performance, deletion of obsolete references

SECTION 1. Section 41-35-120(2) of the 1976 Code, as last amended by Act 146 of 2010, is further amended to read:

"(2)(a) Discharge for misconduct connected with the employment. If the department finds that he has been discharged for misconduct connected with his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, with ineligibility beginning with the effective date of the request, and continuing for the next twenty weeks, in addition to the waiting period, with a corresponding and mandatory reduction of the insured worker's benefits to be calculated by multiplying his weekly benefit amount by twenty. For the purposes of this item, 'misconduct' is limited to conduct evincing such wilfull and wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in the carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer. No finding of misconduct may be made for discharge resulting from an extreme hardship, emergency, sickness, or other extraordinary circumstance.

(b) If the department finds that he has been discharged for cause, other than misconduct as defined in item (2)(a), connected with his most recent work prior to filing a request for determination of insured status or a request for initiation of a claim series within an established benefit year, then the department must find him partially ineligible. The ineligibility must begin with the effective date of the request, and continuing not less than five nor more than the next nineteen weeks, in addition to the waiting period. A corresponding and mandatory reduction of the insured worker's benefits, to be calculated by

multiplying his weekly benefit amount by the number of weeks of his disqualification, must be made. The ineligibility period must be determined by the department in each case according to the seriousness of the cause for discharge. Discharge resulting from substandard performance due to inefficiency, inability, or incapacity shall not serve as a basis for disqualification under either subitem (a) or (b) of this item."

Benefit payments not chargeable to former employer must include payments made to claimant discharged by his most recent bona fide employer for misconduct of claimant related to his employment

SECTION 2. Section 41-35-130 of the 1976 Code, as last amended by Act 63 of 2011, is further amended by adding a new subsection to read:

"(M)(1) For the purposes of this subsection, 'most recent bona fide employer' means the work or employer from which an individual was discharged regardless of work subsequent to his discharge in which he earned less than eight times his weekly benefit amount.

(2) A benefit paid to a claimant must not be charged against the account of an employer if the department determines that the claimant's most recent bona fide employer discharged him for misconduct connected with his employment. This provision is applicable only to an employer subject to the payment of contributions."

Employer may recover funds debited from his account for fraudulently paid unemployment benefits

SECTION 3. Section 41-41-40 of the 1976 Code, as last amended by Act 63 of 2011, is further amended by adding a new subsection to read:

"(D) Upon the determination of fraudulent overpayments by the department, an employer from whose account the overpayment was debited must be credited for the amount of the overpayment regardless of the outcome of the action for recoupment or recovery of the overpayment. This section shall not apply to employers whose accounts are subject to the provisions of Sections 41-31-810 or 41-31-620."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 248

(R276, S1220)

AN ACT TO AMEND SECTION 48-2-50, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FEES IMPOSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL FOR CERTAIN ENVIRONMENTAL PROGRAMS, INCLUDING THE SURFACE WATER WITHDRAWAL PROGRAM, WHICH ARE DEPOSITED INTO THE ENVIRONMENTAL PROTECTION FUND FOR ADMINISTRATION OF THESE PROGRAMS, SO AS TO ENUMERATE THE FEES FOR SURFACE WATER WITHDRAWAL APPLICATIONS AND PERMITS THAT WOULD OTHERWISE HAVE BEEN REPEALED JANUARY 1, 2013; BY ADDING SECTION 49-4-175 SO AS TO REIMPOSE THE FEES THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MAY CHARGE FOR SURFACE WATER WITHDRAWAL AND APPLICATIONS AND PERMITS AND TO PROVIDE THAT THE DEPARTMENT SHALL RETAIN THESE FEES TO IMPLEMENT AND OPERATE THE SURFACE WATER WITHDRAWAL PROGRAM; AND TO AMEND ACT 247 OF 2010, RELATING TO THE SOUTH CAROLINA SURFACE WATER WITHDRAWAL, PERMITTING, USE, AND REPORTING ACT SO AS TO REPEAL PROVISIONS THAT PROSPECTIVELY REPEAL THE IMPOSITION OF SURFACE WATER WITHDRAWAL PERMIT FEES.

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

Surface water withdrawal permit fees added

SECTION 1. Section 48-2-50(H) of the 1976 Code, as last amended by Act 247 of 2010, is further amended by adding an appropriately numbered item at the end to read:

"( ) Surface Water Withdrawals:

(a) Existing surface water withdrawal permit application processing fee $1,000;

(b) New surface water withdrawal permit application processing fee $7,500;

(c) Modification of surface water withdrawal permit application processing fee $2,000;

(d) Renewal of surface water withdrawal permit with modifications application processing fee $1,000;

(e) Surface water withdrawal annual operating fee per permitted intake $1,000."

Authority to collect, and the amount of, surface water withdrawal permit fees

SECTION 2. Chapter 4, Title 49 of the 1976 Code is amended by adding:

"Section 49-4-175.(A) The department is authorized to collect the following surface water withdrawal program fees:

(1) existing surface water withdrawal permit application processing fee $1,000;

(2) new surface water withdrawal permit application processing fee $7,500;

(3) modification of surface water withdrawal permit application processing fee $2,000;

(4) renewal of surface water withdrawal permit with modifications application processing fee $1,000;

(5) surface water withdrawal annual operating fee per permitted intake $1,000.

(B) The department shall retain the fees collected pursuant to this section for the purposes of implementing and operating the Surface Water Permitting and Withdrawal regulatory program, including permit application review, compliance inspections, and enforcement and for technical assistance and monitoring."

Repeal

SECTION 3. Section 3C of Act 247 of 2010, which reads as stated below, is repealed:

"C. The new item added to Section 48-2-50 by this SECTION is repealed January 1, 2013. No new fees may be charged for Surface Water Withdrawal applications following that date without an act of the General Assembly setting the fee schedule."

Time effective

SECTION 4. This act takes effect January 1, 2013.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 249

(R277, S1231)

AN ACT TO AMEND SECTION 50-1-30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CLASSIFICATIONS OF BIRDS, ANIMALS, AND FISH, SO AS TO ADD COBIA RACHYCENTRON CANADUM TO THE SALTWATER GAMEFISH CLASSIFICATION; TO AMEND SECTION 50-5-1700, RELATING TO THE CRIMINAL OFFENSES OF SELLING, PURCHASING, TRADING, BARTERING, TAKING, AND POSSESSING SALTWATER GAMEFISH, SO AS TO ALSO CREATE SUCH CRIMINAL OFFENSES FOR COBIA; TO AMEND SECTION 50-5-32, RELATING TO CLOSING SALTWATER FISHING SEASONS, AREAS, OR ACTIVITIES IN AN EMERGENCY AND PROCEDURES FOR SUCH CLOSING, SO AS TO REVISE THE DEFINITION OF "EMERGENCY" AND TO PROVIDE THAT IT IS A CRIMINAL OFFENSE TO POSSESS SPECIFIED SALTWATER FISH IN AN EMERGENCY AND TO ELIMINATE THE OFFENSE OF TAKING OR ATTEMPTING TO TAKE SALTWATER FISH IN AN EMERGENCY; TO

AMEND SECTION 50-5-1506, RELATING TO SEASONS, TIMES, METHODS, EQUIPMENT, SIZE LIMITS, AND TAKE LIMITS IN COMMERCIAL FISHING FOR SHAD IN SPECIFIED WATERS OF THE STATE, SO AS TO ADD, DELETE, AND REVISE CERTAIN OF THESE WATERS OF THE STATE AND TO REVISE SEASONS, TIMES, METHODS AND EQUIPMENT, AND SIZE AND TAKE LIMITS.

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

Addition to the saltwater game fish classification

SECTION 1. Section 50-1-30(7) of the 1976 Code, as last amended by Act 200 of 2010, is further amended to read:

"(7) Saltwater gamefish: Cobia Rachycentron canadum; spotted seatrout (winter trout) Cynoscion nebulosus; red drum (channel bass) Sciaenops ocellatus; tarpon Megalops atlanticus; and any species of billfish of the Family Istiophoridae."

Criminal offense added pertaining to cobia

SECTION 2. Section 50-5-1700 of the 1976 Code is amended to read:

"Section 50-5-1700. (A) It is unlawful to sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter saltwater gamefish in this State regardless of where taken except as provided in this chapter.

(B) It is unlawful to take or attempt to take saltwater gamefish in the waters of this State, except by:

(1) hand-held hook and line which includes rod and reel and pole; or

(2) gigging during legal periods.

Any saltwater gamefish taken by any other means must be returned immediately to the water.

(C) It is unlawful for a person to have in possession a saltwater gamefish while fishing or transporting a seine or a gill net or other commercial fishing equipment. A saltwater gamefish caught in the net or commercial fishing equipment must be returned to the water immediately.

(D) A wholesale or retail seafood dealer or other business may import cobia, red drum, or spotted seatrout from another state or country where the taking and sale of the fish is lawful. A copy of the

bill of sale, bill of lading, or other proof of origin for each lot or shipment of the fish must accompany any fish resold and must be in the possession of the person or business offering imported cobia, red drum, or spotted seatrout for sale until it is sold to the ultimate consumer and must be retained by any seller for a period of one year.

(E) It is unlawful to sell, purchase, trade, or barter or attempt to sell, purchase, trade, or barter cobia taken from state waters."

Definition of "emergency" revised

SECTION 3. Section 50-5-32 of the 1976 Code is amended to read:

"Section 50-5-32. (A) The department has the authority to close any commercial or recreational fishing season, area, or activity in the salt waters of this State when a natural or man-induced emergency threatens the future or present well-being of a fishery resource or its habitat in a part of or in all of the salt waters of this State.

(B) The department must use all reasonable means to give notice to the public of an emergency closure issued pursuant to subsection (A) as soon as practicable. An emergency closure notice must specify the cause of the emergency and the fishing season, area, or activity closed, and, if known, the duration of the closure.

(C) When taking emergency action under this section, the department must notify the appropriate standing committees of the Senate and the House of Representatives of its actions as soon as practicable. Supporting resource assessments, scientific documentation, and notice of action taken must be provided to the committees.

(D) During the first three days of an emergency closure instituted under this section, the department must issue only warnings for first offense, noncommercial violations of the closure.

(E) The department must monitor the situation or occurrence under which the emergency arose and must reopen the closed season, area, or activity as soon as, but only when, the threat to the resource or its habitat no longer exists.

(F) It is unlawful to possess specified saltwater fish in violation of an emergency closure. A person violating an emergency closure is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days."

Revisions to waters of the State, seasons, times, methods and equipment, and size and take limits for commercial fishing for shad

SECTION 4. Section 50-5-1506 of the 1976 Code is amended to read:

"Section 50-5-1506. In addition to other provisions of law, the following provisions govern seasons, times, methods, equipment, size limits, and take limits in commercial fishing for shad in the waters of this State specified below:

(a) Black River, Great Pee Dee River, Little Pee Dee River, Lynches River, Waccamaw River from Big Bull Creek to Winyah Bay, Winyah Bay, and all tributaries and distributaries thereto as follows:

(i) Pee Dee River and tributaries above U.S. Highway 701 and Black River:

(1) Season: January 15 through April 15;

(2) Times: noon Monday through noon Saturday;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(ii) Remainder of Winyah Bay system including all of Big Bull Creek and Waccamaw River with tributaries below the entrance of Big Bull Creek:

(1) Season: January 15 through April 1;

(2) Times: Monday noon to Saturday noon, local time;

(3) Methods and equipment: No restriction provided drift nets of not more than nine hundred feet in length are allowed in Waccamaw River between Butler Island and U.S. Highway 17 during lawful times;

(4) Size and take limits: No limits.

(b) Santee River below Wilson Dam including the Rediversion Canal below St. Stephen Dam, North Santee River and Bay, South Santee River, and all tributaries and distributaries thereto as follows:

(i) Rediversion Canal from St. Stephen Dam seaward to the seaward terminus of the northern dike of the Rediversion Canal:

Season: No open season;

(ii) Rediversion Canal from the seaward terminus of the northern dike of the Rediversion Canal seaward to Santee River:

(1) Season: January 15 through April 15;

(2) Times: 7:00 a.m. to 7:00 p.m. local time, Tuesday and Thursday;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(iii) Wilson Dam seaward to U.S. Highway 52 bridge:

Season: No open season.

(iv) U.S. Highway 52 bridge seaward to S.C. Highway 41 bridge:

(1) Season: January 15 through April 15;

(2) Times: 7:00 a.m. to 7:00 p.m. local time, Tuesday and Thursday;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(v) S.C. Highway 41 bridge seaward:

(1) Season: January 15 through March 15;

(2) Times: Monday noon to Saturday noon, local time;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(c) Wando River and Cooper River seaward to the U.S. Highway 17 bridges, Charleston Harbor, Ashley River, and all tributaries and distributaries thereto as follows:

(i) Tailrace Canal from Wadboo Creek to the Jefferies Power Plant:

Season: No open season.

(ii) Cooper River from Wadboo Creek to U.S. Highway 17:

Season: No open season.

(iii) Ashley River seaward to its confluence with Popper Dam Creek:

(1) Season: No open season;

(2) Reserved

(3) Reserved

(4) Reserved

(iv) Remainder of the Charleston Harbor system:

(1) Season: No open season;

(2) Reserved

(3) Reserved

(4) Reserved

(d) Edisto River Estuary, Edisto River, North and South Branches (Forks) of the Edisto River, and all tributaries and distributaries thereto as follows:

(i) Above U.S. Highway 15 bridge:

(1) Season: February 1 through March 30;

(2) Times: Tuesday noon to Saturday noon, local time;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(ii) Seaward of U.S. Highway 15 bridge and above U.S. Highway 17 bridge:

(1) Season: February 1 through March 30;

(2) Times: Tuesday noon to Saturday noon, local time;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(iii) Seaward of U.S. Highway 17 bridge:

(1) Season: February 1 through March 30;

(2) Times: Wednesday noon to Friday midnight, local time;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(e) Ashepoo River and all tributaries and distributaries thereto as follows:

(1) Season: No open season;

(2) Reserved

(3) Reserved

(4) Reserved

(f) Combahee River and all tributaries and distributaries thereto as follows:

(i) Tributaries and distributaries, except main stems of Salkehatchie Rivers:

Season: No open season.

(ii) Main river including main stems of Salkehatchie Rivers:

(1) Season: February 1 through March 15;

(2) Times: For anchored nets, Tuesday noon to Friday noon, local time; for driftnets, Monday noon to Saturday noon, local time;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(g) Coosawhatchie River and all tributaries and distributaries thereto as follows:

Season: No open season.

(h) South Carolina portions of Savannah River and all tributaries and distributaries thereto as follows:

(i) Main river below U. S. Highway 301 and above U. S. Interstate Highway 95:

(1) Season: January 1 through April 15;

(2) Times: 7:00 a.m. Wednesday to 7:00 p.m. Saturday, local time;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(ii) Tributaries and distributaries above U.S. Interstate Highway 95 bridge:

Season: No open season.

(iii) Seaward of U.S. Interstate Highway 95 bridge.

(1) Season: January 1 through March 31. Taking or attempting to take shad with anchored nets is prohibited at all times in the Savannah River's Little Back River, Back River and the north channel of the Savannah River downstream from the New Savannah Cut;

(2) Times: 7:00 a.m. Tuesday to 7:00 p.m. Friday, local time;

(3) Methods and equipment: Any lawful method and equipment;

(4) Size and take limits: No limits.

(i) Atlantic Ocean territorial sea as follows:

(1) Season: No open season;

(2) Reserved

(3) Reserved

(4) Reserved

(j) Lake Moultrie, Lake Marion, Diversion Canal, Intake Canal of Rediversion Canal, and all tributaries and distributaries thereto as follows:

(1) Season: No closed season;

(2) Times: No restrictions;

(3) Methods and equipment: Cast net and lift net for bait;

(4) Size and take limits: Two hundred fifty pounds per boat per day combined catch of herring and shad."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 250

(R278, S1269)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 18 TO CHAPTER 71, TITLE 38 SO AS TO PROVIDE THE RIGHTS OF A PHARMACY WHEN UNDERGOING AN AUDIT CONDUCTED BY A MANAGED CARE COMPANY, INSURANCE COMPANY, THIRD-PARTY PAYER, OR AN ENTITY RESPONSIBLE FOR PAYMENT OF CLAIMS FOR HEALTH CARE SERVICES; TO REQUIRE THE AUDITING ENTITY TO ESTABLISH AN APPEALS PROCESS; TO PROVIDE FOR THE RECOUPMENT OF FUNDS UNDER CERTAIN CIRCUMSTANCES; AND TO EXEMPT SPECIFIC AUDITS, REVIEWS, AND INVESTIGATIONS.

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

Pharmacy Audit Rights

SECTION 1. Chapter 71, Title 38 of the 1976 Code is amended by adding:

"Article 18

Pharmacy Audit Rights

Section 38-71-1810.(A) For the purposes of this article:

(1) 'Insurer' means an entity that provides health insurance coverage in this State as defined in Section 38-71-670(7) and Section 38-71-840(16).

(2) 'Responsible party' means the entity responsible for payment of claims for health care services other than:

(a) the individual to whom the health care services were rendered; or

(b) that individual's guardian or legal representative.

(3) 'Audit' means an evaluation, investigation, or review of claims paid to a pharmacy that takes place at the pharmacy location and does not include review of claims or claims payments that an insurer conducts as a normal course of business.

(4) 'Abuse' means any practice that:

(a)(i) is inconsistent with sound fiscal or business practices; or

(ii) fails to meet professionally recognized standards for pharmacy services; and

(b) directly or indirectly causes financial loss to a responsible party.

(B) If a managed care organization, insurer, third-party payor, or any entity that represents a responsible party conducts an audit of the records of a pharmacy, then, with respect to this audit, the pharmacy has a right to:

(1) have at least fourteen days' advance notice of the initial audit for each audit cycle with no audit to be initiated or scheduled during the first five days of any month without the express consent of the pharmacy, which shall cooperate with the auditor to establish an alternate date if the audit would fall within the excluded days;

(2) have an audit that involves clinical judgment be conducted with a pharmacist who is licensed and employed by or working under contract with the auditing entity;

(3) not have clerical or record-keeping errors, including typographical errors, scrivener's errors and computer errors, on a required document or record considered fraudulent in the absence of any other evidence; however, the provisions of this item do not prohibit recoupment of fraudulent payments;

(4) have, if required under the terms of the contract with the auditing entity, the auditing entity to provide the pharmacy, upon request, all records related to the audit in an electronic format or contained in digital media;

(5) have the properly documented records of a hospital or of a person authorized to prescribe controlled substances for the purpose of providing medical or pharmaceutical care for their patients transmitted by any means of communication approved by the auditing entity in order to validate a pharmacy record with respect to a prescription or refill for a controlled substance or narcotic drug pursuant to federal and state regulations;

(6) have a projection of an overpayment or underpayment based on either the number of patients served with a similar diagnosis or the number of similar prescription orders or refills for similar drugs; however, the provisions of this item do not prohibit recoupments of actual overpayments unless the projection for overpayment or underpayment is part of a settlement by the pharmacy;

(7) be free of recoupments based on either of the following subitems unless defined within the billing, submission, or audit requirements set forth in the pharmacy provider manual not

inconsistent with current State Board of Pharmacy Regulations, except for cases of Food and Drug Administration regulation or drug manufacturer safety programs in accordance with federal or state regulations:

(a) documentation requirements in addition to, or exceeding requirements for, creating or maintaining documentation prescribed by the State Board of Pharmacy;

(b) a requirement that a pharmacy or pharmacist perform a professional duty in addition to, or exceeding, professional duties prescribed by the State Board of Pharmacy unless otherwise agreed to by contract with the auditing entity;

(8) be subject, so long as a claim is made within the contractual claim submission time period, to recoupment only following the correction of a claim and to have recoupment limited to amounts paid in excess of amounts payable under the corrected claim unless a prescription error occurs. For purposes of this subsection, a prescription error includes, but is not limited to, wrong drug, wrong strength, wrong dose, or wrong patient;

(9) be subject to reversals of approval, except for Medicare claims, for drug, prescriber, or patient eligibility upon adjudication of a claim only in cases in which the pharmacy obtained the adjudication by fraud or misrepresentation of claim elements;

(10) be audited under the same standards and parameters as other similarly situated pharmacies audited by the same entity;

(11) have at least thirty days following receipt of the preliminary audit report to produce documentation to address any discrepancy found during an audit;

(12) have the period covered by an audit limited to twenty-four months from the date a claim was submitted to, or adjudicated by, a managed care organization, an insurer, a third-party payor, or an entity that represents responsible parties, unless a longer period is permitted by or under federal law;

(13) have the preliminary audit report delivered to the pharmacy within one hundred twenty days after conclusion of the audit;

(14) have a final audit report delivered to the pharmacy within ninety days after the end of the appeals period; and

(15) not have the accounting practice of extrapolation used in calculating recoupments or penalties for audits, unless otherwise required by federal requirements or federal plans.

(C) Notwithstanding Section 38-71-1840, the auditing entity shall provide the pharmacy, if requested, a masked list that provides a prescription number range the auditing entity is seeking to audit.

Section 38-71-1820. (A) Each entity that conducts an audit of a pharmacy shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the entity.

(B) If, following the appeal, the entity finds that an unfavorable audit report or any portion of the unfavorable audit report is unsubstantiated, the entity shall dismiss the unsubstantiated portion of the audit report without any further proceedings.

(C) Each entity conducting an audit shall provide a copy, if required under the terms of the contract with the responsible party, of the audit findings to the plan sponsor after completion of any appeals process.

Section 38-71-1830. (A) Recoupments of any funds disputed on the basis of an audit must occur only after final internal disposition of the audit, including the appeals process as provided for in Section 38-71-1820, unless fraud or misrepresentation is reasonably suspected.

(B) Recoupment on an audit must be refunded to the responsible party as contractually agreed upon by the parties involved in the audit.

(C) The entity conducting the audit may charge or assess the responsible party, directly or indirectly, based on amounts recouped if both of the following conditions are met:

(1) the responsible party or payor and the entity conducting the audit have entered into a contract that explicitly states the percentage charge or assessment to the responsible party; and

(2) a commission or other payment to an agent or employee of the entity conducting the audit is not based, directly or indirectly, on amounts recouped.

Section 38-71-1840. The provisions of this article do not apply to an audit, review, or investigation:

(1) that involves alleged insurance fraud or abuse, Medicare fraud or abuse, or other fraud or misrepresentation; or

(2) conducted by or on the behalf of the Department of Health and Human Services in the performance of its duties in administering Medicaid under Titles XIX and XXI of the Social Security Act."

Severability

SECTION 2. 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 3. This act takes effect January 1, 2013.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 251

(R279, S1354)

AN ACT TO AMEND SECTION 35-1-604, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SECURITIES VIOLATIONS, SO AS TO REQUIRE A COPY OF ALL FINAL CEASE AND DESIST ORDERS ISSUED BY THE SECURITIES COMMISSIONER BE FORWARDED TO THE DEPARTMENT OF REVENUE AND SECRETARY OF STATE, AND TO PROVIDE THAT ALL CEASE AND DESIST ORDERS ISSUED BY THE COMMISSIONER ARE PUBLIC DOCUMENTS SUBJECT TO THE FREEDOM OF INFORMATION ACT, AND TO REQUIRE PUBLICATION OF ALL SUCH ORDERS ON THE ATTORNEY GENERAL'S WEBSITE.

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

Cease and desist orders issued by Securities Commissioner, copy of final order must be sent to Department of Revenue and Secretary of State, orders subject to Freedom of Information Act

SECTION 1. Section 35-1-604 of the 1976 Code is amended to read:

"Section 35-1-604. (a) If the Securities Commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter, the Securities Commissioner may:

(1) issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter;

(2) issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under Section 35-1-401(b)(1)(D) or (F) or an investment adviser under Section 35-1-403(b)(1)(C); or

(3) issue an order under Section 35-1-204.

(b) An order under subsection (a) is effective on the date of issuance. Upon issuance of the order, the Securities Commissioner shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty or costs of investigation the Securities Commissioner will seek, a statement of the reasons for the order, and notice that, within fifteen days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the Securities Commissioner within thirty days after the date of service of the order, the order, which may include a civil penalty or costs of the investigation if a civil penalty or costs were sought becomes final as to that person by operation of law. If a hearing is requested or ordered, the Securities Commissioner, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(c) If a hearing is requested or ordered pursuant to subsection (b), a hearing must be held. A final order may not be issued unless the Securities Commissioner makes findings of fact and conclusions of law in a record. The final order may make final, vacate, or modify the order issued under subsection (a).

(d) In a final order under subsection (c), the Securities Commissioner may impose a civil penalty in an amount not to exceed ten thousand dollars for each violation.

(e) In a final order, the Securities Commissioner may charge the actual cost of an investigation or proceeding for a violation of this chapter or a rule adopted or order issued under this chapter.

(f) If a petition for judicial review of a final order is not filed in accordance with Section 35-1-609, the Securities Commissioner may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court. A copy of a final order must be forwarded to the South Carolina Department of Revenue and the South Carolina Office of the Secretary of State.

(g) If a person does not comply with an order under this section, the Securities Commissioner may petition a court of competent jurisdiction to enforce the order. The court may not require the Securities Commissioner to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than five hundred dollars but not greater than five thousand dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances.

(h) All orders issued under this section are public documents subject to the Freedom of Information Act and must be published on the Attorney General's website searchable by the name of the parties involved."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies only to orders issued after the effective date of this act.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 252

(R280, S1375)

AN ACT TO AMEND SECTION 56-5-3860, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROHIBITION OF ANIMALS AND CERTAIN VEHICLES ON FREEWAYS, SO

AS TO PROVIDE FOR AN EXEMPTION FOR BICYCLES AND PEDESTRIANS THAT MAY TRAVEL ALONG NONINTERSTATE FREEWAYS UNDER CERTAIN CIRCUMSTANCES.

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

Freeways

SECTION 1. Section 56-5-3860 of the 1976 Code is amended to read:

"Section 56-5-3860. (A)(1) No person, unless otherwise directed by a law enforcement officer, shall occupy any space within the limits of the roadway and shoulders of the main facility of a freeway with an animal-drawn vehicle, a ridden or led animal, herded animals, a pushcart, a bicycle, a bicycle with motor attached, a motor-driven cycle with a motor which produces not to exceed five brake horsepower, an agricultural tractor or other farm machinery, except in the performance of public works or official duties.

(2) The prohibitions imposed by this subsection on the use of freeways do not apply to service roads alongside the highways.

(B)(1) A local governing body may authorize a partial exemption from the provisions contained in subsection (A) that would allow bicyclists and pedestrians to use the roadway and shoulders of the main facility of a noninterstate freeway.

(2) The local governing body may authorize a partial exemption to subsection (A) for bicyclists and pedestrians if the local governing body:

(a) determines that bicyclists and pedestrians have no other reasonably safe or viable alternative route and the use of the freeway route is at least ten percent less than the shortest conventional alternate route;

(b) adopts an ordinance allowing bicycle and pedestrian traffic on the shoulder of a main facility of the noninterstate freeway and allowing bicycle and pedestrian traffic on the roadway when utilizing the shoulder is not practicable because of an obstruction or an unpaved shoulder, or when necessary to cross an access ramp in compliance with accepted bicycle safety standards and practices; and

(c) notifies the department that the ordinance has been adopted.

(3) Upon receiving notice pursuant to item (B)(2)(c), the department shall remove all signs prohibiting pedestrians and bicyclists

along the roadway and shoulders of the main facility of the portion of the freeway to which the ordinance applies.

(4) The local governing body may request permission from the department to erect appropriate signs and markers along the roadway and shoulders of the main facility of the portion of the freeway to which the partial exemption applies.

(5) Two or more local governing bodies that have jurisdiction over portions of a section of a roadway to which a partial exemption from the provisions contained in subsection (A) is proposed may authorize an exemption for the entire section if the local governing bodies affected by the proposed exemption formally agree to granting the exemption and each local jurisdiction completes the exemption procedure contained in this section for the portion of the roadway section that passes through its jurisdiction.

(C) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days."

Time effective

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

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 253

(R281, S1417)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 108 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "SOUTH CAROLINA TENNIS PATRONS FOUNDATION" SPECIAL LICENSE PLATES; TO AMEND SECTION 56-3-2320, RELATING TO THE ISSUANCE OF MOTOR VEHICLE DEALER AND DEMONSTRATION LICENSE PLATES, SO AS TO PROVIDE THAT THE UNITED SERVICE ORGANIZATION SOUTH CAROLINA AND THE AMERICAN RED CROSS MAY BE ISSUED A LICENSE PLATE TO BE

USED ON VEHICLES LOANED OR RENTED TO EITHER ENTITY FOR A FEE AND TO PROVIDE FOR THE DISTRIBUTION OF THE FEE; BY ADDING ARTICLE 109 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "TREE MY DOG" SPECIAL LICENSE PLATES; BY ADDING ARTICLE 110 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "UNITED STATES NAVY CHIEF PETTY OFFICER" SPECIAL LICENSE PLATES; TO AMEND SECTION 56-3-7360, AS AMENDED, RELATING TO THE ISSUANCE OF "KOREAN WAR VETERANS" SPECIAL LICENSE PLATES, SO AS TO PROVIDE THAT THIS SPECIAL LICENSE PLATE MAY BE ISSUED TO A VETERAN WHO SERVED ON ACTIVE DUTY DURING THE KOREAN WAR; TO AMEND SECTION 56-3-9910, AS AMENDED, RELATING TO "GOLD STAR FAMILY" SPECIAL LICENSE PLATES, SO AS TO PROVIDE THAT THE LICENSE PLATE SHALL CONTAIN LETTERS OR NUMBERS, OR BOTH, REQUESTED BY THE APPLICANT; BY ADDING ARTICLE 111 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "UNITED STATES MARINE CORPS" SPECIAL LICENSE PLATES; TO AMEND SECTION 56-3-8800, AS AMENDED, RELATING TO "WORLD WAR II VETERANS" SPECIAL LICENSE PLATES, SO AS TO PROVIDE THAT A PERSON WHO QUALIFIES TO OBTAIN THIS LICENSE PLATE AND A HANDICAPPED PLACARD SHALL HAVE ISSUED TO HIM THIS LICENSE PLATE WITH THE INTERNATIONAL SYMBOL OF ACCESS INCLUDED ON IT.

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

South Carolina Tennis Patrons Foundation Special License Plates

SECTION 1. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 108

South Carolina Tennis Patrons Foundation Special License Plates

Section 56-3-10810.(A) The Department of Motor Vehicles may issue 'Play Tennis' special license plates to owners of private

passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles registered in their names which shall have imprinted on them an emblem, seal, symbol, or wording relating to the South Carolina Tennis Patrons Foundation. The South Carolina Tennis Patrons Foundation shall submit to the department for its approval the emblem, seal, symbol, or wording it desires to be used for this special license plate. The fee for this special license plate is thirty dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. 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 fees collected pursuant to this section above the cost of the regular motor vehicle registration fee must be distributed to the South Carolina Tennis Patrons Foundation and must be used to fund kids-at-risk programs throughout the State, need-based grants for junior tennis players, and academic scholarships for high school seniors.

(C) The guidelines for the production of a special license plate pursuant to this section must meet the requirements of Section 56-3-8100."

Motor Vehicle Dealers' License Plates

SECTION 2. Section 56-3-2320(A) of the 1976 Code is amended to read:

"(A) Upon application being made and the required fee being paid to the Department of Motor Vehicles, the department may issue dealer license plates to a licensed motor vehicle dealer. The license plates, notwithstanding other provisions of this chapter to the contrary, may be used exclusively on motor vehicles owned by, assigned, or loaned for test driving purposes to the dealer when operated on the highways of this State by the dealer, its corporate officers, its employees, or a prospective purchaser of the motor vehicle. The use by a prospective purchaser is limited to seven days, and the dealer shall provide the prospective purchaser with a dated demonstration certificate. The certificate must be approved by the department. Dealer plates must not be used to operate wreckers or service vehicles in use by the dealer nor to operate vehicles owned by the dealer that are leased or rented by the public. No dealer plates may be issued by the department unless the dealer furnishes proof in a form acceptable to the department that he

has a retail business license as required by Chapter 36, Title 12 and has made at least twenty sales of motor vehicles in the twelve months preceding his application for a dealer plate. The sales requirement may be waived by the department if the dealer has been licensed for less than one year. For purposes of this section, the transfer of ownership of a motor vehicle between the same individual or corporation more than one time is considered as only one sale. Multiple transfer of motor vehicles between licensed dealers for the purpose of meeting eligibility requirements for motor vehicle dealer plates is prohibited.

A dealer may be issued two plates for the first twenty vehicles sold during the preceding year and one additional plate for each fifteen vehicles sold beyond the initial twenty during the preceding year. For good cause shown, the department in its discretion may issue extra plates. If the dealer has been licensed less than one year, the department shall issue a number of license plates based on an estimated number of sales for the coming year. The department may increase or decrease the number of plates issued based on actual sales made.

The cost of each dealer plate issued is twenty dollars.

Upon application to the department, a public or private school, college, or university, the United Service Organization South Carolina, the American Red Cross, or an economic development entity created or sanctioned by the county where the entity is located, may be issued a license plate to be used on vehicles loaned or rented to the school, college, university, the United Service Organization South Carolina, the American Red Cross, or economic development entity by a licensed motor vehicle dealer. The plate must be a personalized plate designed by the department. The cost of each plate issued is two hundred dollars, of which one hundred sixty dollars must be remitted by the department to the county in which the school, college, university, chapter of the United Service Organization South Carolina, chapter of the American Red Cross, or economic development entity is located. Each plate is valid for two years, and there is no limit on the number of plates which may be issued, except in the case of an economic development entity where only one plate per entity is allowed.

A dealer license plate is allowed on a motor vehicle which the dealer lends to a public or private school for use in a driver education program. A plate used for this purpose may be obtained without fee and without regard to the limit on plates issued pursuant to this section. When the motor vehicle is no longer used for driver education, the dealer shall surrender the plate to the department.

Notwithstanding the provisions of this section, a dealer exclusively selling heavy duty trucks at retail is eligible to obtain license plates for

exclusive use on the heavy duty trucks regardless of the number of trucks sold by him during the preceding required number of months. These license plates for trucks must be noted with a distinct and separate identification and used only on heavy duty trucks. For purposes of this section, heavy duty trucks include trucks having a gross vehicle weight of sixteen thousand pounds or greater."

Tree My Dog Special License Plate

SECTION 3. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 109

'Tree My Dog' Special License Plates

Section 56-3-10910.(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names which must have imprinted on the plate 'Tree My Dog'. 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. The fees collected pursuant to this section above the cost of producing the license plates must be distributed to the South Carolina State Coon Hunters Association Youth Fund."

United States Navy Chief Petty Officer Special License Plates

SECTION 4. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 110

United States Navy Chief Petty Officer Special License Plates

Section 56-3-11010.(A) The Department of Motor Vehicles may issue 'United States Navy Chief Petty Officer' special license plates to

owners of private passenger carrying motor vehicles as defined in Section 56-3-630, and motorcycles as defined in Section 56-3-20, registered in their names who are active or retired United States Navy Chief Petty Officers. The applicant must present the department with a DD214 or other official documentation that states that he is an active or retired United States Navy Chief Petty Officer. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) The fees collected pursuant to this section above the cost of production must be distributed to the Patriots Point Foundation.

(C) The guidelines for the production, collection, and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

Korean War Veterans Special License Plates

SECTION 5. Section 56-3-7360 of the 1976 Code, as last amended by Act 347 of 2008, is further amended to read:

"Section 56-3-7360. The Department of Motor Vehicles may issue 'Korean War Veterans' special license plates to owners of private passenger motor vehicles and motorcycles registered in their names who are Korean War Veterans who served on active duty at anytime during the Korean War. The applicant must present the department with a DD214 or other official documentation that states that he served on active duty upon initial application for this special license plate. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of twenty dollars. Any portion of the additional twenty-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the state general fund."

Gold Star Family Special License Plates

SECTION 6. Section 56-3-9910(A) of the 1976 Code, as last amended by Act 79 of 2009, is further amended to read:

"(A) The Department of Motor Vehicles may issue 'Gold Star Family' special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, registered in the names of members of the immediate family of United States armed forces killed in action. There is no fee for this special license plate. The license plates issued pursuant to this section must conform to a design agreed to by the department and the Chief Executive Officer of the South Carolina Chapter of American Gold Star Mothers, Inc. or other similar organization operating in this State, and contain letters or numbers, or both, requested by the applicant."

United States Marine Corps Special License Plates

SECTION 7. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 111

United States Marine Corps Special License Plates

Section 56-3-11110.(A) The department may issue special license plates for use on private passenger motor vehicles and motorcycles owned or leased by residents of this State which honor the United States Marines Corps. The biennial fee for the special license plate is the regular motor vehicle license plate fee contained in Article 5, Chapter 3 of this title plus thirty dollars.

(B) The fees collected pursuant to this section above the cost of production must be distributed to the Moss Creek Marines, a 501(C)(3) organization.

(C) The guidelines for the production, collection, and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

World War II Veterans Special License Plates

SECTION 8. Section 56-3-8800 of the 1976 Code, as last amended by Act 347 of 2008, is further amended to read:

"Section 56-3-8800. (A) Notwithstanding another provision of law, the department may issue special motor vehicle license plates to World War II veterans or their spouses for private passenger motor vehicles and motorcycles registered in their names. The fee for the

issuance of this special motor vehicle license plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title.

(B) If a person who qualifies for the special license plate issued under this section also qualifies for the handicapped placard issued pursuant to Section 56-3-1960, then the license plate issued pursuant to this section also shall include the international symbol of access used on placards issued pursuant to Section 56-3-1960. Until the department determines that the license plate shall be redesigned to include the international symbol of access, the department shall develop a decal using the international symbol of access to be placed on the license plate which shall be issued to all persons who request the license plate authorized by this section, including persons for whom license plates were issued pursuant to this section on or before the effective date of this subsection."

Time effective

SECTION 9. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 254

(R282, S1555)

AN ACT TO AMEND SECTION 7-7-380, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF PRECINCTS IN LEXINGTON COUNTY, SO AS TO REVISE THE NAMES OF CERTAIN PRECINCTS, TO REDESIGNATE A MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE DIVISION 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:

Lexington County voting precincts designated

SECTION 1. Section 7-7-380 of the 1976 Code, as last amended by Act 138 of 2010, 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
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
Pond Branch
Providence Church
Quail Hollow
Quail Valley
Red Bank
Red Bank South 1
Red Bank South 2
Ridge Road
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 Division of Research and Statistics of the State Budget and Control Board designated as document P-63-12 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 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 255

(R288, H3667)

AN ACT TO AMEND SECTION 16-3-655, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMINAL SEXUAL CONDUCT WITH A MINOR

OFFENSES, SO AS TO CREATE THE OFFENSE OF CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE WHEN THE ACTOR IS OVER THE AGE OF FOURTEEN AND COMMITS CERTAIN ACTS WITH A CHILD UNDER THE AGE OF SIXTEEN, TO PROVIDE AN EXCEPTION FOR CERTAIN CONSENSUAL CONDUCT, AND TO PROVIDE A PENALTY; TO AMEND SECTION 16-1-60, AS AMENDED, RELATING TO VIOLENT CRIMES, TO AMEND SECTION 17-22-90, AS AMENDED, RELATING TO AGREEMENTS REQUIRED OF OFFENDERS IN PRETRIAL INTERVENTION PROGRAMS, TO AMEND SECTION 19-11-30, AS AMENDED, RELATING TO THE COMPETENCY OF THE HUSBAND OR WIFE OF A PARTY AS A WITNESS, TO AMEND SECTION 23-3-430, AS AMENDED, RELATING TO THE SEX OFFENDER REGISTRY, TO AMEND SECTION 23-3-490, AS AMENDED, RELATING TO PUBLIC INSPECTION OF THE SEX OFFENDER REGISTRY, TO AMEND SECTION 23-3-540, AS AMENDED, RELATING TO ELECTRONIC MONITORING OF PERSONS CONVICTED OF CERTAIN CRIMINAL SEXUAL CONDUCT WITH A MINOR OFFENSES, TO AMEND SECTION 24-3-20, AS AMENDED, RELATING TO CUSTODY OF PERSONS CONVICTED OF CERTAIN CRIMES, TO AMEND SECTION 24-13-710, AS AMENDED, RELATING TO THE SUPERVISED FURLOUGH PROGRAM, TO AMEND SECTION 24-19-10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF CORRECTION AND TREATMENT OF YOUTHFUL OFFENDERS, TO AMEND SECTION 44-48-30, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF THE SEXUALLY VIOLENT PREDATOR ACT, TO AMEND SECTION 44-53-370, AS AMENDED, RELATING TO PENALTIES FOR CERTAIN DRUG OFFENSES, AND TO AMEND SECTION 63-7-2360, RELATING TO PLACEMENT OF MINOR SEX OFFENDERS PURSUANT TO THE CHILDREN'S CODE, ALL SO AS TO MAKE CONFORMING AMENDMENTS TO REFERENCE APPROPRIATE CRIMINAL SEXUAL CONDUCT WITH A MINOR OFFENSES AND TO DELETE REFERENCES TO THE FORMER LEWD ACT UPON A CHILD UNDER THE AGE OF SIXTEEN; AND TO REPEAL SECTION 16-15-140 RELATING TO COMMITTING OR ATTEMPTING TO COMMIT A LEWD ACT UPON A CHILD UNDER THE AGE OF SIXTEEN.

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

Criminal sexual conduct in the third degree, new crime designated, penalty

SECTION 1. Section 16-3-655 of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

"Section 16-3-655. (A) A person is guilty of criminal sexual conduct with a minor in the first degree if:

(1) the actor engages in sexual battery with a victim who is less than eleven years of age; or

(2) the actor engages in sexual battery with a victim who is less than sixteen years of age and the actor has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for an offense listed in Section 23-3-430(C) or has been ordered to be included in the sex offender registry pursuant to Section 23-3-430(D).

(B) A person is guilty of criminal sexual conduct with a minor in the second degree if:

(1) the actor engages in sexual battery with a victim who is fourteen years of age or less but who is at least eleven years of age; or

(2) the actor engages in sexual battery with a victim who is at least fourteen years of age but who is less than sixteen years of age and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim. However, a person may not be convicted of a violation of the provisions of this item if he is eighteen years of age or less when he engages in consensual sexual conduct with another person who is at least fourteen years of age.

(C) A person is guilty of criminal sexual conduct with a minor in the third degree if the actor is over fourteen years of age and the actor wilfully and lewdly commits or attempts to commit a lewd or lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the actor or the child. However, a person may not be convicted of a violation of the provisions of this subsection if the person is eighteen years of age or less when the person engages in consensual lewd or lascivious conduct with another person who is at least fourteen years of age.

(D)(1) A person convicted of a violation of subsection (A)(1) is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum of twenty-five years, no part of which may be

suspended nor probation granted, or must be imprisoned for life. In the case of a person pleading guilty or nolo contendere to a violation of subsection (A)(1), the judge must make a specific finding on the record regarding whether the type of conduct that constituted the sexual battery involved sexual or anal intercourse by a person or intrusion by an object. In the case of a person convicted at trial for a violation of subsection (A)(1), the judge or jury, whichever is applicable, must designate as part of the verdict whether the conduct that constituted the sexual battery involved sexual or anal intercourse by a person or intrusion by an object. If the person has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for first degree criminal sexual conduct with a minor who is less than eleven years of age or a federal or out-of-state offense that would constitute first degree criminal sexual conduct with a minor who is less than eleven years of age, he must be punished by death or by imprisonment for life, as provided in this section. For the purpose of determining a prior conviction under this subsection, the person must have been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent on a separate occasion, prior to the instant adjudication, for first degree criminal sexual conduct with a minor who is less than eleven years of age or a federal or out-of-state offense that would constitute first degree criminal sexual conduct with a minor who is less than eleven years of age. In order to be eligible for the death penalty pursuant to this section, the sexual battery constituting the current offense and any prior offense must have involved sexual or anal intercourse by a person or intrusion by an object. If any prior offense that would make a person eligible for the death penalty pursuant to this section occurred prior to the effective date of this act and no specific finding was made regarding the nature of the conduct or is an out-of-state or federal conviction, the determination of whether the sexual battery constituting the prior offense involved sexual or anal intercourse by a person or intrusion by an object must be made in the separate sentencing proceeding provided in this section and proven beyond a reasonable doubt and designated in writing by the judge or jury, whichever is applicable. If the judge or jury, whichever is applicable, does not find that the prior offense involved sexual or anal intercourse by a person or intrusion by an object, then the person must be sentenced to imprisonment for life. For purposes of this subsection, imprisonment for life means imprisonment until death.

(2) A person convicted of a violation of subsection (A)(2) is guilty of a felony and, upon conviction, must be imprisoned for not less

than ten years nor more than thirty years, no part of which may be suspended nor probation granted.

(3) A person convicted of a violation of subsection (B) is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years in the discretion of the court.

(4) A person convicted of a violation of subsection (C) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than fifteen years, or both.

(E) If the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to items (1) and (2), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, 'life imprisonment' means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. No person sentenced to life imprisonment, pursuant to this subsection, is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. Under no circumstances may a female who is pregnant be executed, so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death imposed pursuant to this section to life imprisonment pursuant to the provisions of Section 14, Article IV of the Constitution of South Carolina, 1895, the commutee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.

(1) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, the court shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty-four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pled guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury

or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States, or the State of South Carolina, or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.

(2) In sentencing a person, upon conviction or adjudication of guilt of a defendant pursuant to this section, the judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

(a) Statutory aggravating circumstances:

(i) The victim's resistance was overcome by force.

(ii) The victim was prevented from resisting the act because the actor was armed with a dangerous weapon.

(iii) The victim was prevented from resisting the act by threats of great and immediate bodily harm, accompanied by an apparent power to inflict bodily harm.

(iv) The victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing his resistance.

(v) The crime was committed by a person with a prior conviction for murder.

(vi) The offender committed the crime for himself or another for the purpose of receiving money or a thing of monetary value.

(vii) The offender caused or directed another to commit the crime or committed the crime as an agent or employee of another person.

(viii) The crime was committed against two or more persons by the defendant by one act, or pursuant to one scheme, or course of conduct.

(ix) The crime was committed during the commission of burglary in any degree, kidnapping, or trafficking in persons.

(b) Mitigating circumstances:

(i) The defendant has no significant history of prior criminal convictions involving the use of violence against another person.

(ii) The crime was committed while the defendant was under the influence of mental or emotional disturbance.

(iii) The defendant was an accomplice in the crime committed by another person and his participation was relatively minor.

(iv) The defendant acted under duress or under the domination of another person.

(v) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.

(vi) The age or mentality of the defendant at the time of the crime.

(vii) The defendant was below the age of eighteen at the time of the crime.

The statutory instructions as to statutory aggravating and mitigating circumstances must be given in charge and in writing to the jury for its deliberation. The jury, if its verdict is a recommendation of death, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances, which it found beyond a reasonable doubt. The jury, if it does not recommend death, after finding a statutory aggravating circumstance or circumstances beyond a reasonable doubt, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances it found beyond a reasonable doubt. In nonjury cases, the judge shall make the designation of the statutory aggravating circumstance or circumstances. Unless at least one of the statutory aggravating circumstances enumerated in this section is found, the death penalty must not be imposed.

When a statutory aggravating circumstance is found and a recommendation of death is made, the trial judge shall sentence the defendant to death. The trial judge, before imposing the death penalty, shall find as an affirmative fact that the death penalty was warranted under the evidence of the case and was not a result of prejudice, passion, or any other arbitrary factor. When a statutory aggravating circumstance is found and a sentence of death is not recommended by the jury, the trial judge shall sentence the defendant to life imprisonment as provided in this subsection. Before dismissing the jury, the trial judge shall question the jury as to whether or not it found a statutory aggravating circumstance or circumstances beyond a reasonable doubt. If the jury does not unanimously find any statutory aggravating circumstances or circumstances beyond a reasonable doubt, it shall not make a sentencing recommendation. When a

statutory aggravating circumstance is not found, the trial judge shall sentence the defendant to life imprisonment. No person sentenced to life imprisonment pursuant to this section is eligible for parole or to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the sentence required by this section. If the jury has found a statutory aggravating circumstance or circumstances beyond a reasonable doubt, the jury shall designate this finding, in writing, signed by all the members of the jury. The jury shall not recommend the death penalty if the vote for the death penalty is not unanimous as provided. If members of the jury after a reasonable deliberation cannot agree on a recommendation as to whether or not the death sentence should be imposed on a defendant upon conviction or adjudication of guilt of a defendant pursuant to this section, the trial judge shall dismiss the jury and shall sentence the defendant to life imprisonment, as provided in this subsection.

(3) Notwithstanding the provisions of Section 14-7-1020, in cases involving capital punishment a person called as a juror must be examined by the attorney for the defense.

(4) In a criminal action pursuant to this section, which may be punishable by death, a person may not be disqualified, excused, or excluded from service as a juror by reason of his beliefs or attitudes against capital punishment unless those beliefs or attitudes would render him unable to return a verdict according to law.

(F)(1) In all cases in which an individual is sentenced to death pursuant to this section, the trial judge, before the dismissal of the jury, shall verbally instruct the jury concerning the discussion of its verdict. A standard written instruction must be promulgated by the Supreme Court for use in capital cases brought pursuant to this section.

(2) The verbal instruction must include:

(a) the right of the juror to refuse to discuss the verdict;

(b) the right of the juror to discuss the verdict to the extent that the juror so chooses;

(c) the right of the juror to terminate any discussion pertaining to the verdict at any time the juror so chooses;

(d) the right of the juror to report any person who continues to pursue a discussion of the verdict or who continues to harass the juror after the juror has refused to discuss the verdict or communicated a desire to terminate discussion of the verdict; and

(e) the name, address, and phone number of the person or persons to whom the juror should report any harassment concerning the refusal to discuss the verdict or the juror’s decision to terminate discussion of the verdict.

(3) In addition to the verbal instruction of the trial judge, each juror, upon dismissal from jury service, shall receive a copy of the written jury instruction as provided in item (1).

(G)(1) Whenever the death penalty is imposed pursuant to this section, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Supreme Court of South Carolina. The clerk of the trial court, within ten days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court of South Carolina together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court of South Carolina.

(2) The Supreme Court of South Carolina shall consider the punishment as well as any errors by way of appeal.

(3) With regard to the sentence, the court shall determine whether the:

(a) sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

(b) evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in subsection (E)(2)(a); and

(c) sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(4) Both the defendant and the State shall have the right to submit briefs within the time provided by the court and to present oral arguments to the court.

(5) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, is authorized to:

(a) affirm the sentence of death; or

(b) set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court of South Carolina in its decision, and the extracts prepared as provided for, must be provided to the resentencing judge for his consideration. If the court finds error prejudicial to the defendant in the sentencing proceeding conducted by the trial judge before the trial jury as outlined

in subsection (E)(1), the court may set the sentence aside and remand the case for a resentencing proceeding to be conducted by the same or a different trial judge and by a new jury impaneled for this purpose. In the resentencing proceeding, the new jury, if the defendant does not waive the right of a trial jury for the resentencing proceeding, shall hear evidence in extenuation, mitigation, or aggravation of the punishment in addition to any evidence admitted in the defendant's first trial relating to guilt for the particular crime for which the defendant has been found guilty.

(6) The sentence review is in addition to direct appeal, if taken, and the review and appeal must be consolidated for consideration. The court shall render its decision on all legal errors, the factual substantiation of the verdict, and the validity of the sentence.

(H)(1) Whenever the solicitor seeks the death penalty pursuant to this section, he shall notify the defense attorney of his intention to seek the death penalty at least thirty days prior to the trial of the case. At the request of the defense attorney, the defense attorney must be excused from all other trial duties ten days prior to the term of court in which the trial is to be held.

(2)(a) Whenever any person is charged with first degree criminal sexual conduct with a minor who is less than eleven years and the death penalty is sought, the court, upon determining that the person is unable financially to retain adequate legal counsel, shall appoint two attorneys to defend the person in the trial of the action. One of the attorneys so appointed shall have at least five years' experience as a licensed attorney and at least three years' experience in the actual trial of felony cases, and only one of the attorneys so appointed may be the public defender or a member of his staff. In all cases when no conflict exists, the public defender or member of his staff must be appointed if qualified. If a conflict exists, the court then shall turn first to the contract public defender attorneys, if qualified, before turning to the Office of Indigent Defense.

(b) Notwithstanding another provision of law, the court shall order payment of all fees and costs from funds available to the Office of Indigent Defense for the defense of the indigent. Any attorney appointed must be compensated at a rate not to exceed fifty dollars per hour for time expended out of court and seventy-five dollars per hour for time expended in court. Compensation may not exceed twenty-five thousand dollars and must be paid from funds available to the Office of Indigent Defense for the defense of indigent represented by court-appointed, private counsel.

(3)(a) Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain services on behalf of the defendant and shall order the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed twenty thousand dollars as the court deems appropriate. Payment of these fees and expenses may be ordered in cases where the defendant is an indigent represented by either court-appointed, private counsel, or the public defender.

(b) Court-appointed counsel seeking payment for fees and expenses shall request these payments from the Office of Indigent Defense within thirty days after the completion of the case. For the purposes of this statute, exhaustion of the funds shall occur if the funds administered by the Office of Indigent Defense and reserved for death penalty fees and expenses have been reduced to zero. If either the Death Penalty Trial Fund or the Conflict Fund has been exhausted in a month and the other fund contains money not scheduled to be disbursed in that month, then the Indigent Defense Commission must transfer a sufficient amount from the fund with the positive fund balance to the fund with no balance and pay the obligation to the extent possible.

(4) Payment in excess of the hourly rates and limit in item (2) or (3) is authorized only if the court certifies, in a written order with specific findings of fact, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services provided were reasonably and necessarily incurred. Upon a finding that timely procurement of services cannot await prior authorization, the court may authorize the provision of and payment for services nunc pro tunc.

(5) After completion of the trial, the court shall conduct a hearing to review and validate the fees, costs, and other expenditures on behalf of the defendant.

(6) The Supreme Court shall promulgate guidelines on the expertise and qualifications necessary for attorneys to be certified as competent to handle death penalty cases brought pursuant to this section.

(7) The Office of Indigent Defense shall maintain a list of death penalty qualified attorneys who have applied for and received certification by the Supreme Court as provided for in this subsection. In the event the court-appointed counsel notifies the chief

administrative judge in writing that he or she does not wish to provide representation in a death penalty case, the chief administrative judge shall advise the Office of Indigent Defense which shall forward a name or names to the chief administrative judge for consideration. The appointment power is vested in the chief administrative judge. The Office of Indigent Defense shall establish guidelines as are necessary to ensure that attorneys' names are presented to the judges on a fair and equitable basis, taking into account geography and previous assignments from the list. Efforts must be made to present an attorney from the area or region where the action is initiated.

(8) The payment schedule provided in this subsection, as amended by Act 164 of 1993, shall apply to any case for which trial occurs on or after July 1, 1993.

(9) Notwithstanding another provision of law, only attorneys who are licensed to practice in this State and residents of this State may be appointed by the court and compensated with funds appropriated to the Death Penalty Trial Fund in the Office of Indigent Defense. This item shall not pertain to any case in which counsel has been appointed on the effective date of this act.

(10) The judicial department biennially shall develop and make available to the public a list of standard fees and expenses associated with the defense of an indigent person in a death penalty case.

(I) Notwithstanding another provision of law, in any trial pursuant to this section when the maximum penalty is death or in a separate sentencing proceeding following the trial, the defendant and his counsel shall have the right to make the last argument."

Conforming amendments

SECTION 2. Section 16-1-60 of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

"Section 16-1-60.For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16-3-10); attempted murder (Section 16-3-29); assault and battery by mob, first degree, resulting in death (Section 16-3-210(B)), criminal sexual conduct in the first and second degree (Sections 16-3-652 and 16-3-653); criminal sexual conduct with minors, first, second, and third degree (Section 16-3-655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16-3-656); assault and battery with intent to kill (Section 16-3-620); assault and battery of a high and aggravated nature (Section 16-3-600(B)); kidnapping (Section

16-3-910); trafficking in persons (Section 16-3-930); voluntary manslaughter (Section 16-3-50); armed robbery (Section 16-11-330(A)); attempted armed robbery (Section 16-11-330(B)); carjacking (Section 16-3-1075); drug trafficking as defined in Section 44-53-370(e) or trafficking cocaine base as defined in Section 44-53-375(C); manufacturing or trafficking methamphetamine as defined in Section 44-53-375; arson in the first degree (Section 16-11-110(A)); arson in the second degree (Section 16-11-110(B)); burglary in the first degree (Section 16-11-311); burglary in the second degree (Section 16-11-312(B)); engaging a child for a sexual performance (Section 16-3-810); homicide by child abuse (Section 16-3-85(A)(1)); aiding and abetting homicide by child abuse (Section 16-3-85(A)(2)); inflicting great bodily injury upon a child (Section 16-3-95(A)); allowing great bodily injury to be inflicted upon a child (Section 16-3-95(B)); criminal domestic violence of a high and aggravated nature (Section 16-25-65); abuse or neglect of a vulnerable adult resulting in death (Section 43-35-85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43-35-85(E)); taking of a hostage by an inmate (Section 24-13-450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10-11-325(B)(1)); spousal sexual battery (Section 16-3-615); producing, directing, or promoting sexual performance by a child (Section 16-3-820); sexual exploitation of a minor first degree (Section 16-15-395); sexual exploitation of a minor second degree (Section 16-15-405); promoting prostitution of a minor (Section 16-15-415); participating in prostitution of a minor (Section 16-15-425); aggravated voyeurism (Section 16-17-470(C)); detonating a destructive device resulting in death with malice (Section 16-23-720(A)(1)); detonating a destructive device resulting in death without malice (Section 16-23-720(A)(2)); boating under the influence resulting in death (Section 50-21-113(A)(2)); vessel operator's failure to render assistance resulting in death (Section 50-21-130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55-1-30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56-5-750(C)(2)); interference with traffic-control devices, railroad signs, or signals resulting in death (Section 56-5-1030(B)(3)); hit and run resulting in death (Section 56-5-1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56-5-2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57-7-20(D)); obstruction of a railroad resulting in death (Section 58-17-4090);

accessory before the fact to commit any of the above offenses (Section 16-1-40); and attempt to commit any of the above offenses (Section 16-1-80). Only those offenses specifically enumerated in this section are considered violent offenses."

Conforming amendments

SECTION 3. Section 17-22-90(6) of the 1976 Code is amended to read:

"(6) if the offense is criminal sexual conduct with a minor in the third degree pursuant to Section 16-3-655(C), agree in the agreement between the solicitor's office and the offender as provided in Section 17-22-120 to allow information about the offense to be made available to day care centers, group day care homes, family day care homes, church or religious day care centers, and other facilities providing care to children and related agencies by the State Law Enforcement Division pursuant to regulations which the State Law Enforcement Division shall promulgate; and"

Conforming amendments

SECTION 4. Section 19-11-30 of the 1976 Code, as last amended by Act 104 of 1995, is further amended to read:

"Section 19-11-30. In any trial or inquiry in any suit, action, or proceeding in any court or before any person having, by law or consent of the parties, authority to examine witnesses or hear evidence, no husband or wife may be required to disclose any confidential or, in a criminal proceeding, any communication made by one to the other during their marriage.

Notwithstanding the above provisions, a husband or wife is required to disclose any communication, confidential or otherwise, made by one to the other during their marriage where the suit, action, or proceeding concerns or is based on child abuse or neglect, the death of a child, or criminal sexual conduct involving a minor."

Conforming amendments

SECTION 5. Section 23-3-430(C) of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

"(C) For purposes of this article, a person who has been convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses shall be referred to as an offender:

(1) criminal sexual conduct in the first degree (Section 16-3-652);

(2) criminal sexual conduct in the second degree (Section 16-3-653);

(3) criminal sexual conduct in the third degree (Section 16-3-654);

(4) criminal sexual conduct with minors, first degree (Section 16-3-655(A));

(5) criminal sexual conduct with minors, second degree (Section 16-3-655(B)). If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2) provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(6) criminal sexual conduct with minors, third degree (Section 16-3-655(C));

(7) engaging a child for sexual performance (Section 16-3-810);

(8) producing, directing, or promoting sexual performance by a child (Section 16-3-820);

(9) criminal sexual conduct: assaults with intent to commit (Section 16-3-656);

(10) incest (Section 16-15-20);

(11) buggery (Section 16-15-120);

(12) peeping, voyeurism, or aggravated voyeurism (Section 16-17-470);

(13) violations of Article 3, Chapter 15, Title 16 involving a minor;

(14) a person, regardless of age, who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in this State, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that based on the circumstances of the case the convicted person should register as a sex offender;

(15) kidnapping (Section 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(16) kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent;

(17) trafficking in persons (Section 16-3-930) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(18) criminal sexual conduct when the victim is a spouse (Section 16-3-658);

(19) sexual battery of a spouse (Section 16-3-615);

(20) sexual intercourse with a patient or trainee (Section 44-23-1150);

(21) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

(a) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16-15-375(5);

(b) perform a sexual activity in the presence of the person solicited (Section 16-15-342); or

(22) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44-53-370(f), except petit larceny or grand larceny.

(23) any other offense specified by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA)."

Conforming amendments

SECTION 6. Section 23-3-490(D) of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

"(D) For purposes of this article, information on a person adjudicated delinquent in family court for an offense listed in Section 23-3-430 must be made available to the public in accordance with the following provisions:

(1) If a person has been adjudicated delinquent for committing any of the following offenses, information must be made available to the public pursuant to subsections (A) and (B):

(a) criminal sexual conduct in the first degree (Section 16-3-652);

(b) criminal sexual conduct in the second degree (Section 16-3-653);

(c) criminal sexual conduct with minors, first degree (Section 16-3-655(A));

(d) criminal sexual conduct with minors, second degree (Section 16-3-655(B));

(e) engaging a child for sexual performance (Section 16-3-810);

(f) producing, directing, or promoting sexual performance by a child (Section 16-3-820);

(g) kidnapping (Section 16-3-910); or

(h) trafficking in persons (Section 16-3-930) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.

(2) Information shall only be made available, upon request, to victims of or witnesses to the offense, public or private schools, child day care centers, family day care centers, businesses or organizations that primarily serve children, women, or vulnerable adults, as defined in Section 43-35-10(11), for persons adjudicated delinquent for committing any of the following offenses:

(a) criminal sexual conduct in the third degree (Section 16-3-654);

(b) criminal sexual conduct: assaults with intent to commit (Section 16-3-656);

(c) criminal sexual conduct with a minor: assaults with intent to commit (Section 16-3-656);

(d) criminal sexual conduct with minors, third degree (Section 16-3-655(C));

(e) peeping (Section 16-17-470);

(f) incest (Section 16-15-20);

(g) buggery (Section 16-15-120);

(h) violations of Article 3, Chapter 15 of Title 16 involving a minor, which violations are felonies; or

(i) indecent exposure.

(3) A person who is under twelve years of age at the time of his adjudication, conviction, guilty plea, or plea of nolo contendere for a first offense of any offense listed in Section 23-3-430(C) shall be required to register pursuant to the provisions of this chapter; however, the person's name or any other information collected for the offender registry shall not be made available to the public.

(4) A person who is under twelve years of age at the time of his adjudication, conviction, guilty plea, or plea of nolo contendere for any offense listed in Section 23-3-430(C) and who has a prior adjudication, conviction, guilty plea, or plea of nolo contendere for any offense listed in Section 23-3-430(C) shall be required to register pursuant to the provisions of this chapter, and all registry information concerning that person shall be made available to the public pursuant to items (1) and (2).

(5) Nothing in this section shall prohibit the dissemination of all registry information to law enforcement."

Conforming amendments

SECTION 7. Section 23-3-540 of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

"Section 23-3-540. (A) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), the court must order that the person, upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(B) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person for any other offense listed in subsection (G), the court may order that the person upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(C) A person who is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), and who violates a term of probation, parole, community supervision, or a community supervision program must be ordered by the court or agency with jurisdiction to be monitored by the Department of

Probation, Parole and Pardon Services with an active electronic monitoring device.

(D) A person who is required to register pursuant to this article for any other offense listed in subsection (G), and who violates a term of probation, parole, community supervision, or a community supervision program, may be ordered by the court or agency with jurisdiction to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(E) A person who is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), and who violates a provision of this article, must be ordered by the court to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(F) A person who is required to register pursuant to this article for any other offense listed in subsection (G), and who violates a provision of this article, may be ordered by the court to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(G) This section applies to a person who has been:

(1) convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses:

(a) criminal sexual conduct with a minor in the first degree (Section 16-3-655(A));

(b) criminal sexual conduct with a minor in the second degree (Section 16-3-655(B)). If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from illicit consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, then the convicted person is not required to be electronically monitored pursuant to the provisions of this section;

(c) criminal sexual conduct with a minor in the third degree (Section 16-3-655(C));

(d) engaging a child for sexual performance (Section 16-3-810);

(e) producing, directing, or promoting sexual performance by a child (Section 16-3-820);

(f) criminal sexual conduct: assaults with intent to commit (Section 16-3-656) involving a minor;

(g) violations of Article 3, Chapter 15, Title 16 involving a minor;

(h) kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent;

(i) trafficking in persons (Section 16-3-930) of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense; or

(2) ordered as a condition of sentencing to be included in the sex offender registry pursuant to Section 23-3-430(D) for an offense involving a minor, except that the provisions of this item may not be construed to apply to a person eighteen years of age or less who engages in illicit but consensual sexual conduct with another person who is at least fourteen years of age as provided in Section 16-3-655(B)(2).

(H) The person shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device for the duration of the time the person is required to remain on the sex offender registry pursuant to the provisions of this article, unless the person is committed to the custody of the State. Ten years from the date the person begins to be electronically monitored, the person may petition the chief administrative judge of the general sessions court for the county in which the person was ordered to be electronically monitored for an order to be released from the electronic monitoring requirements of this section. The person shall serve a copy of the petition upon the solicitor of the circuit and the Department of Probation, Parole and Pardon Services. The court must hold a hearing before ordering the person to be released from the electronic monitoring requirements of this section, unless the court denies the petition because the person is not eligible for release or based on other procedural grounds. The solicitor of the circuit, the Department of Probation, Parole and Pardon Services, and any victims, as defined in Article 15, Chapter 3, Title 16, must be notified of any hearing pursuant to this subsection and must be given an opportunity to testify or submit affidavits in response to the petition. If the court finds that there is clear and convincing evidence that the person has complied with the terms and conditions of the electronic monitoring and that there is no longer a need to electronically monitor the person, then the court may order the person to be released from the electronic monitoring requirements of this section. If the court denies the petition or refuses to grant the order, then the person may refile a new petition every five years from the date the court denies the petition or refuses to

grant the order. A person may not petition the court if the person is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C).

(I) The person shall follow instructions provided by the Department of Probation, Parole and Pardon Services to maintain the active electronic monitoring device in working order. Incidental damage or defacement of the active electronic monitoring device must be reported to the Department of Probation, Parole and Pardon Services within two hours. A person who fails to comply with the reporting requirement of this subsection is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.

(J) The person shall abide by other terms and conditions set forth by the Department of Probation, Parole and Pardon Services with regard to the active electronic monitoring device and electronic monitoring program.

(K) The person must be charged for the cost of the active electronic monitoring device and the operation of the active electronic monitoring device for the duration of the time the person is required to be electronically monitored. The Department of Probation, Parole and Pardon Services may exempt a person from the payment of a part or all of the cost during a part or all of the duration of the time the person is required to be electronically monitored, if the Department of Probation, Parole and Pardon Services determines that exceptional circumstances exist such that these payments cause a severe hardship to the person. The payment of the cost must be a condition of supervision of the person and a delinquency of two months or more in making payments may operate as a violation of a term or condition of the electronic monitoring. All fees generated by this subsection must be retained by the Department of Probation, Parole and Pardon Services, carried forward, and applied to support the active electronic monitoring of sex offenders.

(L) A person who intentionally removes, tampers with, defaces, alters, damages, or destroys an active electronic monitoring device is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years. This subsection does not apply to a person or agent authorized by the Department of Probation, Parole and Pardon Services to perform maintenance and repairs to the active electronic monitoring devices.

(M) A person who completes his term of incarceration and the maximum term of probation, parole, or community supervision and who wilfully violates a term or condition of electronic monitoring, as ordered by the court or determined by the Department of Probation, Parole and Pardon Services is guilty of a felony and, upon conviction, must be sentenced in accordance with the provisions of Section 23-3-545.

(N) The Department of Corrections shall notify the Department of Probation, Parole and Pardon Services of the projected release date of an inmate serving a sentence, as described in this section, at least one hundred eighty days in advance of the person's release from incarceration. For a person sentenced to one hundred eighty days or less, the Department of Corrections shall immediately notify the Department of Probation, Parole and Pardon Services.

(O) When an inmate serving a sentence as described in this section is released on electronic monitoring, a victim who has previously requested notification and the sheriff's office in the county where the person is to be released must be notified in accordance with the requirements of Article 15, Chapter 3, Title 16.

(P) As used in this section, 'active electronic monitoring device' means an all body worn device that is not removed from the person's body utilized by the Department of Probation, Parole and Pardon Services in conjunction with a web-based computer system that actively monitors and records a person's location at least once every minute twenty-four hours a day and that timely records and reports the person's presence near or within a prohibited area or the person's departure from a specified geographic location. In addition, the device must be resistant or impervious to unintentional or wilful damages. The South Carolina Criminal Justice Academy may offer training to officers of the Department of Probation, Parole and Pardon Services regarding the utilization of active electronic monitoring devices. In areas of the State where cellular coverage requires the use of an alternate device, the Department of Probation, Parole and Pardon Services may use an alternate device.

(Q) Except for juveniles released from the Department of Corrections, all juveniles adjudicated delinquent in family court, who are required to be monitored pursuant to the provisions of this article by the Department of Probation, Parole and Pardon Services, or who are ordered by a court to be monitored must be supervised, while under the jurisdiction of the family court or Board of Juvenile Parole, by the Department of Juvenile Justice. The Department of Probation, Parole and Pardon Services shall report to the Department of Juvenile Justice

all violations of the terms or conditions of electronic monitoring for all juveniles supervised by the department, for as long as the family court or Juvenile Parole Board has jurisdiction over the juvenile. If the Department of Juvenile Justice determines that a juvenile has violated a term or condition of electronic monitoring, the department shall immediately notify local law enforcement of the violation."

Conforming amendments

SECTION 8. Section 24-3-20(B) of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"(B) When the director determines that the character and attitude of a prisoner reasonably indicates that he may be trusted, he may extend the limits of the place of confinement of the prisoner by authorizing him to work at paid employment or participate in a training program in the community on a voluntary basis while continuing as a prisoner, if the director determines that:

(1) the paid employment will not result in the displacement of employed workers, nor be applied in skills, crafts, or trades in which there is surplus of available gainful labor in the locality, nor impair existing contracts for services; and

(2) the rates of pay and other conditions of employment will not be less than those paid and provided for work of similar nature in the locality in which the work is to be performed.

The department shall notify victims registered pursuant to Article 15, Chapter 3, Title 16 and the trial judge, solicitor, and sheriff of the county or the law enforcement agency of the jurisdiction where the offense occurred before releasing inmates on work release. However, the trial judge may waive his right to receive the notification contained in this section by notifying the department of this waiver in writing. The department has the authority to deny release based upon opinions received from these persons, if any, as to the suitability of the release.

A prisoner's place of confinement may not be extended as permitted by this subsection if the prisoner:

(a) is currently serving a sentence for or has a prior conviction for criminal sexual conduct in the first, second, or third degree; attempted criminal sexual conduct; assault with intent to commit criminal sexual conduct; criminal sexual conduct when the victim is his legal spouse; criminal sexual conduct with a minor; engaging a child for sexual performance; spousal sexual battery; a harassment or

stalking offense pursuant to Article 17, Chapter 3, Title 16, or a burglary offense pursuant to Section 16-11-311 or 16-11-312(B); or

(b) is currently serving a sentence for a violent offense as defined in Section 16-1-60, except that a prisoner serving a sentence for kidnapping, pursuant to Section 16-3-910, voluntary manslaughter, pursuant to Section 16-3-50, armed robbery, pursuant to Section 16-11-330(A), attempted armed robbery, pursuant to Section 16-11-330(B), burglary in the second degree, pursuant to Section 16-11-312(B), or carjacking, pursuant to Section 16-3-1075 may be eligible to participate in the work release programs so long as the prisoner is within three years from the date of his release from incarceration, and the prisoner is not serving a sentence involving criminal sexual conduct or other violent crime, as classified under Section 16-1-60.

(3) A prisoner who is serving a sentence for a 'no parole offense' as defined in Section 24-13-100 and who is otherwise eligible for work release shall not have his place of confinement extended until he has served the minimum period of incarceration as set forth in Section 24-13-125."

Conforming amendments

SECTION 9. Section 24-13-710 of the 1976 Code, as last amended by Act 151 of 2010, is further amended to read:

"Section 24-13-710. The Department of Corrections and the Department of Probation, Parole and Pardon Services shall jointly develop the policies, procedures, guidelines, and cooperative agreement for the implementation of a supervised furlough program which permits carefully screened and selected inmates who have served the mandatory minimum sentence as required by law or have not committed a violent crime as defined in Section 16-1-60, a 'no parole offense' as defined in Section 24-13-100, the crime of criminal sexual conduct in the third degree as defined in Section 16-3-654, or the crime of criminal sexual conduct with a minor in the third degree as defined in Section 16-3-655(C) to be released on furlough prior to parole eligibility and under the supervision of state probation and parole agents with the privilege of residing in an approved residence and continuing treatment, training, or employment in the community until parole eligibility or expiration of sentence, whichever is earlier.

Before an inmate may be released on supervised furlough, the inmate must agree in writing to be subject to search or seizure, without a

search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, and any of the inmate's possessions by:

(1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer.

An inmate must not be granted supervised furlough if he fails to comply with this provision. However, an inmate who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not be required to agree to be subject to search or seizure, without a warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or is driving, or any of the inmate's possessions.

The department and the Department of Probation, Parole and Pardon Services shall assess a fee sufficient to cover the cost of the participant's supervision and any other financial obligations incurred because of his participation in the supervised furlough program as provided by this article. The two departments shall jointly develop and approve written guidelines for the program to include, but not be limited to, the selection criteria and process, requirements for supervision, conditions for participation, and removal.

The conditions for participation must include the requirement that the offender must permit the search or seizure, without a search warrant, with or without cause, of the offender's person, any vehicle the offender owns or is driving, and any of the offender's possessions by:

(1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or

(2) any other law enforcement officer.

However, the conditions for participation for an offender who was convicted of or pled guilty or nolo contendere to a Class C misdemeanor or an unclassified misdemeanor that carries a term of imprisonment of not more than one year may not include the requirement that the offender agree to be subject to search or seizure, without a search warrant, with or without cause, of the offender's person, any vehicle the offender owns or is driving, or any of the offender's possessions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. Immediately before each search or seizure

conducted pursuant to this section, the law enforcement officer seeking to conduct the search or seizure must verify with the Department of Probation, Parole and Pardon Services or by any other means available to the officer that the individual upon whom the search or seizure will be conducted is currently on supervised furlough. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant must be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation. If the law enforcement officer fails to report each search or seizure pursuant to this section, he is subject to discipline pursuant to the employing agency's policies and procedures.

The cooperative agreement between the two departments shall specify the responsibilities and authority for implementing and operating the program. Inmates approved and placed on the program must be under the supervision of agents of the Department of Probation, Parole and Pardon Services who are responsible for ensuring the inmate's compliance with the rules, regulations, and conditions of the program as well as monitoring the inmate's employment and participation in any of the prescribed and authorized community-based correctional programs such as vocational rehabilitation, technical education, and alcohol/drug treatment. Eligibility criteria for the program include, but are not limited to, all of the following requirements:

(1) maintain a clear disciplinary record for at least six months prior to consideration for placement on the program;

(2) demonstrate to Department of Corrections' officials a general desire to become a law-abiding member of society;

(3) satisfy any other reasonable requirements imposed upon him by the Department of Corrections;

(4) have an identifiable need for and willingness to participate in authorized community-based programs and rehabilitative services;

(5) have been committed to the State Department of Corrections with a total sentence of five years or less as the first or second adult commitment for a criminal offense for which the inmate received a sentence of one year or more. The Department of Corrections shall

notify victims pursuant to Article 15, Chapter 3, Title 16 as well as the sheriff's office of the place to be released before releasing inmates through any supervised furlough program. These requirements do not apply to the crimes referred to in this section."

Conforming amendments

SECTION 10. Section 24-19-10 of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

"Section 24-19-10. As used herein:

(a) 'Department' means the Department of Corrections.

(b) 'Division' means the Youthful Offender Division.

(c) 'Director' means the Director of the Department of Corrections.

(d) 'Youthful offender' means an offender who is:

(i) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63-19-1210 for allegedly committing an offense that is not a violent crime, as defined in Section 16-1-60, and that is a misdemeanor, a Class D, Class E, or Class F felony, as defined in Section 16-1-20, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

(ii) seventeen but less than twenty-five years of age at the time of conviction for an offense that is not a violent crime, as defined in Section 16-1-60, and that is a misdemeanor, a Class D, Class E, or Class F felony, or a felony which provides for a maximum term of imprisonment of fifteen years or less;

(iii) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63-19-1210 for allegedly committing burglary in the second degree (Section 16-11-312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three-year minimum sentence;

(iv) seventeen but less than twenty-one years of age at the time of conviction for burglary in the second degree (Section 16-11-312). The offender must receive and serve a minimum sentence of at least three years, no part of which may be suspended, and the person is not eligible for conditional release until the person has served the three-year minimum sentence;

(v) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 63-19-1210 for allegedly committing criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), and the alleged offense involved consensual sexual conduct with a person who was at least fourteen years of age at the time of the act; or

(vi) seventeen but less than twenty-five years of age at the time of conviction for committing criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), and the conviction resulted from consensual sexual conduct, provided the offender was eighteen years of age or less at the time of the act and the other person involved was at least fourteen years of age at the time of the act.

(e) 'Treatment' means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youthful offenders; this may also include vocational and other training considered appropriate and necessary by the division.

(f) 'Conviction' means a judgment in a verdict or finding of guilty, plea of guilty, or plea of nolo contendere to a criminal charge where the imprisonment is at least one year, but excluding all offenses in which the maximum punishment provided by law is death or life imprisonment."

Conforming amendments

SECTION 11. Section 44-48-30 of the 1976 Code, as last amended by Act 208 of 2004, is further amended to read:

"Section 44-48-30. For purposes of this chapter:

(1) 'Sexually violent predator' means a person who:

(a) has been convicted of a sexually violent offense; and

(b) suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment.

(2) 'Sexually violent offense' means:

(a) criminal sexual conduct in the first degree, as provided in Section 16-3-652;

(b) criminal sexual conduct in the second degree, as provided in Section 16-3-653;

(c) criminal sexual conduct in the third degree, as provided in Section 16-3-654;

(d) criminal sexual conduct with minors in the first degree, as provided in Section 16-3-655(A);

(e) criminal sexual conduct with minors in the second degree, as provided in Section 16-3-655(B);

(f) criminal sexual conduct with minors in the third degree, as provided in Section 16-3-655(C);

(g) engaging a child for a sexual performance, as provided in Section 16-3-810;

(h) producing, directing, or promoting sexual performance by a child, as provided in Section 16-3-820;

(i) assault with intent to commit criminal sexual conduct, as provided in Section 16-3-656;

(j) incest, as provided in Section 16-15-20;

(k) buggery, as provided in Section 16-15-120;

(l) violations of Article 3, Chapter 15, Title 16 involving a minor when the violations are felonies;

(m) accessory before the fact to commit an offense enumerated in this item and as provided for in Section 16-1-40;

(n) attempt to commit an offense enumerated in this item as provided by Section 16-1-80;

(o) any offense for which the judge makes a specific finding on the record that based on the circumstances of the case, the person's offense should be considered a sexually violent offense; or

(p) criminal solicitation of a minor, as provided in Section 16-15-342, if the purpose or intent of the solicitation or attempted solicitation was to:

(i) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16-15-375(5); or

(ii) perform a sexual activity in the presence of the person solicited.

(3) 'Mental abnormality' means a mental condition affecting a person's emotional or volitional capacity that predisposes the person to commit sexually violent offenses.

(4) 'Sexually motivated' means that one of the purposes for which the person committed the crime was for the purpose of the person's sexual gratification.

(5) 'Agency with jurisdiction' means that agency which, upon lawful order or authority, releases a person serving a sentence or term of confinement and includes the South Carolina Department of Corrections, the South Carolina Department of Probation, Parole and Pardon Services, the Board of Probation, Parole and Pardon Services, the Department of Juvenile Justice, the Juvenile Parole Board, and the Department of Mental Health.

(6) 'Convicted of a sexually violent offense' means a person has:

(a) pled guilty to, pled nolo contendere to, or been convicted of a sexually violent offense;

(b) been adjudicated delinquent as a result of the commission of a sexually violent offense;

(c) been charged but determined to be incompetent to stand trial for a sexually violent offense;

(d) been found not guilty by reason of insanity of a sexually violent offense; or

(e) been found guilty but mentally ill of a sexually violent offense.

(7) 'Court' means the court of common pleas.

(8) 'Total confinement' means incarceration in a secure state or local correctional facility and does not mean any type of community supervision.

(9) 'Likely to engage in acts of sexual violence' means the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.

(10) 'Person' means an individual who is a potential or actual subject of proceedings under this act and includes a child under seventeen years of age.

(11) 'Victim' means an individual registered with the agency of jurisdiction as a victim or as an intervenor.

(12) 'Intervenor' means an individual, other than a law enforcement officer performing his ordinary duties, who provides aid to another individual who is not acting recklessly, in order to prevent the commission of a crime or to lawfully apprehend an individual reasonably suspected of having committed a crime."

Conforming amendments

SECTION 12. Section 44-53-370(f) of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

"(f) It shall be unlawful for a person to administer, distribute, dispense, deliver, or aid, abet, attempt, or conspire to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit one of the following crimes against that individual:

(1) kidnapping, Section 16-3-910;

(2) trafficking in persons, Section 16-3-930;

(3) criminal sexual conduct in the first, second, or third degree, Sections 16-3-652, 16-3-653, and 16-3-654;

(4) criminal sexual conduct with a minor in the first, second, or third degree, Section 16-3-655;

(5) criminal sexual conduct where victim is legal spouse (separated), Section 16-3-658;

(6) spousal sexual battery, Section 16-3-615;

(7) engaging a child for a sexual performance, Section 16-3-810;

(8) petit larceny, Section 16-13-30 (A); or

(9) grand larceny, Section 16-13-30 (B).”

Conforming amendments

SECTION 13. Section 63-7-2360(B) of the 1976 Code is amended to read:

“(B) The placing agency must inform the foster parent in whose home the minor is placed of that minor’s prior history of a sex offense. For purposes of this section the term ‘sex offense’ means:

(1) criminal sexual conduct in the first degree, as provided in Section 16-3-652;

(2) criminal sexual conduct in the second degree, as provided in Section 16-3-653;

(3) criminal sexual conduct in the third degree, as provided in Section 16-3-654;

(4) criminal sexual conduct with minors in the first degree, as provided in Section 16-3-655(A);

(5) criminal sexual conduct with minors in the second degree, as provided in Section 16-3-655(B);

(6) criminal sexual conduct with minors in the third degree, as provided in Section 16-3-655(C);

(7) engaging a child for a sexual performance, as provided in Section 16-3-810;

(8) producing, directing, or promoting sexual performance by a child, as provided in Section 16-3-820;

(9) assault with intent to commit criminal sexual conduct, as provided in Section 16-3-656;

(10) incest, as provided in Section 16-15-20;

(11) buggery, as provided in Section 16-15-120;

(12) violations of Article 3, Chapter 15 of Title 16 involving a child when the violations are felonies;

(13) accessory before the fact to commit an offense enumerated in this item and as provided for in Section 16-1-40;

(14) attempt to commit any of the offenses enumerated herein; or

(15) any offense for which the judge makes a specific finding on the record that based on the circumstances of the case, the minor's offense should be considered a sex offense."

Repeal

SECTION 14. Section 16-15-140 of the 1976 Code is repealed.

Savings clause

SECTION 15. 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 16. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 256

(R289, H3676)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 23 TO TITLE 31 SO

AS TO ENACT THE "SOUTH CAROLINA COMMUNITY LAND TRUST ACT OF 2012", TO DEFINE TERMS, MAKE FINDINGS, TO PROVIDE THAT THE PURPOSE OF A COMMUNITY LAND TRUST IS TO HOLD LEGAL AND EQUITABLE TITLE TO LAND TO THEN LEASE THE LAND TO PROMOTE AFFORDABILITY, TO PROVIDE THE MANNER IN WHICH COMMUNITY LAND TRUSTS ARE FUNDED, AND TO PROVIDE THE PROCESS BY WHICH COMMUNITY LAND TRUSTS OPERATE.

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

South Carolina Community Land Trust

SECTION 1. Title 31 of the 1976 Code is amended by adding:

"CHAPTER 23

South Carolina Community Land Trust

Section 31-23-10. This chapter shall be known and may be cited as the 'South Carolina Community Land Trust Act of 2012'.

Section 31-23-20. Unless a different meaning clearly appears from the context, as used in this chapter:

(1) 'Affordable' or 'affordability' means, with respect to dwelling units for sale, the mortgage amortization, taxes, insurance and condominium or association fees, if any, or, with respect to dwelling units for rent, the rent and utilities that constitute no more than thirty percent of the annual household income for low or moderate income households, adjusted by household size, for the metropolitan statistical area in which the rental dwelling unit is located, as published from time to time by the United States Department of Housing and Urban Development (HUD).

(2) 'Board of directors' means the governing body of a community land trust duly elected and constituted in accordance with the bylaws of such organization.

(3) 'Community land trust (CLT)' means either:

(a) a wholly owned nonprofit subsidiary of an existing housing development and support organization that has received an exemption from the Internal Revenue Service (IRS) under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; or

(b) a member-based, nonprofit housing development and support organization organized and existing under the laws of the State of South Carolina, either of which entities meets the requirements of this chapter. As soon after its incorporation as is practicable, a member-based CLT must make application to the IRS for a determination that it is an entity described in Section 501(c) of the Internal Revenue Code of 1986, as amended, and shall be prohibited from either soliciting or accepting contributions of any kind from any person, firm, or corporation other than its organizers unless and until notice of the determination has been received from the IRS.

(4) 'First option to purchase' means the right of a CLT to purchase, at a formula-determined price, any improvements, leasehold interests or any other interests of a lessee of property the underlying title of which is vested in the CLT, or which is the subject of restrictive covenants as to continued affordability, which covenants are enforceable by the CLT.

(5) 'Formula-determined price' means a price determined by means of a predetermined calculation which is contained in a ground lease between a CLT and a lessee which is related to the resale price of any building or other improvements situated on land owned by a CLT or encumbered with a covenant enforceable by a CLT and is intended to maintain the affordability of the building or other improvements.

(6) 'Housing development and support organization' means a nonprofit organization that has the ability under its articles of incorporation and bylaws to:

(a) acquire parcels of land for use as affordable housing with the intention of entering into long-term ground leases;

(b) convey ownership of any structural improvements located on such leased parcels to various lessees;

(c) retain a preemptive option to purchase any such improvements at a formula-determined price; and

(d) provide organizational support, technical assistance, education, training and community support to its members. With regard to properties subject to horizontal property regimes, a housing development support organization may impose restrictive covenants upon dwelling units that it owns in order to ensure that the dwelling units remain affordable to low-income and moderate-income households.

(7) 'Leasehold interest' means the interest of a lessee under a ground lease.

(8) 'Low-income' means aggregate household income at or below eighty percent of the area median income, as determined by HUD.

(9) 'Member-based' means an organization the membership of which is open to all adult residents of the geographic area served by the organization, and that the members of the organization's board of directors are directly elected by the membership as provided in the bylaws of the organization.

(10) 'Moderate-income' means aggregate household income between eighty percent and one hundred and twenty percent of area median income, as determined by HUD.

(11) 'Predominantly' means at least seventy percent.

(12) 'Public funding' means financial resources provided by a federal, state, regional, or local governmental organization or by a local or regional housing trust fund or housing authority.

(13) 'Public support' means nonfinancial resources that may include donated land or the conveyance of publicly owned property or the assignment of the first right to purchase reduced price housing units obtained from a private developer as a result of local government regulatory mandates or incentives.

Section 31-23-30. The General Assembly finds:

(1) A shortage of adequate and affordable housing providing permanent domiciles with adequate privacy, space, physical accessibility, security, structural stability and durability, and adequate electrical, plumbing, and heating systems, continues to persist in South Carolina.

(2) The public's health, safety, and economic interests of the State and its citizens are best served by promoting permanently affordable housing in healthy vital neighborhoods.

(3) Affordable housing enables South Carolinians to maintain employment, makes it more likely that our children will succeed in school, and helps our economic growth and prosperity.

(4) New organizational mechanisms can assist in stabilizing property values and preventing neighborhoods and communities from becoming blighted.

(5) Homeownership is a worthy goal for many South Carolina families of low and moderate income and many families require supportive homeownership services in order to obtain and retain their family homes.

(6) The creation and operation of community land trusts will provide a mechanism for privately or publicly funded community organizations to own real estate in order to make the benefits of affordable housing available to those who could not otherwise afford them.

Section 31-23-40. (A) A CLT must have as its primary purpose to hold legal and equitable title to land and the leasing of land for the purpose of preserving the long-term affordability of housing created for predominately low income and moderate income households. When the CLT does not own the underlying land in a setting such as a horizontal property regime, it shall maintain the affordability of resale restricted condominiums or other forms of affordable housing by means of an affordability covenant incorporated within or otherwise made a part of the deed to one or more dwelling units within the regime. Among its purposes may be the ability to undertake neighborhood development of a nonresidential nature that is ancillary to and compliments and supports affordable housing. A CLT may include among its purposes the acquisition of property for future development as permitted under this chapter. A CLT shall have all of the powers granted to corporations, including the power to buy and sell land and structures, to mortgage and otherwise encumber land and structures and to enter into renewable or self-extending ground leases, restrictive covenants, and collateral agreements with an initial term of up to ninety-nine years.

(B) A CLT organized pursuant to this chapter is eligible to receive public funding and public support from any unit of municipal, county, regional, state, or federal government.

(C) The bylaws of a CLT shall provide, at a minimum, that:

(1) the organization must be open to members of the general public who support the organization's goals and purposes;

(2) the organization must be a member-based organization;

(3) that within four years of its incorporation, a majority of the members of its board of directors shall be lessees of the CLT; and

(4) the organization shall provide for the distribution of its assets upon dissolution, subject to any leases, mortgages, and other encumbrances thereon, to either a municipal corporation or a nonprofit organization that shares the purposes of the CLT and has received a determination under Section 501(c)(3) from the IRS.

(D)(1) A CLT may hold title to land and lease land predominately to members of low income or moderate income households, or other corporations or partnerships, provided the terms of any ground lease shall give the CLT the first option to repurchase any building or improvement placed on the land, or any portion thereof, at a formula-determined price set forth in the ground lease. Aggregate household income shall be determined at the time the lessee enters into a ground lease with the CLT.

(2) A CLT may charge a lease fee to the lessee. The fee must be determined by the CLT and may include property taxes and any governmental or other assessments made on the land, an administrative fee, and a land use fee. The method of determining the lease fee must be set forth in the ground lease. Nothing in this section shall prohibit a state, local, other funding agency, or a lender from placing in escrow all or part of the lease fee.

(3) A ground lease between a CLT and a lessee shall include provisions designed to preserve long-term affordable housing on the land. The provisions may include, but shall not be limited to, a first option to purchase and a specification of restrictions on the resale, subletting, or assignment of improvements on the land. The provisions shall not be subject to any general statute or rule of law limiting the duration, degree, or nature of restraints on real property, including, but not limited to, the common law rule against perpetuities, the Uniform Statutory Rule Against Perpetuities, and the rule against unreasonable restraints on alienation.

(4) A lessee's interest in a ground lease with a CLT shall constitute an interest in real property. Any loan made to the lessee may be secured by the lessee's leasehold interest in the same manner as any other loan secured by real property.

(5) Real property taxes shall be apportioned in the ground lease between the landowner or CLT and the lessee. The landowner or CLT and the lessee shall be responsible for the taxes on the property that it owns, although the CLT may include property taxes on the land in the lease fee that is charged to the lessee. The lessor shall be responsible for the taxes and assessment on the land. The lessee shall be responsible for the taxes and assessments on all improvements made on the land.

(E) A CLT shall enter into a written lease agreement with the lessee containing the terms by which the land is leased. In addition to provisions designed to preserve the long-term affordability of housing and other improvements on the land, this written agreement must comply with the following:

(1) the duration of the lease must be stated in the agreement and may be of any length agreed upon between the CLT and lessee;

(2) if the agreement provides an option for renewal, the amount of lease fee to be paid for the lease of the land during the renewal period must be stated in the agreement. The provision may include a formula for determining the amount to be paid by the lessee during the renewal period; and

(3) the lease agreement must specify the location and approximate size of the parcel of land to be leased, the annual and monthly ground rent, the administrative fee, a statement of amounts to be paid by the lessee including, but not limited to, taxes and assessments, security deposits, service fees, utility fees, and installation charges, the date payment is due, the place of payment, the personal property, services, and facilities provided by the CLT, the regulations governing residency which, if violated, may be cause for cancellation of the lease, the improvements, if any, which the lessee may make to the leased land including landscaping, the improvements, if any, required to be made by the lessee, restrictions, if any, regarding pets, children, number of occupants, and vehicles and other personal property storage, the lessor's right to inspect the property, and the notice required to exercise any option for renewal or to terminate the ground lease. In addition, if applicable, the lease agreement must specify if membership in a homeowners association is required, and a statement of amounts to be paid by the lessee for membership in the homeowners association, the date payment is due, and the place of payment.

(F) Land that is owned by a CLT, and buildings that are rented, sold or leased by a CLT subject to, or planned to be leased subject to, long-term rent or resale restrictions designed to ensure such buildings will remain affordable to low income or moderate income households for at least thirty years, shall be appraised, assessed, and taxed in accordance with the requirements of this section. The assessor must use the income approach as the method of valuation for the land classified under this section and must take resale and rent restrictions that apply to the buildings into consideration in determining the taxable value of this land. The assessor must base the assessment of the property upon the actual income generated by the property and may not take into consideration in reaching a decision the amount of any federal or state income tax credits received by the property's developer in determining the taxable value attributable to the land and buildings. Affordable housing offered for rent or sale by the CLT, encumbered with rent or resale restrictions designed to ensure their affordability for low income or moderate income households, must be eligible for any homestead exemptions provided by law.

(G) Properties purchased, sold, or repurchased and resold by a CLT, including properties held in a CLT, must be assessed the real estate deed recording fee only once per transfer at the time of the resale to a homebuyer.

Section 31-23-50. The provisions of this chapter shall control where inconsistent with the provisions of another law."

Severability clause

SECTION 2. 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 3. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 257

(R290, H3730)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-9-450 SO AS TO PROVIDE THAT A COMMERCIAL FUR LICENSE, IN ADDITION TO A STATE HUNTING LICENSE IS REQUIRED OF ALL PERSONS WHO, FOR A COMMERCIAL PURPOSE, SELL OR TAKE FUR BEARING ANIMALS BY ANY MEANS AND OF ALL PERSONS WHO TRAP SUCH ANIMALS, TO PROVIDE EXCEPTIONS, AND TO PROVIDE THAT A PERSON UNDER THE AGE OF SIXTEEN MAY PURCHASE A COMMERCIAL FUR LICENSE WITHOUT HAVING TO PURCHASE A STATE HUNTING LICENSE AFTER COMPLETING THE TRAPPERS EDUCATION COURSE; TO

AMEND SECTION 50-11-40, RELATING TO THE UNLAWFUL USE OF RECORDED SOUNDS OR AMPLIFIED IMITATIONS OF CALLS OR SOUNDS BY A PERSON TO HUNT, CATCH, TAKE, OR KILL A GAME BIRD OR GAME ANIMAL OR ATTEMPT TO HUNT, CATCH, TAKE, OR KILL A GAME BIRD OR GAME ANIMAL BY USE OF THESE MEANS, SO AS TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO THE HUNTING AND TAKING OF COYOTES; TO AMEND SECTION 50-11-1080, RELATING TO THE DEPARTMENT OF NATURAL RESOURCES DECLARING OPEN SEASON ON COYOTES, SO AS TO PROVIDE THAT THERE IS NO CLOSED SEASON FOR HUNTING OR TAKING COYOTES WITH WEAPONS; TO AMEND SECTION 50-11-2400, RELATING TO DEFINITIONS OF CERTAIN TERMS THAT PERTAIN TO THE TRAPPING OF FUR BEARING ANIMALS, SO AS TO REVISE THE DEFINITION OF THE TERMS "FUR BEARING ANIMAL" AND "COMMERCIAL PURPOSES", AND TO PROVIDE DEFINITIONS FOR THE TERMS "OWNER" AND "AGENT"; TO AMEND SECTION 50-11-2430, RELATING TO REQUIRING A FUR TRAPPER TO CARRY PROOF THAT HE IS THE OWNER OF THE PROPERTY ON WHICH HE SETS HIS TRAPS, OR HAS PERMISSION FROM THE OWNER OF THE PROPERTY UPON WHICH HIS TRAPS ARE SET, SO AS TO MAKE TECHNICAL CHANGES OR CLARIFY CERTAIN REQUIREMENTS; TO AMEND SECTION 50-11-2440, RELATING TO REQUIRING A TRAPPER TO VISIT HIS TRAPS DAILY, SO AS TO MODIFY THE FREQUENCY THAT A TRAPPER MUST VISIT HIS TRAPS, INCLUDING CERTAIN BODY GRIPPING TRAPS; TO AMEND SECTION 50-11-2445, RELATING TO THE REMOVAL OF TRAPPED WILDLIFE BY THE OWNERS OF TRAPS, SO AS TO ALLOW A TRAP OWNER'S DESIGNEE TO REMOVE WILDLIFE FROM HIS TRAPS UNDER CERTAIN CONDITIONS; TO AMEND SECTION 50-11-2460, RELATING TO CERTAIN TRAPS THAT ARE ALLOWED FOR TRAPPING, SO AS TO FURTHER PROVIDE FOR THE TYPES OF TRAPS THAT ARE ALLOWED AND THEIR USES; TO AMEND SECTION 50-11-2475, RELATING TO THE ISSUANCE OF A FUR PROCESSOR'S LICENSE, SO AS TO REVISE THE COST OF THE LICENSE, TO REQUIRE A TAXIDERMIST TO KEEP A DAILY REGISTER OF THE NAME AND ADDRESS OF EACH PERSON FROM WHOM A FUR BEARING ANIMAL

IS RECEIVED ALONG WITH OTHER INFORMATION ABOUT THE ANIMAL, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 50-11-2640, RELATING TO PENALTIES FOR IMPORTING FOXES AND COYOTES, SO AS TO PROVIDE THAT EACH ANIMAL TAKEN OR POSSESSED IN VIOLATION OF THE SECTION IS A SEPARATE OFFENSE; TO AMEND SECTION 50-9-350, RELATING TO APPRENTICE LICENSES, SO AS TO PERMIT APPRENTICE LICENSE HOLDERS TO OBTAIN OTHER HUNTING PERMITS AND TAGS; TO AMEND SECTION 50-11-2570, RELATING TO THE ISSUANCE OF SPECIAL PERMITS TO CAPTURE DESTRUCTIVE ANIMALS, SO AS TO FURTHER PROVIDE FOR THE PURPOSE AND REASONS FOR THE PERMITS; TO PROVIDE THE CIRCUMSTANCES WHEN A NONRESIDENT MAY OBTAIN A LIFETIME COMBINATION LICENSE; AND TO REPEAL SECTIONS 50-11-1060, 50-11-1070, 50-11-2420, AND 50-11-2575 RELATING TO, RESPECTIVELY, THE ISSUANCE OF A COMMERCIAL FUR LICENSE, THE ISSUANCE OF A PERMIT TO POISON PREDATORY ANIMALS, THE KILLING OF BOBCATS, AND THE SPECIAL PERMITS FOR USE OF BEAVER SNARES.

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

Commercial fur license required, exceptions

SECTION 1. Article 4, Chapter 9, Title 50 of the 1976 Code is amended by adding:

"Section 50-9-450. (A) In addition to a valid state hunting license, an annual commercial fur license is required of all persons who sell or take by any means, for commercial purposes, and all persons who trap or who attempt to trap any fur bearing animals. The license is issued by the department at a cost of twenty-five dollars for residents and two hundred dollars for nonresidents. Any person having in his possession more than five fur bearing animals or raw or green pelts shall have a valid commercial fur license. The provisions of this section do not apply to a processor, manufacturer, or retailer.

(B) A person under the age of sixteen may purchase a commercial fur license without having to purchase a state hunting license after completing the 'Trappers Education Course'.

(C) A person under the age of sixteen is exempt from the licensing requirements of this section while in the presence of a commercial fur licensee, but may not sell any fur bearing animals or raw or green pelts unless licensed."

Applicability of section

SECTION 2. Section 50-11-40 of the 1976 Code is amended to read:

"Section 50-11-40. (A) It is unlawful for a person to hunt, take, or attempt to hunt, or take a game bird or game animal by the use or aid of recorded calls or sounds or recorded or electronically amplified imitations of calls or sounds. This section does not apply to the hunting and taking of coyotes.

(B) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than one hundred dollars."

No closed season

SECTION 3. Section 50-11-1080 of the 1976 Code is amended to read:

"Section 50-11-1080. There is no closed season for hunting or taking coyotes with weapons."

Definitions added and revised

SECTION 4. Section 50-11-2400 of the 1976 Code is amended to read:

"Section 50-11-2400. For the purpose of this article:

(a) 'Fur bearing animal' includes red and gray fox, coyote, raccoon, opossum, muskrat, mink, skunk, otter, bobcat, weasel, or beaver.

(b) 'Fur buyer' means any person who purchases any whole fur bearing animal, raw or green furs, pelts, or hides.

(c) 'Take' means to shoot, wound, kill, trap, capture, or collect, or attempt to shoot, wound, kill, trap, capture, or collect.

(d) 'Commercial purposes' means taking or possessing any fur, pelt, hide, or whole animal for exchange, sale, trade, or barter and taking or possessing more than five furs, pelts, hides, or whole animals.

(e) 'Trapper' means any person who takes or attempts to take animals by trapping.

(f) 'Trap' means any device, other than a weapon, designed or constructed for taking animals.

(g) 'Foot-hold trap' means a steel-jawed, spring-loaded device designed to capture the animal by the foot.

(h) 'Live trap' means any box or cage designed for capturing and holding any animal unharmed.

(i) 'Processor' means any person engaged in tanning or dressing furs, pelts, or hides of fur bearing animals for commercial purposes.

(j) 'Transfer' includes selling, bartering, exchanging, and transporting.

(k) 'Owner' means an individual or entity that owns property or equipment.

(l) 'Agent' means an individual or entity appointed by the owner to act in his place."

Proof of permission or ownership

SECTION 5. Section 50-11-2430 of the 1976 Code is amended to read:

"Section 50-11-2430. A person engaged in the act of trapping must be the owner of the property on which the traps or devices are set or has written permission from the landowner or his agent in possession to use the property for trapping."

Frequency of visitations

SECTION 6. Section 50-11-2440 of the 1976 Code is amended to read:

"Section 50-11-2440. A trapper must visit his traps at least once each day from two hours before sunrise to two hours after sunset and remove any animal caught with the exception that a trapper must visit body gripping traps when used in water sets and other traps when used in 'submersion sets' at least once every forty-eight hours."

Designee may remove

SECTION 7. Section 50-11-2445 of the 1976 Code is amended to read:

"Section 50-11-2445. It is unlawful for a person, other than the owner of the trap, or the owner's designee, to remove any lawfully trapped wildlife from any legally set trap. A designee must have in his possession written permission from the owner of the trap or the owner's agent, and must meet all commercial fur licensing requirements or be listed on a valid depredation permit. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned for no more than thirty days."

Types of traps allowed

SECTION 8. Section 50-11-2460 of the 1976 Code is amended to read:

"Section 50-11-2460. (A) Only the following traps are allowed for trapping unless otherwise provided in this title:

(1) body gripping traps (generally known by the brand name 'Conibear') when used without bait for vertical water sets and vertical slide sets only;

(2) live traps, which also may be used to capture feral animals at any time without a license or permit from the department;

(3) foot-hold traps having an inside jaw spread of 5.75 inches or smaller when measured perpendicular to the pivot points when the trap is in the set position for land sets and 7.25 inches or smaller when measured perpendicular to the pivot points when the trap is in the set position for water sets;

(4) enclosed foot-hold traps such as the 'Duffer', 'egg', 'coon-cuff', and similarly designed dog-proof style traps designed for raccoons;

(5) snares may be used for water sets only ; small snap, box, and other commonly used traps to capture commensal rodents or snakes in homes and businesses may be used by property owners, occupants, or their designees, at any time to capture snakes, rats, or mice.

(B) All other traps, including 'deadfall' traps, are unlawful unless expressly authorized by the department by regulation.

(C) All traps must bear the owner's name and address either directly thereon or by an attached identification tag."

Cost revised, taxidermist requirements

SECTION 9. Section 50-11-2475 of the 1976 Code is amended to read:

"Section 50-11-2475. A person engaged in processing hides of fur bearing animals is required to obtain a fur processor's license. The license is issued by the department at a cost of two hundred dollars. The license is valid for the state fiscal year in which it is issued. A taxidermist who possesses any fur, pelt, hide, or whole fur bearing animal legally owned by another person, which he is temporarily holding for the purpose of processing, is not required to obtain this license. A commercial fur licensee who only processes furs, hides, or pelts taken by him is not required to have a processor's license. All processors and taxidermists must keep a daily register showing the name and address of each person from whom the fur, pelt, hide, or whole fur bearing animal is received, the number of each species, and the date and place of origin. All processors must report the information to the department not later than June thirtieth of each year."

Each violation separate offense

SECTION 10. Section 50-11-2640 of the 1976 Code is amended by adding at the end:

"(D) Each animal taken or possessed in violation of this section constitutes a separate offense."

Other hunting permits

SECTION 11. Section 50-9-350(4) of the 1976 Code, as added by Act 233 of 2010, is amended to read:

"(4) An apprentice license holder may obtain other hunting permits and tags which are required for specific hunting activities."

Special permit purposes revised

SECTION 12. Section 50-11-2570(A) of the 1976 Code is amended to read:

"(A) The department may issue special permits, at no cost to the applicant, for the taking, capturing, or transportation of wildlife which is destroying or damaging private or public property, wildlife habitat, game species, timber, crops, or other agriculture so as to be a nuisance or for scientific, research, or wildlife management purposes."

Nonresident lifetime combination license

SECTION 13. (A) Notwithstanding any other provision of law, a nonresident may obtain a lifetime combination license which grants the same privileges as a statewide combination license from the Department of Natural Resources at its Columbia office if:

(1) the applicant was born in this State and provides a notarized birth certificate from the South Carolina Department of Health and Environmental Control;

(2) the applicant has held title in fee simple, either in whole or in part, to real property located within this State for at least five years immediately preceding the date of application, and the applicant provides a notarized record of ownership from the appropriate county official in the county where the real property is located;

(3) the applicant, if born after June 30, 1979, and having attained the age of sixteen or older, complies with all hunter education requirements of this State and provides a certificate of completion for the course; and

(4) the applicant has not been charged for natural resource violations which could result in the suspension of hunting or fishing privileges.

(B) This license is available for purchase from July 1, 2012, through September 30, 2012. The fee is seven hundred dollars.

Repeal

SECTION 14. Sections 50-11-1060, 50-11-1070, 50-11-2420, and 50-11-2575 of the 1976 Code are repealed.

Time effective

SECTION 15. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 258

(R292, H3757)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 19 TO CHAPTER 3, TITLE 16 SO AS TO DEFINE NECESSARY TERMS; TO PROVIDE FOR CERTAIN TRAFFICKING IN PERSONS OFFENSES, PROVIDE PENALTIES, AND PROVIDE FOR STATE GRAND JURY PROSECUTION UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR CRIMINAL LIABILITY OF BUSINESS ENTITIES; TO PROVIDE RESTITUTION FOR VICTIMS OF TRAFFICKING IN PERSONS OFFENSES; TO ESTABLISH AN INTERAGENCY TASK FORCE TO DEVELOP AND IMPLEMENT A PLAN FOR THE PREVENTION OF TRAFFICKING IN PERSONS; TO ALLOW CIVIL ACTIONS BY VICTIMS OF TRAFFICKING IN PERSONS; TO PROVIDE CERTAIN PROTECTIONS FOR VICTIMS OF TRAFFICKING IN PERSONS PURSUANT TO THE VICTIMS' BILL OF RIGHTS AND OTHER RELEVANT STATUTORY PROVISIONS; TO CREATE THE OFFENSE OF MALICIOUSLY OR WITH CRIMINAL NEGLIGENCE PUBLISHING, DISSEMINATING, OR OTHERWISE DISCLOSING THE LOCATION OF A TRAFFICKING IN PERSONS VICTIM, A TRAFFICKING SHELTER, OR A DOMESTIC VIOLENCE SHELTER AND TO PROVIDE A PENALTY; AND TO PROVIDE FOR THE FORFEITURE OF MONIES AND PROPERTY USED IN VIOLATION OF A TRAFFICKING IN PERSONS OFFENSE; AND TO REPEAL SECTION 16-3-930 RELATING TO TRAFFICKING IN PERSONS FOR FORCED LABOR OR SERVICES.

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

Trafficking in persons

SECTION 1. Chapter 3, Title 16 of the 1976 Code is amended by adding:

"Article 19

Trafficking in Persons

Section 16-3-2010. As used in this article:

(1) 'Business' means a corporation, partnership, proprietorship, firm, enterprise, franchise, organization, or self-employed individual.

(2) 'Charitable organization' means a charitable organization pursuant to Section 33-56-20.

(3) 'Debt bondage' means the status or condition of a debtor arising from a pledge by the debtor of his personal services or those of a person under his control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined or if the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

(4) 'Forced labor' means any type of labor or services performed or provided by a person rendered through another person's coercion of the person providing the labor or services.

This definition does not include labor or services performed or provided by a person in the custody of the Department of Corrections or a local jail, detention center, or correctional facility.

(5) 'Involuntary servitude' means a condition of servitude induced through coercion.

(6) 'Person' means an individual, corporation, partnership, charitable organization, or another legal entity.

(7) 'Sex trafficking' means the recruitment, harboring, transportation, provision, or obtaining of a person for one of the following when it is induced by force, fraud, or coercion or the person forced to perform the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by another person:

(a) criminal sexual conduct pursuant to Section 16-3-651;

(b) criminal sexual conduct in the first degree pursuant to Section 16-3-652;

(c) criminal sexual conduct in the second degree pursuant to Section 16-3-653;

(d) criminal sexual conduct in the third degree pursuant to Section 16-3-654;

(e) criminal sexual conduct with a minor pursuant to Section 16-3-655;

(f) engaging a child for sexual performance pursuant to Section 16-3-810;

(g) performance pursuant to Section 16-3-800;

(h) producing, directing, or promoting sexual performance by a child pursuant to Section 16-3-820;

(i) sexual battery pursuant to Section 16-3-661;

(j) sexual conduct pursuant to Section 16-3-800; or

(k) sexual performance pursuant to Section 16-3-800.

(8) 'Services' means an act committed at the behest of, under the supervision of, or for the benefit of another person.

(9) 'Trafficking in persons' means when a victim is subjected to or a person attempts to subject a victim to sex trafficking, forced labor or services, involuntary servitude, or debt bondage by employing one of the following:

(a) physically restraining or threatening to physically restrain another person;

(b) knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or other immigration document, or another actual or purported government identification document, of the victim;

(c) extortion or blackmail;

(d) causing or threatening to cause financial harm to the victim;

(e) facilitating or controlling a victim's access to a controlled substance; or

(f) coercion.

(10) 'Victim of trafficking in persons' or 'victim' means a person who has been subjected to the crime of trafficking in persons.

Section 16-3-2020. (A) A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons.

(B) A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, for the purposes of sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in subsection (A), is guilty of trafficking in persons.

(C) For a first offense, the person is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(D) For a second offense, the person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(E) For a third or subsequent offense, the person is guilty of a felony, and upon conviction, must be imprisoned not more than forty-five years.

(F) If the victim of an offense contained in this section is under the age of eighteen, an additional term of fifteen years may be imposed in addition and must be consecutive to the penalty prescribed for a violation of this section.

(G) A person who aids, abets, or conspires with another person to violate the criminal provisions of this section must be punished in the same manner as provided for the principal offender and is considered a trafficker.

(H) A business owner who uses his business in a way that participates in a violation of this article, upon conviction, must be imprisoned for not more than ten years in addition to the penalties provided in this section for each violation.

(I) A plea of guilty or the legal equivalent entered pursuant to a provision of this article by an offender entitles the victim of trafficking in persons to all benefits, rights, and compensation granted pursuant to Section 16-3-1110.

(J) In a prosecution of a person who is a victim of trafficking in persons, it is an affirmative defense that he was under duress or coerced into committing the offenses for which he is subject to prosecution, if the offenses were committed as a direct result of, or incidental or related to, trafficking.

(K) Evidence of the following facts or conditions do not constitute a defense in a prosecution for a violation of this article, nor does the evidence preclude a finding of a violation:

(1) the victim’s sexual history or history of commercial sexual activity, the specific instances of the victim’s sexual conduct, opinion evidence of the victim’s sexual conduct, and reputation evidence of the victim’s sexual conduct;

(2) the victim’s connection by blood or marriage to a defendant in the case or to anyone involved in the victim’s trafficking;

(3) the implied or express consent of a victim to acts which violate the provisions of this section do not constitute a defense to violations of this section;

(4) age of consent to sex, legal age of marriage, or other discretionary age; and

(5) mistake as to the victim's age, even if the mistake is reasonable.

(L) A person who violates the provisions of this section may be prosecuted by the State Grand Jury, pursuant to Section 14-7-1600, when a victim is trafficked in more than one county or a trafficker commits the offense of trafficking in persons in more than one county.

Section 16-3-2030. (A) The principal owners of a business, a business entity, including a corporation, partnership, charitable organization, or another legal entity, that knowingly aids or participates in an offense provided in this article is criminally liable for the offense and will be subject to a fine or loss of business license in the State, or both.

(B) If the principal owners of a business entity are convicted of violating a section of this article, the court or Secretary of State, when appropriate, may:

(1) order its dissolution or reorganization;

(2) order the suspension or revocation of any license, permit, or prior approval granted to it by a state or local government agency; or

(3) order the surrender of its charter if it is organized under state law or the revocation of its certificate to conduct business in the State if it is not organized under state law.

Section 16-3-2040. (A) An offender convicted of a violation of this article must be ordered to pay mandatory restitution to the victim as provided in this section.

(B) If the victim of trafficking dies as a result of being trafficked, a surviving spouse of the victim is eligible for restitution. If no surviving spouse exists, restitution must be paid to the victim's issue or their descendants per stirpes. If no surviving spouse or issue or descendants exist, restitution must be paid to the victim's estate. A person named in this subsection may not receive funds from restitution if he benefited or engaged in conduct described in this article.

(C) If a person is unable to pay restitution at the time of sentencing, or at any other time, the court may set restitution pursuant to Section 16-3-1270.

(D) Restitution for this section, pursuant to Section 16-3-1270, means payment for all injuries, specific losses, and expenses sustained by a crime victim resulting from an offender's criminal conduct pursuant to Section 16-3-1110(12)(a).

(E) Notwithstanding another provision of law, the applicable statute of limitations for a victim of trafficking in persons is pursuant to Section 16-3-1110(12)(a).

(F) Restitution must be paid to the victim promptly upon the conviction of the defendant. The return of the victim to his home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution.

Section 16-3-2050. (A) The Attorney General shall establish an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons. The task force shall meet at least quarterly and should include all aspects of trafficking in persons, including sex trafficking and labor trafficking of both United States citizens and foreign nationals, as defined in Section 16-3-2010. The Attorney General also shall collect and publish relevant data to this section on their website.

(B) The task force shall consist of, at a minimum, representatives from:

(1) the Office of the Attorney General, who must be chair;

(2) the South Carolina Labor, Licensing and Regulation;

(3) the South Carolina Police Chiefs Association;

(4) the South Carolina Sheriffs' Association;

(5) the State Law Enforcement Division;

(6) the Department of Health and Environmental Control Board;

(7) the United States Department of Labor;

(8) the State Office of Victim Assistance;

(9) the South Carolina Commission on Prosecution Coordination;

(10) the Department of Social Services;

(11) a representative from the Office of the Governor;

(12) a representative from the Department of Employment and Workforce; and

(13) two persons appointed by the Attorney General from nongovernmental organizations, especially those specializing in trafficking in persons, those representing diverse communities disproportionately affected by trafficking, agencies devoted to child services and runaway services, and academic researchers dedicated to the subject of trafficking in persons.

(C) The Attorney General shall invite representatives of the United States Attorneys' offices and of federal law enforcement agencies' offices within the State, including the Federal Bureau of Investigations

and the United States Immigration and Customs Enforcement office, to be members of the task force.

(D) The task force shall carry out the following activities either directly or through one or more of its constituent agencies:

(1) develop the state plan within eighteen months of the effective date of this act;

(2) coordinate the implementation of the state plan; and

(3) starting one year after the formation of the task force, submit an annual report of its findings and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before December thirty-first of each calendar year.

(E) The task force shall consider carrying out the following activities either directly or through one or more of its constituent agencies:

(1) coordinate the collection and sharing of trafficking data among government agencies, which data collection must respect the privacy of victims of trafficking in persons;

(2) coordinate the sharing of information between agencies for the purposes of detecting criminal groups engaged in trafficking in persons;

(3) explore the establishment of state policies for time limits for the issuance of Law Enforcement Agency (LEA) endorsements as described in C.F.R. Chapter 8, Section 214.11(f)(1);

(4) establish policies to enable state government to work with nongovernmental organizations and other elements of civil society to prevent trafficking in persons and provide assistance to United States citizens and foreign national victims;

(5) review the existing services and facilities to meet trafficking victims' needs and recommend a system to coordinate services including, but not limited to, health services, including mental health, housing, education and job training, English as a second language classes, interpreting services, legal and immigration services, and victim compensation;

(6) evaluate various approaches used by state and local governments to increase public awareness of the trafficking in persons, including United States citizens and foreign national victims of trafficking in persons;

(7) mandatory training for law enforcement agencies, prosecutors, and other relevant officials in addressing trafficking in persons;

(8) collect and periodically publish statistical data on trafficking, that must be posted on the Attorney General's website;

(9) prepare public awareness programs designed to educate potential victims of trafficking in persons and their families on the risks of victimization. These public awareness programs must include, but are not limited to:

(a) information about the risks of becoming a victim, including information about common recruitment techniques, use of debt bondage, and other coercive tactics, risk of maltreatment, rape, exposure to HIV or AIDS and other sexually transmitted diseases, and psychological harm related to victimization in trafficking cases;

(b) information about the risks of engaging in commercial sex and possible punishment;

(c) information about victims' rights in the State;

(d) methods for reporting suspected recruitment activities; and

(e) information on hotlines and available victims' services;

(10) preparation and dissemination of awareness materials to the general public to educate the public on the extent of trafficking in persons, both United States citizens and foreign nationals, within the United States and to discourage the demand that fosters the exploitation of persons that leads to trafficking in persons.

(a) The general public awareness materials may include information on the impact of trafficking on individual victims, whether United States citizens or foreign nationals, aggregate information on trafficking in persons worldwide and domestically, and warnings of the criminal consequences of engaging in trafficking in persons. These materials may include pamphlets, brochures, posters, advertisements in mass media, and other appropriate media. All materials must be designed to communicate to the target population.

(b) Materials described in this section may include information on the impact of trafficking in persons on individual victims. However, information on the experiences of individual victims must preserve the privacy of the victim and the victim's family.

(c) All public awareness programs must be evaluated periodically by the task force to ensure their effectiveness.

Section 16-3-2060. (A) A person who is a victim of trafficking in persons may bring a civil action in the court of common pleas. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and other appropriate relief. A prevailing plaintiff also must be awarded attorney's fees and costs. Treble damages must be awarded on proof of actual damages when the defendant's acts were wilful and malicious.

(B) Pursuant to Section 16-3-1110, the applicable statute of limitations for a crime victim who has a cause of action against an incarcerated offender is tolled and does not expire until three years after the offender's sentence is completed, including probation and parole, or three years after release from commitment pursuant to Chapter 48, Title 44, whichever is later. However, this provision does not shorten any other tolling period of the statute of limitations which may exist for the victim.

(C) The statute of limitations for the filing of a civil suit does not begin to run until a minor victim has reached the age of majority.

(D) If a victim entitled to sue is under a disability at the time the cause of action accrues, so that it is impossible or impractical for him to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability includes, but is not limited to, insanity, imprisonment, or other incapacity or incompetence.

(E) The running of the statute of limitations may be suspended when a victim could not have reasonably discovered the cause of action due to circumstances resulting from the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(F) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the victim to delay the filing of the action or placing the victim under duress.

Section 16-3-2070. (A) Victims of trafficking in persons pursuant to this article are considered victims for purposes of the Victims' Bill of Rights and are entitled to all appropriate forms of compensation available pursuant to the State Crime Victim's Compensation Fund in accordance with the provisions of Article 13, Chapter 3, Title 16. Victims of trafficking in persons pursuant to this article also are entitled to the rights provided in Article 15, Chapter 3, Title 16.

(B) In addition to the provisions of subsection (A), in a prosecution for violations of the criminal provisions of this article, the identity of the victim and the victim's family must be kept confidential by ensuring that names and identifying information of the victim and victim's family are not released to the public, including by the defendant.

(C) Pursuant to Section 16-3-1240, it is unlawful, except for purposes directly connected with the administration of the victim's compensation fund, for any person to solicit, disclose, receive, or make

use of or authorize, knowingly permit, participate in or acquiesce in the use of any list, or names of, or information concerning persons applying for or receiving awards without the written consent of the applicant or recipient. The records, papers, files, and communications of the board, its panel and the director and his staff must be regarded as confidential information and privileged and not subject to disclosure under the Freedom of Information Act as contained in Chapter 3, Title 30.

Section 16-3-2080. (A) For purposes of this section:

(1) 'Domestic violence shelter' means a facility whose purpose is to serve as a shelter to receive and house persons who are victims of criminal domestic violence and that provides services as a shelter.

(2) 'Trafficking shelter' means a confidential location which provides emergency housing for victims of trafficking in persons.

(3) 'Grounds' means the real property of the parcel of land upon which a domestic violence or trafficking shelter or a domestic violence or trafficking shelter's administrative offices are located, whether fenced or unfenced.

(B) A person who maliciously or with criminal negligence publishes, disseminates, or otherwise discloses the location of a trafficking victim, a trafficking shelter, a domestic violence shelter, or another place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking victim, trafficking shelter, or domestic violence shelter, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

(C) It is unlawful for a person who has been charged with or convicted of a violation of Section 16-3-2020 to enter or remain upon the grounds or structure of a domestic violence or trafficking shelter in which the victim resides or the domestic violence shelter's administrative offices or the trafficking shelter's administrative offices.

(D) The domestic violence shelter and trafficking shelter must post signs at conspicuous places on the grounds of the domestic violence shelter, trafficking shelter, the domestic violence shelter's administrative offices, and the trafficking shelter's administrative offices which, at a minimum, must read substantially as follows: 'NO TRESPASSING – VIOLATORS WILL BE SUBJECT TO CRIMINAL PENALTIES'.

(E) This section does not apply if the person has legitimate business or any authorization, license, or invitation to enter or remain upon the grounds or structure of the domestic violence or trafficking shelter or the domestic violence or trafficking shelter's administrative offices.

(F) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both. If the person is in possession of a dangerous weapon at the time of the violation, the person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

Section 16-3-2090. (A)(1) The following are subject to forfeiture:

(a) all monies used, or intended for use, in violation of Section 16-3-2020;

(b) all property constituting the proceeds obtained directly or indirectly, for a violation of Section 16-3-2020;

(c) all property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from a violation of Section 16-3-2020;

(d) all property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation for pecuniary gain of Section 16-3-2020;

(e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or which have been positioned for use, in violation of Section 16-3-2020;

(f) all conveyances including, but not limited to, trailers, aircraft, motor vehicles, and watergoing vessels, which are used or intended for use unlawfully to conceal or transport or facilitate a violation of Section 16-3-2020. No motor vehicle may be forfeited to the State under this item unless it is used, intended for use, or in any manner facilitates a violation of Section 16-3-2020;

(g) all property including, but not limited to, monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for any kind of services under Section 16-3-2020, and all proceeds including, but not limited to, monies, and real and personal property traceable to any exchange under Section 16-3-2020; and

(h) overseas assets of persons convicted of trafficking in persons also are subject to forfeiture to the extent they can be retrieved by the government.

(2) Any property subject to forfeiture may be seized by the investigating agency having authority upon warrant issued by any court having jurisdiction over the property. Seizure without process may be made if the:

(a) seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon Section 16-3-2020;

(c) the investigating agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) the investigating agency has probable cause to believe that the property was used or is intended to be used in violation of Section 16-3-2020.

(3) In the event of seizure, proceedings under this section regarding forfeiture and disposition must be instituted within a reasonable time.

(4) Any property taken or detained under this section is not subject to replevin but is considered to be in the custody of the investigating agency making the seizure subject only to the orders of the court having jurisdiction over the forfeiture proceedings. Property is forfeited and transferred to the government at the moment of illegal use. Seizure and forfeiture proceedings confirm the transfer.

(5) For the purposes of this section, whenever the seizure of property subject to seizure is accomplished as a result of a joint effort by more than one law enforcement agency, the law enforcement agency initiating the investigation is considered to be the agency making the seizure.

(6) Law enforcement agencies seizing property pursuant to this section shall take reasonable steps to maintain the property. Equipment and conveyances seized must be removed to an appropriate place for storage. Monies seized must be deposited in an interest bearing account pending final disposition by the court unless the seizing agency determines the monies to be of an evidential nature and provides for security in another manner.

(7) When property and monies of any value as defined in this article or anything else of any value is seized, the law enforcement agency making the seizure, within ten days or a reasonable period of time after the seizure, shall submit a report to the appropriate prosecution agency.

(a) The report must provide the following information with respect to the property seized:

(i) description;

(ii) circumstances of seizure;

(iii) present custodian and where the property is being stored or its location;

(iv) name of owner;

(v) name of lienholder; and

(vi) seizing agency.

(b) If the property is a conveyance, the report shall include the:

(i) make, model, serial number, and year of the conveyance;

(ii) person in whose name the conveyance is registered; and

(iii) name of any lienholders.

(c) In addition to the report, the law enforcement agency shall prepare for dissemination to the public upon request a report providing the following information:

(i) a description of the quantity and nature of the property and money seized;

(ii) the seizing agency;

(iii) the make, model, and year of a conveyance; and

(iv) the law enforcement agency responsible for the property or conveyance seized.

(d) Property or conveyances seized by a law enforcement agency or department may not be used by officers for personal purposes.

(B)(1) Forfeiture of property 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 provide 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 also shall 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. 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.

(2) The judge shall determine whether the property is subject to forfeiture and order the forfeiture confirmed. The Attorney General or his designee or the circuit solicitor or his designee has the burden of proof to establish by a preponderance of the evidence that the property is subject to forfeiture. 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 this section.

(3) If there is a dispute as to the division 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 this section.

(4) All property, conveyances, and equipment which will not be 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 may 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 is at the discretion and approval of the State Budget and Control Board.

(5) 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 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.

(6) Any forfeiture may be effected by consent order approved by the court without filing or serving pleadings or notices provided that all owners and other persons with interests in the property, including participating law enforcement agencies, entitled to notice under this section, except lienholders and agencies, consent to the forfeiture. Disposition of the property may be accomplished by consent of the petitioner and those agencies involved. Persons entitled to notice under

this section may consent to some issues and have the judge determine the remaining issues.

(7) Disposition of forfeited property under this section must be accomplished as follows:

(a) Property forfeited under this subsection shall first be applied to payment to the victim. The return of the victim to his home country or other absence of the victim from the jurisdiction shall not prevent the victim from receiving compensation.

(b) The victim and the South Carolina Victims' Compensation Fund shall each receive one-fourth, and law enforcement shall receive one-half of the value of the forfeited property.

(c) If no victim is named, or reasonable attempts to locate a named victim for forfeiture and forfeiture fails, then all funds shall revert to the South Carolina Victims' Compensation Fund and law enforcement to be divided equally.

(d) If federal law enforcement becomes involved in the investigation, they shall equitably split the share local law enforcement receives under this section, if they request or pursue any of the forfeiture. The equitable split must be pursuant to 21 U.S.C. Section 881(e)(1)(A) and (e)(3), 18 U.S.C. Section 981(e)(2), and 19 U.S.C. Section 1616a.

(C)(1) An innocent owner, manager, or owner of a licensed rental agency or any common carrier or carrier of goods for hire may apply to the court of common pleas for the return of any item seized. Notice of hearing or rule to show cause accompanied by copy of the application must be directed to all persons and agencies entitled to notice. If the judge denies the application, the hearing may proceed as a forfeiture hearing.

(2) The court may return any seized item to the owner if the owner demonstrates to the court by a preponderance of the evidence:

(a) in the case of an innocent owner, that the person or entity was not a consenting party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture; or

(b) in the case of a manager or an owner of a licensed rental agency, a common carrier, or a carrier of goods for hire, that any agent, servant, or employee of the rental agency or of the common carrier or carrier of goods for hire was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

If the licensed rental agency demonstrates to the court that it has rented the seized property in the ordinary course of its business and that

the tenant or tenants were not related within the third degree of kinship to the manager or owner, or any agents, servants, or employees of the rental agency, then it is presumed that the licensed rental agency was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(3) The lien of an innocent person or other legal entity, recorded in public records, shall continue in force upon transfer of title of any forfeited item, and any transfer of title is subject to the lien, if the lienholder demonstrates to the court by a preponderance of the evidence that he was not a consenting party to, or privy to, or did not have knowledge of, the involvement of the property which made it subject to seizure and forfeiture.

(D) A person who uses property or a conveyance in a manner which would make the property or conveyance subject to forfeiture except for innocent owners, rental agencies, lienholders, and the like as provided for in this section, is guilty of a misdemeanor and, upon conviction, must be imprisoned for not less than thirty days nor more than one year, fined not more than five thousand dollars, or both. The penalties prescribed in this section are cumulative and must be construed to be in addition to any other penalty prescribed by another provision of this article."

Repeal

SECTION 2. Section 16-3-930 of the 1976 Code is repealed.

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.

Severability clause

SECTION 4. 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 5. This act takes effect one hundred eighty days after approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 259

(R301, H4614)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 2 TO CHAPTER 15, TITLE 63 SO AS TO SPECIFY CERTAIN PROCEDURES AND REQUIREMENTS FOR COURT-ORDERED CHILD CUSTODY, INCLUDING, BUT NOT LIMITED TO, DEFINING "JOINT CUSTODY" AND "SOLE CUSTODY", REQUIRING EACH PARENT TO PREPARE AND SUBMIT A PARENTING PLAN OR TO JOINTLY SUBMIT A PLAN, WHICH THE COURT MUST CONSIDER BEFORE ISSUING TEMPORARY AND FINAL CUSTODY ORDERS, AND PROVIDING THAT THE SOUTH CAROLINA SUPREME COURT SHALL DEVELOP RULES AND FORMS FOR IMPLEMENTATION OF THE PARENTING PLAN; TO REQUIRE THE COURT TO MAKE FINAL CUSTODY DETERMINATIONS IN THE BEST

INTEREST OF THE CHILD BASED UPON THE EVIDENCE PRESENTED, TO REQUIRE THE COURT TO CONSIDER JOINT CUSTODY IF EITHER PARENT SEEKS IT, AS WELL AS ALL CUSTODY OPTIONS, STATING IN ITS FINAL ORDER THE REASONING FOR ITS CUSTODY DETERMINATION, AND TO ALLOW THE COURT TO ALLOCATE PARENTING TIME REGARDLESS OF THE CUSTODY DETERMINATION; TO PROVIDE MATTERS THAT MAY BE INCLUDED IN A CUSTODY ORDER AND TO PROVIDE FACTORS THE COURT MAY CONSIDER IN ISSUING OR MODIFYING A CUSTODY ORDER WHEN CONSIDERING THE BEST INTEREST OF THE CHILD; TO PROVIDE THAT IF A COURT DETERMINES IN ITS ORDER THAT TELEPHONIC AND ELECTRONIC COMMUNICATIONS WITH THE PARENT IS IN THE BEST INTEREST OF THE CHILD, EACH PARENT SHOULD FACILITATE OPPORTUNITIES PROVIDING FOR SUCH COMMUNICATIONS; TO PROVIDE THAT REGARDLESS OF CUSTODY ARRANGEMENTS AND UNLESS OTHERWISE PROHIBITED BY AN ORDER OF THE COURT, PARENTS HAVE EQUAL ACCESS AND RIGHTS TO OBTAIN ALL EDUCATIONAL AND MEDICAL RECORDS OF THEIR CHILDREN AND TO PARTICIPATE IN THEIR CHILDREN'S SCHOOL AND EXTRACURRICULAR ACTIVITIES; AND TO CREATE THE SOUTH CAROLINA FAMILY COURT STUDY COMMITTEE TO STUDY THE FEASIBILITY OF TRACKING THE OUTCOME OF CONTESTED CUSTODY PROCEEDINGS AND TO PROVIDE FOR ITS MEMBERSHIP, STAFFING, AND REPORTING.

Whereas, fit parents have a right to make determinations concerning the care of their children; and

Whereas, the relationships between children and their fit parents should be respected and nurtured to the fullest extent possible; and

Whereas, the best interest of the child is the primary and controlling consideration of South Carolina courts in all child custody controversies. Now, therefore,

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

Court-ordered child custody, joint and sole custody, parenting plans, contents of court orders, factors in considering best interest of the child, rights and duties of parents

SECTION 1. Chapter 15, Title 63 of the 1976 Code is amended by adding:

"Article 2

Court-Ordered Child Custody

Section 63-15-210. As used in this article:

(1) 'Joint custody' means both parents have equal rights and responsibilities for major decisions concerning the child, including the child's education, medical and dental care, extracurricular activities, and religious training; however, a judge may designate one parent to have sole authority to make specific, identified decisions while both parents retain equal rights and responsibilities for all other decisions.

(2) 'Sole custody' means a person, including, but not limited to, a parent who has temporary or permanent custody of a child and, unless otherwise provided for by court order, the rights and responsibilities for major decisions concerning the child, including the child's education, medical and dental care, extracurricular activities, and religious training.

Section 63-15-220. (A) At all temporary hearings where custody is contested, each parent must prepare, file, and submit to the court a parenting plan, which reflects parental preferences, the allocation of parenting time to be spent with each parent, and major decisions, including, but not limited to, the child's education, medical and dental care, extracurricular activities and religious training. However, the parties may elect to prepare, file, and submit a joint parenting plan. The court shall issue temporary and final custody orders only after considering these parenting plans; however, the failure by a party to submit a parenting plan to the court does not preclude the court from issuing a temporary or final custody order.

(B) At the final hearing, either party may file and submit an updated parenting plan for the court's consideration.

(C) The South Carolina Supreme Court shall develop rules and forms for the implementation of the parenting plan.

Section 63-15-230. (A) The court shall make the final custody determination in the best interest of the child based upon the evidence presented.

(B) The court may award joint custody to both parents or sole custody to either parent.

(C) If custody is contested or if either parent seeks an award of joint custody, the court shall consider all custody options, including, but not limited to, joint custody, and, in its final order, the court shall state its determination as to custody and shall state its reasoning for that decision.

(D) Notwithstanding the custody determination, the court may allocate parenting time in the best interest of the child.

Section 63-15-240. (A) In issuing or modifying an order for custody affecting the rights and responsibilities of the parents, the order may include, but is not limited to:

(1) the approval of a parenting plan;

(2) the award of sole custody to one parent with appropriate parenting time for the noncustodial parent;

(3) the award of joint custody, in which case the order must include:

(a) residential arrangements with each parent in accordance with the needs of each child; and

(b) how consultations and communications between the parents will take place, generally and specifically, with regard to major decisions concerning the child's health, medical and dental care, education, extracurricular activities, and religious training;

(4) other custody arrangements as the court may determine to be in the best interest of the child.

(B) In issuing or modifying a custody order, the court must consider the best interest of the child, which may include, but is not limited to:

(1) the temperament and developmental needs of the child;

(2) the capacity and the disposition of the parents to understand and meet the needs of the child;

(3) the preferences of each child;

(4) the wishes of the parents as to custody;

(5) the past and current interaction and relationship of the child with each parent, the child's siblings, and any other person, including a grandparent, who may significantly affect the best interest of the child;

(6) the actions of each parent to encourage the continuing parent-child relationship between the child and the other parent, as is appropriate, including compliance with court orders;

(7) the manipulation by or coercive behavior of the parents in an effort to involve the child in the parents' dispute;

(8) any effort by one parent to disparage the other parent in front of the child;

(9) the ability of each parent to be actively involved in the life of the child;

(10) the child's adjustment to his or her home, school, and community environments;

(11) the stability of the child's existing and proposed residences;

(12) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, must not be determinative of custody unless the proposed custodial arrangement is not in the best interest of the child;

(13) the child's cultural and spiritual background;

(14) whether the child or a sibling of the child has been abused or neglected;

(15) whether one parent has perpetrated domestic violence or child abuse or the effect on the child of the actions of an abuser if any domestic violence has occurred between the parents or between a parent and another individual or between the parent and the child;

(16) whether one parent has relocated more than one hundred miles from the child's primary residence in the past year, unless the parent relocated for safety reasons; and

(17) other factors as the court considers necessary.

Section 63-15-250. In addition to all rights and duties given to parents pursuant to Section 63-5-30:

(A) when a court orders sole custody to one parent, the custodial parent, except in cases of abuse, neglect, or abandonment, should facilitate opportunities for reasonable telephonic and electronic communication between the minor child and the noncustodial parent, as appropriate, as provided for by court order if the court determines that this type of communication is in the best interest of the child; and

(B) when a court orders joint custody to both parents, each parent should facilitate opportunities for reasonable telephonic and electronic communication between the minor child and the other parent, as appropriate, as provided for by court order if the court determines that this type of communication is in the best interest of the child.

Section 63-15-260. Notwithstanding the custody arrangement and in addition to all rights and duties given to parents pursuant to Section 63-5-30, each parent has equal access and the same right to obtain all

educational records and medical records of his or her minor children and the right to participate in the children's school activities and extracurricular activities that are held in public locations unless prohibited by an order of the court or State law."

Family Court Study Committee

SECTION 2. (A) The South Carolina Family Court Study Committee is created to study the feasibility of tracking the outcome of contested temporary and final custody proceedings in the family court.

(B) The study committee shall be composed of the following members:

(1) one member of the judiciary appointed by the Chief Justice of the South Carolina Supreme Court;

(2) the Director of Court Administration, or his designee;

(3) the Speaker of the House of Representatives, or his designee;

(4) the President Pro Tempore of the Senate, or his designee;

(5) the Chairman of the House Judiciary Committee, or his designee;

(6) the Chairman of the Senate Judiciary Committee, or his designee; and

(7) the South Carolina Crime Victim Ombudsman, or his designee.

(C) The members of the study committee shall serve without compensation and may not receive mileage or per diem.

(D) Staff of the House of Representatives and the Senate shall serve as staff to the study committee, as needed.

(E) The study committee shall issue its findings concerning the feasibility of tracking the outcome of temporary and final contested custody proceedings in the family court by January 31, 2013.

Time effective

SECTION 3. Section 63-15-220, as added by SECTION 1 of this act, is effective sixty days after approval of the Governor. All other sections and subsections of this act take effect upon approval by the Governor and apply to causes of action arising on or after the effective date of this act.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 260

(R304, H4738)

AN ACT TO AMEND SECTION 20-3-170, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MODIFICATION, CONFIRMATION, OR TERMINATION OF ALIMONY DUE TO CHANGED CIRCUMSTANCES, INCLUDING CHANGE IN FINANCIAL ABILITY, SO AS TO PROVIDE THAT UPON THE MOTION OF A PARTY, RETIREMENT BY A SUPPORTING SPOUSE IS SUFFICIENT GROUNDS FOR A HEARING TO DETERMINE WHETHER RETIREMENT CONSTITUTES A CHANGE IN CIRCUMSTANCES AND TO PROVIDE FACTORS THE COURT SHALL CONSIDER IN MAKING SUCH A DETERMINATION.

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

Retirement as change in circumstances for modification of alimony, factors court must consider

SECTION 1. Section 20-3-170 of the 1976 Code is amended to read:

"Section 20-3-170. (A) Whenever any husband or wife, pursuant to a judgment of divorce from the bonds of matrimony, has been required to make his or her spouse any periodic payments of alimony and the circumstances of the parties or the financial ability of the spouse making the periodic payments shall have changed since the rendition of such judgment, either party may apply to the court which rendered the judgment for an order and judgment decreasing or increasing the amount of such alimony payments or terminating such payments and the court, after giving both parties an opportunity to be heard and to introduce evidence relevant to the issue, shall make such order and judgment as justice and equity shall require, with due regard to the changed circumstances and the financial ability of the supporting spouse, decreasing or increasing or confirming the amount of alimony provided for in such original judgment or terminating such payments. Thereafter the supporting spouse shall pay and be liable to pay the

amount of alimony payments directed in such order and judgment and no other or further amount and such original judgment, for the purpose of all actions or proceedings of every nature and wherever instituted, whether within or without this State, shall be deemed to be and shall be modified accordingly, subject in every case to a further proceeding or proceedings under the provisions of this section in relation to such modified judgment.

(B) Retirement by the supporting spouse is sufficient grounds to warrant a hearing, if so moved by a party, to evaluate whether there has been a change of circumstances for alimony. The court shall consider the following factors:

(1) whether retirement was contemplated when alimony was awarded;

(2) the age of the supporting spouse;

(3) the health of the supporting spouse;

(4) whether the retirement is mandatory or voluntary;

(5) whether retirement would result in a decrease in the supporting spouse's income; and

(6) any other factors the court sees fit."

Time effective

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

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 261

(R305, H4763)

AN ACT TO AMEND SECTION 32-7-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN REGARD TO PRENEED FUNERAL CONTRACTS, SO AS TO ADD CERTAIN DEFINITIONS AND REVISE OTHER DEFINITIONS; TO AMEND SECTION 32-7-35, RELATING TO THE TRANSFER OF PRENEED FUNERAL CONTRACTS, SO AS TO FURTHER PROVIDE FOR THE REQUIREMENTS FOR THE TRANSFER OF CONTRACTS "AT PRENEED" AND "AT

NEED"; TO AMEND SECTION 32-7-50, AS AMENDED, RELATING TO PRENEED FUNERAL CONTRACT LICENSES, SO AS TO FURTHER PROVIDE FOR THE AMOUNT OF APPLICATION AND APPLICATION RENEWAL LICENSE FEES, FOR THE TERM OF THE LICENSE AND FOR THE USE OF LICENSE RENEWAL FEES; TO AMEND SECTION 32-7-60, AS AMENDED, RELATING TO THE PRENEED FUNERAL LOSS REIMBURSEMENT FUND, SO AS TO DELETE THE LIMITATION ON THE MAXIMUM AMOUNT OF THE FUND; AND TO AMEND SECTION 32-7-100, AS AMENDED, RELATING TO UNLAWFUL VIOLATIONS OF LAW PERTAINING TO PRENEED FUNERAL CONTRACTS, SO AS TO FURTHER PROVIDE FOR THE PENALTIES FOR VIOLATIONS BASED ON THE AMOUNT OF MONEY OBTAINED OR SOUGHT TO BE OBTAINED WITH CERTAIN OFFENSES DECLARED TO BE MISDEMEANORS AND CERTAIN OFFENSES DECLARED TO BE FELONIES, AND TO PROVIDE FOR OTHER AUTHORIZED ACTIONS FOR VIOLATIONS OF THIS CHAPTER.

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

Definitions added and revised

SECTION 1. Section 32-7-10 of the 1976 Code is amended to read:

"Section 32-7-10.As used in this chapter, unless the context requires otherwise:

(1) 'Administrator' means the Administrator of the South Carolina Department of Consumer Affairs.

(2) 'At need' means after the beneficiary is deceased, and 'at preneed' means before the beneficiary is deceased.

(3) 'Beneficiary' means the person who is to be the subject of the disposition, services, facilities, or merchandise described in a preneed funeral contract.

(4) 'Common trust fund' means a trust in which the proceeds of more than one funeral contract may be held by the trustee.

(5) 'Department' means the South Carolina Department of Consumer Affairs.

(6) 'Financial institution' means a bank, trust company, or savings and loan association authorized by law to do business in this State.

(7) 'Funeral services' or 'funeral arrangements' means any of the following:

(a) engaging in providing shelter, care, and custody of the human dead;

(b) preparing the human dead by embalming or other methods for burial or other disposition; or

(c) engaging in the practice or performing any functions of funeral directing or embalming as presently recognized by persons engaged in these functions.

(8) 'Preneed funeral contract' means a contract which has for its purpose the furnishing or performance of funeral services or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of, but does not mean the furnishing of a cemetery lot, crypt, niche, mausoleum, grave marker, or monument.

(9) 'Provider' means a funeral home licensed in this State which is the entity providing services and merchandise pursuant to a preneed funeral contract and is designated trustee of all funds.

(10) 'Purchaser' means the person who is obligated to make payments under a preneed funeral contract.

(11) 'Seller' means a licensed funeral director in this State who is directly employed by the provider.

(12) 'Trust account' means a federally insured account where the funds shall be paid to a provider only when the provider furnishes the financial institution with a certified certificate of death and a certified statement that the services have been performed and the merchandise has been delivered."

Transfer of contracts

SECTION 2. Section 32-7-35 of the 1976 Code is amended to read:

"Section 32-7-35.(A) A preneed funeral contract may be transferred to another provider only upon the prior written request of the purchaser or the beneficiary of a deceased purchaser or pursuant to Section 32-7-45. The selling provider must be paid a fee equal to ten percent of the contract face amount. The selling provider also must be paid ten percent of the earnings in that portion of the final year before transfer.

(B) A preneed funeral contract, whether revocable or irrevocable, funded by an insurance policy may be transferred to another provider only upon the prior written request of the purchaser or the beneficiary of a deceased purchaser or pursuant to Section 32-7-45. The selling provider may not collect, charge, or receive a fee in connection with this transfer of a preneed funeral contract funded by an insurance policy. An irrevocable preneed funeral contract funded by an insurance policy may be transferred to another provider only upon the prior written request of the purchaser or the beneficiary of a deceased purchaser or pursuant to Section 32-7-45.

(C)(1) At preneed, a preneed funeral contract may be transferred only to a funeral home that is licensed to sell preneed funeral contracts. The receiving funeral home is not required to pay an additional service charge unless there are changes to the contract.

(2) At need, a preneed funeral contract may be transferred to any funeral home that is licensed by the Board of Funeral Directors."

Application and renewal fees and their use, license period

SECTION 3. Section 32-7-50 of the 1976 Code is amended to read:

"Section 32-7-50.(A) Without first securing a license from the department, no one, except a financial institution, may accept or hold payments made on a preneed funeral contract.

(1) The State Board of Funeral Service must revoke the license of a funeral home or funeral director, or both, if the funeral home or funeral director: (a) accepts funds for a preneed funeral contract or other prepayment of funeral expenses without a license to sell preneed funeral contracts, or (b) is licensed to sell preneed funeral contracts and fails to deposit the funds collected in trust in a federally insured account as required by Section 32-7-20(H).

(2) Application for a license must be in writing, signed by the applicant, and verified on forms furnished by the department. An application must contain at least the following: the full name and address, both residence and place of business, of the applicant and every member, officer, and director of it if the applicant is a firm, partnership, association, or corporation. A license issued pursuant to the application is valid only at the address stated in the application for the applicant or at a new address approved by the department.

(3) If a licensee cancels the license and later applies for a new license, the department shall investigate the applicant's books, records,

and accounts to determine if the applicant violated the provisions of this chapter during the time he did not have a license.

(B) Upon receipt of the application, a one-time payment of a two hundred fifty dollar license fee, and the deposit in an amount to be determined by the department of the security or proof of financial responsibility as the department may determine, the department shall issue a license unless it determines that the applicant has made false statements or representations in the application, is insolvent, has conducted his business in a fraudulent manner, is not authorized to transact business in this State, or if, in the judgment of the department, the applicant should be denied a license for some other good and sufficient reason.

(C) A person selling a preneed funeral contract shall collect from each purchaser a service charge and all fees collected must be remitted by the person collecting them to the department at least once each month.

(1) With the fees collected, the person also must provide the department with a listing of each contract sold. If the listing or fees collected are not sent to the department within sixty days of the last day of the month when the contract was sold, the department shall assess a civil penalty of ten dollars for each contract not reported to the department. The monies collected as civil penalties must be deposited in the Preneed Funeral Loss Reimbursement Fund. Upon its own initiative or upon complaint or information received, the department shall investigate a person's books, records, and accounts if the department has reason to believe that fees are collected and either not remitted or not timely remitted.

(2) The service charge for each contract may not exceed a total of thirty dollars, twenty-five dollars for the department to use in administering the provisions of this chapter and five dollars to be allocated to the Preneed Funeral Loss Reimbursement Fund.

(3) The department shall keep a record of each preneed funeral contract for which it receives a service charge.

(D) A license issued pursuant to this section expires on September thirtieth of each odd-numbered year unless otherwise revoked or canceled. A license must be renewed by filing a renewal application at least thirty days prior to expiration on forms prescribed by the department. A renewal application must be accompanied by a fee of two hundred dollars for the department to use in administering this chapter. The department shall deposit one hundred dollars of each renewal fee received into the Preneed Funeral Loss Reimbursement

Fund. The department shall consider the factors in subsection (B) before issuing a license."

Maximum limitation deleted

SECTION 4. Section 32-7-60(B) of the 1976 Code, as last amended by Act 70 of 2009, is further amended to read:

"(B) From the service charge for each preneed contract as required by Section 32-7-50(C), the department shall deposit into the fund that portion of the charge as established by the department. The department may suspend or resume deposits into the fund at any time and for any period to ensure that a sufficient amount is available to meet likely disbursements and to maintain an adequate reserve. The maximum amount of the service charge to be allocated to the Preneed Funeral Loss Reimbursement Fund as required by Section 32-7-50(C)(2) may not exceed the amount of five dollars for each preneed contract."

Penalties and punishments revised

SECTION 5. Section 32-7-100 of the 1976 Code is amended to read:

"Section 32-7-100. (A) A person wilfully violating the provisions of this chapter is guilty of a:

(1) misdemeanor, if the value of money obtained or sought to be obtained is two thousand dollars or less and, upon conviction, the person must be fined not less than one thousand dollars, or imprisoned for not more than thirty days, or both;

(2) felony, if the value of money obtained or sought to be obtained is more than two thousand dollars but less than ten thousand dollars, and, upon conviction, the person must be fined in the discretion of the court, or imprisoned for not more than five years, or both;

(3) felony, if the value of money obtained or sought to be obtained is ten thousand dollars or more, and, upon conviction, the person must be fined in the discretion of the court, or imprisoned for not more than ten years, or both;

(4) in addition, a person convicted of a misdemeanor or a felony pursuant to this section may be prohibited from entering into further preneed funeral contracts, if the department, in its discretion, finds that the offense is sufficiently grievous.

(B) The determination of the degree of an offense under subsection (A) must be measured by the total value of all money obtained or sought to be obtained by the unlawful conduct.

(C)(1) Before the suspension, revocation, or other action by the department involving a license to sell preneed funeral contracts becomes final, a licensee is entitled to request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act.

(2) Other action by the department may include a warning notice of deficiency, additional education requirements concerning the provisions of this chapter, a fine, or a cease and desist order for violation of a provision in this chapter."

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 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 262

(R307, H4786)

AN ACT TO AMEND SECTION 41-35-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PAYMENT OF UNEMPLOYMENT BENEFITS BASED ON CERTAIN SERVICES IN SCHOOLS OR INSTITUTIONS OF HIGHER EDUCATION, SO AS TO INCLUDE SERVICES PROVIDED BY SUBSTITUTE TEACHERS UNDER CERTAIN CIRCUMSTANCES.

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

Unemployment benefits for certain substitute teachers

SECTION 1. Section 41-35-20 of the 1976 Code is amended to read:

"Section 41-35-20. (1) Benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in Section 41-27-290 or educational institution as defined in Section 41-27-340 must not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or a reasonable assurance that the individual will perform services in this capacity for both these academic years or both these terms.

(2) With respect to services performed after December 31, 1977, in any other capacity for an educational institution or institution of higher education, irrespective of whether the institution is a public, private, or nonprofit organization, benefits are not payable on the basis of these services to any individual for any week which commences during a period between two successive academic years or terms if the individual performs these services in the first of those academic years or terms and there is a reasonable assurance that the individual will perform these services in the second of those academic years or terms. However, if compensation is denied to any individual under this subsection and the individual was not offered an opportunity to perform these services for the educational institution or institution of higher education for the second of these academic years or terms, the

individual is entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this subsection.

(3) With respect to any services described in subsections (1) and (2), benefits are not payable on the basis of services in any such capacities to any individual for any week which commences during an established and customary vacation period or holiday recess if the individual performs these services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform these services in the period immediately following the vacation period or holiday recess.

(4) With respect to any services described in subsections (1), (2), and (3) of this section, benefits are not payable on the basis of services in any such capacities to any individual who performed these services in an educational institution or institution of higher education while in the employ of an educational service agency. For purposes of this section, 'educational service agency' means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing these services to one or more educational institutions.

(5) With respect to any services described in subsections (1), (2), and (3), benefits are not payable on the basis of services in any such capacities to any individual who performed these services for a private employer holding a contractual relationship with the educational institution and is providing the services to or on behalf of an educational institution or an institution of higher education, provided that the private employer notifies the Department of Employment and Workforce of the separation of an individual subject to this subsection.

(6) In this section 'reasonable assurance' means a written, verbal, or implied agreement that the employee will perform services in the same capacity during the ensuing academic year or term."

Time effective

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

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 263

(R308, H4798)

AN ACT TO AMEND SECTION 5-7-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TRIAL OF A PERSON IN A MUNICIPAL COURT, SO AS TO NO LONGER PROVIDE THAT A MAYOR MAY CONDUCT A MUNICIPAL TRIAL, TO PROVIDE THAT A MUNICIPAL JUDGE MUST CONDUCT A SPEEDY TRIAL OF PERSONS ARRESTED AND INCARCERATED, AND TO REVISE THE PERIOD OF TIME THAT A PERSON MUST BE TRIED AFTER THE DATE OF HIS ARREST.

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

Municipal court

SECTION 1. Section 5-7-90 of the 1976 Code is amended to read:

"Section 5-7-90. The municipal judge or judges of a municipality shall speedily try all persons arrested and incarcerated with violations of the ordinances of the municipality or the laws of the State within their jurisdiction in a summary manner without a jury unless jury trial is demanded by the accused. Trial must be held within ten days after the arrest or at a time scheduled by the court, in which event the trial is deferred. The municipal judge shall have the same power as a magistrate to compel the attendance of witnesses and require them to give evidence upon the trial before them of any person for the violation of ordinances of the municipality or the laws of this State subject to Section 5-7-30."

Time effective

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

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 264

(R310, H4888)

AN ACT TO AMEND SECTION 38-73-470, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DISPOSITION OF THE UNINSURED MOTORIST FUND, SO AS TO PROVIDE THAT THE PORTION OF THE FUND THAT WAS FORMERLY PAID TO THE DEPARTMENT OF PUBLIC SAFETY MUST BE PAID TO THE DEPARTMENT OF MOTOR VEHICLES; TO AMEND SECTION 56-1-286, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER'S LICENSE OR PERMIT OF CERTAIN PERSONS WHO DRIVE A MOTOR VEHICLE WITH AN UNLAWFUL ALCOHOL CONCENTRATION, SO AS TO MAKE TECHNICAL CHANGES, AND TO PROVIDE THAT THE PORTION OF THE FEE TO OBTAIN A TEMPORARY ALCOHOL LICENSE THAT WAS FORMERLY RETAINED BY THE DEPARTMENT OF PUBLIC SAFETY MUST BE DISTRIBUTED TO THE DEPARTMENT OF MOTOR VEHICLES; TO AMEND SECTION 56-3-3910, RELATING TO THE ISSUANCE OF "SHAG" SPECIAL LICENSE PLATES, SO AS TO REVISE THE BIENNIAL PERIOD IN WHICH THE LICENSE PLATE MUST BE ISSUED OR REVALIDATED; TO AMEND SECTION 56-3-5200, RELATING TO "SOUTH CAROLINA: FIRST IN GOLF" SPECIAL LICENSE PLATES, SO AS TO MAKE A TECHNICAL CHANGE; TO AMEND SECTION 56-5-2951, AS AMENDED, RELATING TO THE SUSPENSION OF A DRIVER'S LICENSE WHEN A DRIVER REFUSES TO SUBMIT TO TESTS TO DETERMINE HIS LEVEL OF ALCOHOL CONCENTRATION, SO AS TO MAKE A TECHNICAL CHANGE; TO AMEND SECTION 56-10-552, RELATING TO THE UNINSURED ENFORCEMENT FUND, SO AS TO PROVIDE THAT THIS FUND WHICH WAS FORMERLY DIRECTED TO THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY MUST NOW BE DIRECTED TO THE DIRECTOR OF THE DEPARTMENT OF MOTOR VEHICLES AND USED BY BOTH THE DEPARTMENT OF MOTOR VEHICLES AND THE DEPARTMENT OF PUBLIC SAFETY; TO AMEND SECTION 56-15-420, RELATING TO THE PROMULGATION OF CERTAIN REGULATIONS BY THE DEPARTMENT OF

PUBLIC SAFETY, SO AS TO PROVIDE THAT THESE REGULATIONS NOW SHALL BE PROMULGATED BY THE DEPARTMENT OF MOTOR VEHICLES; TO AMEND SECTION 56-19-240, AS AMENDED, RELATING TO THE APPLICATION FOR A CERTIFICATE OF TITLE AND ITS CONTENTS, SO AS TO PROVIDE THAT THE OWNER OF A BONA FIDE LEASING COMPANY IS NOT REQUIRED TO SUPPLY A SOUTH CAROLINA PHYSICAL ADDRESS OF ITS BUSINESS OPERATIONS ON ITS APPLICATION FOR A CERTIFICATE OF TITLE AND TO PROVIDE THAT VEHICLES THAT ARE PURCHASED FOR PRIMARY OPERATION IN ANOTHER STATE OR A FOREIGN JURISDICTION CANNOT BE TITLED AND REGISTERED IN THIS STATE; TO PROVIDE FOR THE REVERSAL OF CERTAIN CONVICTIONS FOR CONTROLLED SUBSTANCE VIOLATIONS PURSUANT TO FORMER SECTION 56-1-745; TO AMEND SECTION 56-2-100, RELATING TO CONDITIONS GOVERNING THE OPERATION OF LOW SPEED VEHICLES, SO AS TO PROVIDE THAT A LOW SPEED VEHICLE MAY BE OPERATED ON ANY HIGHWAY FOR WHICH THE POSTED SPEED LIMIT IS THIRTY-FIVE MILES AN HOUR OR LESS; TO REPEAL ARTICLE 60, CHAPTER 3, TITLE 56 RELATING TO THE ISSUANCE OF "SHRINERS" SPECIAL LICENSE PLATES; AND BY ADDING SECTION 56-19-495 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL CONVENE A WORKING GROUP FOR THE PURPOSE OF ASSISTING IN THE DEVELOPMENT OF A PROCESS TO BE USED FOR THE TITLING OF CERTAIN VEHICLES.

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

Uninsured Motorist Fund

SECTION 1. Section 38-73-470 of the 1976 Code, as last amended by Act 324 of 2002, is further amended to read:

"Section 38-73-470. Two dollars of the yearly premium for uninsured motorist coverage is directed to be paid to the South Carolina Department of Motor Vehicles to be placed on deposit with the State Treasurer in the 'Uninsured Enforcement Fund', payable on a quarterly basis, to provide for the costs of enforcing and administering the provisions of Article 3, Chapter 10, Title 56. Of the two dollars

collected, eighty cents must be distributed to the South Carolina Highway Patrol and one dollar twenty cents must be retained by the Department of Motor Vehicles. Interest earned by the 'Uninsured Fund' must be retained by that fund. There is no requirement for an insurer or an agent to offer underinsured motorist coverage at limits less than the statutorily required bodily injury or property damage limits."

Suspension of a driver's license or permit

SECTION 2. Section 56-1-286(K)(1) of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

"(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 its expenses. The temporary alcohol license allows the person to drive a motor vehicle without any restrictive conditions pending the outcome of the administrative hearing provided for in this section or the final decision or disposition of the matter;"

Shag special license plates

SECTION 3. Section 56-3-3910 of the 1976 Code is amended to read:

"Section 56-3-3910. The Department of Motor Vehicles may issue a special commemorative motor vehicle license plate commemorating the fiftieth anniversary of the introduction of the State Dance, the Shag, in 1988 for use by owners on their private passenger motor vehicles. The biennial fee for the commemorative license plate is fifty dollars in addition to the regular motor vehicle registration fee prescribed by Article 5 of this chapter. This license plate must be of the same size and general design of regular motor vehicle license plates. The plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it was issued. License number

'one' for the Shag license plate is reserved for the president of the Columbia Shag Club in Richland County."

South Carolina: First in Golf special license plates

SECTION 4. Section 56-3-5200(B) of the 1976 Code is amended to read:

"(B) The fees collected pursuant to this section must be distributed to a special 'South Carolina: First In Golf' fund established within and administered by the Department of Parks, Recreation and Tourism to promote the South Carolina Junior Golf Association. The distribution is thirty dollars to the Department of Motor Vehicles and forty dollars to the fund."

Suspension of a driver's license

SECTION 5. Section 56-5-2951(B)(1) of the 1976 Code, as last amended by Act 201 of 2008, is further amended to read:

"(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 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 its expenses. The temporary alcohol license allows the person to drive without any restrictive conditions pending the outcome of the administrative hearing provided for in subsection (F) or the final decision or disposition of the matter. If the suspension is upheld at the administrative hearing, the temporary alcohol license remains in effect until the Department of Motor Vehicles issues the hearing officer's decision and sends notice to the person that he is eligible to receive a restricted license pursuant to subsection (H); and"

Uninsured Enforcement Fund

SECTION 6. Section 56-10-552(A) of the 1976 Code is amended to read:

"(A) All funds collected as provided in Section 38-73-470 must be directed to the Director of the Department of Motor Vehicles for the establishment and maintenance of a special fund, to be known as the 'Uninsured Enforcement Fund', to be used by the Department of Motor Vehicles and the Department of Public Safety for the purpose of enforcement and administration of Article 3, Chapter 10, Title 56."

Promulgation of regulations

SECTION 7. Section 56-15-420 of the 1976 Code, as added by Act 9 of 2005, is amended to read:

"Section 56-15-420. The Department of Motor Vehicles shall promulgate regulations to implement the provisions contained in this article."

Certificate of title

SECTION 8. Section 56-19-240 of the 1976 Code, last amended by Act 14 of 2011, is further amended to read:

"Section 56-19-240. (A) An application for a certificate of title for a vehicle in this State must be made by the owner to the Department of Motor Vehicles on the form it prescribes and must contain or be accompanied by:

(1) if the owner is an individual:

(a) the South Carolina residence address of the owner and mailing address, if different from residence address;

(b) the full legal name as it appears on the identification provided in item (d);

(c) the issuing state and number of the identification provided in item (d);

(d) in order to fulfill the requirements in items (a) through (c), the owner must provide one of the following:

(i) the owner's South Carolina driver's license or South Carolina identification card;

(ii) the owner's home state driver's license or home state special identification card and valid active duty military identification card if the owner is a person on active military duty and is stationed in this State;

(iii) the owner's home state driver's license or home state special identification card and proof of enrollment in a school in this State if the owner is a permanent resident of another state but is currently enrolled in a school in this State; or

(iv) the owner's home state driver's license or home state special identification card if the owner or co-owner intends to principally garage the vehicle in this State. 'Principally garage' means the vehicle is garaged for six or more months of the year on property in this State which is owned, leased, or otherwise lawfully occupied by the owner of the vehicle. The application for a certificate of title must include the South Carolina residence address of the property where the vehicle is housed;

(2) if the owner is a business:

(a) a social security number, if the business is a sole proprietorship with no employees or a Federal Employer Identification Number (FEIN), if the business has employees; and

(b) a South Carolina physical address of the bona fide place of business operations for the business unless the owner is a bona fide leasing company;

(3) for vehicles that have more than one owner, only one co-owner must provide the information required pursuant to items (1) or (2) of this subsection;

(4) an owner who would otherwise be capable of attaining a driver's license or special identification card from this State, except for a medical or physical condition that can be documented and verified by the department, shall be issued a title and registration if the owner provides a signed affidavit certifying that the owner intends to principally garage the vehicle in this State, that the vehicle will be driven by a driver who is not the owner, and if the owner provides the South Carolina address where the vehicle will be principally garaged;

(5) a description of the vehicle, including, so far as the following data exists, its make, model, year, vehicle identification number, type of body, odometer reading at the time of application, and whether new or used;

(6) the date of acquisition by applicant, the name and address of the person from whom the vehicle was acquired, and the names and addresses of any lienholders in the order of their priority and the dates of their security agreements;

(7) an odometer disclosure statement made by the transferor of the vehicle and acknowledged by the transferee. The statement must be in compliance with federal guidelines and as prescribed by the department. Where more than one transfer has intervened between the

previous certificate of title and the application for a new certificate of title, it must be shown that the certificate of title has been signed by the owner or by the owner's attorney in fact, and there must be for each intervening transfer thereafter a bill of sale in a form approved by the department, including a completed odometer disclosure statement. Additionally, the odometer disclosure statement on the application form must be completed by the applicant;

(8) any further information or documentation the department reasonably requires to enable it to determine: the identity of the vehicle, whether the owner is entitled to a certificate of title, the existence or nonexistence of security interests in the vehicle, and the accuracy of the odometer disclosure statement.

(B) If the application is not for the first certificate of title, it shall be accompanied by the last certificate of title previously issued for the vehicle, whether issued by this State or another state or country.

(C) If the application refers to a vehicle purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of his security agreement and be signed by the dealer as well as the owner, and the dealer promptly shall mail or deliver the application to the department. If the application refers to a new vehicle purchased from a dealer, the application also shall be accompanied by the manufacturer's certificate of origin.

(D) The department will issue a title and registration only for vehicles that are physically located and primarily operated in this State. Vehicles that are purchased for primary operation in another state or a foreign jurisdiction cannot be titled and registered in South Carolina.

(E) A person who knowingly gives a false statement on the application or knowingly gives a false statement concerning the odometer reading on an odometer disclosure statement is guilty of a misdemeanor and, upon conviction, is subject to a fine of up to one thousand dollars or imprisonment of up to one year, or both. These penalties are in addition to the penalties provided by the federal odometer law 49 U.S.C. 32701-32711 (Title 49, Subtitle VI, Part C, Chapter 327).

(F) In addition to the other information required in an application, the application for title for a mobile or manufactured home must include the address of the site on which the home is to be placed if different from the owner's address."

Reversal of conviction

SECTION 9. (A) Notwithstanding the provisions of Act 13 of 2011, the suspension by the Department of Motor Vehicles of a person's driver's license who is convicted of a controlled substance violation, pursuant to former Section 56-1-745, for which the person was charged before April 12, 2011, and whose conviction or guilty plea or nolo contendere plea was entered on or after April 12, 2011, is reversed, and the person's driving privilege must be reinstated on this act's effective date.

(B) The department shall not pay or reimburse a person for a reinstatement fee or other costs or fees incurred by the person as a result of the person's driver's license suspension if the suspension was due to being charged with a controlled substance violation before April 12, 2011, the person was convicted on or after April 12, 2011, the suspension ended, and the person paid the reinstatement fee or incurred other costs or fees before this act's effective date.

Low speed vehicles

SECTION 10. Section 56-2-100(A) of the 1976 Code, as added by Act 170 of 2005, is amended to read:

"(A) A low speed vehicle may be operated only on a highway for which the posted speed limit is thirty-five miles an hour or less."

Repeal

SECTION 11. Article 60, Chapter 3, Title 56 is repealed.

Working group

SECTION 12. Article 3, Chapter 19, Title 56 of the 1976 Code is amended by adding:

"Section 56-19-495. The Department of Motor Vehicles shall convene a working group chaired by the Director of the Department of Motor Vehicles, or the director's designee, for the purpose of assisting in the development of a process to be used for the titling of vehicles in this State for which no title can be provided, and assisting in the development of forms and regulations pursuant to this section. The working group must consist, at a minimum, of representative

stakeholders from the classic car, dealer, insurance and lienholder industries, as well as from law enforcement agencies."

Savings clause

SECTION 13. 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 14. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 265

(R311, H4945)

AN ACT TO AMEND SECTION 7-5-170, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE NECESSITY OF WRITTEN VOTER REGISTRATION APPLICATIONS, SO AS TO PERMIT ELECTRONIC APPLICATIONS; BY ADDING SECTION 7-5-185 SO AS TO AUTHORIZE A PERSON TO REGISTER TO VOTE ELECTRONICALLY ON THE STATE ELECTION COMMISSION'S INTERNET WEBSITE, TO PROVIDE A PROCEDURE FOR ELECTRONIC REGISTRATIONS, AND TO AUTHORIZE THE STATE ELECTION COMMISSION TO

PROMULGATE REGULATIONS TO EFFECTUATE ELECTRONIC REGISTRATIONS; BY ADDING SECTION 7-5-186 SO AS TO REQUIRE THE STATE ELECTION COMMISSION TO ESTABLISH AND MAINTAIN A STATEWIDE VOTER REGISTRATION DATABASE, TO REQUIRE CERTAIN STATE AGENCIES TO PROVIDE REQUESTED INFORMATION TO THE STATE ELECTION COMMISSION, AND TO ALLOW THE STATE ELECTION COMMISSION TO ENTER INTO AGREEMENTS WITH OTHER STATES OR GROUPS OF STATES IN ORDER TO MAINTAIN THE STATEWIDE VOTER REGISTRATION DATABASE; TO AMEND SECTION 7-3-20, AS AMENDED, RELATING TO THE DUTIES OF THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION, SO AS TO REQUIRE THE ESTABLISHMENT AND MAINTENANCE OF A STATEWIDE VOTER REGISTRATION DATABASE; TO AMEND SECTION 7-3-30, AS AMENDED, RELATING TO THE NOTICE OF DELETION OF AN ELECTOR'S NAME FROM THE ROSTER OF ELECTORS, SO AS TO CLARIFY THE REASONS FOR DELETION AND TO PROVIDE THAT THE EXECUTIVE DIRECTOR SHALL RESTORE AN ELECTOR'S NAME TO THE ROSTER IF INSTRUCTED TO DO SO BY THE COUNTY BOARD OF REGISTRATION; TO AMEND SECTION 7-3-40, AS AMENDED, RELATING TO REPORTS FURNISHED BY THE BUREAU OF VITAL STATISTICS, SO AS TO PROVIDE THAT THESE REPORTS MUST BE PROVIDED AT NO CHARGE; AND BY ADDING SECTION 7-3-70 SO AS TO REQUIRE THE DEPARTMENT OF MOTOR VEHICLES TO FURNISH CERTAIN MONTHLY REPORTS TO THE EXECUTIVE DIRECTOR OF THE STATE ELECTION COMMISSION AT NO CHARGE.

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

Acceptable forms of voter registration applications

SECTION 1. Section 7-5-170(1) of the 1976 Code, as last amended by Act 239 of 2004, is further amended to read:

"(1) Written application required. --A person may not be registered to vote except upon written application or electronic application

pursuant to Section 7-5-185, which shall become a part of the permanent records of the board to which it is presented and which must be open to public inspection. However, the social security number contained in the application must not be open to public inspection."

Electronic applications for voter registration

SECTION 2. Article 3, Chapter 5, Title 7 of the 1976 Code is amended by adding:

"Section 7-5-185. (A) A person who is qualified to register to vote and who has a valid South Carolina driver's license or state identification card issued by the Department of Motor Vehicles may submit an application for voter registration electronically on the Internet website of the State Election Commission.

(B)(1) An application submitted pursuant to this section is effective upon receipt of the application by the State Election Commission if the application is received thirty days before an election to be held in the precinct of the person submitting the application.

(2) The applicant shall attest to the truth of the information provided in the application.

(3) For voter registration purposes, the applicant shall assent to the use of his signature from his driver's license or state identification card issued by the Department of Motor Vehicles.

(4) For each electronic application, the State Election Commission shall obtain an electronic copy of the applicant's signature from his driver's license or state identification card issued by the Department of Motor Vehicles directly from the Department of Motor Vehicles with no fee.

(5) An application submitted pursuant to this section must contain the applicant's name, sex, race, social security number, date of birth, residence address, mailing address, telephone number of the applicant, and location of prior voter registration. The applicant must affirm that he is not under a court order declaring him mentally incompetent, confined in a public prison, has never been convicted of a felony or offense against the election laws, or if previously convicted, that he has served his entire sentence, including probation and parole time, or has received a pardon for the conviction. Additionally, the applicant must attest to the following: 'I do solemnly swear (or affirm) that I am a citizen of the United States and that on the date of the next ensuing election, I will have attained the age of eighteen years and am a resident of South Carolina, this county, and of my precinct. I further

swear (or affirm) that the present residence address listed herein is my sole legal place of residence and that I claim no other place as my legal residence.' An applicant convicted of fraudulently applying for registration is guilty of perjury and is subject to the penalty for that offense.

(C) Upon submission of an application pursuant to this section, the electronic voter registration system shall provide immediate verification that the:

(1) applicant has a South Carolina driver's license or state identification card issued by the Department of Motor Vehicles and that the number for that driver's license or identification card provided by the applicant matches the number for that person's driver's license or state identification card that is on file with the Department of Motor Vehicles;

(2) date of birth provided by the applicant matches the date of birth for that person, which is on file with the Department of Motor Vehicles;

(3) name provided by the applicant matches the name for the person which is on file with the Department of Motor Vehicles; and

(4) State Election Commission employs security measures to ensure the accuracy and integrity of voter registration applications submitted electronically pursuant to this section.

(D) Should there be a failure to match any of the information required in this section with the Department of Motor Vehicles, the State Election Commission immediately shall notify the applicant of the failure to match information and inform the applicant that his application for registration was not accepted.

(E) The State Election Commission may promulgate regulations necessary to effectuate the provisions of this section."

Statewide voter registration database

SECTION 3. Article 3, Chapter 5, Title 7 of the 1976 Code is amended by adding:

"Section 7-5-186. (A)(1) The State Election Commission shall establish and maintain a statewide voter registration database that must be administered by the commission and made continuously available to each board of elections and to other agencies as authorized by law.

(2)(a) State agencies, including, but not limited to, the Department of Health and Environmental Control, Office of Vital Statistics, Department of Motor Vehicles, Department of Employment

and Workforce, and the Department of Corrections, shall provide information and data to the State Election Commission that the commission considers necessary in order to maintain the statewide voter registration database established pursuant to this section, except where prohibited by federal law or regulation. The State Election Commission shall ensure that any information or data provided to the State Election Commission, which is confidential in the possession of the entity providing the data, remains confidential while in the possession of the State Election Commission.

(b) Information provided under this division for maintenance of the statewide voter registration database must not be used to update the name or address of a registered elector. The name or address of a registered elector only must be updated as a result of the elector's actions in filing a notice of change of name, change of address, or both.

(c) A county board of registration shall contact a registered elector by mail at the address on file with the board to verify the accuracy of the information in the statewide voter registration database regarding that elector if information provided under subsection (A)(2)(a) of this section identifies a discrepancy between the information regarding that elector that is maintained in the statewide voter registration database and maintained by a state agency.

(3) The State Election Commission may enter into agreements to share information or data with other states or groups of states, as the commission considers necessary, in order to maintain the statewide voter registration database established pursuant to this section. Except as otherwise provided in this subsection, the commission shall ensure that any information or data provided to the commission that is confidential in the possession of the state providing the data remains confidential while in the possession of the commission. The commission may provide such otherwise confidential information or data to persons or organizations that are engaging in legitimate governmental purposes related to the maintenance of the statewide voter registration database."

Executive Director of State Election Commission, duties

SECTION 4. Section 7-3-20(C)(11), (12), and (13) of the 1976 Code, as last amended by Act 253 of 2006, is further amended to read:

"(11) serve as the chief state election official responsible for implementing and coordinating the state's responsibilities under the National Voter Registration Act of 1993;

(12) 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

(13) 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."

Notice of deletion of elector's name from roster of electors

SECTION 5. Section 7-3-30 of the 1976 Code, as last amended by Act 466 of 1996, is further amended to read:

"Section 7-3-30. (a) The executive director shall notify by mail each elector at the address last filed in the office, whose name has been deleted for the reasons of conviction or a change in the residence of a qualified voter. The notice shall state the reason for the deletion and inform the elector of his right to appeal to the county board of registration and the time in which to perfect his appeal. A copy of the notice must be forwarded to the appropriate county board of registration.

(b) Each elector whose name has been deleted has twenty days from the date the notice is mailed to appeal. The appeal must be to the county board of registration from whose master file the deletion has been made. If the board determines that the elector's name should not have been deleted, it shall instruct the executive director to restore his name to the registration books; however, if the deletion is for conviction, the appeal must be to the Executive Director of the State Election Commission."

Reports furnished by Bureau of Vital Statistics

SECTION 6. Section 7-3-40 of the 1976 Code, as last amended by Act 434 of 1996, is further amended to read:

"Section 7-3-40. The Bureau of Vital Statistics must furnish the executive director a monthly report of all persons eighteen years of age or older who have died in the State since making the previous report. All reports must contain the name of the deceased, county of residence, his social security or other identification number, and his date and place of birth. The bureau must provide this information at no charge."

Reports furnished by Department of Motor Vehicles

SECTION 7. Chapter 3, Title 7 of the 1976 Code is amended by adding:

"Section 7-3-70. (a) The Department of Motor Vehicles must furnish the executive director a monthly report of all persons eighteen years of age or older who have surrendered their driver's license or identification card and obtained a driver's license or identification card in another state. All reports must contain the name of the driver or identification cardholder, social security number, date of birth, South Carolina county where previously a resident, and the state in which the license or identification card was surrendered. The department must provide this information at no charge.

(b) The Department of Motor Vehicles must furnish the executive director a monthly report of all persons eighteen years of age or older who were reported as deceased by Social Security Administration. All reports must contain the name, social security number, date of birth, and date of death. The department must provide this information at no charge."

Severability

SECTION 8. 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, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 9. This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 266

(R312, H5098)

AN ACT TO AMEND SECTION 61-6-2010, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TEMPORARY PERMITS FOR THE POSSESSION, SALE, AND CONSUMPTION OF ALCOHOLIC LIQUORS BY THE DRINK IN A COUNTY OR MUNICIPALITY UPON A FAVORABLE REFERENDUM VOTE, SO AS TO FURTHER PROVIDE FOR THOSE ELECTIONS WHICH CONSTITUTE GENERAL ELECTIONS FOR PURPOSES OF THE REFERENDUMS REQUIRED UNDER THIS SECTION, AND TO PROVIDE FOR THE PROCEDURES AND REQUIREMENTS PERTAINING TO THE CONDUCT OF THESE REFERENDUMS.

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

Referendums, when held and conduct of

SECTION 1. Section 61-6-2010 of the 1976 Code, as last amended by Act 67 of 2011, is further amended by adding a new subsection at the end to read:

"(H)(1) For purposes of referendums held pursuant to this section, 'general election' means a municipal general election held at a time other than the first Tuesday following the first Monday in November of even-numbered years or a county general election held on the first Tuesday following the first Monday in November of even-numbered years.

(2) A municipality that does not have a municipal general election scheduled within the same calendar year as a county general election may call, by ordinance, for a referendum to be held on the same date as the county general election, provided that a copy of the

ordinance has been filed with the county and municipal election commissions no later than the date required by Section 7-13-355. The expenses for a referendum ordered by a municipality shall be paid by the municipality. When a municipal referendum is held at the time of a county general election, the referendum may be conducted by a municipal or county election commission as provided for by an agreement between the municipality and the county."

Time effective

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

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 267

(R275, S1167)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 31-6-85 SO AS TO ALLOW A MUNICIPALITY AND ONE OR MORE TAXING DISTRICTS TO PROVIDE BY INTERGOVERNMENTAL AGREEMENT FOR PARTIAL OR MODIFIED PARTICIPATION IN A REDEVELOPMENT PROJECT; TO AMEND SECTION 31-6-80, RELATING TO APPROVAL OF A REDEVELOPMENT PLAN FOR PURPOSES OF THE TAX INCREMENT FINANCING LAW, SO AS TO CLARIFY AN AMENDMENT TO THE TAX INCREMENT FINANCING LAW; AND TO AMEND SECTION 4-10-310, AS AMENDED, RELATING TO THE IMPOSITION OF THE CAPITAL PROJECTS SALES TAX ACT, SO AS TO PROVIDE THAT THE LIMITATION APPLICABLE TO THE NUMBER OF CERTAIN LOCAL SALES AND USE TAXES THAT MAY BE IMPOSED IN A COUNTY AREA DOES NOT APPLY IN A COUNTY AREA IN WHICH, AS OF JULY 1, 2012, THERE WAS IMPOSED PURSUANT TO A LOCAL ACT OF THE GENERAL ASSEMBLY A LOCAL SALES AND USE TAX, THE REVENUES OF WHICH MUST BE USED TO OFFSET THE

COSTS OF SCHOOL CONSTRUCTION, OTHER SCHOOL PURPOSES, OR OTHER GOVERNMENTAL EXPENSES, OR ANY COMBINATION OF THESE USES.

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

Findings

SECTION 1. The General Assembly finds and determines that the legislative findings contained in Section 31-6-20 of the 1976 Code remain true and correct as of the effective date of this act. The General Assembly further finds and determines that it would further the purposes of the Tax Increment Financing Law, Sections 31-6-10, et seq. of the 1976 Code, and would be in the public interest, to explicitly confirm the ability of municipalities and one or more taxing districts to provide by intergovernmental agreement for partial or modified participation in a redevelopment project. The General Assembly further finds that such intergovernmental agreements are consistent with and permissible under existing law, and accordingly the purpose of this act is to explicitly confirm the validity and enforceability of such intergovernmental agreements, whether entered into prior or subsequent to the effective date of this act. This act may not be construed to create a negative implication that any such intergovernmental agreement entered into prior to the effective date of this act is not valid or enforceable.

Intergovernmental agreement for redevelopment project

SECTION 2. Chapter 6, Title 31 of the 1976 Code is amended by adding:

"Section 31-6-85.The municipality and one or more taxing districts may at any time provide by intergovernmental agreement that such taxing district or taxing districts will participate in a redevelopment project on a partial or modified basis. Such intergovernmental agreement shall become effective, and shall be valid and enforceable for the entire duration thereof, upon its approval by ordinance enacted by the municipality and by ordinance or resolution, whichever is applicable, enacted or approved by the affected taxing district or taxing districts."

Municipality redevelopment plan

SECTION 3. Section 31-6-80 of the 1976 Code, as last amended by Act 109 of 2005, is further amended to read:

"Section 31-6-80. (A) Prior to the issuance of any obligations under this chapter, the municipality shall set forth by way of ordinance the following:

(1) a copy of the redevelopment plan containing a statement of the objectives of a municipality with regard to the plan;

(2) a statement indicating the need for and proposed use of the proceeds of the obligations in relationship to the redevelopment plan;

(3) a statement containing the cost estimates of the redevelopment plan and redevelopment project and the projected sources of revenue to be used to meet the costs including estimates of tax increments and the total amount of indebtedness to be incurred;

(4) a list of all real property in the redevelopment project area;

(5) the duration of the redevelopment plan;

(6) a statement of the estimated impact of the redevelopment plan upon the revenues of all taxing districts in which a redevelopment project area is located;

(7) findings that:

(a) the redevelopment project area is an agricultural, blighted, or conservation area and that private initiatives are unlikely to alleviate these conditions without substantial public assistance;

(b) property values in the area would remain static or decline without public intervention; and

(c) redevelopment is in the interest of the health, safety, and general welfare of the citizens of the municipality.

(B) Before approving any redevelopment plan under this chapter, the governing body of the municipality must hold a public hearing on the redevelopment plan after published notice in a newspaper of general circulation in the county in which the municipality and any taxing district affected by the redevelopment plan is located not less than fifteen days and not more than thirty days prior to the hearing. The notice shall include:

(1) the time and place of the public hearing;

(2) the boundaries of the proposed redevelopment project area;

(3) a notification that all interested persons will be given an opportunity to be heard at the public hearing;

(4) a description of the redevelopment plan and redevelopment project; and

(5) the maximum estimated term of obligations to be issued under the redevelopment plan.

(C) Not less than forty-five days prior to the date set for the public hearing, the municipality shall give notice to all taxing districts of which taxable property is included in the redevelopment project area, and in addition to the other requirements of the notice set forth in the section, the notice shall request each taxing district to submit comments to the municipality concerning the subject matter of the hearing prior to the date of the public hearing.

(D) If a taxing district does not file an objection to the redevelopment plan at or prior to the date of the public hearing, the taxing district is considered to have consented to the redevelopment plan and the issuance of obligations under this chapter to finance the redevelopment project, provided that the actual term of obligations issued is equal to or less than the term stated in the notice of public hearing. The municipality may issue obligations to finance the redevelopment project to the extent that each affected taxing district consents to the redevelopment plan. The tax increment for a taxing district that does not consent to the redevelopment plan must not be included in the special tax allocation fund.

(E) Prior to the adoption of an ordinance approving a redevelopment plan pursuant to Section 31-6-80, changes may be made in the redevelopment plan that do not add parcels to or expand the exterior boundaries of the redevelopment project area, change general land uses established pursuant to the redevelopment plan or the proposed use of the proceeds of the obligations in relationship to the redevelopment plan, or extend the maximum amount or term of obligations to be issued under the redevelopment plan, without further hearing or notice, provided that notice of the changes is given by mail to each affected taxing district and by publication in a newspaper or newspapers of general circulation within the taxing districts not less than ten days prior to the adoption of the changes by ordinance. Notice of the adoption of the ordinance must be published by the municipality in a newspaper having general circulation in the affected taxing districts. Any interested party may, within twenty days after the date of publication of the notice of adoption of the redevelopment plan, but not afterwards, challenge the validity of such adoption by action de novo in the court of common pleas in the county in which the redevelopment plan is located.

(F)(1) Subsequent to the adoption of an ordinance approving a redevelopment plan pursuant to Section 31-6-80, the municipality may by ordinance make changes to the redevelopment plan that do not add

parcels to or expand the exterior boundaries of the redevelopment project area, change general land uses established pursuant to the redevelopment plan, change the proposed use of the proceeds of the obligations in relationship to the redevelopment plan, or extend the maximum amount or term of obligations to be issued under the redevelopment plan, in accordance with the following procedures:

(a) The municipality must provide notice of the proposed changes by mail to each affected taxing district. The proposed changes shall become effective only with respect to affected taxing districts that consent to the proposed changes by resolution of the governing body of the taxing districts.

(b) The municipality must publish notice of the adoption of the ordinance in a newspaper having general circulation in the affected taxing districts. Any interested party may, within twenty days after the date of publication of the notice of adoption of the redevelopment plan, but not afterwards, challenge the validity of the adoption by action de novo in the court of common pleas in the county in which the redevelopment plan is located.

(2) Subsequent to the adoption of an ordinance approving a redevelopment plan pursuant to Section 31-6-80, the municipality may by ordinance make changes to the redevelopment plan that adds parcels to or expands the exterior boundaries of the redevelopment project area, to general land uses established pursuant to the redevelopment plan, to the proposed use of the proceeds of the obligations in relationship to the redevelopment plan, or to extend the maximum amount or term of obligations to be issued under the redevelopment plan, in accordance with the procedures provided in this chapter for the initial approval of a redevelopment project and designation of a redevelopment project area.

(3) If the redevelopment project or portion of it is to be located outside of the redevelopment project area, the municipality shall by resolution make a specific finding of benefit to the redevelopment project area and provide written notice to the affected taxing district. No further action is required of the municipality."

Capital project sales tax limitation

SECTION 4. Section 4-10-310 of the 1976 Code, as last amended by Act 49 of 2009, is further amended to read:

"Section 4-10-310. Subject to the requirements of this article, the county governing body may impose a one percent sales and use tax by

ordinance, subject to a referendum, within the county area for a specific purpose or purposes and for a limited amount of time. The revenues collected pursuant to this article may be used to defray debt service on bonds issued to pay for projects authorized in this article. However, at no time may any portion of the county area be subject to more than one percent sales tax levied pursuant to this article, pursuant to Chapter 37, Title 4, or pursuant to any local law enacted by the General Assembly. This limitation does not apply in a county area in which, as of July 1, 2012, a local sales and use tax was imposed pursuant to a local act of the General Assembly, the revenues of which are used to offset the costs of school construction, or other school purposes, or other government expenses, or for any combination of these uses."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Vetoed by the Governor -- 6/18/12.
Veto overridden by Senate -- 6/20/12.
Veto overridden by House -- 6/20/12.

No. 268

(R233, H4033)

AN ACT TO AMEND SECTION 4-10-330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CAPITAL PROJECT SALES TAX ACT, SO AS TO PROVIDE THAT THE AUTHORIZED PROJECTS THAT ARE ALLOWED TO BE FUNDED BY A COUNTY CAPITAL PROJECT SALES TAX INCLUDE DREDGING, DEWATERING, CONSTRUCTION OF SPOIL SITES, AND DISPOSAL OF SPOIL MATERIALS; AND TO AMEND SECTIONS 5-37-40, 5-37-50, AND 5-37-100, ALL AS AMENDED, RELATING TO THE MUNICIPAL IMPROVEMENT ACT, SO AS TO PROVIDE THAT A MUNICIPAL IMPROVEMENT DISTRICT MAY BE CREATED FOR THE SOLE PURPOSE OF

THE WIDENING AND DREDGING OF WATERWAYS WITHOUT PRIOR WRITTEN CONSENT OF OWNERS OF OWNER-OCCUPIED RESIDENTIAL PROPERTY AT THE TIME THE IMPROVEMENT DISTRICT IS CREATED.

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

Capital Project sales tax purposes

SECTION 1. Section 4-10-330(A)(1) of the 1976 Code, as last amended by Act 49 of 2009, is further amended to read:

"(A) The sales and use tax authorized by this article is imposed by an enacting ordinance of the county governing body containing the ballot question formulated by the commission pursuant to Section 4-10-320(C), subject to referendum approval in the county. The ordinance must specify:

(1) the purpose for which the proceeds of the tax are to be used, which may include projects located within or without, or both within and without, the boundaries of the local governmental entities, including the county, municipalities, and special purpose districts located in the county area, and may include the following types of projects:

(a) highways, roads, streets, bridges, and public parking garages and related facilities;

(b) courthouses, administration buildings, civic centers, hospitals, emergency medical facilities, police stations, fire stations, jails, correctional facilities, detention facilities, libraries, coliseums, educational facilities under the direction of an area commission for technical education, or any combination of these projects;

(c) cultural, recreational, or historic facilities, or any combination of these facilities;

(d) water, sewer, or water and sewer projects;

(e) flood control projects and storm water management facilities;

(f) beach access and beach renourishment;

(g) dredging, dewatering, and constructing spoil sites, disposing of spoil materials, and other matters directly related to the act of dredging;

(h) jointly operated projects of the county, a municipality, special purpose district, and school district, or any combination of

those entities, for the projects delineated in subitems (a) through (g) of this item;

(i) any combination of the projects described in subitems (a) through (h) of this item;"

Establishment of improvement districts

SECTION 2. Section 5-37-40 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

"Section 5-37-40.(A) If the governing body finds that:

(1) improvements would be beneficial within a designated improvement district;

(2) the improvements would preserve or increase property values within the district;

(3) in the absence of the improvements, property values within the area would be likely to depreciate, or that the proposed improvements would be likely to encourage development in the improvement district;

(4) the general welfare and tax base of the city would be maintained or likely improved by creation of an improvement district in the city; and

(5) it would be fair and equitable to finance all or part of the cost of the improvements by an assessment upon the real property within the district, the governing body may establish the area as an improvement district and implement and finance, in whole or in part, an improvement plan in the district in accordance with the provisions of this chapter. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48-39-130(D)(10), owner-occupied residential property that is taxed, or will be taxed pursuant to Section 12-43-220(c), must not be included within an improvement district unless the owner, at the time the improvement district is created, gives the governing body written permission to include the property within the improvement district.

(B) If an improvement district is located in a redevelopment project area created pursuant to Chapter 6, Title 31, the improvement district being created under the provisions of this chapter must be considered to satisfy items (1) through (5) of subsection (A). The ordinance creating an improvement district may be adopted by a majority of council after a public hearing at which the plan is presented, including the proposed basis and amount of assessment, or upon written petition

signed by a majority in number of the owners of real property within the district that is not exempt from ad valorem taxation as provided by law. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48-39-130(D)(10), owner-occupied residential property that is taxed, or will be taxed pursuant to Section 12-43-220(c), must not be included within an improvement district unless the owner, at the time the improvement district is created, gives the governing body written permission to include the property within the improvement district."

Resolution regarding improvement plan

SECTION 3. Section 5-37-50 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

"Section 5-37-50.The governing body, by resolution adopted, shall describe the improvement district and the improvement plan to be effected, including a property within the improvement district to be acquired and improved, the projected time schedule for the accomplishment of the improvement plan, the estimated cost and the amount of the cost to be derived from assessments, bonds, or other general funds, together with the proposed basis and rates of assessments to be imposed within the improvement district. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48-39-130(D)(10), owner-occupied residential property that is taxed, or will be taxed pursuant to Section 12-43-220(c), must not be included within an improvement district unless the owner, at the time the improvement district is created, gives the governing body written permission to include the property within the improvement district. The resolution also shall establish the time and place of a public hearing to be held within the municipality not sooner than twenty days nor more than forty days following the adoption of the resolution, at which an interested person may attend and be heard, either in person or by attorney, on a matter in connection with the improvement district."

Ordinance creating improvement districts

SECTION 4. Section 5-37-100 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

"Section 5-37-100. No sooner than ten days nor more than one hundred twenty days following the conclusion of the public hearing provided in Section 5-37-50, the governing body, by ordinance, may provide for the creation of the improvement district as originally proposed or with the changes and modifications in it as the governing body may determine, and provide for the financing by assessment, bonds, or other revenues as provided in this chapter. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48-39-130(D)(10), owner-occupied residential property that is taxed pursuant to Section 12-43-220(c), must not be included within an improvement district unless the owner gives the governing body written permission to include the property within the improvement district. The ordinance may not become effective until at least seven days after it has been published in a newspaper of general circulation in the municipality. The ordinance may incorporate by reference plats and engineering reports and other data on file in the offices of the municipality. The place of filing and reasonable hours for inspection must be made available to all interested persons."

Time effective

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Vetoed by the Governor -- 6/11/12.
Veto overridden by House -- 6/19/12.
Veto overridden by Senate -- 6/20/12.

No. 269

(R258, H4821)

AN ACT TO AMEND SECTION 8-21-310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COURT FEES AND COSTS, SO AS TO PROVIDE FOR THE FILING OF COURT DOCUMENTS BY ELECTRONIC MEANS FROM AN INTEGRATED ELECTRONIC FILING (E-FILING) SYSTEM AND TO PROVIDE THAT FEES GENERATED FROM E-FILING ARE TO BE USED IN SUPPORT OF COURT TECHNOLOGY.

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

Court fees, e-filing

SECTION 1. Section 8-21-310 of the 1976 Code, as last amended by Act 256 of 2010, is further amended by adding an appropriately numbered item at the end to read:

"( ) for filing court documents by electronic means from an integrated electronic filing (e-filing) system owned and operated by the South Carolina Judicial Department in an amount set by the Chief Justice of the South Carolina Supreme Court and all fees must be remitted to the South Carolina Judicial Department to be dedicated to the support of court technology."

Time effective

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

Ratified the 6th day of June, 2012.

Vetoed by the Governor -- 6/11/12.
Veto overridden by House -- 6/19/12.
Veto overridden by Senate -- 6/20/12.

No. 270

(R293, H3918)

AN ACT TO AMEND CHAPTER 1, TITLE 55, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION OF THE DIVISION OF AERONAUTICS WITHIN THE DEPARTMENT OF COMMERCE, SO AS TO PROVIDE DEFINITIONS FOR VARIOUS TERMS, TO MOVE THE FUNCTIONS, DUTIES, AND RESPONSIBILITIES OF THE DIVISION OF AERONAUTICS TO THE SOUTH CAROLINA BUDGET AND CONTROL BOARD, TO PROVIDE THAT ALL FEES AND FINES ASSESSED BY THE DIVISION MUST BE DEPOSITED INTO THE STATE AVIATION FUND, TO REVISE CERTAIN PROVISIONS RELATING TO THE OPERATION OF INTRASTATE SCHEDULED AIRLINE SERVICE, COUNTY AVIATION COMMISSIONS, THE USE OF STATE-OWNED AIRCRAFT, AND THE USE OF ALCOHOLIC BEVERAGES BY FLIGHT CREW MEMBERS, TO MAKE TECHNICAL CHANGES, AND TO REVISE CERTAIN PENALTIES; TO AMEND CHAPTER 3, TITLE 55, RELATING TO THE UNIFORM STATE LAWS FOR AERONAUTICS, SO AS TO MAKE TECHNICAL CHANGES, REVISE CERTAIN PROVISIONS RELATING TO THE DEFINITION OF VARIOUS FORMS OF AIRCRAFT, THE OWNERSHIP OF AIRSPACE, THE LANDING OF AN AIRCRAFT ON LANDS OR WATERS, TO PROVIDE THAT IT IS ILLEGAL TO POINT, AIM, OR DISCHARGE A LASER DEVICE AT CERTAIN AIRCRAFT, AND PROVIDE PENALTIES; TO AMEND CHAPTER 5, TITLE 55, RELATING TO THE UNIFORM STATE AERONAUTICAL REGULATORY LAW, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE THE PROVISION THAT CONTAINS VARIOUS TERMS AND THEIR DEFINITIONS, TO DELETE THE PROVISION THAT REQUIRES THE STATE BUDGET AND CONTROL BOARD TO PROVIDE OFFICES FOR THE DIVISION OF AERONAUTICS, TO DELETE THE PROVISION THAT REQUIRES THE DIVISION OF AERONAUTICS TO FURNISH COUNTY AUDITORS A LIST OF ALL AIRCRAFT REGISTERED IN THEIR COUNTY, TO REVISE THE DIVISION'S RESPONSIBILITIES RELATING TO ITS REGULATION OF CERTAIN AIR NAVIGATION AND AIRPORT FACILITIES, THE CONSTRUCTION OF

AIRPORTS, THE REPORTS IT FILES WITH THE FEDERAL AVIATION ADMINISTRATION, AND THE OPERATION OF THE DIVISION, TO PROVIDE PENALTIES FOR VIOLATIONS OF PROVISIONS OF THIS CHAPTER, AND TO REVISE PROVISIONS RELATING TO THE USE OF MONIES CONTAINED IN THE STATE AVIATION FUND; TO AMEND CHAPTER 9, TITLE 55, RELATING TO THE UNIFORM SOUTH CAROLINA AIRPORTS ACT, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT THIS CHAPTER ALSO APPLIES TO COUNTIES, AIRPORT COMMISSIONS, AND SPECIAL PURPOSE DISTRICTS, TO DELETE OBSOLETE TERMS, TO REVISE THE PROJECTS THAT MAY BE FUNDED FROM MONIES CONTAINED IN AIRPORT FACILITIES ACCOUNTS, AND TO PROVIDE FOR THE TERM "AIRPORT HAZARD" AND TO PROVIDE ITS DEFINITION AND THE REGULATION OF AN AIRPORT HAZARD; TO AMEND CHAPTER 11, TITLE 55, RELATING TO THE CREATION AND OPERATION OF CERTAIN AIRPORTS WITHIN THE STATE, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE THAT THE DIVISION OF AERONAUTICS IS TRANSFERRED FROM THE DEPARTMENT OF COMMERCE TO THE STATE BUDGET AND CONTROL BOARD, TO DELETE CERTAIN OBSOLETE TERMS, TO REVISE THE PROCESS FOR THE MAKING OF CERTAIN CONTRACTS FOR THE CONSTRUCTION, ERECTION, MAINTENANCE, AND REPAIR OF CERTAIN AIRPORT FACILITIES, TO ALLOW FOR THE SALE OF ALCOHOLIC BEVERAGES AT CERTAIN AIRPORT FACILITIES, TO REVISE CERTAIN PENALTIES, TO REVISE THE DEFINITION OF A "QUORUM" FOR A CERTAIN AIRPORT COMMISSION, TO EXPAND THE AUTHORITY OF CERTAIN AIRPORT COMMISSIONS TO ADOPT RULES AND PROMULGATE REGULATIONS, TO PROVIDE THAT IT IS UNLAWFUL TO ENGAGE IN CERTAIN ACTIVITIES UPON CERTAIN AIRPORT PROPERTIES, TO DELETE THE TERM "SECRETARY" AND ITS DEFINITION, AND REPLACE IT WITH THE TERM "EXECUTIVE DIRECTOR" AND ITS DEFINITION AND TO MAKE TECHNICAL CHANGES; TO AMEND CHAPTER 13, TITLE 55, RELATING TO THE PROTECTION OF AIRPORTS AND AIRPORT PROPERTIES, SO AS TO PROVIDE THAT THE DIVISION OF AERONAUTICS SHALL CREATE MAPS OF THE STATE'S

PUBLIC USE AIRPORTS AND DISTRIBUTE THEM TO VARIOUS LOCAL GOVERNMENTAL AGENCIES FOR VARIOUS PURPOSES, TO PROVIDE THAT POLITICAL SUBDIVISIONS MAY ASSIST WITH THE PROTECTION OF AREAS THAT POSE HAZARDS TO AIR TRAFFIC, AND TO REVISE THE PENALTIES FOR VIOLATIONS OF THIS CHAPTER; TO AMEND CHAPTER 15, TITLE 55, RELATING TO RELOCATION ASSISTANCE, SO AS TO DELETE THE TERM "DEPARTMENT OF COMMERCE" AND REPLACE IT WITH THE TERM "BUDGET AND CONTROL BOARD", AND TO MAKE TECHNICAL CHANGES; TO AMEND CHAPTER 17, TITLE 55, RELATING TO REGIONAL AIRPORT DISTRICTS, SO AS TO REVISE THE PROVISION THAT REVISES THE TYPE OF AIR CARRIERS REGULATED BY THIS CHAPTER, AND TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 13-1-20, RELATING TO CERTAIN RESPONSIBILITIES OF THE DEPARTMENT OF COMMERCE, SO AS TO DELETE ITS RESPONSIBILITY TO DEVELOP STATE PUBLIC AIRPORTS AND AN AIR TRANSPORTATION SYSTEM; TO AMEND SECTION 13-1-30, AS AMENDED, RELATING TO THE ORGANIZATIONAL STRUCTURE OF THE DEPARTMENT OF COMMERCE, SO AS TO REVISE THE PROVISIONS RELATING TO THE DIVISION OF AERONAUTICS; TO AMEND SECTION 13-1-1050, AS AMENDED, RELATING TO CERTAIN TERMS AND THEIR DEFINITIONS, SO AS TO PROVIDE FOR THE APPOINTMENT OF A MEMBER OF THE COMMISSION FROM THE SEVENTH CONGRESSIONAL DISTRICT; TO AMEND SECTION 13-1-1000, RELATING TO THE AERONAUTICS COMMISSION, SO AS TO PROVIDE THAT IT IS NO LONGER A DIVISION OF THE DEPARTMENT OF COMMERCE, BUT A DIVISION OF THE BUDGET AND CONTROL BOARD; TO AMEND SECTION 13-1-1010, RELATING TO THE AERONAUTICS COMMISSION, SO AS TO PROVIDE THAT THE COMMISSIONS DUTIES AND RESPONSIBILITIES ARE TRANSFERRED FROM THE DEPARTMENT OF COMMERCE TO THE BUDGET AND CONTROL BOARD; AND TO REPEAL CHAPTER 8, TITLE 55 RELATING TO THE UNIFORM AIRCRAFT FINANCIAL RESPONSIBILITY ACT.

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

Division of Aeronautics

SECTION 1. Chapter 1, Title 55 of the 1976 Code is amended to read:

"CHAPTER 1

General Provisions

Section 55-1-1.There is created a Division of Aeronautics within the South Carolina Budget and Control Board that shall be governed by the Aeronautics Commission as provided in Chapter 1, Title 57.

Section 55-1-5.For the purposes of Chapters 1 through 9, Title 55, the following words and terms are defined as follows:

(1) 'Aeronautics' means the act or practice of the art and science of transportation by aircraft, of operation, construction, repair or maintenance of aircraft, airports, landing fields, landing strips or air navigation facilities or of air instruction.

(2) 'Aircraft' means a device that is used or intended to be used for flight in the air.

(3) 'Airman' means a person who holds a pilot, flight instructor, flight engineer, or flight navigator certificate issued by the Federal Aviation Administration, including persons not holding these certificates but who are acting as a flight crew member or otherwise manipulating the controls of an aircraft while in flight or for the intended purpose of flight.

(4) 'Airport' means any area, private or public, either of land or water, which is used or which is made available for the landing and take-off of aircraft, whether or not it provides facilities for the shelter, supply and repair of aircraft or for receiving or discharging passengers or cargo, and all appurtenant rights of ways; whether currently existing or hereafter established. The definition of an airport includes landing fields, heliports, seaplane ports, spaceports, and landing strips.

(5) 'Airport Land Use Zones' are areas where land uses incompatible with aircraft operations, including, but not limited to, lands affected by airport noise, aviation safety zones, high density development near airports, or activities where normal takeoff, departure, approach, or landing profiles or criteria, are or would be adversely affected.

(6) 'Airport Safety Zones' are those lands and waters on or near a public use airport which include airport property and surrounding

adjacent and contiguous properties where aircraft operations, including taxi, takeoff, landing, approach, arrival, and departure would be adversely affected as a result of:

(a) condition exists that interferes with, or has a reasonable potential to interfere with aircraft operations;

(b) a condition that poses an increased risk to aviation safety;

(c) the persistence of a condition such as an obstruction that would cause aircraft takeoff, landing, or approach criteria to be adversely impacted;

(d) the existence of a condition that would constitute a nuisance to aircraft operation; or

(e) planned or actual concentration of residential or commercial structures in close proximity to the flight path of arriving or departing aircraft.

(7) Notwithstanding another provision of law, 'Aviation Fuel' means gasoline and aviation jet fuel manufactured exclusively for use in airplanes and sold for these purposes.

(8) 'Civil Aircraft' means an aircraft other than a government aircraft having a civil airworthiness certificate issued by the Federal Aviation Administration.

(9) 'Commission' means the Aeronautics Commission which shall assist and oversee the operation of the division.

(10) 'Division' unless otherwise indicated, means the Division of Aeronautics of the South Carolina Budget and Control Board.

(11) Notwithstanding another provision of law, 'Executive Director' means the person or persons appointed by the Governor in accordance with Section 13-1-1080 and serving at the pleasure of the Aeronautics Commission to supervise and carry out the functions and duties of the Division of Aeronautics as provided for by law.

(12) 'Government aircraft' means aircraft used only in the service of a government, or a political subdivision. It does not include any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(13) 'Governmental entity' means a county, municipality, or political subdivision of this State.

(14) 'Operator' means a person who is exercising actual physical control of an aircraft.

(15) 'Owner' means the following persons who may be legally responsible for the operation of an aircraft:

(a) a person who holds the legal title to an aircraft;

(b) a lessee of an aircraft;

(c) a conditional vendee, a trustee under a trust receipt, a mortgagor, or other person holding an aircraft subject to a security interest.

(16) 'Passenger' means a person in, on, or boarding an aircraft for the purpose of riding on it, or alighting there from following a flight or attempted flight on it.

(17) 'Person' means any individual, association, copartnership, firm, company, corporation or other association of individuals.

(18) 'Public airport' means an airport for public use, publicly owned and under control of a governmental or quasi-governmental agency.

(19) 'Public use airports' means an airport open to the public without prior permission, regardless of ownership.

(20) 'Restricted use airport' means an airport where the owner prohibits or restricts public use.

(21) 'Seaplane' means an aircraft which is capable of landing and taking off on the water.

(22) 'State' means any state, the District of Columbia, any territory or possession of the United States and the Commonwealth of Puerto Rico.

Section 55-1-7.All fees and fines assessed by the division under this title must be deposited into the State Aviation Fund.

Section 55-1-10. No person transported by the owner or operator of an aircraft as his guest without payment for this transportation shall have a cause of action for damages against the aircraft, its owner or operator for injury, death, or loss in case of accident unless the accident was intentional on the part of the owner or operator or caused by his heedlessness or his reckless disregard of the rights of others.

Section 55-1-20. Section 55-1-10 shall not relieve a public carrier of responsibility for injuries sustained by a passenger being transported by the public carrier.

Section 55-1-30. It is unlawful to remove or damage an airport facility or equipment with malicious intent. A person violating the provisions of this section is guilty of a felony and, upon conviction, must be:

(1) fined not less than ten thousand dollars or imprisoned not more than five years, or both;

(2) fined not less than ten thousand dollars or imprisoned not more than ten years, or both, if injury results from malicious damage or removal of airport facilities or equipment;

(3) imprisoned not more than thirty years if death results from the malicious damage or removal of airport facilities or equipment.

This section shall not apply to damage that is neither malicious nor intentional to crushable materials, collapsible structures, or aircraft arresting systems that are designed to deform when used.

Section 55-1-40. (1) It is unlawful for a person to enter an aircraft or damage or remove from it any equipment or other property attached to it, affined to or otherwise on or in an aircraft without the permission of the owner or a person authorized by the owner to grant such permission.

(2) The provisions of this section do not apply to any airport personnel or other persons while acting in an official capacity except when such capacity is used to accomplish an unlawful purpose.

(3) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five thousand dollars nor more than ten thousand dollars or imprisoned not less than one year nor more than ten years.

(4) The provisions of this section are cumulative.

Section 55-1-50. It is unlawful for a person to land or cause to be landed any aircraft on or take off from a public highway in this State except in situations authorized by an authorized employee of the division, by law enforcement, or in an emergency or cautionary situation in which the safety of the aircraft is involved. In a prosecution for violation of this section, the burden of proving that the emergency or cautionary situation existed shall be upon the person landing the aircraft on the highway or causing it to take off from it.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than sixty days.

Section 55-1-60. Reserved

Section 55-1-70. Reserved

Section 55-1-80. Reserved

Section 55-1-90. State-owned aircraft may be used by state agencies, and other governmental bodies or political subdivisions within the state for matters pertinent to, and in the normal course of business for the governmental entities. Use of state aircraft by other governmental bodies or political subdivisions that are not a part of South Carolina State government must be accompanied by a written statement by a legislative sponsor or a sponsor from an agency of the State attesting to the need for one or more flight operations. The written statement must be in a manner acceptable to the division.

Nothing in this section shall prohibit the division from entering into agreements with a public hospital or medical center owned, operated, or supported in whole or in part by state funds for the purpose of transporting personnel or patients, whether on an emergency basis or otherwise, as long as payment is made, including any insurance proceeds, to the State Treasurer. All funds paid for use of state aircraft under this section must be deposited into the general fund and credited to the division. The division may adopt rules and promulgate regulations governing this section.

Section 55-1-100. (A) It is unlawful for a person to operate or act as a flight crew member of an aircraft in this State:

(1) within eight hours after the consumption of any alcoholic beverage;

(2) while under the influence of alcohol;

(3) while using an illegal drug or controlled substance that affects the person's faculties in a manner contrary to safety; or

(4) with four one-hundredths of one percent or more by weight of alcohol in his blood at the time of the alleged violation.

(B) A person who operates or acts as a flight crew member of an aircraft in this State may consent to a chemical test of his breath for the purpose of determining the alcoholic content of his blood if arrested for violating the provisions of subsection (A). The test must be administered at the direction of a law enforcement officer who has apprehended a person while or after operating or acting as a flight crew member of any aircraft in this State while under the influence of alcohol. The test must be administered by a person trained and certified by and using methods approved by the South Carolina Law Enforcement Division, using methods approved by the division. The arresting officer may not administer the test, and no test may be administered unless the defendant has been informed that he does not have to take the test. A person who refuses to submit to the test violates the provisions of this subsection and is subject to a civil fine of

two thousand dollars. The penalties provided for in this subsection are in addition to those provided for in subsection (E).

No person is required to submit to more than one test for any one offense for which he has been charged, and the test must be administered as soon as practicable without undue delay.

The person tested may have a physician, qualified technician, chemist, registered nurse, or other qualified person of his own choosing conduct a test or tests in addition to the test administered by the law enforcement officer. The failure or inability of the person tested to obtain an additional test does not preclude the admission of evidence relating to the test taken at the direction of the law enforcement agency or officer.

The arresting officer and the person conducting the test shall inform the person tested of his right to obtain an additional test, and the arresting officer or the person conducting the chemical test of the person apprehended promptly shall assist that person to contact a qualified person to conduct additional tests.

The division shall administer the provisions of this subsection and may make regulations as may be necessary to carry out its provisions. The Department of Health and Environmental Control and SLED shall cooperate with the division in carrying out its duties.

(C) In a criminal prosecution for the violation of this section, the amount of alcohol in the defendant's blood at the time of the alleged violation, as shown by chemical analysis of the defendant's breath, is admissible as evidence.

The provisions of this subsection do not limit the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of alcohol. Nothing contained in this section prohibits the introduction of:

(1) the results of additional tests of the person's breath or other bodily fluids;

(2) evidence that may corroborate or question the validity of the breath or bodily fluid test result including, but not limited to, evidence of:

(a) field sobriety tests;

(b) the amount of alcohol consumed by the person; and

(c) the person's action while operating an aircraft;

(3) a videotape of the person's conduct at the incident site and breath testing site taken pursuant to Section 56-5-2953 which is subject to redaction under the South Carolina Rules of Evidence; or

(4) any other evidence of the state of a person's faculties to operate an aircraft which would call into question the results of a breath or bodily fluid test.

At trial, a person charged with a violation of this section is entitled to a jury instruction stating that the factors enumerated above and the totality of the evidence produced at trial may be used by the jury to determine guilt or innocence. A person charged with a violation of this section must be given notice of intent to prosecute under the provisions of this section at least fourteen days before his trial date.

(D) The person conducting the chemical test for the law enforcement officer shall record in writing the time of arrest, the time of the test, and the results of the test, a copy of which must be furnished to the person tested or his attorney prior to any trial or other proceedings in which the results of the test are used as evidence. A person administering any additional test shall record in writing the time, type, and results of the test and promptly furnish a copy of the test to the arresting officer. A copy of the results of the test may be furnished to the Federal Aviation Administration and the division by the arresting officer or the agency involved in the arrest.

(E) A person who violates the provisions of subsection (A), upon conviction, must be punished by a fine of one thousand dollars or imprisonment for not less than forty-eight hours or more than one year, or both.

(F) For the purposes of this section 'flight crew member' means a pilot, flight engineer, or flight navigator on duty or in an aircraft during flight time.

Notwithstanding another provision of law, a person charged with a violation of this section has the right to compulsory process for obtaining witnesses, documents, or both, including, but not limited to, state employees charged with the maintenance of breath testing devices in this State and the administration of breath testing pursuant to this chapter. This process may be issued under the official signature of the magistrate, judge, clerk, or other officer of the court of competent jurisdiction. The term 'documents' includes, but is not limited to, a copy of the computer software program of breath testing devices. The portion of compulsory process provided for in this section that requires the attendance, at any administrative hearing or court proceeding, of state employees charged with the maintenance of breath testing devices in this State and the administration of breath testing pursuant to this article, takes effect once the compulsory process program at SLED is specifically, fully, and adequately funded.

In addition, at the time of arrest for a violation of this section, the arresting officer, in addition to other notice requirements, must inform the defendant of his right to all hearings provided by law to include those if a breath test is refused or taken with a result that would require license suspension. The arresting officer, if the defendant wishes to avail himself of any hearings, depending on the choices made or the breath test results obtained, must provide the defendant with the appropriate form to request the hearing. The defendant must acknowledge receipt of the notice requirements and receipt of the hearing form if a hearing is desired."

State Law for Aeronautics

SECTION 2. Chapter 3, Title 55 of the 1976 Code is amended to read:

"CHAPTER 3

State Law for Aeronautics

Section 55-3-10. This chapter may be cited as the State Law for Aeronautics.

Section 55-3-20. Reserved

Section 55-3-30. Reserved

Section 55-3-40. Reserved

Section 55-3-50. The landing of an aircraft on the lands or waters of another without his consent is unlawful, except in the case of a cautionary or emergency landing. This section shall not apply to landings on waters of the state or other navigable waters where the waters are normally open to the public or available for public use nor shall this section apply to landing at public use airports, or airports owned or operated by a governmental body or political subdivision. The owner or lessee of the aircraft or the airman is liable in accordance with applicable law for injury to a person or property caused by an emergency or precautionary landing made in accordance with this section.

Section 55-3-60. The owner of an aircraft operated over the land or waters of this State is absolutely liable for injury to persons or property

on the land or water beneath the aircraft which is caused by ascent, descent or flight of the aircraft or the dropping or falling of an object from an aircraft, whether the owner was negligent or not, unless the injury is caused in whole or in part by the negligence of the person injured or of the owner or bailee of the property injured. If the aircraft is leased at the time of the injury to person or property both owner and lessee is liable and they may be sued jointly or either or both of them may be sued separately. An airman who is not the owner or lessee is liable only for the consequences of his negligence. The injured person or owner or bailee of the injured property shall have a lien next in priority to the lien for State and county taxes on the aircraft causing the injury to the extent of the damage caused by the aircraft or an object falling from it. A chattel mortgagee, conditional vendor or trustee under an equipment trust of an aircraft out of possession shall not be considered an owner or lessee within the provisions of this section. This section shall not apply to damage to airport property that is neither malicious nor intentional, nor shall this section apply to damage to crushable materials, collapsible structures, or aircraft arresting systems that are designed to deform when used.

Section 55-3-70. Subject to the provisions of Section 55-1-10, the liability of the owner of one aircraft to the owner of another aircraft, or to an airman or passengers on either aircraft, for damage caused by collision on land or in the air must be determined by the rules of law applicable to torts on land.

Section 55-3-80. All crimes, torts, and other wrongs committed by or against an airman or passenger while in flight over this State is governed by the laws of this State. The question of whether damage occasioned by or to an aircraft while in flight over this State constitutes a tort, crime, or other wrong by or against the owner of the aircraft must be determined by the laws of this State.

Section 55-3-90. Navigable waterways, which are available for use under the public trust doctrine, may be used for the landing, docking, and takeoff of seaplanes in accordance with this provision. This section does not authorize the use of seaplanes in a manner or location which would violate the property rights of another person.

During the landing, docking, and takeoff of a seaplane, its pilot shall comply with all applicable federal and state laws and aeronautical rules.

Seaplane takeoff, landing, and water operations must be done safely and in a manner which does not endanger other persons, watercraft, and property.

A seaplane shall not land, dock, or take off on a waterway in a manner that would violate applicable laws, ordinances, and rules if done by a motorized watercraft, except that a seaplane is not required to comply with a statewide speed limit for watercraft while landing and taking off, if a higher speed is necessary for safe operation and is not in conflict with any other restrictions applicable to watercraft.

In no event shall the landing, docking, or takeoff of seaplanes be approved if the landing, docking, or takeoff would pose unreasonable risks to public health, safety, or property as determined by the division.

Section 55-3-100. If the division determines that use of a waterway by a seaplane poses an unreasonable risk to public health, safety, or property, the division or commission may withdraw approval or limit use of the waterway or make the use of the waterway subject to conditions, after following criteria set forth in this section. If considered necessary to protect public health, safety or property, the division may issue an interim order restricting the use of a waterway by a seaplane pending completion of the procedures in this section. In determining if a waterway is suitable for seaplane use, the division shall consider the following criteria:

(1) the safety and general suitability of the waterway for seaplane use;

(2) the impact of seaplane use on the use and enjoyment of the waterway and adjacent properties by other persons;

(3) the availability of suitable alternative waterways for seaplane use;

(4) the public interest in fostering aviation and allowing the use of navigable waterways for aviation and other purposes;

(5) whether competing interests may be balanced by imposing limitations or conditions on use of the waterway by seaplanes; and

(6) any other factor which reasonably would be affected by a decision to allow seaplane use notwithstanding the local ordinance.

Section 55-3-110. An airman or passenger who, while in flight within this State, shall intentionally kill or attempt to kill any birds or animals is guilty of a misdemeanor and punishable by a fine of not more than two thousand dollars, or by imprisonment for not more than thirty days, or both.

Section 55-3-120. This chapter must be interpreted and construed as to effectuate its general purpose of promoting aviation, aeronautics, aviation safety, and conforming and making consistent this State's laws with federal law, and the laws of other states on the subject of aviation and aeronautics.

Section 55-3-130. The pointing, aiming, or discharge of a laser device at an aircraft in flight or on the ground while occupied is unlawful. A person who wilfully and maliciously discharges a laser at an aircraft, whether stopped, in motion or in flight, while occupied, is guilty of a misdemeanor punishable by imprisonment for not more than one year or by a fine of two thousand dollars, or both. For a second or subsequent violation of this section a person is guilty of a felony punishable and must be imprisoned for not more than three years, or fined not more than five thousand dollars, or both. This section does not apply to the conduct of laser development activity by or on behalf of the United States Armed Forces.

A person who, with the intent to interfere with the operation of an aircraft, wilfully shines a light or other bright device, of an intensity capable of impairing the operation of an aircraft, at an aircraft, must be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both.

As used in this section, 'laser' means a device that utilizes the natural oscillations of atoms or molecules between energy levels for generating coherent electromagnetic radiation in the ultraviolet, visible, or infrared region of the spectrum, and when discharged exceeds one milliwatt continuous wave."

State Aeronautical Regulatory Act

SECTION 3. Chapter 5, Title 55 of the 1976 Code is amended to read:

"CHAPTER 5

State Aeronautical Regulatory Act

Section 55-5-10. This chapter may be cited as 'The State Aeronautical Regulatory Act'.

Section 55-5-20. Reserved

Section 55-5-50. Notwithstanding another provision of law, the division shall employ an executive director of aeronautics in accordance with the provision contained in Section 13-1-1050 and 13-1-1080 and other employees necessary for the proper transaction of the division's business.

Section 55-5-60. Reserved

Section 55-5-70. The division shall promote and foster air commerce within the State and the division shall have an interest in the maintenance and enhancement of the aeronautical activities and facilities within the State. The division shall adopt reasonable rules and promulgate regulations as it may deem necessary and advisable, in conjunction with Federal Aviation Administration regulations, for the public safety and for the promotion of aeronautics governing the designing, laying out, location, building, equipping, operation and use of all airports.

Section 55-5-71. It is unlawful for a restricted use airport, or other air navigation facility within three nautical miles of a public use facility to be used or operated without the written approval of the division. This approval must be based upon consideration of aviation safety, including a location that would constitute a collision or air traffic hazard or conflict with flight operations in the vicinity of a public use airport.

Section 55-5-72. Except as provided in this section, no airport open for public use shall be constructed in this State unless the master plan study, or airport layout plan, or the construction plans and specifications for such airport or landing strip have been approved in writing by the division. No additions shall be made to any existing airport or landing strip open for public use unless the master plan study or the construction plans and specifications for an airport or landing strip have been approved in writing by the division. This provision shall not apply to airports owned by private entities, or an airport which does not receive State funds.

Section 55-5-73. No state airport construction funding or funding from the State Aviation Fund shall be provided to an airport unless it has an airport layout plan and construction plan approved by, and on file with the division at the time the request for funding is made.

Section 55-5-80. (A) The division shall have a seal and shall adopt rules and promulgate regulations for its administration, not inconsistent, as it considers necessary. It may amend its rules and regulations and shall adopt reasonable rules and promulgate regulations as it considers necessary and advisable for the public safety and the safety of those engaged in aeronautics.

(B) The division shall enter into contracts or agreements with the Federal Aviation Administration to administer, and shall administer grant programs, maintenance programs, or other programs in the support of the state aeronautical system.

(C) The division shall operate a flight department including the purchase, operation, and maintenance of aircraft to support the transportation needs of the State, and may support and cooperate with other state agencies who own aircraft through maintenance and operations agreements.

(D) The division shall consult with the Federal Aviation Administration, persons involved in aeronautics and aeronautical activity, public airports, and airport governing boards as necessary for the purpose of enhancing the public safety and the safety of those engaged in aeronautics. The division may promulgate regulations to carry out this purpose. However, these regulations must not be inconsistent with federal law or regulations governing aeronautics.

(E) The division shall assist in the development of aviation and aviation facilities within the State for the purpose of safeguarding the interest of those engaged in all phases of the aviation industry and of the general public and of promoting aeronautics.

(F) The division may cooperate with any authority, county, or municipality in the establishment, maintenance and operation of airports, landing fields or emergency landing strips and may do so in cooperation with other states or with any federal agency.

(G) The division shall have the authority to partner with local governments, private entities, special purpose districts, or others to establish, own, operate, and maintain existing or future airports.

(H) The division may conduct inspections of aviation facilities for compliance with federal grants, or to assist in obtaining grants from federal agencies, or to ensure compliance with national building or fire codes, including premises and the buildings and other structures at airports, or at prospective airports or other air navigation facilities. In order to effectuate this purpose, the division shall cooperate with the local governing body of an airport and any state or municipal officer or agency that may have jurisdiction over the airport.

(I) The division may participate in and support the emergency management division air branch emergency support function.

(J) The division shall have the authority to review and approve airport master plans pursuant to Section 55-5-72.

(K) The division shall have the authority to take action to abate any imminent or foreseeable hazard to aviation safety at a public use airport in the State or in the vicinity of a public use airport when it can be shown that:

(1) a violation of this title or a violation of a federal, state, or local law, ordinance, regulation, or federally approved airport design criteria that relates to aviation safety has occurred;

(2) a condition exists that interferes with, or has a reasonable potential in the judgment of the division to interfere with aircraft operations;

(3) a condition poses an increased risk to aviation safety;

(4) the persistence of a condition would cause aircraft takeoff, landing, or approach criteria to be adversely impacted; or

(5) a condition exists that would constitute a nuisance to aircraft operation. These conditions may include, but are not limited to:

(a) obstructions such as towers, trees, or manmade structures;

(b) conditions that adversely affect FAA or industry criteria for safe approach, landing, takeoff and departure profiles;

(c) landfills or other activities that have the potential to attract a large number of birds;

(d) interference with airport markings, including lighting;

(e) light pollution, including off-airport lighting;

(f) land uses that have a reasonable potential to interfere with aircraft operations, pose an increased risk to aviation safety, adversely affect aircraft takeoff, landing or approach criteria, or constitute a nuisance to aircraft operations; or

(g) interference with airport and aviation navigational equipment and facilities.

(L) Legal action may include the issuance of an order directing the abatement or removal of the hazard, an action in circuit court or the Administrative Law Court to enjoin the construction or maintenance of a hazard, or the removal and abatement of a hazard.

(M) Except in emergency situations, before taking legal action, the division shall cooperate with the airport sponsor and affected local governments with the objective of achieving a mutually agreeable solution. If necessary, the parties shall engage in alternative dispute resolution. The alternative dispute resolution must be between the

governmental entity and the division and shall not involve any private parties.

(N) The division may promulgate regulations necessary to implement this section.

(O) The division and an affected local government shall have the ability to seek cost recovery for the actual costs in the removal or abatement of the hazard against the persons responsible for creating or maintaining an airport hazard that violates this section, or violates a federal, state, or local law, ordinance, regulation, or federally approved airport design criteria.

Section 55-5-86. Reserved

Section 55-5-87. Reserved

Section 55-5-88. Reserved

Section 55-5-90. Reserved

Section 55-5-100. Reserved

Section 55-5-110. In any criminal prosecution under any of the provisions of this chapter a defendant who relies for his justification upon a license of any kind shall have the burden of proving that he is properly licensed or is the possessor of a proper license, as the case may be, and the fact of nonissuance of such license may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that he has made diligent search in the records of his office and that from the records it appears that no such license was issued up to the date of the making of such certificate.

Section 55-5-120. Reserved

Section 55-5-130. Reserved

Section 55-5-140. Reserved

Section 55-5-150. (A) The division may close, order closure, or approve closure of an airport, airport runway, or any portion of one only when a condition exists on the airport property that constitutes an imminent and substantial endangerment to aircraft operations and aviation safety, and the condition remains unabated after notice to the

airport owner and operator, and a reasonable opportunity has expired to correct any deficiencies determined by the division. The division may promulgate regulations to administer this section.

(B) If the division disagrees with a decision of an airport sponsor or governmental body to close a public use airport or any part of one, both the division and the airport sponsor or governmental body shall engage in mediation or another form of alternative dispute resolution mutually agreed upon in an attempt to resolve their differences. In addition, the division may require that the airport sponsor develop a proposed closure plan that contains:

(1) a certification that all grant conditions imposed by federal or state funding have been complied with, and that all grant funds have been repaid to the appropriate agency;

(2) a statement for the reason for the closure;

(3) an economic analysis of the impact of the closure on the community;

(4) a plan and schedule for the use of or development of a replacement facility acceptable to the division; and

(5) other information required by the division.

Section 55-5-160. Except as otherwise provided in this chapter, in order to facilitate the making of investigations by the division, in the interest of the public safety and the promotion of aeronautics, the public interest requires and it is therefore provided that the reports of investigations or hearings, or any part thereof or any testimony given thereat, shall not be admitted in evidence or used for any purpose in any suit, action or proceeding growing out of any matter referred to in said investigation, hearing or report thereof, except in case of criminal or other proceedings instituted by or in behalf of the division under the provisions of this chapter; nor shall any employee of the division be required to testify to any facts ascertained in, or information gained by reason of, his official capacity and, further, no employee of the division shall be required to testify as an expert witness in any suit, action or proceeding involving any aircraft.

Section 55-5-170. Reserved

Section 55-5-180. The division shall keep on file with the Secretary of State and at the principal office of the division for public inspection a copy of all its rules and regulations. On or before December thirty-first, in each year, the division shall make to the Governor a full report of its proceedings for the year ending December first in each

year and may submit with such report such recommendations pertaining to its affairs as seem to it to be desirable.

Section 55-5-190. The division, its members and employees and every county and municipal officer charged with the enforcement of state and municipal laws shall enforce and assist in the enforcement of this chapter. The division also may in the name of the State enforce the provisions of this chapter by injunction in the circuit courts of this State. Other departments and political subdivisions of the State may also cooperate with the division in the development of aeronautics and aeronautic facilities within the State.

Section 55-5-200. Reserved

Section 55-5-210. In any case in which the division issues an order pursuant to applicable law, including the South Carolina Administrative Procedures Act, Section 1-23-10, et seq., rules and regulations or policy and procedures as documented for public review, the division shall set forth findings of fact and conclusions of law, separately stated and its reasons and shall state the requirements to be met before such approval is given or the order is modified or changed.

Section 55-5-220. Any order made by the division pursuant to this title shall be served upon the interested person by registered mail or in person before such order shall become effective.

Section 55-5-230. A person against whom an order is entered may appeal within thirty days after the service to the Administrative Law Court as provided in Sections 1-23-380 and 1-23-600(D) for the purpose of having the reasonableness or lawfulness of the order inquired into and determined.

Section 55-5-240. The person taking the appeal shall file the notice of appeal in the office of the clerk with the Administrative Law Court and serve a copy on the director or his designee and all other parties of record. Upon appellate review, the administrative law judge shall enter an order either affirming or setting aside the order of the court; or may remand the matter to the court for further hearing. The filing of the notice of appeal operates as a supersedeas.

Section 55-5-250. Reserved

Section 55-5-260. (A) A person failing to comply with the requirements of this chapter or the rules and regulations of this chapter is subject to a civil penalty of two thousand dollars per violation.

(B) A person who wilfully or intentionally violates a provision of this chapter or the rules and regulations for the enforcement of this chapter made by the division is guilty of a misdemeanor and is punishable by a fine of not more than two thousand dollars, or by imprisonment for not more than thirty days, or both.

(C) An owner or operator who knowingly makes a false statement or representation of a material fact in a report to or written instrument filed with the division is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not more than ninety days, or both.

Section 55-5-270. The terms and provisions of this chapter shall apply to all civil aircraft that are not required to have an airworthiness certificate issued by the Federal Aviation Administration or its foreign counterpart unless the aircraft is engaged in private flight operations substantially similar to those conducted by civil aircraft.

Section 55-5-280. (A)(1) All monies received from licensing of airports, landing fields, or funds appropriated for aviation grants, the tax on aviation fuel, and fees for other licenses issued under this chapter must be paid into the State Treasury and credited to the fund known as the 'State Aviation Fund'.

(2) The fund also may receive gifts, grants, and federal funds and shall include earnings from investments of monies from the fund.

(3) A fund balance at the close of the fiscal year shall not lapse but must be carried forward to the next fiscal year.

(4) The revenue credited to the State Aviation Fund pursuant to this subsection must be used solely as provided in subsection (C).

(B) In any fiscal year in which the tax levied by the State pursuant to Section 12-37-2410, et seq., exceeds five million dollars, the revenues in excess of five million dollars must be directed to the State Aviation Fund; however, any revenue in excess of ten million dollars must be credited in equal amounts to the general fund and the State Aviation Fund.

(C) The State Aviation Fund must be used solely for:

(1) maintenance and repairs of the division's aircraft; or

(2) maintenance, rehabilitation, and capital improvements to public use airports, which may include use as matching funds for FAA

Airport Improvement Grants, provided that those airports receiving grants meet the requirements set forth by the division.

(3) The State Aviation Fund must not be used for operating expenses of the division.

(D) The division may promulgate regulations governing the eligibility requirements and procedures for disbursements from the State Aviation Fund.

Section 55-5-290. Reserved"

South Carolina Airports Act

SECTION 4. Chapter 9, Title 55 of the 1976 Code is amended to read:

"CHAPTER 9

South Carolina Airports Act

Section 55-9-10. This chapter may be cited as the 'South Carolina Airports Act'.

Section 55-9-20. It is the intent and purpose of this chapter that all provisions herein relating to the issuance of bonds and levying of taxes for airport purposes and condemnation for airports and airport facilities shall be construed in accordance with the general provisions of the law of this State governing the right and procedure of counties and municipalities to condemn property, issue bonds and levy taxes.

Section 55-9-30. The division and the municipalities, counties, airport commissions, special purpose districts, and other political subdivisions of this State may, separately or jointly, acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate and police airports for the use of aircraft, either within or without the geographical limits of such municipalities, counties and other political subdivisions and may use for such purpose or purposes any available property owned or controlled by the division or such municipalities, counties or other political subdivisions; but no county shall exercise the authority hereby conferred outside of its geographical limits except in an adjoining county and this only jointly with such adjoining county.

Section 55-9-40. Any lands acquired, owned, leased, controlled or occupied by the division or such counties, municipalities or other political subdivisions for the purpose or purposes enumerated in Section 55-9-30 shall and are hereby declared to be acquired, owned, leased, controlled or occupied for public, governmental and municipal purposes.

Section 55-9-50. The governing bodies of the several counties of this State may acquire land by gift, purchase, or condemnation for the purpose of building, constructing and maintaining airports. The provisions of Sections 55-9-70 to 55-9-180 shall not apply to land that may be acquired under the provisions of this section.

Section 55-9-70. Private property needed by the division or a county, municipality or other political subdivision for an airport, or for the expansion of an airport may be acquired by grant, purchase, lease or other means, if such political subdivision or the division, as the case may be, is able to agree with the owner of the property on the terms of the acquisition and otherwise by condemnation in the manner provided by the law under which such political subdivision or the division is authorized to acquire real property for public purposes. The provisions of this section shall apply to property needed by the Adjutant General of South Carolina.

Section 55-9-80. When necessary in order to provide unobstructed airspace for the landing and taking off of aircraft utilizing airports acquired or maintained under the provisions of this chapter, the division and the counties, municipalities, and other subdivisions, including duly constituted airport commissions and special purpose districts of this State may acquire air rights, including aviation easements, over private property necessary to ensure safe approaches to the landing areas of the airports, and for the purpose of establishing and protecting airports and runways. These air rights may be acquired by grant, purchase, lease, or condemnation pursuant to the provisions of the Eminent Domain Procedure Act (Chapter 2, Title 28).

Section 55-9-90. The division and such counties, municipalities and other political subdivisions of this State may acquire the right or easement for a term of years, or perpetually, to place and maintain suitable markers for the daytime and to place, operate and maintain suitable lights for the nighttime marking of buildings or other structures or obstructions, for the safe operation of aircraft utilizing airports

acquired or maintained under the provisions of this chapter. Such rights or easements may be acquired by grant, purchase, lease, or condemnation in the same manner as is provided in this chapter for the acquisition of the airport itself or the expansion of it.

Section 55-9-190. The division, counties, municipalities, and other political subdivisions of this State which have established airports which acquire, lease or set apart real property for these purposes may:

(1) construct, equip, improve, maintain and operate airports or vest authority for the construction, equipment, improvement, maintenance and operation of it in an officer, board or body of the political subdivision, the expense of the construction, equipment, improvement, maintenance and operation to be a responsibility of such political subdivision;

(2) adopt regulations and establish charges, fees and tolls for the use of such airports fix penalties for the violation of such regulations and establish liens to enforce payment of such charges, fees and tolls; and

(3) lease these airports to private parties for operation or lease to private parties for operation space, area, improvements and equipment on such airports provided in each case that in so doing the public is not deprived of its rightful, equal, and uniform use of it.

Section 55-9-200. The purchase price or award for real property acquired, in accordance with the provisions of this chapter, for an airport may be paid for by appropriation of monies available for it or wholly or partly from the proceeds of the sale of bonds of the county, municipality or other political subdivision as the legislative body of the political subdivision shall determine subject to the adoption of a proposition for it at a regular or special election, if the adoption of a proposition is a prerequisite to the issuance of bonds of the political subdivision for public purposes generally.

Section 55-9-210. The local public authorities having power to appropriate monies within the counties, municipalities or other political subdivisions of this State acquiring, establishing, developing, operating, maintaining or controlling airports under the provisions of this chapter may appropriate and cause to be raised by taxation or otherwise in such political subdivisions. All monies derived from these airports must be obligated to these facilities. A diversion of revenue away from airport facility accounts for nonaeronautical purposes is

unlawful and may subject an airport or airport sponsor to denial of future funding.

Section 55-9-220. Any unexpended monies appropriated for airport development for a particular county may be transferred to repairs to airports for that particular county upon request of the division.

Section 55-9-230. Counties, municipalities or other political subdivisions of this State acquiring, establishing, developing, operating, maintaining, controlling or having an interest in airports without the geographical limits of these subdivisions, under the provisions of this chapter may promulgate, amend and enforce police regulations for these entities irrespective of whether or not the title to the properties is vested in, and the management and operation of an airport is by a commission created by statute or otherwise.

Section 55-9-240. All land surrounding public-owned airports in this State, which are funded partially or wholly by this State, must be zoned by appropriate county, municipal or regional authorities so as to conform to pertinent regulations of the Division of Aeronautics and the United States Department of Transportation, Federal Aviation Administration.

Section 55-9-250. An airport hazard is a condition, occurrence or activity that endangers the lives and property of users of an airport and of occupants of land and other persons in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment in it. Therefore:

(1) the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by an airport;

(2) it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards be prevented;

(3) this should be accomplished, to the extent legally possible, by proper exercise of the police power;

(4) the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which county, municipal, or regional authorities may raise and expend

public funds, as an incident to the operation of airports, to acquire land or property interests in them; and

(5) in the event of an abatement of an airport hazard on private property by the division under Section 55-5-80 or Section 55-9-280, the division and a local government shall have the ability to seek cost recovery against the person responsible for creating or maintaining the hazard for the actual costs in the removal or abatement of the hazard.

Section 55-9-260. A county, municipality or political subdivision that has an airport hazard area within its territorial limits may adopt, administer, and enforce in the manner and upon the conditions prescribed by this chapter, zoning regulations for the airport hazard area. These regulations may divide the area into zones and, within these zones, specify the land uses permitted, and regulate and restrict, for the purpose of preventing airport hazards, the height to which structures and trees may be erected or permitted to grow. The adoption of these zoning regulations shall conform to the requirements of Section 6-29-710, et seq., of the South Carolina Code of laws governing zoning.

Section 55-9-270. When an airport hazard area appertaining to an airport owned or controlled by a county, municipality, or political subdivision is located outside the territorial limits of the political subdivision, the political subdivision owning or controlling the airport, and the county, municipality, or political subdivision within which the airport hazard area is located, may by ordinance adopt, administer, and enforce airport zoning regulations applicable to the airport safety zones, airport land use zones, and airport hazards.

Section 55-9-280. A governmental entity that owns or controls an airport and the Division of Aeronautics may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards appertaining to an airport in violation of any zoning regulations adopted or established pursuant to the provisions of this chapter for any area whether within or without the territorial limits of the municipality.

Section 55-9-290. The division may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards appertaining to any airport within the State, in violation of any zoning regulations adopted or established pursuant to the provisions of this chapter.

Section 55-9-300. Any governmental entity may incorporate airport hazard area regulations and administer and enforce them.

Section 55-9-310. In the event of a conflict between any airport zoning regulations adopted or established pursuant to this chapter and any other regulations applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

Section 55-9-320. In adopting, amending, and repealing airport zoning regulations under this chapter, the governing body of a county, city, or political subdivision city shall follow the procedure in Section 6-29-760.

Section 55-9-330. (A) All airport zoning regulations adopted pursuant to this chapter shall be reasonable and none shall impose any requirement or restriction which is not necessary to effectuate the purposes of this chapter.

(B) Airport zoning regulations adopted under this chapter may require the removal, lowering, or other change or alteration of any structure or tree, or a change in use, not conforming to the regulations when adopted or amended. An affected local government shall have the ability to seek cost recovery against the persons responsible for creating or maintaining the condition for the actual costs in the removal or abatement of the condition.

(C) Airport zoning regulations adopted under this chapter may require a property owner to permit the governmental entity to install, operate, and maintain on the property markers and lights, as necessary, to indicate to operators of aircraft the presence of the airport hazard.

(D) All regulations may provide that a preexisting nonconforming structure, tree, or use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted.

(E) In the case of an abatement of an aviation hazard as a public nuisance or nonconformity with applicable aviation safety or zoning regulations, or both on private property, a municipality or county may provide by ordinance for notification to the owner of conditions needed for correction, may require that the owner take such action as is necessary to correct the conditions, may provide the terms and conditions under which employees of the municipality or any person employed for that purpose may go upon the property to correct the

conditions, and may provide that the cost of such shall become a lien upon the real estate, and must be collectable in the same manner as municipal or county taxes.

Section 55-9-340. A person desiring to erect or increase the height of a structure, or to permit the growth of any tree, or otherwise use the person's property in violation of airport zoning regulations adopted under this chapter, may apply to the board of zoning appeals or joint board of appeals for a variance from the zoning regulations. The variances must be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of the regulations and this chapter. However, that any variance may be allowed subject to any reasonable conditions that the board of adjustment may consider necessary to effectuate the purposes of this chapter, including the reservation of the right of the governmental entity, at its own expense, to install, operate, and maintain on it markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

Section 55-9-360. All airport regulations adopted pursuant to this chapter shall provide for the administration and enforcement of these regulations by an administrative agency, which may be an agency created by these regulations, or by any official board, or other existing agency of the entity or entities adopting the regulations."

Particular Airports

SECTION 5. Chapter 11, Title 55 of the 1976 Code is amended to read:

"CHAPTER 11

Particular Airports

Article 1

Clemson University

Section 55-11-10. The board of trustees of Clemson University may:

(1) plan, acquire, own, control, develop, maintain and operate a public airport in accordance with the requirements of the Federal Aviation Act and the regulations prescribed thereunder;

(2) develop, maintain and operate such public airport out of any appropriations provided by the State or other funds, public or private, made available for such purposes;

(3) enter into agreements with the State for the purpose of receiving State funds available for public airport purposes, and accept, receive, receipt for, disburse and expend such State funds for the purposes provided by this section; provided, however, that such funds shall be accepted and expended upon such terms and conditions as may be prescribed by the State;

(4) enter into grant agreements with the United States for the purpose of receiving federal grant-in-aid funds for public airport purposes, and accept, receive, receipt for, disburse and expend such funds made available by the grant, to accomplish in whole or in part any of the public airport purposes provided for by the Federal Airport Act and the regulations thereunder; provided, however, that all Federal funds shall be accepted and expended upon such terms and conditions as may be prescribed by the United States or any agency or department thereof;

(5) designate the Division of Aeronautics of the Budget and Control Board as its agent, to accept, receive, receipt for and disburse federal or state funds or other funds, public or private, made available for the purposes of this section, as may be required or authorized by law;

(6) acquire property, real and personal, or any interest in it, by gift, purchase, condemnation, devise, lease, or otherwise, as may be required in the development and operation of a public airport;

(7) adopt regulations, establish charges, fees and tolls for the use of such airport, and exercise such powers as may be necessary to achieve compliance with its regulations and enforce payment of its charges, fees and tolls; and

(8) enter into long-term contracts, leases and other agreements relative to the development, operation and management of the airport; provided, however, that such contracts, leases and agreements shall be in compliance with the requirements of the Federal Airport Act and the regulations prescribed thereunder and in accordance with the laws and regulations governing the making of contracts, leases or agreements by or on behalf of the State.

Article 3

Greenville and Spartanburg Counties

Section 55-11-110. The territory embraced by the counties of Greenville and Spartanburg is hereby constituted an airport district and political subdivision of this State, the functions of which shall be public and governmental, and the inhabitants of such territory are hereby constituted a body politic and corporate. The corporate name of the airport district shall be Greenville-Spartanburg Airport District, and by that name the airport district may sue and be sued.

Section 55-11-120. The corporate powers and duties of the District shall be exercised and performed by a Commission to be known as Greenville-Spartanburg Airport Commission. The Commission shall be composed of six members to be appointed by the Governor as follows: Three of the members shall be residents of Spartanburg County and the original members shall be appointed upon the recommendation of a majority of the members of the Spartanburg County legislative delegation. Three of the members shall be residents of Greenville County and the original members shall be appointed upon the recommendation of a majority of the members of the Greenville County legislative delegation. The term of office of one of the original members from Greenville County and one of the original members from Spartanburg County shall be for two years. The term of another of the original members from Greenville County and another of the original members from Spartanburg County shall be for four years. The two remaining members and the successors in office of all the members of the Commission shall serve for a term of six years. The term of each member shall expire on the January first nearest to the end of the term of years for which he is appointed under the foregoing provision; provided, that each member shall serve until his successor is appointed and qualified. Upon the expiration of the term of each commissioner his successor shall be elected in the same manner as set forth above. Upon election by a majority of the Spartanburg delegation or a majority of the Greenville delegation, as the case may be, then the secretary or acting secretary of the county delegation shall certify the approval to the Governor, who shall commission the nominee for the term provided by the provisions of this section. Any new member shall be a suitable person who is a resident of the same county as the member he is to succeed. Successors shall be appointed to serve for

the unexpired term of members who die or resign in like manner and upon like recommendation as hereinabove set forth.

Section 55-11-130. The Commission shall appoint one of its members as chairman and one of its members, or any other competent person, as secretary of the Commission. The chairman of the Commission shall serve for a term of two years and until his successor is appointed and qualified. The members of the Commission shall serve without compensation, except for their actual expenses while in performance of duties prescribed under this article.

Section 55-11-140. To the Commission is hereby committed the function of planning, establishing, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, protecting and policing an airport and air navigation facility to serve the people of the District and the public generally. To this end, the Commission may:

(1) Have perpetual succession.

(2) Adopt, use and alter a corporate seal.

(3) Make bylaws for the management and regulation of its affairs, and define a quorum for its meetings.

(4) Requisition, from time to time, monies from the State Treasurer which have been derived from the principal proceeds of general obligation bonds issued pursuant to 1959 Acts and Joint Resolutions (51 Statutes at Large) No. 99, whenever, in the opinion of the Commission, funds are required for any purposes for which the bonds shall have been issued. The requisition shall certify to the State Treasurer the sum which, in the opinion of the Commission, is required and shall set forth generally the nature of the purposes to which the monies are to be applied. Following the requisition of monies, they shall be deposited in any bank or trust company having an office within the district, and shall thereafter be withdrawn and expended by the Commission for the purposes for which the bonds were issued.

(5) Deposit and withdraw monies realized from the sale of revenue bonds issued pursuant to Section 55-11-150 and to expend the monies in the manner prescribed by the proceedings authorizing the issuance of the revenue bonds.

(6) Deposit monies derived from revenue producing facilities in any bank or trust company having an office within the district and withdraw the monies for the purpose of operating, maintaining, constructing, improving, and extending any facility in its charge.

(7) Plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police its airport and air navigation facility under such reasonable rules and regulations as the Commission may from time to time promulgate.

(8) Maintain and extend runways, terminals, maintenance shops, access roads, utilities systems, concessions, accommodations, and other facilities of whatever nature or kind for the comfort and accommodation of air travelers; purchase and sell supplies, goods and commodities as an incident to the operation of its airport facilities; and for all such purposes the Commission may by purchase, gift, devise, lease, eminent domain proceedings, or otherwise acquire, hold, develop, use, lease, mortgage, sell, transfer, and dispose of any property, real or personal, or any interest therein, including easements in airport hazards, or land outside the boundaries of its airport or airport site, necessary to permit the removal, elimination, obstruction-marking or obstruction-lighting, of airport hazards, or to prevent the establishment of airport hazards.

(9) License, lease, rent, sell or otherwise provide for the use of any of its airport facilities, including the privilege of supplying goods, commodities, things, services or facilities at such airport by any persons qualified to use them, as its discretion may dictate; provided, that in no case shall the public be deprived of its rightful, equal and uniform use of the airport, air navigation facility, or portion or facility thereof.

(10) Place in effect and, from time to time, revise such schedules of licenses, rates, and charges for the use of its facilities as may be necessary or desirable to the orderly operation of the airport facility of the District; provided, that all such rates and charges shall be reasonable and nondiscriminatory.

(11) Exercise the power of eminent domain for any corporate function. The power may be exercised through any procedure prescribed by Sections 28-9-10 to 28-9-110. All powers conferred on municipalities under Sections 28-9-10 to 28-9-110 are conferred herein on the Commission.

(12) Appoint officers, agents, employees and servants and prescribe the duties of such, including the right to appoint persons charged with the duty of enforcing its rules and regulations as provided for in item (7) of this section, fix their compensation and determine if and to what extent they shall be bonded for the faithful performance of their duties.

(13) Employ engineers, architects and attorneys and contract for such other services of a technical or professional nature as may be

necessary or desirable to the performance of the duties of the Commission.

(14) Make contracts for the construction, erection, maintenance and repair of the facilities in its charge, in accordance with the State Procurement Code, Chapter 35, Title 11.

(15) Apply for, accept, receive, receipt for, disburse and expend Federal, State, county or municipal monies and other monies, public or private, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of this article and, to this end, continue to prosecute any application filed with the Federal Aviation Administration or any other federal agency, by joint action of the Spartanburg County and Greenville County legislative delegations and pay from the funds of the district any costs heretofore or hereafter incurred for any services rendered, since the date the application was filed, in connection with the procuring or processing of the application which are found by the commission to legitimately inure to the benefit of the district. All federal monies accepted under this section shall be accepted and expended by the commission upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all other monies accepted under this section shall be accepted and expended by the commission upon such terms and conditions as are prescribed by the State or other sources thereof.

(16) Do all other acts and things necessary or convenient to carry out any function or power committed or granted to the district.

Section 55-11-150. The commission may, on behalf of the district, borrow money and make and issue negotiable bonds, notes and other evidences of indebtedness payable solely from the revenue derived from the operation of any revenue-producing facility or facilities in its charge. The sums borrowed may be those needed to pay costs incident to the operation and maintenance of its airport facility or such sums as may be needed to pay the cost of any extension, addition or improvement to its airport facility, or both. If the method of financing authorized by this section is used, neither the faith and credit of this State nor of any county lying within the district nor of the district itself shall be pledged to the payment of the principal and interest of the obligations, and there shall be on the face of such obligation a statement, plainly worded, to that effect. Neither the members of the commission nor any person signing the obligations shall be personally liable thereon. That a convenient procedure for borrowing money pursuant to this section may be prescribed, the district may avail itself of all powers granted by Chapter 17, Title 6, notwithstanding the fact

that the district shall not otherwise be deemed to be a municipality. In exercising the powers conferred upon the district by such code provisions, the district may make all pledges and covenants authorized by any provision thereof, and may confer upon the holders of its securities all rights and liens authorized by such code provisions. Specifically, and notwithstanding contrary provisions in any such code provisions, the district may:

(1) provide that such bonds, notes or other evidences of indebtedness be payable, both as to principal and interest, from the net revenues derived from the operation of any revenue-producing facility or facilities, as such net revenues may be defined by the Commission;

(2) covenant and agree that upon its being adjudged in default as to the payment of any installment of principal and interest upon any obligation issued by it or in default as to the performance of any covenant or undertaking made by it, that in such event the principal of all obligations of such issue may be declared forthwith due and payable, notwithstanding that any of them may not have then matured;

(3) confer upon a corporate trustee the power to make disposition of the proceeds from all borrowings and also all revenues derived from the operation of the revenue-producing facility whose revenues are pledged for the payment of such obligations, in accordance with and in the order of priority prescribed by resolutions adopted by the commission as an incident to the issuance of any notes, bonds or other evidences of indebtedness;

(4) dispose of its obligations at public or private sale and upon such terms and conditions as it shall approve;

(5) make such provision for the redemption of any obligations issued by it prior to their stated maturity, with or without a premium, and on such terms and conditions as the commission shall approve;

(6) covenant and agree that any cushion fund established to further secure the payment of principal and interest of any obligation shall be in a fixed amount;

(7) covenant and agree that it will not enter into any agreements with any person or with the government of this State, the United States, or any of their political subdivisions, for the furnishing of free services where such services are ordinarily charged for;

(8) prescribe the procedure, if any, by which the terms of the contract with the holders of its obligations may be amended, the number of obligations whose holders must consent thereto, and the manner in which such consent shall be given; and

(9) prescribe the evidences of default and conditions upon which all or any obligation shall become or may be declared due before maturity,

and the terms and conditions upon which such declaration and its consequences may be waived.

Section 55-11-160. All revenues derived by the commission from the operation of any revenue-producing facility which may not be required to discharge covenants made by it in issuing bonds, notes or other obligations authorized by Section 55-11-150, shall be held, disposed of or expended by the commission for purposes germane to the functions of the district.

Section 55-11-170. 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, commission, board or other like instrumentality or agency thereof.

Section 55-11-180. Property and income of the district are exempt from all taxes and fees levied by the State, county or any municipality, division, subdivision or agency of them, direct or indirect.

Section 55-11-185. No municipality may annex any real property owned by the district without prior written approval of the commission.

Section 55-11-190. So long as the district shall be indebted to any person on any bonds, notes or other obligations issued pursuant to the authority of this article, provisions of this article and the powers granted to the district and the commission shall not be in any way diminished, and the provisions of this article shall be deemed a part of the contract between the district and the holders of such obligations.

Section 55-11-200. During each year in which an ad valorem tax is levied on the property with the Greenville-Spartanburg Airport District, the commission of said district shall determine the total amount realized from such tax and notify the treasurer of that county, paying to the Comptroller General less than that turned over to said Comptroller General by the other county. Thereupon such treasurer shall, from the general funds of his county, pay to the treasurer of the other county, to be placed in the general funds, such amount as shall be necessary to equalize the amount contributed by each county.

Section 55-11-210. The commission is authorized to allow the sale of alcoholic beverages at facilities on airport property designed for the

sale of food and beverage items. The hours and days of sales must be established and regulated by the commission, and may not be in conflict with state law and to adopt and promulgate rules and regulations governing the use of roads, streets, buildings, services, and parking facilities on lands of the Greenville-Spartanburg Airport District. These rules and regulations shall not be in conflict with any state law and all state laws shall be applicable to the roads, streets and parking facilities under the control of the commission. Rules and regulations of the commission shall become effective when filed with the Executive Secretary of the Greenville-Spartanburg Airport and in the Office of the Secretary of State in accordance with Section 1-1-210.

The commission is authorized to employ police officers commissioned by the Governor to enforce all laws and the rules and regulations authorized in this section, and these officers shall be authorized to issue summonses for violations in the manner authorized for state highway patrolmen. Violations of a law, a rule, or regulation of the commission within the jurisdiction of the Circuit Court of Spartanburg shall be tried in that court. Violations not within the jurisdiction of that court shall be tried by any magistrate or other court of competent jurisdiction. A person who wilfully or intentionally violates the rules and regulations of the commission is guilty of a misdemeanor, and upon conviction, must be fined not more than two hundred dollars,or as otherwise provided by law, or be imprisoned for not more than thirty days.

All fines and forfeitures collected pursuant to the provisions of this section shall be forwarded weekly to the Greenville-Spartanburg Airport Commission by the enforcing court for deposit in the general operating fund of the district.

Section 55-11-220. No such airport district property shall be a barrier to the contiguity requirements for the purposes of annexation. Any municipality or political subdivision which is contiguous to property owned by such multicounty airport district may annex, as provided by law, any property contiguous to such airport district property. Provided, that this provision shall be applicable to annexations taking place after October 1, 1994.

Section 55-11-230. (A) An area designated as the airport environs area is created within the district for purposes of assuring land uses compatible with airport operations. The airport environs area consists of all property contained within the area described as follows:

All property consisting of the area described in the Air Installation Compatible Use Zone pursuant to DODINST 4165.57 established by the United States Air Force applicable to runways 4L-22R (11,000 feet) and the proposed parallel runways 4R-22L (8,500 feet) including the CLEAR ZONES, ACCIDENT POTENTIAL ZONE I, and the ACCIDENT POTENTIAL ZONE II. Specifically, the environs includes all property 1,000 feet to each side of the runway centerlines and in a corridor 3,000 feet (1,500 feet either side of the runway centerlines) wide, extending from the runway thresholds along the extended runway centerlines for a distance of 15,000 feet, and shall include the property located between the two corridors; provided, however, that the southwestern boundary of the environs area shall be the middle of Rocky Creek.

(B)(1) There is created the Greenville-Spartanburg Airport Environs Planning Commission, the 'Airport Environs Planning Commission', consisting of nine voting members, which have the powers enumerated herein, and which must be separately constituted from the Greenville-Spartanburg Airport Commission, as follows:

(a) two members representing and appointed by the City of Greer, one of whom also must be a resident of Greenville County and one of whom also must be a resident of Spartanburg County;

(b) two members representing and appointed by Spartanburg County;

(c) one member representing and appointed by the Town of Duncan;

(d) two members representing and appointed by Greenville County;

(e) all members must be appointed or reappointed biennially by the appointing county or municipality;

(f) two members must be appointed or reappointed biennially by the Greenville-Spartanburg Airport District, one from Spartanburg County, and one from Greenville County.

If the members are elected members of the county or municipal governing body or members of the district, each such representative shall serve ex officio and with full voting privileges.

(2) If any new municipality is created where its boundaries are wholly or partially within the airport environs area, or if any existing municipality extends its corporate boundaries into the airport environs area, that municipality becomes entitled to appoint a member of the Airport Environs Planning Commission with a representative appointed as described in item (1)(g) of this subsection, and the membership shall expand accordingly.

(3) The Airport Environs Planning Commission is charged with the responsibility of:

(a) developing a coordinated comprehensive land use plan for the airport environs area in a manner consistent with the process referred to in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 contained in Article 3, Chapter 29, Title 6; however, once the Airport Environs Planning Commission has adopted a land use plan, no further action by any other commission or governing body is necessary in order to give effect to the regulations thereby adopted;

(b) updating the land use plan to reflect changes in the airport environs area and the uses of the airport; and

(c) monitoring the administration of and compliance with the plan by the affected counties and municipalities. The commission's actions are to assure that land use within the airport environs area is compatible with noise, health, safety, and welfare considerations arising from the operation of the district. The initial meeting of the Airport Environs Planning Commission must be held within forty-five days of the effective date of this section.

(4) By January 31, 1996, the Airport Environs Planning Commission shall develop a uniform land use plan and uniform building performance standards for the airport environs area, submit them for review and comment to the governing body of each political subdivision represented on the Airport Environs Planning Commission, as well as the South Carolina Department of Commerce and the Federal Aviation Administration, conduct public hearings pursuant to Article 3, Chapter 29, Title 6, on the proposed uniform plan and standards. After receiving comments and conducting hearings, the Airport Environs Planning Commission shall adopt a land use plan and building performance standards to be effective throughout the airport environs area and enforced fully and without amendment by each political subdivision represented on the Airport Environs Planning Commission. The Airport Environs Planning Commission, by majority of all voting members, may extend the January 31, 1996, deadline for a reasonable period of time not to exceed beyond March 31, 1996, for the completion of these tasks. Each political subdivision shall enforce the uniform plan and standards as an 'overlay zone', identifying areas subject to regulation which are supplementary to the existing regulations of that political subdivision, or as new or superseding provisions to that political subdivision's ordinances. If there is a conflict between the provisions adopted by the Airport Environs Planning Commission under this section or regulations of a political

subdivision applicable to the airport environs area, then the provisions adopted by the Airport Environs Planning Commission under this section shall govern. If a uniform land use plan or uniform building performance standards are not developed by the Airport Environs Planning Commission in the manner provided in this section, any of the entities represented on the Airport Environs Planning Commission may file an action for relief, including mandamus or injunctive relief, in the circuit court for Greenville or Spartanburg County, to require adoption of the plan or standards, or both, as directed by this section. Such an action must be brought within sixty days of the deadline as set forth above.

(5) The Airport Environs Planning Commission shall organize itself, electing one of its members as chairman and one of its members as vice chairman, whose terms must be for two years. It shall appoint a secretary, who may or may not be a member, but who must be a representative or employee of the Airport District. The secretary shall give notice of all meetings to all members of the Airport Environs Planning Commission at least three business days prior to the meeting.

(6) The Airport Environs Planning Commission shall provide for the keeping of minutes of its proceedings which shall be a public record. A majority of the voting members of the Airport Environs Planning Commission shall constitute a quorum. A quorum shall be present before any business is conducted, other than the rescheduling of the meeting. A member must be present to vote. All decisions shall be by majority vote of the members present and voting. The Airport Environs Planning Commission, as it considers appropriate, may utilize committees and subcommittees. The general administrative expenses of the Airport Environs Planning Commission shall be borne by the Greenville-Spartanburg Airport District. A budget for such expenses shall be developed by the Airport Environs Planning Commission to include anticipated costs for consultants.

(7) The Airport Environs Planning Commission is subject to the provisions of the Freedom of Information Act as contained in Chapter 4, Title 30.

(8) The Airport Environs Planning Commission shall work with the Greenville and Spartanburg County Planning Commissions and the planning commission of each affected municipality in the performance of its duties as outlined in item (4) of this subsection. The costs of the services of consultants and advisors, other than provided for in the budget, rendered to the Airport Environs Planning Commission at the request of a specific member must be borne by that member unless otherwise approved by the Airport Environs Planning Commission.

(9) In developing the uniform land use plan and uniform building standards, the Airport Environs Planning Commission shall specifically address, among other items, the following specific issues:

(a) the providing of record notice to property owners of the fact that their property is within the airport environs area;

(b) density criteria for the airport environs area;

(c) sound abatement permit and building criteria;

(d) incompatible use criteria and definition for the airport environs area;

(e) height restriction criteria;

(f) lighting hazard criteria within the airport environs area;

(g) applicable FAA and state regulations for airport activities and operations;

(h) a method by which landowners may seek variances or exemptions from the plans or standards by executing in recordable form aviation or avigation easements, releases, or other appropriate documentation in a form approved by the Airport Environs Planning Commission;

(i) application and review processes for building permits;

(j) the providing of ongoing notice to the Airport Environs Planning Commission and each of its members of pending zoning or permitting requests and other actions in the affected counties and municipalities to assure that each member has notice and the opportunity to be heard with respect to such actions;

(k) enforcement and penalty provisions, including injunctive relief;

(l) the utilization of fees to be imposed to defray costs for services and attendant expenses involved in the administration of the regulations;

(m) the development of uniform standards for regulating nonconforming uses; and

(n) the uses in the airport environs area and the sub-area based on future projected uses of the airport which are not compatible and should not be permitted, which are basically incompatible and should be discouraged, and which are generally compatible with some limitations or restrictions. Such determination shall take into account the public safety and public welfare findings set forth in Section 1 hereof. Such determinations are to conform to and be consistent with noise and overflight zone-compatible land use recommendations of federal and state authorities, including specifically policies established by the United States Air Force pursuant to DODINST 4165.57 Air Installation Compatible Use Zone (A1CUZ), the uses recommended in

the 1993 Greenville-Spartanburg Development Plan adopted by the county planning commissions, and the South Carolina Department of Commerce, Aviation Division.

(10) Following the adoption of the uniform land use plan and uniform building and performance standards by the Airport Environs Planning Commission, each political subdivision is responsible for the implementation and administration of the uniform provisions within its jurisdiction, including all administrative costs incurred in connection therewith. The district shall pay for any exceptional administrative costs determined by the Airport Environs Planning Commission, and agreed to by the district, to be direct and reasonable costs resulting from any special task required in the administration of the uniform plan and building performance standards. Additionally, the district shall pay for the reasonable administrative expenses involved in the monitoring activities described in item (3)(c) of this subsection. The Airport Environs Planning Commission shall meet at least annually to review the administration of the uniform plan and building performance standards by the member bodies, to consider issues which may require modifications or additions to the uniform provisions, to recommend appropriate studies to evaluate the effectiveness of the objectives of the uniform provisions, to consider future activities of the district and the impact of the same upon the airport environs area, and conduct such other business as may be appropriate. Based upon these activities, the Airport Environs Planning Commission may determine a need for amendments to the uniform provisions. Amendments shall be made in accord with the same uniform provisions on conducting hearings and submitting for review and comments for the initial uniform land use plan and uniform building performance standards.

(11)(a) In connection with the administration of the uniform provisions by any member political subdivision, the Airport Environs Planning Commission as a whole or any of its member bodies individually or collectively, including the district, have standing to appear and support or oppose the proposed action of the particular political subdivision involved and have the same standing to appeal this action as the affected political subdivision or the affected landowner would have under Article 5, Chapter 29, Title 6.

(b) Affected property owners or other aggrieved parties have the same standing to appeal rights with respect to a decision by a member political subdivision pursuant to its administration of the uniform provisions as property owners or aggrieved parties have in accordance with the appeal processes provided in Article 5, Chapter 29, Title 6.

(12) A lawful use which exists on the date of adoption by the Airport Environs Planning Commission of the uniform provisions required by this section and which is inconsistent with the provisions of the uniform land use plan or uniform performance building standards is exempt from the uniform provisions, and any regulation created by these uniform provisions may not require the removal or alteration of any structure that, as it exists when the uniform provisions are adopted, did not conform to that regulation.

(13) All costs, fees, or awards, or any combination of these, arising from or as a result of any action of the Airport Environs Planning Commission or the enforcement of the uniform provisions enacted pursuant to this section in excess of any state or federal funds received to defray such costs, fees, or awards must be borne by the counties in which the Greenville-Spartanburg Airport District is located; provided, however, any municipality or county administering the comprehensive land use plan and uniform buildings standards adopted by the Airport Environs Planning Commission is only liable for any costs, fees, or awards arising from their ministerial acts.

(C) The provisions of this section do not apply to dwellings or other buildings which are damaged or destroyed and which are subsequently repaired or rebuilt.

Article 5

Lexington and Richland Counties

Section 55-11-310. The territory embraced by the counties of Richland and Lexington is hereby constituted an airport district and a political subdivision of this State, the functions of which shall be public and governmental, and the inhabitants of the territory are hereby constituted a body politic and corporate. The corporate name of the airport district shall be Richland-Lexington Airport District, and by that name the airport district may sue and be sued.

Section 55-11-320. The corporate powers and duties of the Richland-Lexington Airport District must be exercised and performed by a commission to be known as Richland-Lexington Airport Commission. The commission must be composed of twelve members to be appointed by the Governor as follows: five members must be appointed upon the recommendation of a majority of the Lexington County Legislative Delegation, five members must be appointed upon the recommendation of a majority of the Richland County Legislative

Delegation, and two members must be appointed upon the recommendation of the City Council of the City of Columbia. The members of the commission shall serve for terms of four years and until their successors are appointed and qualify. Members may not serve more than two consecutive terms. A member serving on July 1, 1994, may serve until the expiration of the term for which he was elected and may serve two additional terms. In the event of a vacancy for any reason, other than the expiration of a term, a successor must be appointed in the same manner of the original appointment for the balance of the unexpired 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. Notwithstanding the expiration of the term of office of any member, he shall continue to serve until his successor shall have been recommended, appointed, and qualified, but any delay in appointing a successor shall not extend the term of such successor. The members of the commission shall serve without compensation, except for their actual and necessary expenses while in performance of duties prescribed under this article.

Section 55-11-330. The commission shall appoint one of its members as chairman, one of its members as vice chairman, and one of its members, or any other competent person, as secretary of the commission. The chairman of the commission shall serve for a term of two years and until his successor is appointed and qualified. The vice chairman shall likewise serve for a term of two years and until his successor is appointed and qualified. The office of chairman of the commission must be rotated among the representatives of the three constituent appointing public bodies, appointed by majority vote of the commission, for a term of two years. The frequency of serving as chairman of the commission must be based upon, and substantially equivalent to, the percentage that each public body's membership on the commission is to the total membership of the commission. No representative of the same public body may be appointed chairman unless there has been at least one full two-year intervening term in which a representative of one of the other public bodies has served as chairman. In the event that the office of chairman becomes vacant, the duties of the chairman must be temporarily performed by the vice chairman, but a successor must be appointed as expeditiously as possible from the members representing the same constituent public body as did the former chairman who failed to complete his term. Insofar as is practicable, the same scheme of 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 the commission, by a two-thirds vote, finds that the rotation of this office is impracticable. Office on the commission is deemed an office of honor within the meaning of the provisions of Section 1A, Article 17 of the Constitution of South Carolina. The term of the secretary of the commission must be fixed by the commission.

Section 55-11-340. There is hereby committed to the Commission the functions of planning, establishing, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, protecting and policing such airports and air navigation facilities as shall be necessary to serve the people of the Richland-Lexington Airport district and the public generally. To this end, the commission is empowered:

(1) To have and enjoy perpetual succession.

(2) To adopt, use and alter a corporate seal.

(3) To make bylaws for the management and regulation of its affairs, and to define a quorum for its meetings, which shall require the presence of a simple majority of the total number of commissioners as provided by statute. Adequate notification of all meetings and the time and place shall be given to each member.

(4) To plan, establish, develop, construct, enlarge, improve, maintain (which term shall include, here as hereafter, the power to establish a reasonable reserve for maintenance), equip, operate, regulate, protect and police its airports and air navigation facilities under such reasonable rules and regulations as the commission may from time to time promulgate.

(5) To maintain and extend runways, terminals, maintenance shops, access roads, utilities systems, concessions, accommodations, own and maintain within the district postal facilities, and other facilities of whatever nature or kind for the comfort and accommodation of air travelers and air freight; to purchase and sell supplies, goods, and commodities as an incident to the operation of its airport facilities; and for all those purposes, the commission may, by purchase, gift, devise, lease, eminent domain proceedings, or otherwise, acquire, hold, develop, use, lease, mortgage, sell, transfer, and dispose of any property, real or personal, or any interest in it, including easements in or over land needed to prevent airport hazards, or land outside the boundaries of its airports and air navigation facilities necessary to permit the removal, elimination, obstruction-marking or

obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards.

(6) To license, lease, rent, sell or otherwise provide for the use of any of its airport facilities, and facilities auxiliary thereto, including the privilege of supplying goods, commodities, things, services or facilities at such airport by itself or by any persons or corporations qualified therefor, on such terms and conditions as its discretion may dictate; provided, that in no case shall the public be deprived of its rightful, equal, and uniform use of its airports and air navigation facilities.

(7) For the purpose of promoting the safety of its airports and for the general welfare of air transportation the commission is empowered by regulation to restrict the height of any building, structure or obstruction including but not limited to towers, dwellings, trees, or any other object which might constitute a hazard to air transportation at its facilities within the area herein described. The commission may by regulation restrict the construction or erection of any building, structure or obstruction on lands located on the projection of any runways of its airport facilities at a height above a glide angle for aircraft of fifty feet to one foot measured outward from the boundaries of the end of any runway at said airport, for a distance of up to ten thousand feet along a prolongation of the center line of said runways and extending laterally from the projection of said center lines of said runways from a distance of one thousand feet each way at the airport boundary, increasing to a lateral distance of four thousand feet each way from the center of any runway at a distance of ten thousand feet from the boundary of the airport.

It also may by regulation restrict the erection of any building or other type construction of any nature whatsoever on lands adjacent to its air transport facilities at any point adjacent to them, not covered by the preceding paragraphs, at a height above a glide angle for aircraft of fifteen feet to one foot, measured outward from the boundaries of any such air facilities for a distance of twenty-five hundred feet.

The commission shall, if it shall undertake to adopt regulations prohibiting such construction, conduct a public hearing prior to taking action of their own. Notice of such public meeting shall be published in a newspaper of general circulation within the district not less than seven days prior to the occasion fixed for the holding of such meeting. Such notice shall state the time and place of the meeting and shall briefly indicate the scope of the proposed regulation. At such public meeting all persons affected by the proposed regulation shall be entitled to appear and to be heard. If following such a meeting the regulation restricting the erection of any such buildings or structures as

was herein described is adopted, notice of the adoption of the regulation shall be given by filing a certified copy thereof in the office of the Clerk of Court for Richland County and in the office of the Clerk of Court for Lexington County and additional copies shall be posted in the Courthouse for Richland County and in the Courthouse for Lexington County and in at least two public places within the district; and notice of the adoption of such regulations shall be published at least once during each of three successive weeks in a newspaper published in and having general circulation in the district. Such regulations shall become effective only after the foregoing shall have been done.

The commission is expressly authorized to apply to any court of general jurisdiction within the district for the enforcement of such regulations through the means of mandatory injunctions and other remedial proceedings and such courts are specifically empowered to render mandatory injunctions and such other remedial orders as shall appear to such courts to be just and reasonable.

The provisions of this item (7) are hereby declared separable from the remaining provisions of this article and the invalidity hereof shall not affect or extend to the remaining provisions of this article.

(8) To place in effect, and, from time to time, revise such schedules of licenses, rates, and charges for the use of its facilities as may be necessary or desirable to the orderly operation of its airport facilities, provided, that all such licenses, rates and charges shall be reasonable and nondiscriminatory; provided, further, that the provisions of this section shall not be construed to be in conflict with the provisions of item (6), supra, which authorize the leasing of land and buildings auxiliary to its airport facilities.

(9) To exercise the power of eminent domain for any corporate function. The power of eminent domain may be exercised through any procedure prescribed by Section 28-9-10 through Section 28-9-110. All powers conferred on municipalities under such provisions are conferred hereby on the Richland-Lexington Airport Commission.

(10) To appoint officers, agents, employees and servants, and to prescribe the duties of such, including the right to appoint persons charged with the duty of enforcing the rules and regulations promulgated pursuant to the provisions of this article, to fix their compensation, and to determine if, and to what extent they shall be bonded for the faithful performance of their duties.

(11) To employ engineers, architects and attorneys, and to contract for such other services of a technical or professional nature as may be

necessary or desirable to the performance of the duties of the commission.

(12) To make contracts for the construction, erection, maintenance and repair of the facilities in its charge, according to the provisions of the State Procurement Code, Chapter 35, Title 11.

(13) To deposit monies derived from the sale of any bonds authorized to be issued under the provisions of this article or from revenue-producing facilities in any bank or trust company having an office within the district, and to withdraw the same for the purpose of operating, maintaining, constructing, improving and extending any facility in its charge.

(14) To apply for, accept, receive, receipt for, disburse, and expend federal, state, county, or municipal monies and other monies, public or private, made available by grant or loan, or both, to accomplish, in whole or in part, any of the purposes of this article, and to this end, to continue to prosecute any application heretofore filed with the Federal Aviation Agency, or any other federal agency, by the City of Columbia, and to pay from the funds of the district any costs hereafter incurred for any services rendered, since the date the application was filed, in connection with the procuring or processing of the application which is found by the commission to legitimately inure to the benefit of the Richland-Lexington Airport District. All federal monies accepted under this section shall be accepted and expended by the commission upon such terms and conditions as are prescribed by the United States, and as are consistent with state law; and all other monies accepted under this section shall be accepted and expended by the commission upon such terms and conditions as are prescribed by the State or other sources thereof.

(15) To pay for any services rendered for the benefit of the district from February 24, 1961 to July 9, 1973 which are found by the Commission to legitimately inure to the benefit of the Richland-Lexington Airport District.

(16) To accept donations of all sorts, including a deed of conveyance by Lexington County and the City of Columbia of its right, title, and interest in and to lands intended to form the site of the airport facility to be constructed by the district and to accept from the City of Columbia a relinquishment of any leasehold interest or estate now possessed by the City of Columbia.

(17) Invest the funds or monies in its possession, eligible for investment, in the shares of any federal savings and loan association or in the shares of any building and loan association organized and

existing under the laws of this State when such shares are insured by the Federal Savings and Loan Insurance Corporation.

(18) To issue under the conditions prescribed in item (20) of this section general obligation bonds of the district in an amount not exceeding two million seven hundred thousand dollars.

(19) In addition to the powers given by item (18) of this section, to borrow on behalf of the district money and to make and issue negotiable bonds, notes, and other evidences of indebtedness payable solely from the revenue derived from the operation of any revenue-producing facility, or facilities, in its charge. The sums borrowed may be those needed to pay costs incident to the operation and maintenance of its airport facilities or such sums as may be needed to pay the costs of any extension, addition, or improvement to its airport facilities, or both. If the method of financing authorized by this item is used, neither the faith and credit of the State of South Carolina, nor of any county lying within the district, nor of the district itself shall be pledged to the payment of the principal and interest of the obligations, and there shall be on the face of such obligation a statement, plainly worded, to that effect. Neither the members of the commission nor any person signing the obligations shall be personally liable thereon. In order that a convenient procedure for borrowing money pursuant to this paragraph may be prescribed, the district shall be fully empowered to avail itself of all powers granted by Chapter 21, Title 6, as now and hereafter amended, and Chapter 17, Title 6, as now or hereafter amended. In exercising the powers conferred upon the district by such code provisions, the district may make all pledges and covenants authorized by any provision thereof, and may confer upon the holders of its securities all rights and liens authorized by such code provisions. Specifically and notwithstanding contrary provisions in any such Code provisions, the district may:

(a) Provide that such bonds, notes, or other evidences of indebtedness be payable, both as to principal and interest, from the net revenues derived from the operation of any revenue-producing facility or facilities, as such net revenues may be defined by the Commission.

(b) Covenant and agree that upon its being adjudged in default as to the payment of any installment of principal and interest upon any obligation issued by it or in default as to the performance of any covenant or undertaking made by it, that in such event the principal of all obligations of such issue may be declared forthwith due and payable, notwithstanding that any of them may not have then matured.

(c) Confer upon a corporate trustee the power to make disposition of the proceeds from all borrowings and also all revenues

derived from the operation of the revenue-producing facility whose revenues are pledged for the payment of such obligations, in accordance with and in the order of priority prescribed by resolutions adopted by the commission as an incident to the issuance of any notes, bonds, or other evidences of indebtedness.

(d) Dispose of its obligations at public or private sale and upon such terms and conditions as it shall approve.

(e) Make such provision for the redemption of any obligations issued by it prior to their stated maturity, with or without a premium, and on such terms and conditions as the Commission shall approve.

(f) Covenant and agree that any cushion fund established to further secure the payment of principal and interest of any obligation shall be in a fixed amount.

(g) Covenant and agree that it will not enter into any agreements with any person, firm, corporation, or with the government of this State, the United States, or any of the political subdivisions of the same for the furnishing of free services where such services are ordinarily charged for.

(h) Prescribe the procedure, if any, by which the terms of the contract with the holders of its obligations may be amended, the number of obligations whose holders must consent thereto, and the manner in which such consent shall be given.

(i) Prescribe the evidences of default and conditions upon which all or any obligation shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived.

(20) The commission, on behalf of the district, shall be empowered to issue not exceeding two million seven hundred thousand dollars of general obligation bonds of the district, whose proceeds shall be used to defray the cost of constructing and establishing suitable airport facilities within the district. For the purpose of this section, the term 'construct and establish' shall embrace the cost of direct construction, the cost of all land, property, rights, easements, and franchises acquired (in addition to such property as may be conveyed to the district by Lexington County and the City of Columbia) which are deemed necessary for the construction and use of runways, terminal buildings, maintenance shops, freight depots, service establishments, and any and all facilities incident, or in anywise appurtenant, to an airport facility, and all machinery and equipment needed therefor, payments to contractors, laborers, or others for work done or material furnished, financing charges, interest incurred in connection therewith, interest on the bonds herewith authorized for not exceeding eighteen months, cost

of engineering services, architectural services, legal services, legal and engineering expenses, plans, specifications, surveys, projections, drawings, brochures, administrative expenses and such other expenses as may be necessary or incident to the construction and operation of an airport facility within the district, hereafter incurred, for the purposes for which the district is created. All or any general obligation bonds issued pursuant to this paragraph shall conform to the following specifications and be subject to the following procedures:

(a) They shall be issued as a single issue, or from time to time as several separate issues. They shall bear such date or dates as the commission shall determine, and bonds of any issue shall mature in such equal or unequal installments as may be determined by the commission. They shall be made payable at such place or places as the commission shall prescribe, and they shall bear interest at such rate or rates, and shall be payable in such manner as the commission may determine. The bonds may be issued with the privilege of having them registered as to principal on the books of the commission and the principal thus made payable to the registered holder (unless the last registered transfer shall have been to bearer), upon such conditions as the commission may prescribe. Any bond issued pursuant to this item may be made subject to redemption prior to its stated maturity, on such terms and conditions and with such redemption premium as the commission shall prescribe.

(b) They shall be sold at not less than par and accrued interest to the date of their respective deliveries at public sale. At least ten days prior to any sale, notice announcing the intention to receive bids for sale of such bonds shall be published in a newspaper of general circulation in the State of South Carolina. In offering the bonds for sale, the commission shall reserve the right to reject any and all bids, and if all bids shall be rejected, the commission may negotiate privately for the disposition of such bonds.

(c) Such bonds and all interest to become due thereon shall have the tax exempt status prescribed by Section 12-1-60.

(d) All general obligation bonds issued pursuant to this article shall be manually signed by the chairman of the commission. The seal of the district shall be affixed to, impressed or reproduced upon each of such bonds, and each of such bonds shall be attested by the secretary of the commission. The coupons attached to such bonds shall be authenticated by a facsimile of the signatures of the chairman and the secretary of the commission, who shall be in office on the date of the adoption of the resolution of the commission authorizing the bonds.

(e) The delivery of any bonds so executed and authenticated shall be valid notwithstanding any changes in officers or seal occurring after such execution and authentication.

(f) There shall be irrevocably pledged for the payment of such bonds and interest as they mature the full faith, credit and resources of the district. Until the principal and interest of all bonds issued under this article shall be fully paid, there shall be levied on all taxable property in the district an annual tax ad valorem sufficient to pay the principal and interest of all bonds issued under this article as such principal and interest becomes due. The tax shall be annually levied by the Comptroller General of South Carolina and collected by the county treasurers of Richland and Lexington Counties at the same time and in the same manner as county taxes are collected. Each of the county treasurers shall collect the tax in his county and pay the same to the State Treasurer in the manner and within the time heretofore provided by law for the payment of state taxes to the State Treasurer, who shall set them apart in a special fund and apply them solely to the payment of principal and interest of the bonds so long as any such principal or interest remains outstanding. The tax to be levied under the provisions of this item shall not be substantially greater than the amount necessary to pay principal and interest of bonds maturing during the year in which monies produced by such levy will come into the hands of the State Treasurer, as reduced by the anticipated balance of funds actually in the hands of the State Treasurer, on the occasion when it becomes necessary to fix such tax levy, produce by: (a) additional collections from such levies made in prior years; (b) net revenues derived by the commission from the operation of its facilities not required to meet costs of operating, maintaining, enlarging and improving its facilities, or to discharge covenants securing bonds issued pursuant to item (19). When all principal and interest of outstanding bonds have been paid, the State Treasurer shall transfer any balance remaining in the special fund created under the terms of this paragraph to the general fund of the commission subject to its draft or order for any legitimate purpose incident to the operation, maintenance or extension of the district's airport facilities.

(g) The proceeds derived from the sale of such bonds shall be deposited with the Treasurer of the State of South Carolina in a separate and special fund, and shall be subject to transfer, upon warrants or orders of the commission, to any bank or trust company having an office within the district, to be expended by the commission for the purposes specified herein, and no others; provided, however, that any premium received shall be deposited with the Treasurer of the

State of South Carolina and applied by him to the first installment of principal becoming due on the bonds, and any accrued interest received shall be applied by the State Treasurer to the first installment of interest becoming due on the bonds and provided, further, pending such withdrawals, the Treasurer of South Carolina shall, upon the request of the commission, be empowered to invest and reinvest the proceeds derived from the sale of the bonds in direct general obligations of the United States of America having a maturity of not more than one year from the date as of which such investment shall be made. Income derived from such investments shall be applied to the payment of any interest to accrue on the general obligation bonds of the district. Neither the purchaser of the bonds nor any subsequent holders thereof shall be responsible for the proper application of the proceeds of sales.

(21) Do all other acts and things necessary or convenient to carry out any function or power committed or granted to the district.

Section 55-11-350. The Richland-Lexington Airport Commission is authorized to adopt rules and promulgate regulations governing the use of roads, streets, and buildings, parking facilities, and all other airport faculties upon the lands of the Richland-Lexington Airport Commission. Such rules and regulations shall not be in conflict with any State law and all State laws are hereby declared to be applicable to the roads, streets and parking facilities under the control of the commission. The rules and regulations authorized herein shall be effective when filed with the Director of the Columbia Metropolitan Airport and in accordance with Section 1-1-210.

The Richland-Lexington Airport Commission is authorized to employ police officers to be commissioned by the Governor who shall enforce all laws, rules and regulations authorized herein and shall, in addition, have authority to issue summonses for violations thereof in the manner provided for South Carolina State Highway Patrolmen.

Persons violating any of the applicable laws within a magistrate's jurisdiction or any of the rules or regulations of the commission shall be tried by magistrates having jurisdiction of the area in which the violation occurred.

A person violating the provisions of any rule or regulation of the commission is guilty of a misdemeanor and, upon conviction, must be sentenced not more than the maximum fine or imprisonment allowed in magistrates court.

All fines and forfeitures collected under the provisions of this article shall be forwarded weekly to the Richland-Lexington Airport

Commission by the enforcing magistrate, to be credited to the general operating fund of the district.

Notwithstanding the provisions of this section, any public road, street, or highway located in the Richland-Lexington Airport District which is contiguous to or intersects the corporate limits of a municipality is within the police jurisdiction of that municipality. Summonses issued by municipal police officers in the jurisdiction authorized pursuant to this section must be tried in municipal court, and all fines and forfeitures collected under the provisions of this paragraph may be retained by the enforcing municipality.

Section 55-11-351. It is unlawful for a person or group of persons wilfully and knowingly to:

(1) enter or remain on an airport's roads, streets, buildings, parking facilities, or other airport properties unless the person is authorized by airport rules and regulations when entry is done for the purpose of uttering loud, threatening, and abusive language, or to engage in disorderly or disruptive conduct with the intent to impede, disrupt, or disturb the orderly conduct of business by airport or airport tenants' employees;

(2) obstruct or impede passage on an airport's properties or buildings; or

(3) engage in an act of physical violence upon airport properties or buildings.

Section 55-11-355. No property of the Richland-Lexington Airport District is a barrier to the contiguity requirements for the purposes of annexation. Any municipality which is contiguous to property owned by the district may annex, as provided by law, any property contiguous to the district.

Section 55-11-360. All revenues derived by the commission from the operation of any revenue-producing facility which may not be required to operate, maintain, enlarge and improve its airport facilities, or to pay obligations incurred in the issuance of any revenue bonds sold pursuant to the authorizations of item (19), Section 55-11-340, shall be paid over to the State Treasurer, and held by him for the payment of interest and principal of general obligation bonds of the district.

Section 55-11-370. 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, commission, board or other like instrumentality or agency thereof.

Section 55-11-380. Property and income of the district shall be exempt from all taxes levied by the State, county or any municipality, division, subdivision or agency thereof, direct or indirect.

Section 55-11-390. So long as the district shall be indebted to any person, firm or corporation on any bonds, notes, or other obligations issued pursuant to the authority of this article, provisions of this article and the powers granted to the district and the commission shall not be in any way diminished and the provisions of this article shall be deemed a part of the contract between the district and the holders of such obligations.

Section 55-11-400. The governing body of the county of Richland and the governing body of the county of Lexington are hereby authorized and directed to make, execute and deliver a contract, each with the other, agreeing to pay to the Richland-Lexington Airport Commission, in equal amounts, the funds necessary to meet the annual operating deficit, if any, of the Richland-Lexington Airport Commission or to provide for the commission sufficient funds to prevent any such deficit from arising by annual equal payments to the commission's anticipated budget.

Section 55-11-410. There shall be provided in the annual act levying taxes for county purposes by Richland County and Lexington County appropriations sufficient to carry out the provisions of Section 55-11-400.

In the event that the County of Richland or the County of Lexington, or either of them, should fail or refuse to make any such contract, or if such contract should be made and there should be a default thereunder, and for either of such reasons or for any other reason the County of Richland or the County of Lexington should fail to provide its one-half share of the operating deficit, the Comptroller General of the State of South Carolina is authorized and directed to withhold from the monies to be received by the County of Richland or the County of Lexington, as the case may be, from the annual distribution made by the State of South Carolina to counties and municipalities from its receipts from the taxes levied by the State of South Carolina on alcoholic beverages, beer and wine, and on personal and corporate income an amount sufficient to pay such share or shares of the operating deficit.

Section 55-11-420. The provisions of this article shall not prohibit the operation of any public or private airport located within the district by any other public agency or governmental authority, or by any private agency or person.

Article 7

State Funding of Air Carrier Hub Terminal Facilities

Section 55-11-500. As used in this article:

(a) An 'air carrier hub terminal facility' is an airport terminal facility from which an air carrier certified or licensed by the Federal Aviation Administration, within five years from the date of issuance of the obligations described in this article, operates either:

(1) at least twenty common carrier departing flights a day on which the general public may fly seven days a week, fifty-two weeks a year. No less than seventy percent of all seats on these aircraft arriving at or departing from an air carrier terminal facility must be on jet aircraft capable of carrying at least one hundred passengers on each flight;

(2) at least twenty common carrier departing flights a week on an annual basis for the purposes of transporting cargo and air freight; or

(3) irrespective of the number of flights, two or more specially equipped planes that are:

(i) used for the transportation of specialized cargo; and

(ii) subject to ad valorem property taxation or a fee in lieu of taxes in this State.

(b) An 'air carrier' is a corporation licensed by the Federal Aviation Administration with a certificate of public convenience and necessity or an operating certificate under other applicable federal law or pertinent regulations which operates aircraft to or from an air carrier hub terminal facility as defined in this section.

(c) 'Board' means the State Budget and Control Board.

(d) 'Bonds' mean general obligation bonds of this State.

(e) 'Executive Director' is defined in Section 55-1-5(11).

Section 55-11-505. The term 'air carrier hub terminal facility' includes an economic development project as defined in Section 11-41-30(2) that is functionally related to a facility satisfying one of the criteria in Section 55-11-500(a).

Section 55-11-510. (A) A special purpose district or political subdivision of the State may petition the State for assistance hereunder. Upon receipt of such a petition, the State, from the proceeds of the sale of bonds authorized by Section 55-11-520, is authorized to pay a portion or all of the costs of any insurance required to guarantee the payment of, or any credit enhancement facility utilized in connection with, obligations issued or to be issued by a special purpose district or other political subdivision of this State, for the purposes of acquiring land for and constructing and equipping air carrier hub terminal facilities; except that the amount of fees paid by the State to purchase this insurance or other credit enhancement facility must not exceed one and one-half percent of the principal plus all interest payable on obligations issued by a special purpose district or other political subdivision of this State. The cost of this insurance or other credit enhancement facility may be paid by the State directly to the provider of it, or by way of reimbursement to the special purpose district or political subdivision.

(B) In addition, after review by the Joint Bond Review Committee, the board may allocate bond proceeds for the purposes authorized in Section 55-11-520 to match on a dollar-for-dollar basis, local funds expended for the purposes authorized in Section 55-11-520 by any special purpose district or other political subdivision of this State. Local funds may include user fees and other monies made available by the special purpose district or political subdivision, but may not include federal grants made available to the special purpose district or other political subdivision for runway construction.

Section 55-11-520. (A) Pursuant to the provisions of subsection 6(c), Section 13, Article X of the Constitution of this State, in order to provide funds to pay a portion of the costs of (1) acquiring land, (2) constructing, enlarging, improving, extending, renovating, and equipping suitable air carrier hub terminal facilities to be located in this State, (3) purchasing equipment, ground support equipment, machinery, special tools, maintenance, boarding facilities, and any and all additional necessary real or personal property for the operation of air carrier hub terminal facilities, and (4) if petitioned by a special purpose district or other political subdivision of the State, to pay a portion or all of the costs described in Section 55-11-510, not exceeding fifty million dollars of general obligation bonds of this State, to be outstanding at any time may be issued in the manner provided in this article and by law.

(B) A request that bonds be issued pursuant to this article must be accompanied by a binding contract with either an air carrier or the principal user of the air carrier hub terminal facilities to be financed with the issuance of the obligations described in this article, committing the entity to use the air carrier hub terminal facility for a period of five years or the period of time needed to retire any indebtedness incurred to construct the air carrier hub terminal facility, whichever is less. Upon receipt of a certified copy of the executed contract, the executive director shall consider the entity's financial ability, willingness, and commitment to serve this State and other factors considered relevant by the executive director. If the executive director determines that it is in the best interest of this State for the State to provide or to assist in the providing of suitable air carrier hub terminal facilities, the executive director shall recommend that the board consider approving the issuance of bonds of this State for the purposes authorized in this article and shall forward his written approval and request to the Joint Bond Review Committee and the board. The approval and request must be accompanied by a certificate of the executive director establishing:

(1) the maximum principal amount of the bonds then requested to be authorized;

(2) a description of the infrastructure for which the bonds are to be issued, including a certification from the executive director that the facility is an air carrier hub terminal facility as defined in Section 55-11-500(a);

(3) a tentative time schedule for the time during which the sum requested is to be expended; and

(4) the then-outstanding principal amount of, and the debt service requirements for, all bonds previously issued pursuant to this section.

(C) Following the receipt of the approval and request described in subsection (B), and after approval by the Joint Bond Review Committee, the board may approve the issuance of bonds pursuant to this article. In connection with the approval, the board shall adopt a resolution setting the terms and conditions for the execution, sale, delivery, interest payments, maturities, and redemption of the bonds. For the payment of the principal and interest on all bonds issued and outstanding pursuant to this article, there is pledged the full faith, credit, and taxing power of the State of South Carolina, and in accordance with the provisions of subsection (4), Section 13, Article X, of the South Carolina Constitution, the General Assembly hereby allocates on an annual basis sufficient tax revenues to provide for the

punctual payment of the principal and interest on the bonds authorized by this article.

Article 9

Florence, Marion, and Dillon Counties

Section 55-11-610. The territory of the counties of Florence, Marion, and Dillon is constituted an airport district and a political subdivision of this State, the functions of which are public and governmental and the inhabitants of the territory are constituted a body politic and corporate. The corporate name of the airport district is the Pee Dee Regional Airport District, and by that name the airport district may sue and be sued.

Section 55-11-620. The corporate powers and duties of the Pee Dee Regional Airport District must be exercised and performed by an authority to be known as the Pee Dee Regional Airport Authority which consists of nine members. Two members must be residents of the City of Florence appointed by the Governor upon recommendation of the Florence City Council. Three members must be residents of the County of Florence appointed by the Governor on the recommendation of the Florence County Council. Two members must be residents of each of the counties of Marion and Dillon appointed by the Governor on the recommendation of the respective county councils. Terms of office are for four years, except that of those initially appointed one member from each of the three counties must be appointed for two-year terms. No member shall serve more than two four-year terms. All members shall serve until their successors are appointed and qualify. Vacancies on the authority must be filled in the manner of their original appointment for the unexpired term. The authority shall elect its own officers with terms and duties as determined by the authority. The members of the authority must be compensated at the per diem rate of fifty dollars a meeting, not to exceed twelve meetings a year until such time as the amount is increased by the councils of the counties.

Section 55-11-630. The authority shall perform the functions of planning, establishing, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, protecting, and policing such airports, air navigation, railroad, and other facilities as are

necessary to serve the people of the district and the public generally. The authority may:

(1) have and enjoy perpetual succession;

(2) adopt, use, and alter a corporate seal;

(3) make bylaws for the management and regulation of its affairs, and define a quorum for its meetings, and appoint such subcommittees as it considers appropriate from within and without the authority to advise the authority;

(4) plan, establish, develop, construct, enlarge, improve, maintain, including the power to establish a reasonable reserve for maintenance, equip, operate, regulate, protect, and police its airports and air navigation facilities under such reasonable regulations as the authority may promulgate;

(5) construct, maintain, and extend runways, terminals, maintenance shops, access roads, parking facilities, utilities systems, concessions, accommodations, and other facilities of whatever nature or kind for the comfort and accommodation of air travelers and air freight; purchase and sell supplies, goods, and commodities as an incident to the operation of its airport facilities; and for all these purposes, the authority may, by purchase, gift, devise, lease, eminent domain proceedings, or otherwise, acquire, hold, develop, and use, as well as lease, mortgage, sell, transfer, and dispose of any property, real or personal, or any interest in it, including easements in or over land needed to prevent airport hazards, or land outside the boundaries of its airports and air navigation facilities necessary to permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards. However, the authority may not dispose of any interest in real property without first notifying the chairman of each of the governing bodies of Florence, Marion, and Dillon counties and conducting a public hearing which must be advertised not less than seven days before the hearing in a newspaper or newspapers of general circulation in the district. For the purpose of this article, 'utilities systems' means only facilities for the connection with and the provision of water or sewer services by the water and sewer systems of the City of Florence, its successors, and assigns;

(6) license, lease, sublease, rent, sell, or otherwise provide for the use of any real or personal property of its airport facilities or of facilities auxiliary to it, including the privilege of supplying goods, commodities, things, services, or facilities at the airport by itself or by any qualified persons or corporations, on terms and conditions as its

discretion may dictate. The public may not be deprived of its rightful, equal, and uniform use of its airports and air navigation facilities;

(7)(a) promulgate regulations pursuant to and in accordance with Section 55-9-250 and Federal Aviation Regulations, Part 77;

(b) apply to any court of general jurisdiction within the district for the enforcement of the regulation through the means of mandatory injunctions and other remedial proceedings, and these courts are specifically empowered to render mandatory injunctions and other remedial orders as it appears to them to be just and reasonable;

(8) exercise the power of eminent domain for any corporate function through procedure prescribed in Chapter 2, Title 28;

(9) appoint officers, agents, employees, and servants and prescribe the duties of them, including the right to appoint persons charged with the duty of enforcing the regulations promulgated pursuant to the provisions of this article, fix their compensation, and determine if, and to what extent, they must be bonded for the faithful performance of their duties;

(10) employ or contract for services of a technical or professional nature as may be necessary or desirable to the performance of the duties of the authority;

(11) contract for the construction, erection, maintenance, and repair of the facilities in its charge, through any procedure prescribed by law;

(12) acquire, construct, maintain, equip, and operate connecting, switching, terminal, or other railroads. The term 'railroad' includes, but is not limited to, tracks, spurs, switches, terminal, terminal facilities, road beds, rights of way, bridges, stations, railroad cars, locomotives, or other vehicles constructed for operation over railroad tracks, crossing signs, lights, signals, storage, administration, and repair buildings, and all structures and equipment which are necessary for the operation of a railroad; and

(13) develop all of the lands leased by, subleased by, owned by, or under the jurisdiction of the authority.

Section 55-11-635. (A) For the fiscal year beginning July 1, 1998, the governing bodies of Florence, Marion, and Dillon Counties shall fund for the authority and its purposes an amount equal to one dollar per capita for each person in that county. Thereafter the amount shall equal sixty cents per capita.

(B) Beginning with the fiscal year beginning July 1, 1999, the appropriation set forth above may be increased by request of the authority upon approval by ordinance of the county councils of the three counties.

Section 55-11-640. (A) The authority is authorized to adopt and promulgate regulations governing the use of roads, streets, and parking facilities upon the lands leased by, subleased by, owned by, or under the jurisdiction of the authority. All state laws are declared to be applicable to the roads, streets, and parking facilities under the control of the authority.

(B) The authority may employ police officers to be commissioned by the Governor who shall enforce all laws and regulations authorized under the provisions of this article and, in addition, shall have authority to issue summonses for violations of them in the manner provided for South Carolina State Highway Patrolmen.

(C) Persons violating any of the applicable laws within a magistrate's jurisdiction or any of the regulations of the authority must be tried by magistrates having jurisdiction of the area in which the violation occurred.

(D) Any person violating the provisions of any of the regulations of the authority is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.

(E) All fines and forfeitures collected under the provisions of this article must be forwarded to the authority to be credited to the general operating fund of the county where the final disposition of the case is made.

Section 55-11-650. (A) For the purpose of this article, the authority may:

(1) deposit monies derived from the sale of bonds authorized to be issued under the provisions of this article or from revenue-producing facilities in any bank or trust company having an office within the district and to withdraw them for the purpose of operating, maintaining, constructing, improving, and extending any facility in its charge;

(2) apply for, accept, receive, receipt for, disburse, and expend federal, state, county, or municipal monies and other monies, public or private, made available by grant or loan, or both, to accomplish, in whole or in part, any of the purposes of this article, and, to this end, to continue to prosecute any application previously filed with the Federal Aviation Agency, or any other federal agency, by the Florence City-County Airport Commission, and to pay from the funds of the district any costs incurred for any services rendered since the date the application was filed in connection with the procuring or processing of the application which is found by the authority to legitimately inure to

the benefit of the district. All federal monies accepted under this section must be accepted and expended by the authority upon those terms and conditions prescribed by the United States and consistent with state law. All other monies accepted under this section must be accepted and expended by the authority upon the terms and conditions prescribed by the State or other sources;

(3) accept donations of all sorts, including a deed of conveyance by any landowners of the landowner's right, title, and interest in and to lands within the district, and to accept relinquishments of any leasehold interest or estate now possessed by the City or County of Florence on or in lands or property on airport property.

(B) The district may issue negotiable bonds, notes, and other evidences of indebtedness payable solely from the gross revenues or net revenues derived from the operation of any revenue-producing facility, or facilities, in its charge. The sums borrowed may be those needed to pay the costs of any extension, addition, or improvement to its airport facility. The proceeds of the bonds may, in addition, be used to refund any bonds issued under the provisions of this article, to pay interest during the estimated construction period of the project being financed, to fund any necessary reserves for the bonds, to purchase any necessary credit enhancement for the bonds, and to pay costs of issuance of the bonds. If the method of financing authorized by this subsection is used, neither the faith and credit of the State of South Carolina, nor of any county lying within the district, nor of the district itself, may be pledged to the payment of the principal and interest of the obligations, and there must be on the face of the obligation a statement, plainly worded, to that effect. Neither the members of the authority nor any person signing the obligations are personally liable on them. In order that a convenient procedure for borrowing money pursuant to this subsection may be prescribed, the authority may use the provisions of Chapter 21, Title 6 and Chapter 17, Title 6. In exercising the powers conferred upon the district by those code provisions, the authority may make all pledges and covenants authorized by the provisions of them and may confer upon the holders of its securities all rights and liens authorized by these code provisions. Specifically, and notwithstanding contrary provisions in those code provisions, the district may:

(1) provide that the bonds, notes, or other evidences of indebtedness are payable, both as to principal and interest, from the gross revenues or net revenues derived from the operation of any revenue-producing facility or facilities, as the gross revenues or net revenues may be defined by the authority, and to impose a lien upon

the facilities, the revenues of which are pledged to the payment of the bonds enforceable to the same extent and in the same manner as the statutory lien described in Sections 6-21-330 through 6-21-360;

(2) provide that the bonds must be issued as serial or term bonds, maturing in equal or unequal amounts, at such times and on occasions as the authority determines. They must bear such rates of interest, payable on such occasion, as the authority prescribes, and the bonds are in such denominations, are payable in such medium of payment, and at such place as the authority prescribes. All bonds may be issued with a provision permitting their redemption prior to their respective maturities. Bonds made subject to redemption before their stated maturities may contain a provision requiring the payment of a premium for the privilege of exercising the right of redemption, in such amount or amounts as the authority prescribes. All bonds that are subject to redemption must contain a statement to that effect on the face of each bond. The resolution authorizing their issuance must contain provisions specifying the manner of call and the notice of call that must be given. Notwithstanding anything in this chapter to the contrary, the authority may issue bonds which, in lieu of paying current interest periodically, pay an accreted value at maturity;

(3) authorize the officer or officers of the authority to execute the bonds, by manual or facsimile signature, as the authority considers necessary; bonds may be in the form of registered bonds or may be issued in coupon form, payable to bearer, or, in the discretion of the authority, may be issued as fully registered uncertificated book-entry securities;

(4) covenant and agree that upon its being adjudged in default as to the payment of any installment of principal and interest upon any obligation issued by it or in default as to the performance of any covenant or undertaking made by it, that in that event the principal of all obligations of the issue may be declared immediately due and payable, notwithstanding that any of them may not have then matured, and that any court having jurisdiction in any proper action may appoint a receiver to administer and operate the facilities whose revenues must be pledged for the payment of the bonds, with power to fix rates and charges for the facilities, sufficient to provide for the payment of the expense of operating and maintaining such facilities, and to apply the income and revenues of the facilities to the payment of the bonds, and the interest on them;

(5) confer upon a corporate trustee the power to make disposition of the proceeds from all borrowings and also all revenue-producing facilities whose revenues are pledged for the payment of the

obligations, in accordance with and in the order of priority prescribed by resolutions adopted by the authority as an incident to the issuance of any notes, bonds, or other evidences of indebtedness;

(6) dispose of its obligations at public or private sale and upon such terms and conditions as it approves;

(7) covenant and agree that a reserve fund must be established to further secure the payment of principal and interest of any obligation;

(8) covenant and agree that it will not enter into any agreements with any person, firm, corporation, or with the government of this State, the United States, or any of the political subdivisions of the same, for the furnishing of free services where the services are ordinarily charged for;

(9) prescribe the procedure, if any, by which the terms of the contract with the holders of its obligations may be amended, the number of obligations whose holders must consent to it, and the manner in which the consent must be given;

(10) prescribe the evidence of default and conditions upon which all or any obligation becomes or may be declared due before maturity and the terms and conditions upon which the declaration and its consequences may be waived;

(11) covenant to establish and maintain such system of rules as will ensure the continuous use and occupancy of the facilities whose revenues are pledged to secure any bonds;

(12) covenant that an adequate schedule of charges will be established and maintained for the facilities designated by the authority, whose revenues must be pledged to secure any bonds, to the extent necessary to produce sufficient revenues to:

(a) pay the cost of operating and maintaining the facilities, whose revenues or net revenues must be pledged for the payment of the bonds, including the cost of fire, extended coverage, and use and occupancy insurance;

(b) pay the principal and interest of the bonds as they respectively become due;

(c) create and at all times maintain an adequate debt service reserve fund to meet the payment of the principal and interest; and

(d) create and at all times maintain an adequate reserve for contingencies and for major repairs and replacements.

(C) The authority, on behalf of the district, may issue general obligation bonds of the district, whose proceeds must be used to defray the cost of constructing and establishing an airport facility within the district. In order that a convenient procedure for borrowing money pursuant to this subsection may be prescribed, the authority may use

the provisions of Article 5, Chapter 11, Title 6. For the purpose of this section, the term 'construct and establish' means the cost of direct construction, the cost of all land, property, rights, easements, and franchises acquired (in addition to property conveyed to the district by the City or County of Florence) which are considered necessary for the construction and use of runways, terminal buildings, maintenance shops, freight depots, service establishments, and any and all facilities incident, or in any way appurtenant, to an airport facility, and all machinery and equipment needed for it, payments to contractors, laborers, or others for work done or material furnished, financing charged, interest incurred in connection with it, interest on the bonds authorized by this article, cost of engineering services, architectural services, legal services, legal and engineering expenses, plans, specifications, surveys, projections, drawings, brochures, administrative expenses, and such other expenses as may be necessary or incident to the construction of any airport facility within the district incurred for the purposes for which the district is created.

(D) The district shall do all other acts and things necessary or convenient to carry out any function or power committed or granted to the district.

(E) All bonds issued pursuant to this article and all interest to become due on them have the tax-exempt status prescribed by Section 12-2-50.

(F) It is lawful for all executors, administrators, guardians, and fiduciaries, all sinking fund commissions, the State Budget and Control Board, as trustee of the South Carolina Retirement System, and all other governmental entities within the State to invest any monies in their hands in the bonds issued pursuant to this chapter.

Section 55-11-660. All revenues derived by the authority from the operation of any revenue-producing facility which may not be required to operate, maintain, enlarge, and improve its airport facilities, or to create any necessary reserves for them, or to pay obligations incurred in the issuance of any revenue bonds sold pursuant to the resolution or resolutions adopted by it in connection with the issuance of the bonds may, in the discretion of the authority, either:

(1) create surplus revenues to be used for future capital projects of the authority;

(2) used to reduce the outstanding bonded indebtedness of the authority; or

(3) otherwise be used for purposes permitted by FAA policy and applicable procedures, as they now exist or may hereafter be adopted.

Section 55-11-670. The rates charged for services furnished by any revenue-producing facility of the district as constructed, improved, enlarged, or extended is not subject to supervision or regulation of any state bureau, commission, board, or other instrumentality or agency of it.

Section 55-11-680. Property and income of the district is exempt from all taxes levied by the State, county, or any municipality, division, subdivision, or agency of them, directly or indirectly.

Section 55-11-690. For the period the district is indebted to a person on any bonds, notes, or other obligations issued pursuant to the provisions of this article, the powers granted to the district and the authority may not be diminished. The provisions of this article are considered a part of the contract between the district and the holders of the obligations.

Section 55-11-700. The provisions of this article do not prohibit the operation of any public or private airport located within the district by any other public agency or governmental authority, or by any private agency or person.

Section 55-11-710. Neither the City of Florence nor the Counties of Florence, Marion, or Dillon are liable in damages for any neglect or mismanagement in the operation and maintenance or otherwise of the airport.

Section 55-11-720. Nothing in this article may be construed to affect the rights and duties of electric utilities and electrical suppliers under the provisions of Chapter 27, Title 58.

Section 55-11-730. Nothing in this article prohibits annexation by the City of Florence of the property of the district."

Protection of airports and airport property

SECTION 6. Chapter 13, Title 55 of the 1976 Code is amended to read:

"CHAPTER 13

Protection of Airports and Airport Property

Section 55-13-5. The division shall create a map of each public use airport in the State showing airport property, runways, taxiways, runway approach and departure zones, airport safety zones and airport land use zones which are extended zones from each runway in which land use considerations should be made to prevent incompatible uses with aircraft and airport operations. These maps should be updated as needed, but at least every five years.

The division shall provide a copy of these maps to the county council, city council, the respective planning agencies, and airport commission, and the agencies responsible for the granting of plat subdivision approval and building permits having jurisdiction over the airport, or having jurisdiction in the vicinity of the airport under aircraft flight profiles arriving and departing the airport.

Each governmental body or agency receiving these maps shall ensure notice of any planned development, plat approval, or building permit issued in an airport safety zone or airport land use zone be provided to the division for review. In the event that an activity is enjoined or a condition is abated by the division contrary to a local governmental body's decision, the governmental body proposing the land use decision shall have the right to seek cost recovery from the party responsible for creating the condition or the enjoinment or abatement of the activity. Neither the division or a local government shall be required to post a bond or other financial security as a condition to enjoining or abatement of a condition surrounding a public use airport. Land use decisions by county and municipal governments and local agencies shall take into account the presence of airport land use zones and airport safety zones and consult with the division, when possible, prior to making land use decisions within airport land use zones and airport safety zones. If the division provides comments, within thirty days, the governmental body must respond substantively in writing to each comment, separately stated before the issuance of the permit or approval. If the division believes the proposed project may have a substantial impact on aviation safety, create an imminent or foreseeable hazard to aviation safety, or result in a nuisance or an incompatible land use, the division may seek relief, including enjoining the activity or abatement of the condition giving rise to the division's comments.

Land use decisions by county and municipal governments and local agencies shall take into account the presence of airport land use zones. Land use decisions in airport land use zones should avoid and minimize the impact to interruption of aircraft operations, aviation safety, including approach, landing, takeoff, and departure criteria established by the Federal Aviation Administration or nationally recognized industry standards.

Section 55-13-10. The governing body of a political subdivision in which there is an airport may make reasonable rules and promulgate regulations as authorized in Section 6-24-710(5) prohibiting, within a reasonable distance from the base or airfield, the erection of a building, tower or other structure or the allowing of natural growth or other hazard to aircraft, above certain maximum heights, which shall be increased at varying distances from the airport. Counties or municipalities may restrict residential or commercial development inside the airport safety zones of a civil airport and prohibit the use of land in a manner which could cause interference with radio communication between aircraft and the airport or landing areas, confuse or impair visibility in the vicinity of the airport or landing areas, or otherwise endanger the landing, taking-off, or maneuvering of aircraft using the airport or landing areas. Political subdivisions also may assist with the protection of Department of Defense defined accident potential areas from encroachments in accordance with federal and state regulations.

Section 55-13-20. The rules and regulations authorized by Section 55-13-10 become effective only after a public hearing, notice, and comment of which must be published in accordance with state law.

Section 55-13-30. It shall be unlawful for a person to wilfully or intentionally violate these rules and regulations and a person violating them, upon conviction, must be fined not exceeding one thousand dollars, or imprisoned for not more than thirty days. A person who violates these rules and regulations may be liable for a civil penalty of one thousand dollars. Each day of the violation constitutes a separate offense.

Section 55-13-40. (1) It is unlawful, without proper authority, for any person to trespass, park, drive, or drag race upon airport property.

(2) A person violating the provisions of this section, upon, conviction must be fined not less than five hundred dollars or more

than two thousand dollars or imprisoned for not less than two months or more than six months or both in the discretion of the trial judge. In addition to this penalty, the driver of a vehicle that violates the provisions of this section, upon conviction, entry of a plea of guilty or forfeiture of bail shall have his driver's license revoked for a period of one year. A person violating the provisions of this section by acquiescing in or permitting the driving of his car, upon conviction, must be fined not more than one thousand dollars or imprisoned for a period not more than thirty days, or both, in the discretion of the court and, in addition, shall have his driver's license and the registration of his vehicle suspended for a period of three months."

Relocation assistance

SECTION 7. Chapter 15, Title 55 of the 1976 Code is amended to read:

"CHAPTER 15

Relocation Assistance

Section 55-15-10. As used in this chapter:

(a) The term 'person' means (1) any individual, partnership, corporation or association which is the owner of a business; (2) any owner, part owner, tenant, or sharecropper who operates a farm; (3) an individual who is the head of a family; or (4) an individual not a member of a family.

(b) The term 'family' means two or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, adoption, or legal guardianship.

(c) The term 'displaced person' means any person who moves from real property as a result of the acquisition or reasonable expectation of acquisition of such real property, which may have been or is subsequently acquired, in whole or in part, for an airport, or as the result of the acquisition for an airport of other real property on which such person conducts a business or farm operation.

(d) The term 'business' means any lawful activity conducted primarily (1) for the purchase and resale, manufacture, processing, or marketing of products, commodities or any other personal property; (2) for the sale of services to the public; or (3) by a nonprofit organization.

(e) The term 'farm operation' means any activity conducted solely or primarily for the production of one or more agricultural products or

commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(f) The term 'public authority' means the Division of Aeronautics of the Budget and Control Board, a municipality, a county or other political subdivision of this State, separately or jointly, authorized to acquire land, air rights, safety markers, and lights as provided in Chapter 9, Title 55.

Section 55-15-20. (a) Whenever the acquisition of real property for a program or project undertaken by a public authority will result in the displacement of any person, the public authority shall make a payment to any displaced person upon proper application as approved by the public authority for:

(1) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the public authority; and

(3) actual reasonable expenses in searching for a replacement business or farm.

(b) Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive a moving expense allowance, determined according to a schedule established by the public authority not to exceed three hundred dollars; and a dislocation allowance of two hundred dollars.

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business no payment shall be made under this subsection unless the public authority is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by

the public authority, which is engaged in the same or similar business. For the purposes of this subsection, the term 'average annual net earnings' means one half of any net earnings of the business or farm operation, before federal, state, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the public authority determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

Section 55-15-30. (1) In addition to payments otherwise authorized by this chapter, the public authority shall make an additional payment not in excess of fifteen thousand dollars to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subparagraph shall be made in accordance with standards established by the public authority.

(b) The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be determined by regulations issued pursuant to Section 55-15-70.

(c) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the

purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this subsection shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one-year period beginning on the date on which he receives final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

Section 55-15-40. In addition to amounts otherwise authorized by this chapter, the public authority shall make a payment to or for any displaced person from any dwelling not eligible to receive a payment under Section 55-15-30 which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling. Such payment shall be either:

(1) the amount necessary to enable such displaced person to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed four thousand dollars; or

(2) the amount necessary to enable such person to make a down payment (including incidental expenses described in Section 55-15-30(1)(c) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed four thousand dollars, except that if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment.

Section 55-15-50. (a) Whenever the acquisition of real property for a program or project undertaken by the public authority will result in the displacement of any person, the public authority shall provide a relocation assistance advisory program for displaced persons which shall offer the services prescribed herein. If the public authority determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer such person relocation advisory services under such program.

(b) Each relocation advisory assistance program required by subsection (a) shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(1) determine the need, if any, of displaced persons for relocation assistance;

(2) provide current and continuing information on the availability, prices, and rentals, of comparable decent, safe and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

(3) assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(4) supply information concerning federal, state and local housing programs, disaster loan programs, and other federal, state or local programs offering assistance to displaced persons;

(5) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation;

(6) secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of the relocation program.

Section 55-15-60. Whenever the acquisition of real property for a program or project undertaken by the public authority will result in the displacement of any person, the public authority shall assure that, within a reasonable period of time, prior to displacement there will be available, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment; except that regulations issued pursuant to Section 55-15-70 may prescribe situations when these assurances may be waived.

Section 55-15-70. (a) The public authority shall adopt such rules and regulations as may be necessary to assure:

(1) that the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(2) that a displaced person who makes proper application for a payment authorized for such person by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(3) that any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment may have his application reviewed by the public authority.

(b) the public authority may prescribe such other regulations and procedures, consistent with the provisions of this chapter, as it deems necessary or appropriate to carry out this chapter.

Section 55-15-80. In order to prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, the public authority may authorize any state agency to enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this chapter through any federal or state agency or instrumentality having an established organization for conducting relocation assistance programs.

Section 55-15-90. Funds appropriated or otherwise available to the public authority for the acquisition of real property or any interest therein for a particular program or project shall be available also for obligation and expenditure to carry out the provisions of this chapter as applied to that program or project.

Section 55-15-100. No payment received by a displaced person under this chapter shall be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of the state's personal income tax law, corporation tax law, or other tax laws. Such payments shall not be considered as income or resources of any recipient of public assistance and such payment shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

Section 55-15-110. (1) The public authority, upon acquisition of real property under the eminent domain or condemnation laws of this State, shall as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent

the public authority deems fair and reasonable, for expenses he necessarily incurred for (a) recording fees, transfer taxes, and similar expenses incidental to conveying such real property; (b) penalty costs for prepayment for any preexisting recorded mortgage entered into in good faith encumbering such real property; and (c) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title or the effective date of possession of such real property in the taking authority whichever is the earlier.

(2) Where a condemnation proceeding is instituted by the public authority under the laws of this State to acquire real property and (a) the final judgment is that the real property cannot be acquired by condemnation or (b) the proceeding is abandoned, the owner of any right, title, or interest in such real property shall be paid by the public authority such sum as will, in the opinion of the public authority, reimburse such owner for his reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceeding.

(3) Where an inverse condemnation proceeding is instituted by the owner of any right, title, or interest in real property, the court, rendering a judgment for the plaintiff in such proceeding and awarding compensation for the taking of property, or the public authority's attorney effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will, in the opinion of the court or the public authority's attorney, reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred because of such proceeding.

(4) The public authority, in acquiring real property which they have the power to acquire under the eminent domain or condemnation laws of this State shall comply with the following policies:

(a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(c) Before the initiation of negotiations for real property, an amount must be established which it is reasonably believed is just compensation for it and the amount must be offered for the property. In no event shall the amount be less than the approved appraisal of the fair market value of such property. Any decrease or increase of the fair market value of real property prior to the date of valuation caused by

the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(d) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or deposited with a court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner an amount not less than the approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

(e) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling, assuming a replacement dwelling will be available, or to move his business or farm operation without at least ninety days' written notice from the date by which such move is required.

(f) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(g) In no event shall the time of condemnation be advanced, on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(h) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The public authority shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(i) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

(5)(a) Where any interest in real property is acquired, an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from

such real property or which is determined to be adversely affected by the use to which such real property will be put shall be acquired.

(b) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired as above set forth, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, must be paid to the tenant for it.

(c) Payment for such buildings, structures, or improvements as set forth above shall not result in duplication of any payments otherwise authorized by state law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release all his right, title, and interest in and to such improvements. Nothing with regard to the above-mentioned acquisition of buildings, structures, or other improvements shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for such property interests in accordance with other laws of this State.

Section 55-15-120. Nothing in Sections 55-15-10 to 55-15-120 shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to June 15, 1973."

Regional airports

SECTION 8. Chapter 17, Title 55 of the 1976 Code is amended to read:

"CHAPTER 17

Regional Airport Districts

Section 55-17-10. An airport district in this State containing an airport, served by air carriers or cargo carriers certificated and reported

by the United States Department of Transportation, Federal Aviation Administration may be designated as a regional airport district.

Section 55-17-20. The governing authority of any regional airport district in this State, which has averaged on June 15, 1977, three hundred thousand or more enplaning passengers per year for the preceding three consecutive calendar years, as reported to and published by the United States Federal Aviation Administration, may issue, without an election, general obligation bonds of the district in an amount as is within the constitutional debt limit applicable to the district for the purpose of paying the cost of maintenance, construction, renovation, extension, enlargement, improvement, and acquisition of airports and suitable air navigation facilities; provided, however, that as a condition precedent to the issuance of bonds a majority of the members of each delegation, including members of the House of Representatives and the Senate whose districts are located either wholly or partially within an airport district, must give their prior written approval. All or any general obligation bonds issued pursuant to this chapter shall conform to the following specifications and be subject to the following procedures:

(a) They shall be issued as a single issue or from time to time as several separate issues. They shall be in such denominations, bear such date as the governing authority shall determine, and bonds of any issue shall mature in such equal or unequal installments as may be determined by the governing authority. They shall be made payable at such places as the governing authority shall prescribed, shall bear interest at such rates within the limitations of Section 11-9-350, and shall be payable in such manner as the governing authority may determine. The bonds may be issued with the privilege of having them registered as to principal on the books of the governing authority and the principal thus made payable to the registered holder (unless the last registered transfer shall have been to bearer), upon such conditions as the governing authority may prescribe. Any bond issued pursuant to this chapter may be made subject to redemption prior to its stated maturity, on such terms and conditions and with such redemption premium as the governing authority shall prescribe.

(b) They shall be sold at not less than par and accrued interest to the date of their respective deliveries at public sale. At least ten days prior to any sale, notice announcing the intention to receive bids for sale of such bonds shall be published in a newspaper of general circulation in the State of South Carolina. In offering the bonds for sale the governing authority shall reserve the right to reject any and all

bids and if all bids shall be rejected, the governing authority may negotiate privately for the disposition of such bonds.

(c) Such bonds and all interest to become due thereon shall have the tax-exempt status prescribed by Section 12-1-60, Code of Laws of South Carolina, 1976.

(d) All general obligation bonds issued pursuant to this chapter shall be executed in a manner prescribed by the governing authority. The seal of the district shall be affixed to, impressed, or reproduced upon each of such bonds and each of such bonds shall be attested by the secretary of the governing authority. The coupons attached to such bonds shall be authenticated by a facsimile of the signature of the chairman and the secretary of the governing authority who shall be in office on the date of the adoption of the resolution of the governing authority authorizing the bonds.

(e) The delivery of any bonds so executed and authenticated shall be valid notwithstanding any changes in officers or seal occurring after such execution and authentication.

(f) There shall be irrevocably pledged for the payment of such bonds and interest as they mature the full faith, credit, and resources of the district. Until the principal and interest of all bonds issued under this chapter shall be fully paid, there shall be levied on all taxable property in the district an annual ad valorem tax sufficient to pay the principal and interest of all bonds issued under this chapter as such principal and interest become due. The tax shall be annually levied by the Comptroller General of South Carolina and collected by the county treasurer of the county or counties in which the district is located at the same time and in the same manner as county taxes are collected. Each of the county treasurers, if the district comprises more than a single county, shall collect the tax in his county and pay it to the State Treasurer in the manner and within the time heretofore provided by law for the payment of state taxes to the State Treasurer, who shall set them apart in a special fund and apply them solely to the payment of principal and interest of the bonds so long as any such principal or interest remains outstanding. The tax to be levied under the provisions of this item shall not be substantially greater than the amount necessary to pay principal and interest of bonds maturing during the year in which monies produced by such levy will come into the hands of the State Treasurer, as reduced by the anticipated balance of funds actually in the hands of the State Treasurer, on the occasion when it becomes necessary to fix such tax levy, produced by: (1) additional collections from such levies made in prior years; (2) net revenues derived by the governing authority from the operation of its facilities not required to

meet costs of operating, maintaining, enlarging, improving, and acquiring its facilities. When all principal and interest of outstanding bonds have been paid, the State Treasurer shall transfer any balance remaining in the special fund created under the terms of this item to the general fund of the governing authority subject to its draft or order for any legitimate purpose incident to the operation, maintenance, or extension of the district's airport facilities.

(g) The proceeds derived from the sale of such bonds shall be deposited with the State Treasurer in a separate and special fund and shall be subject to transfer, upon warrants or orders of the governing authority to any bank or trust company having an office within the district, to be expended by the governing authority for the purpose of meeting any costs incurred in the issuance of the bonds and to meet the cost of maintenance, construction, renovation, extension, enlargement, improvement, and acquisition of airport facilities within the district and to no other purposes; provided, however, that any premium received shall be deposited with the State Treasurer and applied by him to the first installment of principal becoming due on the bonds and any accrued interest shall be applied to the first installment of interest becoming due on the bonds. Provided, further, pending such withdrawals, the State Treasurer shall, upon the request of the governing authority, be empowered to invest and reinvest the proceeds derived from the sale of the bonds in direct general obligations of the United States of America or any agency thereof having a maturity of not more than one year from the date as of which such investment shall be made. Income derived from such investments shall be subject to the transfer upon warrants or orders of the governing authority to any bank or trust company having an office within the district to be expended by the governing authority for the purposes of meeting the costs of issuing the bonds and any costs incurred in the maintenance, construction, renovation, extension, enlargement, improvement, and acquisition of any airport facility. Neither the purchaser of the bonds nor any subsequent holders thereof shall be responsible for the proper application of the proceeds of sales.

(h) The powers and authorizations hereby conferred upon the governing authority shall be in addition to all other powers and authorizations previously vested in it, and may be availed of at a special or regular meeting of the governing authority by resolution to become effective immediately upon its adoption at the meeting at which it is presented. No action other than that prescribed herein need be taken to affect the issuance of the bonds nor shall the governing authority be required to obtain the approval of any other public body or

agency to any action taken pursuant to the authorization of this chapter. No election is prescribed as a condition precedent to the issuance of any bonds under the provisions of this chapter.

Section 55-17-30. If the provisions contained in the first paragraph of Section 55-17-20 relating to legislative approval are held to be unconstitutional by a court of competent jurisdiction all the provisions of this chapter shall be null and void."

Department of Commerce

SECTION 9. Section 13-1-20 of the 1976 Code, as added by Act 181 of 1993, is amended to read:

"Section 13-1-20. The Department of Commerce shall conduct an adequate statewide program for the stimulation of economic activity to develop the potentialities of the State; manage the business and affairs of the Savannah Valley Development; develop the state public railway system for the efficient and economical movement of freight, goods, and other merchandise; and enhance the economic growth and development of the State through strategic planning and coordinating activities."

Secretary of Commerce

SECTION 10. Section 13-1-30(C) of the 1976 Code, as last amended by Act 11 of 2005, is further amended to read:

"(C) Notwithstanding any other provision of law, the Secretary of Commerce may appoint a director for each division of the department. Each director shall serve at the pleasure of the Secretary of Commerce and shall be responsible to the secretary for the operation of the programs outlined by the secretary."

Aeronautics Commission

SECTION 11. Section 13-1-1050(B)(2) of the 1976 Code, as added by Act 11 of 2005, is amended to read:

"(2) commission members appointed to represent congressional district three, four, and seven, three years;"

Aeronautics Commission

SECTION 12. Section 13-1-1000(1) of the 1976 Code, as added by Act 11 of 2005, is amended to read:

"(1) 'Board' means the Budget and Control Board."

Aeronautics Commission

SECTION 13. Section 13-1-1010 of the 1976 Code, as added by Act 11 of 2005, is amended to read:

"Section 13-1-1010. Notwithstanding any other provision of law, the Aeronautics Commission is hereby created within the Budget and Control Board. The Budget and Control Board shall provide administrative support functions to the division. The commission shall oversee the operation of the division as the division's governing body. The Joint Bond Review Committee must review, prior to approval by the Aeronautics Commission, purchases or sales of any aeronautics assets, the value of which exceeds fifty thousand dollars. There may be no purchase or sale of any aeronautics assets without the approval of the commission."

Repeal

SECTION 14. Chapter 8, Title 55 of the 1976 Code is repealed.

Aeronautics Commission

SECTION 15. A. The Aeronautics Commission, and the commission's functions, powers, duties, and responsibilities transferred to the Budget and Control Board, or its successor entity, by this act must be maintained as a distinct component, function, power, duty, or responsibility of the Budget and Control Board, or its successor entity. Any funds appropriated to the commission must not be transferred to another component of the Budget and Control Board, or its successor entity. Any funds appropriated for a distinct function, power, duty, or responsibility of the commission must be exercised by the commission.

B. Regulations promulgated by this commission as it formerly existed under the Department of Commerce are continued and are

considered to be promulgated by this commission under the Budget and Control Board, or its successor entity.

C. The Aeronautics Commission shall use its existing resources that are transferred to the Budget and Control Board, or its successor entity, including, but not limited to, funding, personnel, equipment, and supplies.

D. Any reference to the Budget and Control Board shall mean the Budget and Control Board or its successor entity.

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.

Severability clause

SECTION 17. 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, 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 18. This act takes effect upon approval by the Governor.

Ratified the 12th day of June, 2012.

Approved the 18th day of June, 2012.

No. 271

(R296, H4082)

AN ACT TO AMEND SECTION 38-7-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE IMPOSITION OF THE INSURANCE PREMIUM TAX, SO AS TO PROVIDE THAT BEGINNING JULY 1, 2013, THROUGH JUNE 30, 2017, 2.25 PERCENT OF THE ANNUAL REVENUE OF THIS TAX MUST BE TRANSFERRED TO THE SOUTH CAROLINA FORESTRY COMMISSION AND USED BY IT FOR FIREFIGHTING AND FIREFIGHTING EQUIPMENT REPLACEMENT.

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

Use of insurance premium tax revenue

SECTION 1. Section 38-7-20 of the 1976 Code, as last amended by Act 73 of 2003, is further amended to read:

"Section 38-7-20. (A) In addition to all license fees and taxes otherwise provided by law, there is levied upon each insurance company licensed by the director or his designee an insurance premium tax based upon total premiums, other than workers' compensation insurance premiums, and annuity considerations, written by the company in the State during each calendar year ending on the thirty-first day of December. For life insurance, the insurance premium tax levied herein is equal to three-fourths of one percent of the total premiums written. For all other types of insurance, the insurance premium tax levied in this section is equal to one and one-fourth percent of the total premiums written. In computing total premiums, return premiums on risks and dividends paid or credited to policyholders are excluded.

(B) Effective July 1, 2013, through June 30, 2017, two and one-quarter percent of the revenue of the premium taxes collected pursuant to this section must be transferred to the South Carolina Forestry Commission and used by that agency for firefighting and firefighting equipment replacement. The remaining insurance premium taxes collected pursuant to this section must be deposited to the credit of the general fund of the State."

Time effective

SECTION 2. This act takes effect July 1, 2013.

Ratified the 12th day of June, 2012.

Vetoed by the Governor -- 6/18/12.
Veto overridden by House -- 6/19/12.
Veto overridden by Senate -- 6/20/12.

No. 272

(R316, H3124)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLES 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, AND 131 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES MAY ISSUE "DISTINGUISHED SERVICE MEDAL" SPECIAL LICENSE PLATES, "SECOND AMENDMENT" SPECIAL LICENSE PLATES, "HISTORIC" SPECIAL MOTOR VEHICLE LICENSE PLATES, "DISTINGUISHED SERVICE CROSS" SPECIAL LICENSE PLATES, "DEPARTMENT OF NAVY" SPECIAL LICENSE PLATES, "PARENTS AND SPOUSES OF ACTIVE DUTY OVERSEAS VETERANS" SPECIAL LICENSE PLATES, "STATE FLAG" SPECIAL LICENSE PLATES, "SOUTH CAROLINA HIGHWAY PATROL-RETIRED" LICENSE PLATES, "I SUPPORT LIBRARIES" SPECIAL LICENSE PLATES, "SOUTH CAROLINA EDUCATOR" SPECIAL LICENSE PLATES, "BEACH MUSIC" SPECIAL LICENSE PLATES, "CITADEL ALUMNI ASSOCIATION 'BIG

RED'" SPECIAL LICENSE PLATES, "LARGE MOUTH BASS" SPECIAL LICENSE PLATES, "HIGH SCHOOL" SPECIAL LICENSE PLATES, "SOUTH CAROLINA WILDLIFE FEDERATION" SPECIAL LICENSE PLATES, "DR. MARY MCLEOD BETHUNE" SPECIAL LICENSE PLATES, "GADSDEN FLAG" SPECIAL LICENSE PLATES, "ACTIVE DUTY MEMBERS OF THE UNITED STATES ARMED FORCES" SPECIAL LICENSE PLATES, "2010-11 BASEBALL NATIONAL CHAMPIONS" SPECIAL LICENSES PLATES, AND "COMBAT-RELATED DISABLED VETERAN" SPECIAL LICENSE PLATES; TO AMEND ARTICLE 65, CHAPTER 3, TITLE 56, RELATING TO THE ISSUANCE OF "BOY SCOUTS OF AMERICA" SPECIAL LICENSE PLATES, SO AS TO MAKE TECHNICAL CHANGES AND TO PROVIDE FOR THE ISSUANCE OF "EAGLE SCOUTS OF AMERICA" SPECIAL LICENSE PLATES; TO AMEND SECTION 56-3-2150, AS AMENDED, RELATING TO THE ISSUANCE OF SPECIAL LICENSE PLATES TO CERTAIN CURRENT AND FORMER ELECTED OFFICIALS AND JUDICIAL OFFICERS, SO AS TO INCREASE THE NUMBER OF SPECIAL LICENSE PLATES THAT A CORONER MAY BE ISSUED FROM ONE TO TWO; TO AMEND SECTION 56-3-1240, AS AMENDED, RELATING TO THE DISPLAY OF A LICENSE PLATE, SO AS TO PROVIDE THAT A FRAME MAY BE PLACED ON A LICENSE PLATE UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 56-3-10410, RELATING TO THE ISSUANCE OF "VETERAN" SPECIAL LICENSE PLATES, SO AS TO PROVIDE FOR THE PLACEMENT OF THE WHEELCHAIR SYMBOL ON CERTAIN "VETERAN" LICENSE PLATES; TO AMEND SECTION 56-3-3310, AS AMENDED, RELATING TO THE ISSUANCE OF "PURPLE HEART" SPECIAL LICENSE PLATES, SO AS TO INCREASE THE NUMBER OF LICENSE PLATES THAT MAY BE ISSUED TO A PERSON FROM ONE TO THREE AND TO PROVIDE A FEE FOR THE THIRD LICENSE PLATE; TO AMEND SECTION 56-3-8000, AS AMENDED, RELATING TO THE ISSUANCE OF SPECIAL LICENSE PLATES THAT CONTAIN THE EMBLEM OF A TAX EXEMPT ORGANIZATION, SO AS TO SPECIFY THEIR SIZE, GENERAL DESIGN, AND PERIOD OF VALIDITY, TO REVISE THEIR COSTS AND DISTRIBUTION OF FEES COLLECTED FROM THEIR SALE, TO ELIMINATE THE NUMBER OF PREPAID APPLICATIONS AND REVISE THE MINIMUM

PAYMENT THAT THE DEPARTMENT OF MOTOR VEHICLES MUST RECEIVE BEFORE A SPECIAL LICENSE PLATE MAY BE ISSUED, TO PROVIDE THAT THE ORGANIZATION MUST GIVE ITS LEGAL AUTHORITY TO THE DEPARTMENT FOR THE DEPARTMENT'S USE OF THE ORGANIZATION'S LOGO, TRADEMARK, OR DESIGN, TO PROVIDE THAT THE FEE THAT AN ORGANIZATION MUST PROVIDE THE DEPARTMENT BEFORE A SPECIAL LICENSE PLATE IS PRODUCED MUST BE REVIEWED BY THE GENERAL ASSEMBLY ON A PERIODIC BASIS, AND A FEE INCREASE MUST BE JUSTIFIED BY THE DEPARTMENT AND APPROVED BY THE GENERAL ASSEMBLY; TO AMEND SECTION 56-3-8100, AS AMENDED, RELATING TO THE ISSUANCE OF SPECIAL LICENSE PLATES CREATED BY THE GENERAL ASSEMBLY, SO AS TO ELIMINATE THE NUMBER OF PREPAID APPLICATIONS AND REVISE THE MINIMUM PAYMENT THAT THE DEPARTMENT OF MOTOR VEHICLES MUST RECEIVE BEFORE A SPECIAL LICENSE PLATE MAY BE ISSUED, TO REVISE THE COSTS AND DISTRIBUTION OF FEES COLLECTED FROM THEIR SALES, TO PROVIDE THAT THE FEE THAT AN ORGANIZATION MUST SUBMIT TO THE DEPARTMENT BEFORE A SPECIAL LICENSE PLATE IS PRODUCED MUST BE REVISED BY THE GENERAL ASSEMBLY ON A PERIODIC BASIS, AND TO PROVIDE THAT A FEE INCREASE MUST BE JUSTIFIED BY THE DEPARTMENT AND APPROVED BY THE GENERAL ASSEMBLY; TO AMEND SECTION 56-3-6000, AS AMENDED, RELATING TO THE ISSUANCE OF "UNITED STATES ARMED FORCES" SPECIAL LICENSE PLATES, SO AS TO PROVIDE THAT THE DEPARTMENT MAY ISSUE DISTINCT AND SEPARATE LICENSE PLATES FOR THE VARIOUS BRANCHES OF THE ARMED SERVICES, AND TO REVISE THE FEE AND ITS DISTRIBUTION, AND THE PRODUCTION PROCEDURES FOR THIS SPECIAL LICENSE PLATE.

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

Distinguished Service Medal special license plates

SECTION 1. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 112

'Distinguished Service Medal' Special License Plates

Section 56-3-11210. (A) The Department of Motor Vehicles may issue 'Distinguished Service Medal' special license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names who have been awarded the Distinguished Service Medal. The fee for this special license plate is the regular motor vehicle license fee contained in Article 5, Chapter 3 of this title. The license plates issued pursuant to this section must contain an illustration of the Distinguished Service Medal. The application for this special license plate must include proof that the applicant is a recipient of the Distinguished Service Medal. Not more than two license plates may be issued to a person.

(B) This special license plate is exempt from the provisions contained in Section 56-3-8100."

Second Amendment special license plates

SECTION 2. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 113

'Second Amendment' Special License Plates

Section 56-3-11310. (A) The Department of Motor Vehicles may issue 'Second Amendment' special motor vehicle license plates to owners of private passenger carrying 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 fees collected pursuant to this section above the cost of production must be distributed to the Criminal Justice Academy.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

Historic special motor vehicle license plates

SECTION 3. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 114

'Historic' Special Motor Vehicle License Plates

Section 56-3-11410. The Department of Motor Vehicles may issue a 'Historic' special motor vehicle license plate for use on a private passenger carrying motor vehicle, as defined in Section 56-3-630, or a motorcycle as defined in Section 56-3-20, that is twenty-five years of age or older at the time of applying for the special plate. The applicant for a 'Historic' license plate must be the owner of the motor vehicle or motorcycle and must be a resident of this State.

Section 56-3-11420. The special license plate must be of the same size and general design as a regular motor vehicle or motorcycle license plate. The Department of Motor Vehicles shall imprint the special license plates with the word 'Historic', with numbers the department may determine. The license plate must be for a biennial period that expires twenty-four months from the month it is issued.

Section 56-3-11430. A license plate issued pursuant to this article may be transferred to another vehicle or motorcycle that meets the requirements of Section 56-3-1240, and is owned by the same person upon application being made and being approved by the Department of Motor Vehicles. It is unlawful for any person to whom the plate has been issued to knowingly permit it to be displayed on any vehicle or motorcycle except the one authorized by the department.

Section 56-3-11440. The provisions of this article do not affect the registration and licensing of motor vehicles or motorcycles as required by other provisions of this chapter, but are cumulative to those other provisions. Any person violating the provisions of this article or any person who (a) fraudulently gives false or fictitious information in any application for a special license plate, as authorized in this article, (b) conceals a material fact, or (c) otherwise commits fraud in the application or in the use of any special license plate issued is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not

more than one hundred dollars or by imprisonment for not more than thirty days, or both.

Section 56-3-11450. The fee for the plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of thirty-five dollars. Notwithstanding another provision of law, from the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the department in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license fee must be placed in the state's general fund.

Section 56-3-11460. The guidelines for the production, collection and distribution of fees for a 'Historic' special license plate must meet the requirements of Section 56-3-8100."

Distinguished Service Cross special license plates

SECTION 4. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 115

'Distinguished Service Cross' Special License Plates

Section 56-3-11510. (A) The Department of Motor Vehicles may issue 'Distinguished Service Cross' special license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names who have been awarded the Distinguished Service Cross. The fee for this special license plate is the regular motor vehicle license fee contained in Article 5, Chapter 3 of this title. The license plates issued pursuant to this section must contain an illustration of the Distinguished Service Cross. The application for this special license plate must include proof that the applicant is a recipient of the Distinguished Service Cross. Not more than two license plates may be issued to a person.

(B) This special license plate is exempt from the provisions contained in Section 56-3-8100."

Department of the Navy special license plates

SECTION 5. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 116

'Department of the Navy' Special License Plates

Section 56-3-11610. (A) The Department of Motor Vehicles may issue 'Department of the Navy' special motor vehicle license plates to owners of private passenger carrying 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 fees collected pursuant to this section above the cost of production must be distributed to the general fund.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

Parents and spouses of Active Duty Overseas Veterans special license plates

SECTION 6. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 117

'Parents and Spouses of Active Duty Overseas Veterans' Special License Plates

Section 56-3-11710. (A) The Department of Motor Vehicles may issue 'Parents and Spouses of Active Duty Overseas Veterans' special motor vehicle license plates to owners of private passenger carrying 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 fees collected pursuant to this section above the cost of production must be distributed to the general fund.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

State Flag special license plates

SECTION 7. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 118

'State Flag' Special License Plates

Section 56-3-11810. (A) The Department of Motor Vehicles may issue special 'State Flag' motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names. The fee for this special license plate is twenty dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. 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 design of the license plate must replicate the color, layout, and design of the state flag. The blue used for the license plate must be the official state color as established in Section 1-1-710.

(C) The fees collected pursuant to this section above the cost of production must be distributed to the general fund.

(D) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

South Carolina Highway Patrol-Retired license plates

SECTION 8. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 119

'South Carolina Highway Patrol-Retired' License Plates

Section 56-3-11910. (A) The Department of Motor Vehicles may issue 'South Carolina Highway Patrol-Retired' license plates for use on private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in a person's name in this State who served as a South Carolina Highway Patrolman or State Trooper and who honorably retired. An application for this special motor vehicle license plate must include certification from the South Carolina Highway Patrol that the applicant honorably retired.

(B) The requirements for production, collection and distribution of fees for a license plate are those set forth in Section 56-3-8100. The Department of Motor Vehicles shall imprint the special license plates with the insignia of the South Carolina Highway Patrol and the words 'South Carolina Highway Patrol-Retired' with numbers the department may determine.

(C) Only one special license plate authorized by this section may be issued to a person. A license plate issued pursuant to this section may be transferred to another vehicle of the same weight class owned by the same person upon application being made and being approved by the Department of Motor Vehicles.

(D) Any person issued a special license plate pursuant to this section who is convicted of any felony, classified misdemeanor, traffic violation requiring a suspension of driving privileges, crime involving dishonesty or moral turpitude, or other crime punishable by imprisonment for one year or more, shall surrender the special license plate to the Department of Motor Vehicles within three days of the date of the conviction.

(E) The provisions of this section do not affect the registration and licensing of motor vehicles required by other provisions of this chapter, but are cumulative to those other provisions.

(F) A person violating the provisions of this section or a person who:

(1) fraudulently gives false or fictitious information in any application for a special license plate authorized by this section;

(2) conceals a material fact or otherwise commits fraud in the application for a special license plate issued pursuant to this section;

(3) permits the special license plate to be displayed on any vehicle except the one authorized by the Department of Motor Vehicles; or

(4) who fails to surrender the special license plate as required by this section, is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than two hundred dollars or by imprisonment for not more than thirty days, or both."

Boy Scouts of American and Eagle Scout special license plates

SECTION 9. Article 65, Chapter 3, Title 56 of the 1976 Code is amended to read:

"Article 65

'Boy Scouts of America' and 'Eagle Scout'
Special License Plates

Section 56-3-7330. (A) The Department of Motor Vehicles may issue 'Boy Scouts of America' special 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. The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of thirty dollars. Any portion of the additional thirty-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the South Carolina Indian Waters Council, Boy Scouts of America, to then be distributed to the other five Boy Scout councils serving counties in South Carolina.

(B)(1) The Department of Motor Vehicles may issue 'Eagle Scouts of America' special 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 who have been awarded the Eagle Scout Award from the Boy Scouts of America. The motor vehicle owner must present the department with official documentation that states that he was awarded the Eagle Scout Award, along with his application for this special license plate. The fee for this special license plate is thirty dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. 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. The special license plate must be

imprinted with an emblem, seal, symbol, or design agreed to by all of the Boy Scout councils serving counties in South Carolina.

(2) The fees collected pursuant to this section above the cost of production must be distributed to the South Carolina Indian Waters Council, Boy Scouts of America, to then be distributed to the other five Boy Scout councils serving counties in South Carolina.

(3) Section 56-3-8100 requirements met for the production, collection, and distribution of fees for the 'Boy Scouts of America' special license plate are deemed to have been met for the 'Eagle Scouts of America' special license plate."

I Support Libraries special license plates

SECTION 10. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 120

'I Support Libraries' Special License Plates

Section 56-3-12010. (A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names which must have imprinted on the plate 'I Support Libraries'. 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 fees collected pursuant to this section above the cost of producing the license plates must be equally distributed between the South Carolina Association of School Librarians and the South Carolina Library Association.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

South Carolina Educator special license plates

SECTION 11. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 121

'South Carolina Educator' Special License Plates

Section 56-3-12110. (A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names which must have imprinted on the plate 'South Carolina Educator'. The application for this special license plate must include proof that the applicant is a public or private kindergarten through twelfth grade school teacher. 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 fees collected pursuant to this section above the cost of the production must be distributed to the general fund.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

Beach Music special license plates

SECTION 12. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 122

'Beach Music' Special License Plates

Section 56-3-12210. (A) The Department of Motor Vehicles may issue 'Beach Music' special motor vehicle license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, and motorcycles as defined in Section 56-3-20, registered in their names which may have imprinted on the plate an emblem, a seal, or other symbol chosen by the department in consultation with the South Carolina Arts Commission reflecting the status of beach music as the official state popular music pursuant to Section 1-1-689. License plate number 'one' for the beach music license plate is reserved for the president of the Beach Music Association International or its successor organization if that individual is otherwise eligible to register a qualifying motor vehicle in this State. License plate number 'two' for

the beach music license plate is reserved for the Chairman of the Board of Trustees of Coastal Carolina University if that individual is otherwise eligible to register a motor vehicle in this State. The special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The fee for this special license plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of twenty dollars.

(B) The fees collected pursuant to this section above the cost of production must be distributed to the general fund.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

Citadel Alumni association "Big Red" special license plates

SECTION 13. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 123

Citadel Alumni Association 'Big Red' Special License Plates

Section 56-3-12310. (A) The Department of Motor Vehicles may issue Citadel Alumni Association 'Big Red' special license plates to owners of private passenger carrying motor vehicles as defined in Section 56-3-630, and motorcycles as defined in Section 56-3-20, registered in their names. The fee for each special license plate is seventy-five dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) The fees collected pursuant to this section above the cost of producing the license plates must be distributed to the Citadel Alumni Association.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

Largemouth Bass special license plates

SECTION 14. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 124

'Largemouth Bass' Special License Plates

Section 56-3-12410. (A) The Department of Motor Vehicles may issue 'Largemouth Bass' special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names. The license plate shall have the image of a largemouth bass imprinted on it. The design of the plate and the largemouth bass image utilized must be selected through a public process conducted by the Department of Natural Resources. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) The fees collected pursuant to this section above the cost of production must be distributed to the Department of Natural Resources, which only shall use the funds to promote bass fishing throughout the State.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100."

Special license plates

SECTION 15. Section 56-3-2150 of the 1976 Code, as last amended by Act 177 of 2008, is further amended to read:

"Section 56-3-2150. The Department of Motor Vehicles may issue special motor vehicle license plates to former members of the South Carolina Delegation of the United States Congress, retired judicial officers elected by the General Assembly or confirmed by the United States Senate, respectively, members of municipal and county councils, county coroners, and mayors of this State for private passenger motor vehicles owned by them. The department also may issue special motor vehicle license plates to former members of the General Assembly who

are eligible to receive retirement benefits under the General Assembly Retirement System for private passenger motor vehicles and vehicles classified as private passenger motor vehicles in Section 56-3-630 owned by them. The biennial fee for these special license plates is the same as the fee provided in Section 56-3-2020, and only one plate may be issued to former members of the South Carolina Delegation of the United States Congress, retired judicial officers elected by the General Assembly or confirmed by the United States Senate, respectively, a councilman, a mayor, or a member of the General Assembly who is receiving retirement benefits. A coroner may be issued two license plates. These license plates must be issued or revalidated biennially for the regular registration and licensing period."

License plates

SECTION 16. Section 56-3-1240 of the 1976 Code, as last amended by Act 347 of 2008, is further amended to read:

"Section 56-3-1240. License plates issued for motor vehicles must be attached to the outside rear of the vehicle, open to view. However, on truck tractors and road tractors the plates must be attached to the outside front of the vehicle provided that single unit commercial motor vehicles with a gross vehicle weight rating in excess of twenty-six thousand pounds may have the license plate on either the outside front or rear of the vehicle. Every license plate, at all times, must be fastened securely in a horizontal and upright position to the vehicle for which it was issued so as to prevent the plate from swinging. However, if a motorcycle is equipped with vertically mounted license plate brackets, its license plate must be mounted vertically with its top fastened along the right vertical edge. The bottom of the plate must be at a height of not less than twelve inches from the ground in a place and position clearly visible as provided in Section 56-5-4530, and it must be maintained free from foreign materials and in a clearly legible condition. No other license plate, lighting equipment, except as permitted in Section 56-5-4530, tag, sign, monogram, tinted cover, or inscription of metal or other material may be displayed above, or upon the plate other than that which is authorized and issued by the Department of Motor Vehicles for the purpose of validating the plate. It is not unlawful to place a decal or a frame on the license plate if it does not obscure any letters or numbers. A motor vehicle owner may attach a trailer hitch to a motor vehicle provided the hitch does not obscure more than two inches of the license plate issued to the motor vehicle. It

is unlawful to operate or drive a motor vehicle with the license plate missing and a person who is convicted for violating this section must be punished as provided by Section 56-3-2520."

Veteran special license plates

SECTION 17. Section 56-3-10410 of the 1976 Code, as added by Act 297 of 2008, is amended to read:

"Section 56-3-10410. (A) The department may issue a 'Veteran' special motor vehicle license plate for use on a private passenger motor vehicle, as defined in Section 56-3-630, or motorcycle as defined in Section 56-3-20, registered in a person's name in this State who served in the United States Armed Forces, active or reserve components, and who was honorably discharged from service. An application for this special motor vehicle license plate must include official military documentation showing the applicant was honorably discharged from service. Only two plates may be issued to a person.

(B) The requirements for production, collection and distribution of fees for a special license plate under this section are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title. The Department of Motor Vehicles shall imprint the special license plates with the word 'Veteran', with numbers the department may determine.

(C) A license plate issued pursuant to this article may be transferred to another vehicle of the same weight class owned by the same person upon application being made and being approved by the Department of Motor Vehicles. It is unlawful for a person to whom the plate has been issued to knowingly permit it to be displayed on any vehicle except the one authorized by the department.

(D) The provisions of this article do not affect the registration and licensing of motor vehicles as required by other provisions of this chapter but are cumulative to those other provisions. A person violating the provisions of this article or a person who (1) fraudulently gives false or fictitious information in any application for a special license plate, as authorized in this article, (2) conceals a material fact, or (3) otherwise commits fraud in the application or in the use of a special license plate issued is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both.

(E) If a person who qualifies for the special license plate issued under this section also meets all requirements for the handicapped

license plate issued pursuant to Section 56-3-1910(B), then the license plate issued pursuant to this section shall also include the distinguishing wheelchair symbol used on license plates issued pursuant to Section 56-3-1910(B).

(F) If a person who qualifies for a special license plate issued under this section also is certified by the Veterans' Administration or County Veterans' Affairs office with a service-related disability, then the license plate issued under this section also shall include the word 'disabled'."

High School special license plates

SECTION 18. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 125

High School Special License Plates

Section 56-3-12510. (A) The Department of Motor Vehicles may issue 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 a person's name, special motor vehicle license plates which may have imprinted on them an emblem, a seal, or other symbol the department considers appropriate of a public or independent high school located in this State. A school may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate. A school also may request a change in the emblem, seal, or other symbol once the existing inventory of the license plate has been exhausted. The fee for this special license plate is seventy dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3 of this title. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) The fees collected pursuant to this section must be distributed to a separate fund for each of the respective high schools. Each fund must be administered by the school and may be used only for academic scholarships. Funds collected for state schools must be deposited with the State Treasurer. Funds collected for independent institutions must be deposited in an account designated by the respective school. The

distribution is thirty dollars to the department and forty dollars to the school for each special license plate sold for the respective school.

(C) The guidelines for the production of a special license plate under this section must meet the requirements of Section 56-3-8100."

South Carolina Wildlife Federation special license plates

SECTION 19. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 126

'South Carolina Wildlife Federation' Special License Plates

Section 56-3-12610. (A) The Department of Motor Vehicles may issue 'South Carolina Wildlife Federation' or 'Palmetto Wild' or both, 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 which may have imprinted on them an emblem, seal, symbol, or design of the South Carolina Wildlife Federation. The South Carolina Wildlife Federation must submit to the department for its approval the emblem, seal, symbol, or design it wishes to display on the plates. The South Carolina Wildlife Federation must submit to the department written authorization for use of any copyrighted or registered logos, trademarks, or designs. The South Carolina Wildlife Federation may request a change in the emblem, seal, or symbol not more than once every five years. The plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued. The fee for the plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of thirty dollars.

(B) Notwithstanding another provision of law, from the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to be used by the department to defray the expenses of the department in producing and administering the plates. The remaining funds collected from the special motor vehicle license fee must be distributed to the South Carolina Wildlife Federation for conservation programs in South Carolina.

(C) The guidelines for the production of a special license plate under this section must meet the requirements of Section 56-3-8100."

Purple Heart license plates

SECTION 20. Section 56-3-3310 of the 1976 Code, as last amended by Act 297 of 2008, is further amended to read:

"Section 56-3-3310.The department may issue no more than three permanent special motor vehicle license plates to a recipient of the Purple Heart for use on his private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in his name. There is no fee for the issuance of up to two license plates, and not more than three license plates may be issued to a person. The fee for the third plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of thirty dollars. The application for a special license plate must include proof the applicant is a recipient of the Purple Heart."

Special license plates

SECTION 21. Section 56-3-8000 of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

"Section 56-3-8000. (A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630, and motorcycles as defined in Section 56-3-20, registered in their names which may have imprinted on the plate an emblem, a seal, or other symbol the department considers appropriate of an organization which has obtained certification pursuant to either Section 501(C)(3), 501(C)(6), 501(C)(7), or 501(C)(8) of the Federal Internal Revenue Code and maintained this certification for a period of five years. The special license plate must be the same size and general design of regular motor vehicle license plates and must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The biennial fee for this special license plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee to be requested by the individual or organization seeking issuance of the plate. The initial fee amount requested may be changed only every five years from the first year the plate is issued. Of the additional fee collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to

be used by the Department of Motor Vehicles to defray the expenses of producing and administering special license plates. Any of the remaining fee not placed in the restricted account must be distributed to an organization designated by the individual or organization seeking issuance of the license plate.

(B) If the organization seeking issuance of the plate does not request an additional fee above the regular registration fee, the department may collect an additional fee of ten dollars.

(C) Of the additional fee collected pursuant to subsections (A) and (B), the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of producing and administering special license plates.

(D) Any of the remaining additional fee collected pursuant to subsection (B) not placed in the restricted account must be distributed to an organization designated by the individual or organization seeking issuance of the license plate, or to the general fund, if no additional fee is requested by the organization.

(E) Before the department produces and distributes a plate pursuant to this section, it must receive:

(1) six thousand eight hundred dollars from the individual or organization seeking issuance of the license plate; and

(2) a plan to market the sale of the special license plate which must be approved by the department. If the individual or organization seeking issuance of the plate submits six thousand eight hundred dollars, the Comptroller General shall place that money into a restricted account to be used by the department to defray the initial cost of producing the special license plate.

(F) If the department receives less than three hundred biennial applications and renewals for a particular plate authorized under this section, it shall not produce additional plates in that series. The department shall continue to issue plates of that series until the existing inventory is exhausted.

(G) License plates issued pursuant to this section shall not contain a reference to a private or public college or university in this State or use symbols, designs, or logos of these institutions without the institution's written authorization.

(H) Before a design is approved, the organization must submit to the department written authorization of legal authority for the use of any copyrighted or registered logo, trademark, or design, and the organization's acceptance of legal responsibility for the use.

(I) The department may alter, modify, or refuse to produce any special license plate that it deems offensive or fails to meet community standards. If the department alters, modifies, or refuses to produce a special license plate, the organization or individual applying for the license plate may appeal the department's decision to a special joint legislative committee. This committee shall be comprised of two members from the House Education and Public Works Committee and two members from the Senate Transportation Committee.

Appointments to the joint legislative committee shall be made by the chairmen of the House Education and Public Works Committee and the Senate Transportation Committee. The department's decision may be reversed by a majority of the joint legislative committee. If the committee reverses the department's decision, the department must issue the license plate pursuant to the committee's decision. However, the provision contained in subsection (E) also must be met. The joint legislative committee may also review all license plates issued by the department and instruct the department to cease issuing or renewing a plate it deems offensive or fails to meet community standards.

(J) Each new classification of special vehicle license plates including, but not limited to, motorcycle license plates, created pursuant to this section must meet the requirements of Articles 81 and 82, Chapter 3, Title 56 as appropriate.

(K) The fee required in subsection (E)(1) must be reviewed by the General Assembly during the 2013 legislative session, and every two years thereafter. The department must provide a detailed, comprehensive justification to increase the fee. Any fee increase must be introduced in a separate bill separate and apart from any other matter."

Special license plates

SECTION 22. Section 56-3-8100 of the 1976 Code, as last amended by Act 347 of 2008, is further amended to read:

"Section 56-3-8100. (A) Before the Department of Motor Vehicles produces and distributes a special license plate created by the General Assembly after January 1, 2006, it must receive:

(1) six thousand eight hundred dollars from the individual or organization seeking issuance of the license plate;

(2) a plan to market the sale of the special license plate which must be approved by the department; and

(3) the emblem, a seal, or other symbol to be used for the plate and, if necessary, written authorization for the department to use a logo, trademark, or design that is copyrighted or registered. If the individual or organization seeking issuance of the plate submits six thousand eight hundred dollars, the Comptroller General shall place that money into a restricted account to be used by the department to defray the initial cost of producing the special license plate.

(B) The fee for all special license plates created by the General Assembly after January 1, 2006, is the regular biennial registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee to be requested by the individual or organization seeking issuance of the plate, as authorized by law. The initial fee amount requested can only be changed every five years from the first year the plate is issued. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(C) If the individual or organization seeking issuance of the plate does not request an additional fee above the regular registration fee, and no other additional fee is prescribed by law, the department may collect an additional fee of ten dollars.

(D) Of the additional fee collected pursuant to subsections (B) and (C), the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of producing and administering special license plates.

(E) Any of the remaining additional fee collected pursuant to subsections (B) and (C) not placed in the restricted account must be distributed to an organization designated by the individual or organization seeking issuance of the license plate, or to the general fund, if no additional fee is requested by the organization.

(F) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

(G) If the department receives less than three hundred biennial applications and renewals for plates created pursuant to Article 12, Chapter 3, Title 56; Article 14, Chapter 3, Title 56; Article 31, Chapter 3, Title 56; Article 39, Chapter 3, Title 56; Article 40, Chapter 3, Title 56; Article 43, Chapter 3, Title 56; Article 45, Chapter 3, Title 56; Article 49, Chapter 3, Title 56; Article 50, Chapter 3, Title 56; Article

60, Chapter 3, Title 56; Article 70, Chapter 3, Title 56; Article 72, Chapter 3, Title 56; and Article 76, Chapter 3, Title 56, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

(H) The provisions contained in subsection (A)(1) and (2) do not apply to the production and distribution of the Korean War Veterans Special License Plates contained in Article 68, Chapter 3, Title 56.

(I) For each new classification of special vehicle license plate, including, but not limited to, motorcycle license plates, created pursuant to this section, must meet the requirements of Articles 81 and 82, Chapter 3, Title 56 as appropriate.

(J) The fee required in subsection (A)(1) must be reviewed by the General Assembly during the 2013 legislative session, and every two years thereafter. The department must provide a detailed, comprehensive justification to increase the fee. Any fee increase must be introduced in a separate bill separate and apart from any other matter."

Severability clause

SECTION 23. The provisions of this act are severable. If any section, subsection, paragraph, item, subitem, 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 the act, the General Assembly hereby declaring that it would have passed 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, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Dr. Mary McLeod Bethune special license plates

SECTION 24. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 127

'Dr. Mary McLeod Bethune' Special License Plates

Section 56-3-12710. (A) The Department of Motor Vehicles may issue 'Dr. Mary McLeod Bethune' special license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names which shall have imprinted on burgundy and gold license plates 'Dr. Mary McLeod Bethune' and her image, her year of birth, and her year of death. Twin City Outreach Mission shall submit to the department for its approval a design it desires to be used for this special license plate. Twin City Outreach Mission may request a change in the design not more than once every five years. The fee for this special license plate is thirty dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. 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 fees collected pursuant to this section above the cost of the regular motor vehicle registration fee must be distributed in the following manner:

(1) seventy-five percent to Twin City Outreach Mission to:

(a) fund the construction and operation of the Dr. Mary McLeod Bethune Museum and Restaurant;

(b) fund the construction of the Dr. Mary McLeod Bethune Nature Trail;

(c) promote tourism in the Town of Mayesville, Sumter County, South Carolina; and

(d) promote other projects related to Dr. Mary McLeod Bethune, tourism that will impact economic development and job creation for the citizens of Mayesville, Sumter County, and South Carolina; and

(2) twenty-five percent to the Town of Mayesville to be used for operational and program opportunity matching funds."

Gadsden Flag special license plates

SECTION 25. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 128

Gadsden Flag License Plates

Section 56-3-12810. (A) The Department of Motor Vehicles may issue 'Gadsden Flag' motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630 and motorcycles as defined in Section 56-3-20 registered in their names. The fee for this special license plate is twenty dollars every two years in addition to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and shape 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 design of the license plate must replicate the color, layout, and design of the Gadsden flag and contain the words 'Don't Tread on Me' below a coiled rattlesnake.

(C) The fees collected pursuant to this section above the cost of producing the license plates must be distributed to the State Museum. The State Museum must use the fees only to help fund programs and exhibits dedicated to the Revolutionary War and our state's role in the Revolutionary War.

(D) The requirements for production, collection, and distribution of fees for this license plate are those set forth in Section 56-3-8100.

(E) If the department receives fewer than three hundred biennial applications and renewals for this special license plate, it may not produce additional special license plates in this series. The department shall continue to issue special license plates of this series until the existing inventory is exhausted."

Armed Forces special license plates

SECTION 26. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 129

'Active Duty Members of the United States
Armed Forces' Special License Plates

Section 56-3-12910. The Department of Motor Vehicles may issue 'Active Duty Members of the United States Armed Forces' special

license plates for use on private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, owned by any active member of the United States Armed Forces who is a resident of this State. The motor vehicle owner must present the department with official documentation that states that he is serving on active duty along with his application for this special license plate. The guidelines for the production and distribution of this special license plate must meet the requirements contained in Section 56-3-8100."

Baseball National Champions special license plates

SECTION 27. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 130

'2010-11 Baseball National Champions' Special License Plates

Section 56-3-13010. (A) The Department of Motor Vehicles may issue '2010-11 Baseball National Champions' special 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.

(B) The University of South Carolina may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate, provided that the phrase '2010-11 National Baseball Champions' must be utilized on the plate.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the fund established for the University of South Carolina pursuant to Section 56-3-3710(B) used for the purposes provided in that section.

(D) License number '1' for the '2010-11 Baseball National Champions' license plate is reserved for the University of South Carolina Head Baseball Coach."

Combat-Related Disabled Veteran special license plates

SECTION 28. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Article 131

'Combat-Related Disabled Veteran' Special License Plates

Section 56-3-13110. (A) The Department of Motor Vehicles may issue 'Combat-Related Disabled Veteran' special motor vehicle license plates for use on private passenger motor vehicles or motorcycles registered in a person's name in this State who is a veteran classified as at least fifty percent disabled due to a combat-related injury as determined from medical records on file with the United States Department of Veterans Affairs. An application for these special motor vehicle license plates must include official military documentation showing the applicant has at least a fifty percent combat-related disability and who was honorably discharged from service. Only two plates may be issued to a person.

(B) The provision in Section 56-3-8100 that requires the department to receive a deposit for a special license plate before it may be produced does not apply for the production of this special license plate. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title. The Department of Motor Vehicles shall imprint the special license plates with the words 'Combat-Related Disabled Veteran', with numbers the department may determine.

(C) A license plate issued pursuant to this article may be transferred to another vehicle of the same weight class owned by the same person upon application being made and being approved by the Department of Motor Vehicles. It is unlawful for a person to whom the plate has been issued to knowingly permit it to be displayed on any vehicle except the one authorized by the department.

(D) The provisions of this article do not affect the registration and licensing of motor vehicles as required by other provisions of this chapter but are cumulative to those other provisions. A person violating the provisions of this article or a person who (1) fraudulently gives false or fictitious information in any application for a special license plate, as authorized in this article, (2) conceals a material fact, or (3) otherwise commits fraud in the application or in the use of a special license plate issued is guilty of a misdemeanor and, upon

conviction, must be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both."

Armed Services special license plates

SECTION 29. Section 56-3-6000 of the 1976 Code, as last amended by Act 347 of 2008, is further amended to read:

"Section 56-3-6000. (A) The Department of Motor Vehicles may issue a distinct and separate special license plate for the United States Army, the United States Navy, the United States Marines Corps, the United States Air Force, and the United States Coast Guard for use on private passenger motor vehicles and motorcycles owned or leased by residents of this State. The biennial fee for each special license plate issued for a branch of the military is the regular motor vehicle license plate fee contained in Article 5, Chapter 3 of this title plus thirty dollars.

(B) Notwithstanding any other provision of law, from the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license plate fee must be disbursed in equal amounts to the various county Veterans' Administration offices to be used for operational expenses.

(C) Notwithstanding another provision of law, the requirements for production, collection, and distribution of fees for these license plates are those set forth in Section 56-3-8100.

(D) The department shall imprint the special license plates with a distinctive emblem approved by the United States Department of Defense and United States Department of Transportation, as applicable, which distinguishes each branch of the United States Armed Services."

Time effective

SECTION 30. This act takes effect six months after approval by the Governor.

Ratified the 22nd day of June, 2012.

Approved the 26th day of June, 2012.

No. 273

(R317, H3400)

AN ACT TO AMEND SECTION 63-3-530, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO JURISDICTION OF THE FAMILY COURT IN CERTAIN MATTERS, SO AS TO PROVIDE THAT NO ARREARAGE MAY ACCRUE ON A CHILD SUPPORT OBLIGATION WHICH TERMINATES WHEN THE CHILD TURNS EIGHTEEN, GRADUATES FROM HIGH SCHOOL, OR THE LAST DAY OF THE SCHOOL YEAR WHEN THE CHILD TURNS NINETEEN AFTER THE DATE OF THE APPROPRIATE EVENT.

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

Child support, arrearages

SECTION 1. Section 63-3-530(A)(17) of the 1976 Code is amended to read:

"(17) To make all orders for support run until further order of the court, except that orders for child support run until the child turns eighteen years of age or until the child is married or becomes self-supporting, as determined by the court, whichever occurs first, or past the age of eighteen years if the child is enrolled and still attending high school, not to exceed high school graduation or the end of the school year after the child reaches nineteen years of age, whichever is later; or in accordance with a preexisting agreement or order to provide for child support past the age of eighteen years; or in the discretion of the court, to provide for child support past age eighteen when there are physical or mental disabilities of the child or other exceptional circumstances that warrant the continuation of child support beyond age eighteen for as long as the physical or mental disabilities or exceptional circumstances continue. When child support is terminated due to the child turning eighteen years of age, graduating from high school, or reaching the end of the school year when the child is nineteen, no arrearage may be incurred as to that child after the date of the child's eighteenth birthday, the date of the child's graduation from high school, or the last day of the school year when the child is nineteen, whichever date terminated the child support obligation."

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 22nd day of June, 2012.

Approved the 26th day of June, 2012.

No. 274

(R318, H3710)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-1-77 SO AS TO PROVIDE A BOARD OR COMMISSION THAT REGULATES THE LICENSURE OF A PROFESSION OR OCCUPATION UNDER TITLE 40 MAY ISSUE A TEMPORARY LICENSE FOR A PROFESSION OR OCCUPATION IT REGULATES TO THE SPOUSE OF AN ACTIVE DUTY MEMBER OF THE UNITED STATES ARMED FORCES IN CERTAIN CIRCUMSTANCES, TO PROVIDE REQUIREMENTS FOR OBTAINING THIS LICENSE, TO PROVIDE TIME LIMITS ON THE VALIDITY OF THIS LICENSE, AND TO PROVIDE THE LICENSE MAY NOT BE RENEWED.

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

Temporary professional licenses for military spouses

SECTION 1. Article 1, Chapter 1, Title 40 of the 1976 Code is amended by adding:

"Section 40-1-77. (A) A board or commission that regulates the licensure of a profession or occupation under Title 40 may issue a temporary professional license for a profession or occupation it regulates to the spouse of an active duty member of the United States Armed Forces if the member is assigned to a duty station in this State pursuant to the official active duty military orders of the member.

(B)(1) A person seeking a temporary professional license under subsection (A) shall submit an application to the board or commission from which it is seeking the temporary license on forms the board or commission shall create and provide. In addition to general personal information about the applicant, the application must include proof that the:

(a) applicant is married to a member of the United States Armed Forces who is on active duty;

(b) applicant holds a valid license issued by another state, the District of Columbia, a possession or territory of the United States, or a foreign jurisdiction for the profession for which temporary licensure is sought;

(c) applicant holds the license in subitem (b) in 'good standing' as evidenced by a certificate of good standing from the state, possession or territory of the United States, or foreign jurisdiction that issued the license;

(d)(i) applicant submitted at his expense to a fingerprint-based background check conducted by the State Law Enforcement Division to determine if the applicant has a criminal history in this State and a fingerprint-based background check conducted by the Federal Bureau of Investigation to determine if the person has other criminal history, and the official results of these checks must be provided to the board or commission to which application for temporary licensure is made; and

(ii) the provisions of this subitem only apply if a similar background check is required to obtain ordinary licensure in the profession or occupation for which temporary licensure is sought by the applicant; and

(e) spouse of the applicant is assigned to a duty station in this State pursuant to the official active duty military orders of the member.

(C) A temporary license issued under this section expires one year from the date of issue and may not be renewed."

Time effective

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

Ratified the 22nd day of June, 2012.

Approved the 26th day of June, 2012.

No. 275

(R320, H4008)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-7-390 SO AS TO PROVIDE THAT THERE IS NO MONETARY LIABILITY, AND NO CAUSE OF ACTION IS CREATED, BY A HOSPITAL UNDERTAKING OR PERFORMING CERTAIN ACTS IF NOT DONE WITH MALICE; BY ADDING SECTION 44-7-392 SO AS TO PROVIDE THAT CERTAIN HOSPITAL PROCEEDINGS AND DATA, DOCUMENTS, RECORDS, AND INFORMATION RESULTING FROM THESE PROCEEDINGS ARE CONFIDENTIAL AND NOT SUBJECT TO DISCOVERY OR SUBPOENA AND MAY NOT BE USED AS EVIDENCE IN A CIVIL ACTION UNLESS THE HOSPITAL HAS WAIVED CONFIDENTIALITY OR THE DATA, DOCUMENTS, RECORDS, OR INFORMATION ARE OTHERWISE AVAILABLE AND SUBJECT TO DISCOVERY; TO PROVIDE THAT THE OUTCOME OF A PRACTITIONER'S APPLICATION FOR HOSPITAL STAFF MEMBERSHIP OR CLINICAL PRIVILEGES, INCLUDING THE PRIVILEGES REQUESTED OR APPROVED, IS NOT CONFIDENTIAL, THAT THE APPLICATION AND SUPPORTING DOCUMENTS ARE CONFIDENTIAL, AND THAT THE APPLICATION MAY BE OBTAINED FROM THE PHYSICIAN OR FROM THE PRACTICE WHERE THE PHYSICIAN WORKS; TO PROVIDE THAT A PRACTITIONER SUBJECT TO A DISCIPLINARY PROCEEDING MAY RECEIVE DATA, DOCUMENTS,

RECORDS, AND INFORMATION RELATING TO THE PRACTITIONER, EVEN IF OTHERWISE CONFIDENTIAL, TO PROVIDE THAT RELEASE OF SUCH DATA, DOCUMENTS, RECORDS, AND INFORMATION IS NOT A WAIVER OF CONFIDENTIALITY, AND TO PROHIBIT DISCLOSURE BY THE PRACTITIONER TO THIRD PARTIES, OTHER THAN COUNSEL; TO PROVIDE THAT DISCLOSURE OF CERTAIN INFORMATION BY A HOSPITAL THROUGH REPORTS TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, THE JOINT COMMISSION, THE BOARD OF MEDICAL EXAMINERS, OR THE NATIONAL PRACTITIONER DATA BANK IS NOT A WAIVER OF A PRIVILEGE OR CONFIDENTIALITY; AND TO PROVIDE THAT AN AFFECTED PERSON MAY FILE AN ACTION TO ASSERT A CLAIM OF CONFIDENTIALITY AND A MOTION TO ENJOIN THE HOSPITAL FROM RELEASING DATA, DOCUMENTS, RECORDS, OR INFORMATION TO THE DEPARTMENT, THE BOARD OF MEDICAL EXAMINERS, THE NATIONAL PRACTITIONER DATA BANK, OR THE JOINT COMMISSION THAT ARE NOT REQUIRED BY LAW TO BE RELEASED AND TO PROVIDE PROCEDURES TO FURTHER ADDRESS SUCH CLAIMS, INCLUDING AN AWARD OF ATTORNEY'S FEES WHEN SUCH A CLAIM IS UNREASONABLY ASSERTED; BY ADDING SECTION 44-7-394 SO AS TO PROVIDE PROCEDURES WHEN A CLAIM OF CONFIDENTIALITY IS ASSERTED IN A JUDICIAL PROCEEDING, INCLUDING AN AWARD OF ATTORNEY'S FEES WHEN SUCH A CLAIM IS UNREASONABLY ASSERTED; AND TO PROVIDE RESTRICTIONS ON AND PROCEDURES FOR OFFERING TESTIMONY IN A MEDICAL OR HOSPITAL MALPRACTICE CASE BY A PERSON WHO WAS A WITNESS TO THE CARE THAT IS THE SUBJECT OF THE MALPRACTICE CASE; AND TO AMEND SECTION 40-71-10, RELATING TO IMMUNITY FROM LIABILITY FOR MEMBERS OF CERTAIN PROFESSIONAL SOCIETY STANDARDS COMMITTEES, HOSPITAL MEDICAL STAFF COMMITTEES, AND COMMITTEES APPOINTED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO REVIEW PATIENT RECORDS, SO AS TO EXCLUDE FROM IMMUNITY MEMBERS OF A HOSPITAL MEDICAL STAFF COMMITTEE AND TO INCLUDE IMMUNITY FOR

MEMBERS OF COMMITTEES APPOINTED BY THE DEPARTMENT OF MENTAL HEALTH TO STUDY PATIENT RECORDS.

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

No liability or cause of action against a hospital for performing certain acts or undertaking certain proceedings, confidentiality of hospital proceedings, data, documents, and information, and assertion and defense of confidentiality claims

SECTION 1. Article 3, Chapter 7, Title 44 of the 1976 Code is amended by adding:

"Section 44-7-390. There is no monetary liability on the part of, and no cause of action for damages arising against, a hospital licensed under this article, its parent, subsidiaries, health care system, physician practices owned by the hospital (its parent or subsidiaries), directors, officers, agents, employees, medical staff members, external reviewers, witnesses, or a member of any committee of a licensed hospital, whether permanent or ad hoc, including the hospital's governing body, for any act or proceeding undertaken or performed without malice, made after reasonable effort to obtain the facts, and the action taken was in the belief that it is warranted by the facts known, arising out of or relating to:

(1) sentinel event investigations or root cause analyses, or both, as prescribed by the joint commission or any other organization under whose accreditation a hospital is deemed to meet the Centers for Medicare and Medicaid Services' conditions of participation;

(2) investigations into the competence or conduct of hospital employees, agents, members of the hospital's medical staff or other practitioners, relating to the quality of patient care, and any disciplinary proceedings or fair hearings related thereto, provided the medical staff operates pursuant to written bylaws that have been approved by the governing body of the hospital;

(3) quality assurance reviews;

(4) the medical staff credentialing process, provided the medical staff operates pursuant to written bylaws that have been approved by the governing body of the hospital;

(5) reports by a hospital to its insurance carriers;

(6) reviews or investigations to evaluate the quality of care provided by hospital employees, agents, members of the hospital's medical staff, or other practitioners; or

(7) reports or statements, including, but not limited to, those reports or statements to the National Practitioner Data Bank and the South Carolina Board of Medical Examiners, that provide analysis or opinion (including external reviews) relating to the quality of care provided by hospital employees, agents, members of the hospital's medical staff, or other practitioners.

Section 44-7-392. (A)(1) All proceedings of, and all data, documents, records, and information prepared or acquired by, a hospital licensed under this article, its parent, subsidiaries, health care system, committees, whether permanent or ad hoc, including the hospital's governing body, or physician practices owned by the hospital (its parent or subsidiaries), relating to the following are confidential:

(a) sentinel event investigations or root cause analyses, or both, as prescribed by the joint commission or any other organization under whose accreditation a hospital is deemed to meet the Centers for Medicare and Medicaid Services' conditions of participation;

(b) investigations into the competence or conduct of hospital employees, agents, members of the hospital's medical staff or other practitioners, relating to the quality of patient care, and any disciplinary proceedings or fair hearings related thereto;

(c) quality assurance reviews;

(d) the medical staff credentialing process;

(e) reports by a hospital to its insurance carriers;

(f) reviews or investigations to evaluate the quality of care provided by hospital employees, agents, members of the hospital's medical staff, or other practitioners; or

(g) reports or statements, including, but not limited to, those reports or statements to the National Practitioner Data Bank and the South Carolina Board of Medical Examiners, that provide analysis or opinion (including external reviews) relating to the quality of care provided by hospital employees, agents, members of the hospital's medical staff, or other practitioners; or

(h) incident or occurrence reports and related investigations, unless the report is part of the medical record.

(2) The proceedings and data, documents, records, and information described in subsection (A)(1) may be shared with a parent corporation, subsidiaries, other hospitals in the health care system, directors, officers, employees, and agents of the hospital and if shared,

remain confidential. These proceedings and data, documents, records, and information in subsection (A)(1) are not subject to discovery, subpoena, or introduction into evidence in any civil action unless the hospital and any affected person who is a party to such action waives the confidentiality in writing. Notwithstanding the foregoing, however, in the event an affected person asserts a claim in any civil action against a hospital, its parent, affiliates, directors, officers, agents, employees, or member of any committee of a licensed hospital, relating to any proceeding identified in subsection (A)(1), the hospital may, without consultation with the affected person, waive confidentiality in that civil action. Likewise, if a hospital asserts a claim in any civil action against an affected person relating to any proceeding identified in subsection (A)(1) in which the affected person was a party, the affected person may use information in the affected person's possession that is otherwise confidential under this section in that civil action.

(3) Data, documents, records, or information which are otherwise available from original sources are not confidential and are not immune from discovery from the original source under this section or use in a civil action merely because they were acquired by the hospital.

(4) This subsection does not make confidential the outcome of a practitioner's application for medical staff membership or clinical privileges, nor does it make confidential the list of clinical privileges requested by the practitioner or the list of clinical privileges that were approved. However, the practitioner's application for medical staff membership or clinical privileges, and all supporting documentation submitted or requested for the application are confidential. Nevertheless, the application itself may be obtained from the physician requesting privileges or the practice where the physician works as an employee or an independent contractor.

(5) If a practitioner is the subject of a disciplinary proceeding or fair hearing, this subsection does not, subject to the provisions of the medical staff bylaws, prohibit the practitioner from receiving data, documents, records, and information relating to this practitioner that is relevant to the proceeding or fair hearing, even if the data, documents, records, and information are otherwise confidential under this section. Such a disclosure to a practitioner in a disciplinary proceeding or fair hearing must not be considered a waiver of any privilege or confidentiality provided for in subsection (A)(1). The practitioner must not, however, without the written consent of the hospital, publish to any third party, other than legal counsel or a person retained for the purposes of representing the practitioner in a disciplinary proceeding or

fair hearing, the data, documents, records, or information that were disclosed to him as part of the disciplinary proceeding or fair hearing.

(6) There is nothing in this section which makes any part of a patient's medical record confidential from the patient, including any redactions, corrections, supplements, or amendments to the patient's record, whether electronic or written.

(B) The confidentiality provisions of subsection (A) do not prevent committees appointed by the Department of Health and Environmental Control from issuing reports containing solely nonidentifying data and information.

(C) Nothing in this section affects the duty of a hospital licensed by the Department of Health and Environmental Control to report accidents or incidents pursuant to the department's regulations. However, anything reported pursuant to the department's regulations must not be considered a waiver of any privilege or confidentiality provided in subsection (A).

(D) Any data, documents, records or information that is reported to or reviewed by the joint commission or other accrediting bodies must not be considered a waiver of any privilege or confidentiality provided for in subsection (A).

(E) Any data, documents, records, or information of an action by a hospital to suspend, revoke, or otherwise limit the medical staff membership or clinical privileges of a practitioner that is submitted to the South Carolina Board of Medical Examiners pursuant to a report required by Section 44-7-70, or the National Practitioner Data Bank must not be considered a waiver of any privilege or confidentiality provided for in subsection (A).

(F) An affected person may file a civil action to assert a claim of confidentiality before a court of competent jurisdiction and file a motion to request the court to issue an order to enjoin a hospital from releasing data, documents, records, or information to the department, the South Carolina Board of Medical Examiners, the National Practitioner Data Bank, and the joint commission or other accrediting bodies that are not required by law or regulation to be released by a hospital. The data, documents, records, or information in controversy must be filed under seal with the court having jurisdiction over the pending action and are subject to judicial review. If the court finds that a party acted unreasonably in unsuccessfully asserting the claim of confidentiality under this subsection, the court shall assess attorney's fees against that party.

(G) For purposes of this section, an 'affected person' means a person, other than a patient, who is a subject of a proceeding enumerated in subsection (A)(1).

Section 44-7-394. (A) If a hospital or affected person asserts a claim of confidentiality over documents pursuant to Section 44-7-392, and the party seeking the documents objects, then upon motion to the court having jurisdiction over the pending action the court shall review the documents under seal to determine if any of the documents are subject to discovery. The court may order production of the documents to the requesting party. If the court finds that a hospital or affected person acted unreasonably in unsuccessfully asserting the claim of confidentiality, the court may assess attorney's fees against that party for any fees incurred by the requesting party in obtaining the documents.

Further, a party to a medical or hospital malpractice case shall not offer testimony of a person who was a witness to the medical or hospital care that is the subject of the medical or hospital malpractice case if their testimony would be inconsistent with a prior written, electronic, video, or audio statement of fact submitted by the person and that is confidential under Section 44-7-392, unless such prior inconsistent statement of fact is first produced to all parties in the medical or hospital malpractice case. Upon request by a party, a privilege log shall be provided by a hospital to all parties in the medical or hospital malpractice case identifying any prior written, electronic, video, or audio statements of fact relating to the medical or hospital care that is the subject of the medical or hospital malpractice case that were given by a witness who is identified in discovery and may testify at trial. Upon motion of any party, a prior statement of fact, whether written, electronic, video, or audio, that is confidential under Section 44-7-392, may be reviewed by the court in camera to determine whether the prior statement of fact is inconsistent with the trial testimony offered in the medical or hospital malpractice case. If the court concludes that the prior statement of fact is inconsistent, the court shall order that the prior written statement of fact be produced to the moving party.

(B) For purposes of this section an 'affected person' means a person, other than a patient, who is a subject of a proceeding enumerated in Section 44-7-392(A)(1).

(C) If the court orders a hospital or affected person to produce documents to a third party under this section, the hospital or affected person shall have the right to immediately appeal that order, and the

filing of the appeal shall stay the enforcement of the order compelling the production."

Immunity from liability for professional standards committees and for state government committees that review patient records

SECTION 2. Section 40-71-10(B) of the 1976 Code is amended to read:

"(B) There is no monetary liability on the part of, and no cause of action for damages arising against, a member of an appointed committee which is formed to maintain professional standards of a state or local professional society as defined in this section or a committee appointed by the Department of Mental Health, or a committee appointed by the Department of Health and Environmental Control to review patient medical and health records in order to study the causes of death and disease for any act or proceeding undertaken or performed within the scope of the functions of the committee if the committee member acts without malice, has made a reasonable effort to obtain the facts relating to the matter under consideration, and acts in the belief that the action taken by him is warranted by the facts known to him."

Time effective

SECTION 3. This act take effect upon approval by the Governor and applies to any investigative action undertaken as provided herein where the underlying event giving rise to the investigation occurs on or after the effective date.

Ratified the 22nd day of June, 2012.

Approved the 26th day of June, 2012.

No. 276

(R322, H4801)

AN ACT TO AMEND SECTION 6-13-230, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PIONEER RURAL WATER DISTRICT OF OCONEE AND ANDERSON COUNTIES, SO AS TO FURTHER PROVIDE FOR THE QUALIFICATIONS, TERMS, AND MANNER OF SELECTION OF MEMBERS OF THE GOVERNING BOARD OF THE DISTRICT; TO AMEND SECTION 6-13-240, AS AMENDED, RELATING TO THE POWERS AND DUTIES OF THE DISTRICT ACTING THROUGH ITS GOVERNING BOARD, SO AS TO PROVIDE THAT BEFORE THE DISTRICT MAKES AN INVESTMENT IN A FACILITY OR TAKES ANY OTHER ACTION THAT WOULD OBLIGATE THE DISTRICT FOR ONE MILLION DOLLARS OR MORE, IT MUST PROVIDE FOR AN INDEPENDENT AUDIT, TO PROVIDE FOR HOW THE AUDIT MUST BE CONDUCTED AND FOR A MEETING OF THE DISTRICT'S CUSTOMERS ABOUT THE AUDIT'S FINDINGS, AND FOR SUBMISSION OF THE AUDIT TO THE OFFICE OF REGULATORY STAFF FOR COMMENT; AND TO AMEND SECTION 6-13-250, RELATING TO THE NONREGULATION OF RATES OF THE DISTRICT, SO AS TO PROVIDE THAT THE BOARD MUST PROVIDE TO THE OFFICE OF REGULATORY STAFF BY JULY FIRST EACH YEAR SCHEDULES SHOWING ALL RATES, SERVICE RULES AND REGULATIONS, AND FORMS OF SERVICE CONTRACT ESTABLISHED BY THE BOARD.

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

Board membership and selection revised

SECTION 1. Section 6-13-230 of the 1976 Code is amended to read:

"Section 6-13-230. (A)(1) The district must be operated and managed by a board of directors to be known as the Pioneer Rural Water District Board of Oconee and Anderson Counties which constitutes the governing body of the district. The board must consist of five residents of the district's service area who are qualified electors

of Anderson or Oconee county. Board members serving on this subsection's effective date shall serve the remainder of their terms pursuant to their appointment and until their successors are elected and qualified. Upon the expiration of the term of each member serving on this subsection's effective date, the member's term will be for three years and until a successor is elected and qualified. The members must be elected to represent distinct territories within the district's service area. A vacancy must be filled for the remainder of the unexpired term.

(2) Each board member must be elected by the qualified customers of Pioneer Rural Water District who are both (a) residents of the district's service area and (b) qualified electors of Anderson or Oconee County. For purposes of this section, 'resident' is an individual domiciled in Anderson or Oconee County. Each qualified customer is entitled to one vote, provided that only one vote is cast per household.

(B) Sixty days prior to an election to fill a board member's seat, a meeting of the qualified customers from the board member's territory shall be held to nominate an individual or individuals who reside in that territory and are qualified customers with service from the district within that territory. The nominated individual or individuals' names shall be placed on the ballot at the annual meeting. If more than two persons are nominated, only the two individuals receiving the highest number of votes will have their names placed on the ballot. Notice of a district or territory meeting must be provided as follows: (1) posted in at least one newspaper with general circulation in the district's service area fifteen days prior to the meeting; (2) posted on Pioneer Rural Water District's website for at least fifteen days prior to the meeting; and (3) written notice, in a conspicuous font, at least twenty-four point bold font, included with the water bill to customers eligible to vote in the district or territory meeting, as applicable, for the billing cycle immediately preceding the meeting."

Audit required, presentation and comment

SECTION 2. Section 6-13-240 of the 1976 Code, as last amended by Act 277 of 2004, is further amended to read:

"Section 6-13-240. (A) The district, acting through its governing body, is hereby vested with all such powers as may be necessary or incidental to carry out its purposes, functions, and responsibilities including, but without limitation, the following:

(1) to have perpetual succession;

(2) to sue and be sued;

(3) to adopt, use, and alter a corporate seal;

(4) to define a quorum for meetings;

(5) to maintain a principal office;

(6) to make bylaws for the management and regulation of its affairs;

(7) to build, construct, maintain and operate ditches, tunnels, culverts, flumes, conduits, mains, pipes, dikes, dams, and reservoirs;

(8) to build, construct, maintain, and operate distribution systems for the distribution of water for domestic or industrial use;

(9) to acquire and operate any type of machinery, appliances, or appurtenances, necessary or useful in constructing, operating, and maintaining the system;

(10) to contract for or otherwise acquire a supply of water and sell water for industrial or domestic use;

(11) to prescribe rates and regulations under which such water shall be sold for industrial and domestic use;

(12) to enter into contracts of long duration for the purchase and sale of water with persons, private corporations, municipal corporations, or public bodies or agencies;

(13) to prescribe such regulations as it shall deem necessary to protect from pollution all water in its pipes, tanks, reservoirs, distribution systems, or elsewhere within its system;

(14) to make contracts of all sorts and to execute all instruments necessary or convenient for the carrying on of the business of the district;

(15) to acquire, purchase, hold, use, lease, mortgage, sell, transfer, and dispose of any property, real, personal, or mixed, or any interest therein;

(16) to make use of county and state highway rights of way in which to lay pipes and lines in such manner and under such conditions as the appropriate officials in charge of such rights of way shall approve;

(17) subject always to the limitations of Section 15, Article VIII, of the Constitution of South Carolina, 1895, to make use of all the streets and public ways of an incorporated municipality for the purpose of laying pipes and lines;

(18) to alter and change county and state highways wherever necessary to construct the system under such conditions as the appropriate officials in charge of such highways shall approve;

(19) to exercise the power of eminent domain for any corporate function. The power of eminent domain may be exercised through any procedure prescribed by Chapter 2, Title 28 and Sections 57-5-310 through 57-5-590, as now or hereafter constituted, it being the intent of this provision that further amendments and modifications of these code provisions shall be deemed to amend and revise correspondingly the powers granted by this item. Provided, that the power of eminent domain conferred hereunder shall not extend to the property of any public utility that the utility could have acquired under its power of eminent domain;

(20) to appoint officers, agents, employees, and servants, to prescribe the duties of such, to fix their compensation and to determine if and to what extent they shall be bonded for the faithful performance of their duties;

(21) to make contracts for construction and other services; provided, that such contracts shall be let on competitive bidding and shall be awarded to the lowest responsible qualified bidder;

(22) to borrow money and to make and issue negotiable bonds, notes, and other evidences of indebtedness, payable from all or any part of the revenues derived from the operation of its system. The sums borrowed may be those needed to pay all costs incident to the construction and establishment of the system, and any extensions, additions, and improvements thereto, including engineering costs, legal costs, construction costs; the sum needed to pay interest during the period prior to which the system, or any extension, addition, or improvement thereof, shall be fully in operation; such sum as is needed to supply working capital to place the system in operation; and all other expenses of any sort that the district may incur in establishing, extending, or enlarging the system. Neither the full faith and credit of the State of South Carolina, nor Oconee and Anderson Counties, shall be pledged for the payment of the principal and interest of the obligations, and there shall be on the face of each obligation a statement, plainly worded, to that effect. Neither the members of the board, nor any person signing the obligations, shall be personally liable thereon. To the end that a convenient procedure for borrowing money may be prescribed, the district shall be fully empowered to avail itself of all powers granted by Chapters 17 and 21 of this title, as now or hereafter constituted, it being the intent of this provision that further amendments and modifications of the code provisions shall be deemed to amend and revise correspondingly the powers granted by this item. In exercising the power conferred upon the district by such code provisions, the district may make or omit all pledges and covenants

authorized by any provision thereof, and may confer upon the holders of its securities all rights and liens authorized by law. Notwithstanding contrary provisions in the code, the district may:

(a) disregard any provision requiring that bonds have serial maturities, and issue bonds in such form and with such maturities as the district shall determine;

(b) provide that its bonds, notes, or other evidence of indebtedness be payable, both as to principal and interest, from the net revenues derived from the operation of its system, as such net revenues may be defined by the district;

(c) covenant and agree that upon it being adjudged in default as to the payment of any installment of principal or interest upon any obligation issued by it, or in default as to the performance of any covenant or undertaking made by it, in such event the principal of all obligations of such issue may be declared forthwith due and payable, notwithstanding that any of them may not have then matured;

(d) confer upon a corporation trustee the power to make disposition of the proceeds from all borrowings and of all revenues derived from the operation of the system, in accordance with the resolutions adopted by the authority as an incident to the issuance of any notes, bonds, or other types of securities;

(e) dispose of bonds, notes, or other evidence of indebtedness at public or private sale, and upon such terms and conditions as it shall approve;

(f) make provision for the redemption of any obligations issued by it prior to their stated maturity, with or without premium, and on such terms and conditions as the district shall approve;

(g) covenant and agree that any cushion fund established to further secure the payment of the principal and interest of any obligation shall be in a fixed amount;

(h) covenant and agree that no free service will be furnished to any person, municipal corporation, or any subdivision or division of the State;

(i) prescribe the procedure, if any, by which the terms of the contract with the holders of its obligations may be amended, the number of obligations whose holders must consent thereto, and the manner in which consent shall be given;

(j) prescribe the events of default and terms and conditions upon which all or any obligations shall become or may be declared due before maturity and the terms and conditions upon which such declarations and their consequences may be waived;

(23) to extend its system or systems, within Oconee and Anderson Counties, beyond the defined limits of the district to provide services to those living outside the district and outside any incorporated municipality when, in the discretion of the board, it is feasible and practicable so to do, in which case any person or agency receiving such service shall be subject to the same rules, regulations, and requirements concerning services being received from the district as persons residing within the district. The board, in its discretion, may establish rates and charges higher than those within the district for the extension of its system and the provision of services beyond the limits of the district;

(24) to construct, operate, or maintain sewer lines or to contract with other entities to construct, operate, or maintain sewer lines. The authority granted in this item does not give the district the power to construct or operate a sewerage treatment facility.

(B) Before the board makes an investment in a facility or any other action that obligates the water district for one million dollars or more, it must provide for an independent audit by a certified public accountant or public accountant or firm of these accountants who have no personal interest, direct or indirect, in the fiscal affairs of the district or in an entity which may benefit financially from the transaction to be audited. This audit must include the potential impact of the board's action on its ratepayers and must be presented to the district's customers at a meeting prior to entering into the action prompting the audit. Notice of a meeting pursuant to this subsection must be provided to customers of the district as follows: (1) posted in at least one newspaper with general circulation in the district's service area fifteen days prior to the meeting; (2) posted on Pioneer Rural Water District's website for at least fifteen days prior to the meeting; and (3) written notice, in a conspicuous font, in at least twenty-four point bold font, included with the water bill to all customers for the billing cycle immediately preceding the meeting.

(C) Within thirty days of receiving the audit and prior to its presentation to the customers, the board must submit the audit to the Office of Regulatory Staff for the Office of Regulatory Staff to verify the audit's assumptions.

(D) Any action taken by the board must be made in the ratepayers' best interests. Best interests must include consideration of, but not limited to, the public interest of the ratepayers, financial integrity of the water district, and economic development of the area to be provided with service by the water district."

Information required to be furnished

SECTION 3. Section 6-13-250 of the 1976 Code is amended to read:

"Section 6-13-250.The rates charged for services furnished by the system, as constructed, improved, enlarged, and extended, shall not be subject to supervision or regulation by any state bureau, board, commission, or like instrumentality or agency thereof. However, the board must provide to the Office of Regulatory Staff by July first each year, for information purposes, in such form as the Office of Regulatory Staff may designate, schedules showing all rates, service rules and regulations, and forms of service contract established by the board."

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 22nd day of June, 2012.

Approved the 26th day of June, 2012.

No. 277

(R306, H4766)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 38 TO TITLE 33 SO AS TO ENACT THE "SOUTH CAROLINA BENEFIT CORPORATION ACT" WHICH PERMITS A CORPORATION TO ELECT AS A CORPORATE PURPOSE THE PROVIDING OF CERTAIN PUBLIC BENEFITS WITHOUT SUBJECTING THE CORPORATION OR ITS DIRECTORS TO LIABILITY OR DERIVATIVE SUIT EXCEPT FOR SPECIFIED REASONS.

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

Benefit corporations

SECTION 1. Title 33 of the 1976 Code is amended by adding:

"CHAPTER 38

South Carolina Benefit Corporation Act

Article 1

Preliminary Provisions

Section 33-38-110. This chapter may be referred to and cited as the 'South Carolina Benefit Corporation Act'.

Section 33-38-120. (A) This chapter applies to all benefit corporations.

(B) The provisions contained in Chapters 1-19 of this title apply to benefit corporations except where those provisions conflict with provisions contained in this chapter, in which case the provisions contained in this chapter control.

(C) Other than as provided in Section 33-38-210, corporations that are not benefit corporations are not subject to this chapter, and this chapter does not otherwise affect a statute or rule of law that is applicable to a corporation that is not a benefit corporation. A benefit corporation may be simultaneously subject to this chapter and one or more other statutes that provide for the incorporation of a specific type of business corporation, including, but not limited to, a statutory close corporation or a professional corporation.

(D) A provision of the articles of incorporation or bylaws of a benefit corporation may not be inconsistent with a provision of this chapter.

(E) The formation of a business entity pursuant to provisions other than Title 33, Chapter 38 does not prohibit the business entity from including in its general powers consideration or donations for the public welfare, or for charitable, scientific, or educational purposes, as provided in the South Carolina Business Corporation Act.

Section 33-38-130. (A) The following definitions apply to this chapter:

(1) 'Benefit corporation' means a domestic corporation that has elected to become subject to this chapter and that has not terminated its status as a benefit corporation pursuant to Section 33-38-220.

(2) 'Benefit director' means either:

(a) the director of the benefit corporation as designated pursuant to Section 33-38-410; or

(b) a person with one or more powers, duties, or rights of a benefit director to the extent provided in the articles of incorporation pursuant to Section 33-38-410(D).

(3) 'Benefit enforcement proceeding' means any claim or action for any of the following:

(a) failing to pursue or create the general public benefit or a specific public benefit purpose pursuant to its articles of incorporation; or

(b) violating a duty or standard of conduct under this chapter.

(4) 'Benefit officer' means the officer of the benefit corporation designated as such pursuant to Section 33-38-420.

(5) 'General public benefit' means a material positive impact on society and the environment taken as a whole, as assessed against a third-party standard, from the business and operations of a benefit corporation.

(6) 'Independent person' means, with respect to a benefit corporation, a person who does not have any material relationship with the benefit corporation or a subsidiary of the benefit corporation, either directly as a shareholder of the benefit corporation or as a partner, a member, or an owner of a subsidiary of the benefit corporation or indirectly as a director, an officer, a general partner, or a manager of an entity that has a material relationship with the benefit corporation or a subsidiary of the benefit corporation. A person does not have a material relationship solely by virtue of serving as the benefit director or the benefit officer of the benefit corporation or of any subsidiary of the benefit corporation that is itself a benefit corporation. A material relationship between a person and the benefit corporation or any of its subsidiaries is presumed to exist if any of the following apply:

(a) the person is, or has been within the last three years, an employee, other than the benefit officer, of the benefit corporation or a subsidiary of the benefit corporation;

(b) an immediate family member of the person is, or has been within the last three years, an officer, other than the benefit officer, of the benefit corporation or a subsidiary of the benefit corporation; or

(c) the person, or an entity in which the person is a director, an officer, a general partner, or a manager or owns, directly or indirectly, five percent or more of the outstanding equity interests, or owns, directly or indirectly, five percent or more of the outstanding shares of any series or class of stock of the benefit corporation.

(7) 'Specific public benefit purpose' means a benefit that serves one or more public welfare, religious, charitable, scientific, literary, or educational purposes, or other purposes or benefits beyond the strict interest of the shareholders of the benefit corporation, including:

(a) providing low-income or underserved individuals, families, or communities with beneficial products, services, or educational opportunities;

(b) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;

(c) preserving or improving the environment;

(d) improving human health;

(e) promoting the arts, sciences, or advancement of knowledge;

(f) increasing the flow of capital to entities with a public benefit purpose; or

(g) conferring any other particular benefit on society and the environment.

(8) 'Subsidiary of a person' means an entity in which the person owns, beneficially or of record, fifty percent or more of the outstanding equity interests.

(9) 'Third-party standard' means a standard for defining, reporting, and assessing corporate, social, and environmental performance that meets all of the following requirements:

(a) the standard assesses the effect of the business and its operations upon the interests listed in items (2) through (5) of Section 33-38-400(A);

(b) the standard is developed by an entity that is independent of the benefit corporation and satisfies the following:

(i) not more than one-third of the members of the governing body of the entity are representatives of an association of businesses operating in a specific industry the performance of whose members is measured by the standard, businesses from a specific industry or an association of businesses in that industry, or businesses whose performance is assessed against the standard; or

(ii) the entity is not materially financed by an association or business described in subitem (i) of this item;

(c) the standard is developed by a person that satisfies the following:

(i) has access to necessary expertise to assess overall corporate, social, and environmental performance; and

(ii) uses a balanced multistakeholder approach including a public comment period of at least thirty days to develop the standard;

(d) the standard is transparent because the following information about the standard is publicly available:

(i) the criteria considered when measuring the overall social and environmental performance of a business, as well as the relative weightings of those criteria; and

(ii) the process for the development and revision of the standard, including:

(A) the identity of the directors, officers, any material owners, and the governing body of the entity that developed and controls revisions to the standard;

(B) the process by which revisions to the standard and changes to the membership of the governing body are made; and

(C) an accounting of the sources of financial support for the entity, with sufficient detail to disclose any relationships that could reasonably be considered to present a potential conflict of interest.

(B) For purposes of the definitions of 'independent person' and 'subsidiary of a person' in subsection (A) of this section, a percentage of ownership in an entity must be calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

Section 33-38-140. A benefit corporation is not entitled to claim an exemption from any property tax imposed by law.

Article 2

Adoption and Change of Status

Section 33-38-200. A domestic corporation, including a domestic corporation incorporated upon a conversion, may be incorporated as a benefit corporation by including in its original articles of incorporation a provision stating that the corporation is a benefit corporation governed by this chapter. The articles of incorporation also must include an identification of a specific public benefit purpose as required by Section 33-38-300.

Section 33-38-210. (A) An existing domestic corporation shall become a benefit corporation on the effective date of the amendment to its articles of incorporation to include a provision providing that the corporation is a benefit corporation governed by this chapter. As amended, the articles of incorporation also must include an

identification of any specific public benefit purpose as required by Section 33-38-300. An amendment under this section must be approved in the manner required by Section 33-38-230.

(B) If a corporation or other entity that is not a benefit corporation is a party to a merger, conversion, or share exchange, and the surviving or resulting entity in the merger, conversion, or share exchange is, or is to be as a result of such transaction, a benefit corporation, the plan of merger, conversion, or share exchange must be approved in the manner required by Section 33-38-230. Upon the completion of the transaction, in order for the surviving or resulting entity to be a benefit corporation it must include a provision in its articles of incorporation providing that the corporation is a benefit corporation governed by this chapter and identify any specific public benefit purpose as required by Section 33-38-300.

Section 33-38-220. (A) A benefit corporation may terminate its status and cease to be subject to this chapter by amending its articles of incorporation to remove the provision that the corporation is a benefit corporation governed by this chapter. The amendment must be approved in the manner required by Section 33-38-230. Any sale, lease, exchange, or other disposition of all, or substantially all, of the property of a benefit corporation, unless the transaction is in the usual and regular course of business, shall not be effective unless it is approved in the manner required by Section 33-38-20.

(B) If a plan of merger, conversion, or share exchange would have the effect of terminating the status of a benefit corporation as a benefit corporation, the plan must be approved in the manner required by Section 33-38-230.

Section 33-38-230. In addition to any other requirements of applicable law, where specified in this chapter that approval of a matter must be in the manner required by this section, the following requirements apply:

(1) With respect to a corporation, including a benefit corporation, the matter must be approved by the affirmative vote of sixty-six and two-thirds percent of the outstanding shares of each class and series of stock of the corporation, voting as separate voting groups, regardless of any limitation in the corporation's articles of incorporation or bylaws of the voting rights of such class or series.

(2) With respect to any entity incorporated as a nonprofit corporation, the matter must be approved by the affirmative vote of

sixty-six and two-thirds percent of the votes cast by the members entitled to vote.

(3) With respect to an entity organized as a limited liability corporation or partnership, the matter must be approved in the same manner as would be required for the approval of a merger of the entity, unless otherwise provided in the entity's organizational documents, operating agreement, or partnership agreement of the entity.

Article 3

Corporate Purposes

Section 33-38-300. (A) In addition to corporate purposes provided in Section 33-3-101, a benefit corporation shall have as one of its corporate purposes the creation of a general public benefit.

(B) A benefit corporation may include as a corporate purpose in its articles of incorporation one or more specific public benefit purposes in addition to its purposes under subsection (A) of this section. The identification of a specific public benefit purpose pursuant to this subsection does not limit the obligation of a benefit corporation pursuant to subsection (A).

(C) A benefit corporation may amend its articles of incorporation to add, amend, or remove the identification of a specific public benefit purpose. The amendment must be approved by the shareholders of the benefit corporation in the manner required by Section 33-38-230.

(D) The creation of general public benefit and specific public benefit pursuant to subsections (A) and (B) is in the best interests of a benefit corporation.

(E) A professional corporation that is a benefit corporation does not violate Section 33-19-110.

Article 4

Accountability

Section 33-38-400. (A) In discharging the duties of their respective positions and in considering the best interests of the benefit corporation, the board of directors, committees of the board of directors, and individual directors of a benefit corporation, shall consider the effects of any action or decision not to act upon the following:

(1) the shareholders of the benefit corporation;

(2) the employees and workforce of the benefit corporation, its subsidiaries, and suppliers;

(3) the interests of customers to the extent they are beneficiaries of the general or specific public benefit purposes of the benefit corporation;

(4) community and societal factors, including the interests of each community in which offices or facilities of the benefit corporation, its subsidiaries, or suppliers are located;

(5) the local and global environment;

(6) the short-term and long-term interests of the benefit corporation, including benefits that may accrue to the benefit corporation from its long-term plans and the possibility that these interests may be best served by the continued independence of the benefit corporation; and

(7) the ability of the benefit corporation to accomplish its general and any specific public benefit purpose.

(B) In addition to the required considerations in subsection (A), a director of a benefit corporation may consider the following:

(1) the resources, intent, and past, stated, and potential conduct of any person seeking to acquire control of the benefit corporation; and

(2) other pertinent factors or the interests of any other group that the director in good faith considers to be appropriate.

(C) A director of a benefit corporation need not give priority to the interests of a particular person or group referred to in subsections (A) and (B) of this section over the interests of any other person or group unless the benefit corporation's articles of incorporation explicitly specify its intention to give priority to certain interests related to its accomplishment of its general public benefit purpose or of a specific public benefit purpose.

(D) The consideration of interests and factors in the manner required by this section is not considered to be inconsistent with the requirements of Section 33-38-300.

(E) A director is not personally liable for monetary damages for:

(1) any act taken as a director, or any omission to act as a director, if the director performed the duties of office in compliance with Sections 33-8-300, 33-8-310, 33-8-320, or 33-8-330; or

(2) the failure of the benefit corporation to pursue or create a general or specific public benefit.

(F) A director does not have a duty to a person that is a beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the status of the person as a beneficiary.

Section 33-38-410. (A) The board of directors of a benefit corporation shall designate one director who is an independent person to be the benefit director. The benefit director, in addition to the powers, duties, rights, and immunities of the other directors of the benefit corporation, shall have the powers, duties, rights, and immunities provided in this section. The benefit director shall be elected, and may be removed, in the manner provided in Article 1, Chapter 8, Title 33.

(B) The benefit director may serve as the benefit officer at the same time as serving as the benefit director. The articles of incorporation or bylaws of a benefit corporation may prescribe additional qualifications of the benefit director not inconsistent with this section.

(C)(1) The benefit director shall prepare, and the benefit corporation shall include in the annual benefit report to shareholders required by Section 33-38-500, the opinion of the benefit director concerning the following matters:

(a) whether the benefit corporation acted in accordance with its general and any specific public benefit purpose in all material respects during the period covered by the report;

(b) whether the benefit corporation conferred a general public benefit and any specific public benefit during the period covered by the report; and

(c) whether the directors complied with Section 33-38-400.

(2) If the benefit director finds a failure under item (a), (b), or (c) of this subsection, the benefit director shall include in the annual benefit report a description, to the extent relevant, of the ways in which the benefit corporation or its directors failed to act or comply.

(D) If a benefit corporation dispenses with a board of directors as provided by law, the articles of incorporation of the benefit corporation must provide that a person who exercises one or more of the powers, duties, rights, or obligations of a benefit director under this subsection shall have the powers, duties, rights, and obligations of a benefit director or may share the powers, duties, rights, and obligations of a benefit director with one or more other persons. A person who has the powers, duties, rights, and obligations of a benefit director pursuant to this subsection:

(1) does not need to be independent of the benefit corporation;

(2) shall have the immunities of a benefit director; and

(3) shall not be subject to the procedures for election or removal of directors pursuant to Article 1, Chapter 8, Title 33 unless the bylaws make those procedures applicable.

(E) The benefit director of a professional corporation does not need to be independent.

(F) Regardless of whether the articles of incorporation or the bylaws of a benefit corporation include a provision limiting or eliminating the personal liability of directors, a benefit director is not personally liable for monetary damages for any act or omission taken in that capacity unless the act or omission constitutes a transaction from which the director derived an improper personal benefit, wilful misconduct, or a knowing violation of law.

Section 33-38-420. (A) Each officer of a benefit corporation shall consider the interests and factors described in Section 33-38-400 in the manner provided in that section if:

(1) the officer has discretion to act with respect to a matter; and

(2) it reasonably appears to the officer that the matter may have a material effect on the creation by the benefit corporation of a general public benefit or a specific public benefit identified in the public benefit corporation's articles of incorporation.

(B) The consideration of interests and factors in the manner described in subsection (A) shall not constitute a violation of Section 33-8-420.

(C) An officer is not personally liable for monetary damages for:

(1) any act taken as an officer, or any omission to act as an officer, if the officer performed the duties of office in compliance with Section 33-8-410; or

(2) failure of the benefit corporation to pursue or create a general public benefit or a specific public benefit.

(D) An officer does not have a duty to any specific person that is a beneficiary of the general public benefit purpose or a specific public benefit purpose of a public benefit corporation arising from the status of the person as a beneficiary.

Section 33-38-430. (A) A benefit corporation may have an officer designated as the benefit officer.

(B) The duties of the benefit officer include the following:

(1) monitoring the benefit corporation's pursuit of the general and any specific public benefits purpose of the benefit corporation and the general and any specific public benefit created by the benefit corporation;

(2) performing such other duties to the extent provided in either the bylaws of the benefit corporation or a resolution adopted by the

board of directors of the benefit corporation that is not in conflict with the bylaws; and

(3) preparing the annual benefit report required by Section 33-38-500.

Section 33-38-440. (A) The duties of directors under this chapter may be enforced only in a benefit enforcement proceeding. A person may not bring an action or assert a claim against a benefit corporation or its directors or officers with respect to:

(1) failure to pursue or create general public benefit or a specific public benefit set forth in its articles of incorporation; or

(2) violation of a duty or standard of conduct under this chapter.

(B) A benefit corporation shall not be liable for monetary damages under this chapter for any failure of the benefit corporation to pursue or create general public benefit or a specific public benefit.

(C) A benefit enforcement proceeding may be commenced or maintained by only the following:

(1) directly, by the benefit corporation; or

(2) derivatively, by any of the following:

(a) a shareholder;

(b) a director;

(c) a person or group of persons that owns, beneficially or of record, five percent or more of the outstanding equity interests in an entity of which the benefit corporation is a subsidiary; or

(d) other persons specified in the articles of incorporation or bylaws of the benefit corporation.

(D) A benefit enforcement proceeding commenced or maintained derivatively under item (2) of subsection (C) of this section as provided by law is subject to the requirements applicable to derivative proceedings, except that such requirements may be interpreted to reflect that a benefit enforcement proceeding may be commenced and maintained by those persons listed in item (2) of subsection (B) of this section.

Article 5

Annual Reporting

Section 33-38-500. (A) A benefit corporation shall prepare an annual benefit report that includes all of the following:

(1) a narrative description:

(a) the manner in which the benefit corporation has pursued its general public benefit purposes during the year and the extent to which a general public benefit was created;

(b) the manner in which the benefit corporation has pursued any specific public benefit purposes during the year and the extent to which a specific public benefit was created;

(c) circumstances that have hindered the creation by the benefit corporation of a general or specific public benefit; and

(d) the process and rationale for selecting or changing the third-party standard used to prepare the benefit report;

(2) an assessment of the overall social or environmental, or social and environmental, performance of the benefit corporation against a third-party standard applied consistently with any application of that standard in prior benefit reports or accompanied by an explanation of the reasons for any inconsistent application. The assessment does not need to be performed, audited, or certified by a third-party standards provider;

(3) the name of the benefit director and the benefit officer and the address to which correspondence to each of them may be directed;

(4) the compensation paid by the benefit corporation during the year to each director in their capacity as a director;

(5) the name of each person that owns five percent or more of the outstanding shares of the benefit corporation either beneficially to the extent known to the benefit corporation without independent investigation, or of record;

(6) the statement of the benefit director described in Section 33-38-410(C);

(7) a statement of any connection between the organization that established the third-party standard, or its directors, officers, or any holder of five percent or more of the governance interests in the organization, and the benefit corporation or its directors, officers, or any holder of five percent or more of the outstanding shares of the benefit corporation, including any financial or governance relationship which might materially affect the credibility of the use of the third-party standard; and

(8) if the benefit corporation has dispensed with, or restricted the discretion or powers of, the board of directors, a description of:

(a) the persons that exercise the powers, duties, and rights and who have the immunities of the board of directors; and

(b) the benefit director, as required by Section 33-38-410(D).

(B) The benefit report must be sent annually to each shareholder within one hundred twenty days following the end of the fiscal year of

the benefit corporation or at the same time that the benefit corporation delivers any other annual report to its shareholders.

(C) A benefit corporation shall post all of its annual benefit reports on the publicly accessible portion of its Internet website, if it maintains a website. The compensation paid to directors and any financial or proprietary information included in the benefit reports may be omitted from the benefit reports as posted.

(D) If a benefit corporation does not have an Internet website, the benefit corporation shall provide a copy of its most recent annual benefit report, without charge, to any person that requests a copy, but the compensation paid to directors and financial or proprietary information included in the benefit report may be omitted from the copy of the benefit report provided.

(E) The annual report that a benefit corporation is required to deliver to the Secretary of State must include the most recent benefit report delivered to shareholders pursuant to subsection (B), except that the compensation paid to directors and any financial or proprietary information included in the benefit report may be omitted from the benefit report delivered to the Secretary of State under this section.

Article 6

Shareholder Dissent

Section 33-38-600. In addition to any other rights granted by law, a shareholder is entitled to dissent from and obtain payment of the fair value of his shares in the event of the consummation of a designation of a corporation as a benefit corporation pursuant to Section 33-38-210(A).”

Time effective

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

Ratified the 12th day of June, 2012.

Approved the 14th day of June, 2012.

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No. 278

(R323, H4967)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 9-1-1815 AND 9-1-1085 SO AS TO PROVIDE FOR ANNUAL INCREASES IN RETIREMENT ALLOWANCES PAID BY THE SOUTH CAROLINA RETIREMENT SYSTEM (SCRS) AND TO PHASE IN INCREASES IN EMPLOYER AND EMPLOYEE CONTRIBUTIONS TO SCRS AND PROVIDE FOR FURTHER CONTRIBUTION ADJUSTMENTS AFTER THE PHASE-IN PERIOD; TO AMEND SECTION 9-1-10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF SCRS, SO AS TO ADD CLASS THREE EMPLOYEES AS DEFINED AS INDIVIDUALS WITH AN EFFECTIVE DATE OF SYSTEM MEMBERSHIP AFTER JUNE 30, 2012, TO ADD DEFINITIONS APPLICABLE FOR THE ELIGIBILITY AND CALCULATION OF RETIREMENT BENEFITS FOR CLASS THREE MEMBERS, TO FURTHER DEFINE "EARNABLE COMPENSATION" WITH RESPECT TO OVERTIME PAY, AND TO REVISE THE REFERENCE TO THE GOVERNANCE OF SCRS; TO AMEND SECTIONS 9-1-1020, AS AMENDED, 9-1-1050, AND 9-1-1080, RELATING TO SCRS EMPLOYEE AND EMPLOYER CONTRIBUTIONS, SO AS TO CONFORM TO THE REVISED CONTRIBUTIONS SCHEDULE; TO AMEND SECTION 9-1-1140, AS AMENDED, RELATING TO ESTABLISHING SERVICE CREDIT TO SCRS, SO AS TO PROVIDE THAT PAYMENTS FOR SERVICE CREDIT MUST BE ACTUARIALLY NEUTRAL BASED ON THE MEMBER'S CURRENT AGE AND SERVICE CREDIT SUBJECT TO A STATUTORY MINIMUM PAYMENT AND PROVIDE THAT ADDITIONAL SERVICE CREDIT AT RETIREMENT BASED ON UNUSED ACCUMULATED SICK LEAVE APPLIES ONLY TO CLASS ONE AND CLASS TWO SCRS MEMBERS; TO AMEND SECTION 9-1-1510, AS AMENDED, RELATING TO ELIGIBILITY FOR RETIREMENT UNDER SCRS, SO AS TO PROVIDE THE RETIREMENT ELIGIBILITY REQUIREMENTS FOR CLASS THREE MEMBERS; TO AMEND SECTION 9-1-1515, AS AMENDED, RELATING TO SCRS EARLY RETIREMENT, SO AS TO LIMIT ELIGIBILITY TO CLASS ONE AND CLASS TWO SCRS MEMBERS; TO

AMEND SECTIONS 9-1-1540, AS AMENDED, 9-1-1560, AS AMENDED, AND 9-1-1570, RELATING TO DISABILITY RETIREMENT UNDER SCRS, SO AS TO CONFORM ELIGIBILITY REQUIREMENTS FOR CLASS THREE MEMBERS, PROVIDE THAT ELIGIBILITY DETERMINATION FOR DISABILITY RETIREMENT APPLICATIONS RECEIVED AFTER DECEMBER 31, 2013, MUST BE BASED ON THE MEMBER QUALIFYING FOR SOCIAL SECURITY DISABILITY BENEFITS, PROVIDE FOR THE CALCULATION OF DISABILITY BENEFITS, AND CONFORM THE REVIEW FOR SOUTH CAROLINA RETIREMENT SYSTEM MEMBERS ON DISABILITY RETIREMENT OF THEIR DISABLED STATUS TO THE NEW ELIGIBILITY REQUIREMENTS; TO AMEND SECTION 9-1-1550, AS AMENDED, RELATING TO THE CALCULATION OF THE SCRS RETIREMENT BENEFIT, SO AS TO PROVIDE THE CALCULATION FOR CLASS THREE MEMBERS; TO AMEND SECTIONS 9-1-1650 AND 9-1-1660, BOTH AS AMENDED, RELATING TO RETURN OF CONTRIBUTIONS AND ELIGIBILITY FOR AN ANNUITY ON TERMINATION BEFORE RETIREMENT, SO AS TO CONFIRM THOSE PROVISIONS FOR CLASS THREE MEMBERS AND TO PROVIDE THAT THE PERSON NAMED BY AN SCRS MEMBER TO RECEIVE A RETURN OF THE MEMBER'S CONTRIBUTIONS ON THE MEMBER'S DEATH MAY ELECT TO RECEIVE AN ANNUITY IF THE DECEASED MEMBER WAS ELIGIBLE TO RETIRE AT THE TIME OF DEATH WHETHER OR NOT THE MEMBER WAS IN SERVICE; TO AMEND SECTION 9-1-1790, AS AMENDED, RELATING TO RETURN TO COVERED EMPLOYMENT BY A RETIRED SCRS MEMBER, SO AS TO INCREASE FROM FIFTEEN TO THIRTY DAYS THE BREAK IN SERVICE REQUIRED FOR SUCH A RETURN TO SERVICE WITHOUT A SUSPENSION OF RETIREMENT BENEFITS, TO PROVIDE THAT AFTER EARNING TEN THOUSAND DOLLARS IN A CALENDAR YEAR FROM A COVERED EMPLOYER, THE RETIREMENT ALLOWANCE OF THE SCRS MEMBER IS SUSPENDED FOR THE REMAINDER OF THE CALENDAR YEAR AND TO PROVIDE THOSE MEMBERS EXEMPT FROM THIS LIMIT; TO AMEND SECTION 9-1-2210, AS AMENDED, RELATING TO THE TEACHER AND EMPLOYEE RETENTION INCENTIVE PROGRAM (TERI), SO AS TO END TERI

PARTICIPATION AFTER JUNE 30, 2018; TO REPEAL SECTIONS 9-1-1810 AND 9-1-2210 RELATING RESPECTIVELY TO ANNUAL ADJUSTMENTS IN SCRS RETIREMENT ALLOWANCES BASED ON INCREASES IN THE CONSUMER PRICE INDEX AND TO THE PROSPECTIVE REPEAL AFTER JUNE 30, 2018, OF TERI; BY ADDING SECTION 9-9-5 SO AS TO CLOSE THE RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY OF THE STATE OF SOUTH CAROLINA (SCGARS) TO MEMBERS OF THE GENERAL ASSEMBLY FIRST ELECTED AT OR AFTER THE 2012 GENERAL ELECTION AND TO PROVIDE THAT THESE PERSONS INSTEAD OF ENROLLING IN SCGARS INSTEAD SHALL JOIN SCRS OR THE STATE OPTIONAL RETIREMENT PROGRAM; TO AMEND SECTION 9-9-120, RELATING TO TRANSFER SERVICE AND MEMBER CONTRIBUTIONS FOR SCGARS, SO AS TO INCREASE THE MEMBER CONTRIBUTIONS FROM TEN TO ELEVEN PERCENT OF EARNABLE COMPENSATION; BY ADDING SECTIONS 9-11-312 AND 9-11-225 SO AS TO PROVIDE FOR ANNUAL INCREASES IN RETIREMENT ALLOWANCES PAID BY THE SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM (SCPORS) AND TO PHASE IN INCREASES IN EMPLOYER AND EMPLOYEE CONTRIBUTIONS AND PROVIDE FOR FURTHER CONTRIBUTION ADJUSTMENTS AFTER THE PHASE-IN PERIOD; TO AMEND SECTION 9-11-10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF SCPORS, SO AS TO ADD CLASS THREE EMPLOYEES DEFINED AS INDIVIDUALS WITH AN EFFECTIVE DATE OF SYSTEM MEMBERSHIP AFTER JUNE 30, 2012, TO ADD DEFINITIONS APPLICABLE FOR THE ELIGIBILITY AND CALCULATION OF BENEFITS FOR CLASS THREE MEMBERS AND TO REVISE THE REFERENCE TO THE GOVERNANCE OF SCPORS; TO AMEND SECTION 9-11-50, AS AMENDED, RELATING TO ESTABLISHING SERVICE CREDIT IN SCPORS, SO AS TO PROVIDE THAT PAYMENTS FOR SERVICE CREDIT MUST BE ACTUARIALLY NEUTRAL BASED ON THE MEMBER'S CURRENT AGE AND SERVICE CREDIT SUBJECT TO A STATUTORY MINIMUM PAYMENT AND PROVIDE THAT ADDITIONAL SERVICE CREDIT AT RETIREMENT BASED ON ACCRUED UNUSED SICK LEAVE APPLIES ONLY TO

CLASS ONE AND CLASS TWO SCPORS MEMBERS; TO AMEND SECTION 9-11-60, AS AMENDED, RELATING TO ELIGIBILITY FOR RETIREMENT FOR SCPORS MEMBERS, SO AS TO CONFORM THESE REQUIREMENTS FOR CLASS THREE MEMBERS; TO AMEND SECTION 9-11-120, AS AMENDED, RELATING TO THE SCPORS PRERETIREMENT AND POSTRETIREMENT DEATH BENEFIT, SO AS TO CONFORM POSTRETIREMENT DEATH BENEFIT TO CLASS THREE REQUIREMENTS; TO AMEND SECTION 9-11-80, AS AMENDED, RELATING TO DISABILITY RETIREMENT UNDER THE SCPORS, SO AS TO CONFORM ELIGIBILITY REQUIREMENTS FOR CLASS THREE MEMBERS, PROVIDE THAT ELIGIBILITY DETERMINATION FOR DISABILITY RETIREMENT APPLICATIONS RECEIVED AFTER DECEMBER 31, 2013, MUST BE BASED ON THE MEMBER QUALIFYING FOR SOCIAL SECURITY DISABILITY BENEFITS, PROVIDE FOR THE CALCULATION OF DISABILITY BENEFITS, AND CONFORM THE REVIEW FOR SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM MEMBERS ON DISABILITY RETIREMENT OF THEIR DISABLED STATUS, SO AS TO CONFORM THIS REVIEW TO THE NEW ELIGIBILITY REQUIREMENTS; TO AMEND SECTION 9-11-90, AS AMENDED, RELATING TO RETURN TO COVERED EMPLOYMENT OF A RETIRED SCPORS MEMBER, SO AS TO INCREASE FROM FIFTEEN TO THIRTY DAYS THE BREAK IN SERVICE REQUIRED FOR SUCH A BREAK IN SERVICE WITHOUT A SUSPENSION OF RETIREMENT BENEFITS, TO PROVIDE THAT AFTER EARNING TEN THOUSAND DOLLARS IN A CALENDAR YEAR FROM A COVERED EMPLOYER, THE RETIREMENT ALLOWANCE OF THE SCPORS MEMBER IS SUSPENDED FOR THE REMAINDER OF THE CALENDAR YEAR AND TO PROVIDE THOSE MEMBERS ARE EXEMPT FROM THIS LIMIT; TO AMEND SECTION 9-11-130, AS AMENDED, RELATING TO RETURN OF CONTRIBUTIONS AND ELIGIBILITY FOR AN ANNUITY ON TERMINATION BEFORE RETIREMENT, SO AS TO CONFORM THESE PROVISIONS FOR CLASS THREE MEMBERS AND TO PROVIDE THAT THE PERSON NAMED BY A SCPORS MEMBER TO RECEIVE A RETURN OF THE MEMBER'S CONTRIBUTIONS ON THE MEMBER'S DEATH MAY ELECT TO RECEIVE AN ANNUITY IF THE DECEASED MEMBER

WAS ELIGIBLE TO RETIRE AT THE TIME OF DEATH WHETHER OR NOT THE MEMBER WAS IN SERVICE; TO AMEND SECTIONS 9-11-210 AND 9-11-220, BOTH AS AMENDED, RELATING TO CONTRIBUTIONS OF SCPORS MEMBERS, SO AS TO CONFORM TO THE REVISED CONTRIBUTION SCHEDULE; TO REPEAL SECTIONS 9-11-70, 9-11-75, AND 9-11-310 RELATING RESPECTIVELY TO EARLY RETIREMENT, CONTRIBUTIONS, AND ANNUAL ADJUSTMENT IN SCPORS RETIREMENT ALLOWANCES BASED ON INCREASES IN THE CONSUMER PRICE INDEX; TO REPEAL SECTION 9-16-310 RELATING TO THE STATE RETIREMENT SYSTEMS INVESTMENT PANEL; TO AMEND CHAPTER 4, TITLE 9, RELATING TO RETIREMENT LAW, SO AS TO ESTABLISH THE SOUTH CAROLINA PUBLIC EMPLOYEE BENEFIT AUTHORITY (PEBA), PROVIDE FOR ITS MEMBERSHIP AND THEIR COMPENSATION, DEVOLVE FROM THE STATE BUDGET AND CONTROL BOARD TO PEBA THE ADMINISTRATION OF THE EMPLOYEE INSURANCE PROGRAM (EIP), ADMINISTRATION OF THE RETIREMENT DIVISION, COTRUSTEESHIP OF THE STATE RETIREMENT SYSTEM, AND THE DUTIES OF THE SOUTH CAROLINA DEFERRED COMPENSATION COMMISSION (SCDCC), TO PROVIDE THOSE ACTIONS OF PEBA REQUIRING APPROVAL BY THE STATE BUDGET AND CONTROL BOARD OR ITS SUCCESSOR, TO REQUIRE PEBA TO MAINTAIN A PUBLIC TRANSACTION REGISTER, AND TO REQUIRE AN ANNUAL FIDUCIARY AUDIT OF PEBA; TO AMEND SECTIONS 1-11-703, AS AMENDED, 1-11-710, AS AMENDED, 1-11-720, AS AMENDED, 1-11-725, 1-11-730, AS AMENDED, 1-11-740, 1-11-750, 1-11-770, 8-23-20, AS AMENDED, 8-23-30, AS AMENDED, 8-23-70, 8-23-110, 9-1-20, 9-1-210, 9-1-310, AS AMENDED, 9-1-1515, AS AMENDED, 9-1-1830, 9-2-10, CHAPTER 2 OF TITLE 9, SECTIONS 9-8-10, AS AMENDED, 9-8-30, 9-8-60, AS AMENDED, 9-9-10, AS AMENDED, 9-9-30, 9-10-10, 9-10-60, AS AMENDED, 9-11-30, AS AMENDED, 9-12-10, 9-16-10 AND 9-16-55, BOTH AS AMENDED, 9-18-10, 9-20-30, AS AMENDED, 9-21-20, AS AMENDED, 59-1-470, RELATING TO VARIOUS ELEMENTS OF THE EMPLOYEE INSURANCE PROGRAM, STATE RETIREMENT SYSTEM, AND THE SOUTH CAROLINA DEFERRED COMPENSATION COMMISSION, SO AS TO CONFORM THESE PROVISIONS TO PEBA GOVERNANCE;

TO AMEND SECTION 9-1-1310, AS AMENDED, RELATING TO THE TRUSTEE OF THE RETIREMENT SYSTEM AND INVESTMENTS ALLOWED FOR THE ASSETS OF THE RETIREMENT SYSTEM, SO AS TO PROVIDE THAT PEBA AND THE STATE BUDGET AND CONTROL BOARD, OR ITS SUCCESSOR, ARE COTRUSTEES OF THE RETIREMENT SYSTEM; TO AMEND SECTION 9-16-315, RELATING TO THE RETIREMENT SYSTEM INVESTMENT COMMISSION, SO AS TO ADD A NONVOTING EX OFFICIO MEMBER, REVISE THE QUALIFICATIONS FOR APPOINTMENT, AND PROVIDE AN ANNUAL SALARY FOR MEMBERS; BY ADDING SECTION 9-16-380 SO AS TO PROVIDE FOR AN ANNUAL FIDUCIARY AUDIT OF THE RETIREMENT SYSTEM INVESTMENT COMMISSION; BY ADDING SECTION 9-16-335 SO AS TO PROVIDE THAT THE ANNUAL ASSUMED RATE OF RETURN ON RETIREMENT SYSTEM INVESTMENTS MUST BE SET BY THE GENERAL ASSEMBLY BY LAW AND TO PROVIDE THAT THE ASSUMED RATE OF RETURN EFFECTIVE JULY 1, 2012, IS SEVEN AND ONE-HALF PERCENT; TO AMEND SECTIONS 9-1-1135, 9-8-185, 9-9-175, AND 9-11-265, RELATING TO MEMBERS' ACCOUNTS IN THE VARIOUS CONTRIBUTORY STATE RETIREMENT SYSTEMS, SO AS TO PROVIDE THAT INTEREST IS NOT PAID ON INACTIVE ACCOUNTS AND TO DEFINE "INACTIVE ACCOUNTS"; TO AMEND SECTION 22-1-15, RELATING TO QUALIFICATIONS FOR MAGISTRATES, SO AS TO PROVIDE AN EXEMPTION FOR CERTAIN MAGISTRATES WHO RETIRE AND ARE SUBSEQUENTLY REAPPOINTED TO THEIR OFFICE WITHIN ONE YEAR, TO PROVIDE FOR STUDIES OF LEGISLATIVE AND STATEWIDE CONSTITUTIONAL OFFICERS COMPENSATION, "SPIKING" IN THE CALCULATION OF AVERAGE FINAL COMPENSATION IN SCRS AND SCPORS, AND DISABILITY RETIREMENT ELIGIBILITY, TO PROVIDE THE AGENCIES CHARGED WITH CONDUCTING THE STUDIES AND TO PROVIDE FOR THE COMPLETION DATE OF THESE STUDIES.

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

Findings

SECTION 1. (A) The General Assembly finds that the five retirement systems administered by the South Carolina Retirement System are of great value to the State of South Carolina. The citizens of the State benefit by attracting a quality workforce that delivers services through the various governmental entities at the state level, the school district level and the local government level. Public employers participating in the systems benefit by offering retirement programs that attract and retain employees. Public employees participating in the systems benefit as working members of public retirement systems that provide for stable retirement income.

(B) The General Assembly further finds that the financial stability and long-term viability of the various systems are threatened by the following factors:

-The funding ratio of South Carolina Retirement System has eroded over the past ten years and is currently in the lowest third of the state and local government defined benefit plans in the United States (126 plans as of July 1, 2011).

-Unanticipated negative returns during the recession of 2008-2009 and aggressive investment assumptions which have not materialized.

-Demographic and economic actuarial assumptions which were overly optimistic.

-Increases to member benefits and increased cost-of-living increases (COLAs) for retirees which were never funded.

Over a year-long period of study by both Senate and House subcommittees, members of the General Assembly received testimony from active employees, system retirees, actuarial consultants, other experts, and the general public about the system and its long-term viability. These hearings made clear that system stability and certainty of benefits to annuitants are paramount and that all parties must share the costs of assuring the financial sustainability of the system over the long term.

(C) The General Assembly further finds that addressing the threats to the long-term sustainability of the system requires shared sacrifice by employers, employees, and system retirees. Thus, employers and employees must pay more to fund the system, and system retirees must understand that future prospective benefit adjustment and other post-retirement prospective benefit adjustments are not inevitable.

(D) The General Assembly further finds that, taken as a whole, the changes made by this act constitute the most reliable and efficient means of addressing the long-term sustainability issues of the system.

The changes made by this act are intended to satisfy the principle of intergenerational equity, that is, pension costs should be allocated among employees, employers and taxpayers on an equitable basis over time and not perpetually pushed into the future or immediately imposed on current taxpayers. In addition, the changes made by this act are intended to recognize and provide for a reasonable margin for adverse experience.

Part I

South Carolina Retirement System

Retirement allowance adjustments, contributions

SECTION 2. A. Article 13, Chapter 1, Title 9 of the 1976 Code is amended by adding:

"Section 9-1-1815. Effective beginning July 1, 2012, and annually thereafter, the retirement allowance received by retirees and their surviving annuitants inclusive of supplemental allowances payable pursuant to the provisions of Sections 9-1-1910, 9-1-1920, and 9-1-1930, must be increased by the lesser of one percent or five hundred dollars. Only those retirees and their surviving annuitants in receipt of an allowance on July first preceding the effective date of the increase are eligible to receive the increase. Any increase in allowance granted pursuant to this section must be included in the determination of any subsequent increase."

B. Article 9, Chapter 1, Title 9 of the 1976 Code is amended by adding:

"Section 9-1-1085. (A) As provided in Sections 9-1-1020 and 9-1-1050, the employer and employee contribution rates for the system beginning in Fiscal Year 2012-2013, expressed as a percentage of earnable compensation, are as follows:

Fiscal Year	Employer Contribution	Employee Contribution
2012-2013	10.60	7.00
2013-2014	10.60	7.50
2014-2015 and after	10.90	8.00

The employer contribution rate set out in this schedule includes contributions for participation in the incidental death benefit plan

provided in Sections 9-1-1770 and 9-1-1775. The employer contribution rate for employers that do not participate in the incidental death benefit plan must be adjusted accordingly.

(B) After June 30, 2015, the board may increase the percentage rate in employer and employee contributions for the system on the basis of the actuarial valuation, but any such increase may not result in a differential between the employee and employer contribution rate for the system that exceeds 2.9 percent of earnable compensation. An increase in the contribution rate adopted by the board pursuant to this section may not provide for an increase in an amount of more than one-half of one percent of earnable compensation in any one year.

(C) If the scheduled employer and employee contributions provided in subsection (A), or the rates last adopted by the board pursuant to subsection (B), are insufficient to maintain a thirty year amortization schedule for the unfunded liabilities of the system, then the board shall increase the contribution rate as provided in subsection (A) or as last adopted by the board in equal percentage amounts for employer and employee contributions as necessary to maintain an amortization schedule of no more than thirty years. Such adjustments may be made without regard to the annual limit increase of one-half percent of earnable compensation provided pursuant to subsection (B), but the differential in the employer and employee contribution rates provided in subsection (A) or subsection (B), as applicable, of this section must be maintained at the rate provided in the schedule for the applicable fiscal year.

(D)(1) After June 30, 2015, if the most recent annual actuarial valuation of the system shows a ratio of the actuarial value of system assets to the actuarial accrued liability of the system (the funded ratio) that is equal to or greater than ninety percent, then the board, effective on the following July first, may decrease the then current contribution rates upon making a finding that the decrease will not result in a funded ratio of less than ninety percent. Any decrease in contribution rates must maintain the 2.9 percent differential between employer and employee contribution rates provided pursuant to subsection (B) of this section.

(2) If contribution rates are decreased pursuant to item (1) of this subsection and the most recent annual actuarial valuation of the system shows a funded ratio of less than ninety percent, then effective on the following July first, and annually thereafter as necessary, the board shall increase the then current contribution rates as provided pursuant to subsection (B) of this section until a subsequent annual actuarial

valuation of the system shows a funded ratio that is equal to or greater than ninety percent.

Definitions

SECTION 3. A. 1. Section 9-1-10 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding a new item after item (18) to read:

"(18A) 'Class Three member' means an employee member of the system with an effective date of membership after June 30, 2012."

2. Section 9-1-10 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding a new item after item (28) to read:

"(28A) 'Rule of ninety' means a requirement that the total of the member's age and the member's creditable service equals at least ninety years."

B. Section 9-1-10(4) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

"(4)(a) 'Average final compensation' with respect to Class One and Class Two members retiring on or after July 1, 1986, means the average annual earnable compensation of a member during the twelve consecutive quarters of his creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. An amount up to and including forty-five days' termination pay for unused annual leave at retirement may be added to the average final compensation. Average final compensation for an elected official may be calculated as the average annual earnable compensation for the thirty-six consecutive months before the expiration of the elected official's term of office.

(b) 'Average final compensation' with respect to Class Three members means the average annual earnable compensation of a member during the twenty consecutive quarters of the member's creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. Termination pay

for unused annual leave at retirement may not be added to the average final compensation."

C. Section 9-1-10(8) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

"(8)(a) 'Earnable compensation' means the full rate of the compensation that would be payable to a member if the member worked the member's full normal working time; when compensation includes maintenance, fees, and other things of value the board shall fix the value of that part of the compensation not paid in money directly by the employer.

(b) For work performed by a member after December 31, 2012, earnable compensation does not include any overtime pay not mandated by the employer."

Contributions

SECTION 4. Section 9-1-1020 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

"Section 9-1-1020. The employee annuity savings fund shall be the account in which shall be recorded the contributions deducted from the earnable compensation of members to provide for their employee annuities. Each employer shall cause to be deducted from the compensation of each member on each and every payroll of such employer for each and every payroll period four percent of his earnable compensation. With respect to each member who is eligible for coverage under the Social Security Act in accordance with the agreement entered into during 1955 in accordance with the provisions of Chapter 7 of this Title; however, such deduction shall, commencing with the first day of the period of service with respect to which such agreement is effective, be at the rate of three percent of the part of his earnable compensation not in excess of four thousand eight hundred dollars, plus five percent of the part of his earnable compensation in excess of four thousand eight hundred dollars. In the case of any member so eligible and receiving compensation from two or more employers, such deductions may be adjusted under such rules as the board may establish so as to be as nearly equivalent as practicable to the deductions which would have been made had the member received all of such compensation from one employer. In determining the amount earnable by a member in a payroll period, the board may

consider the rate of annual earnable compensation of such member on the first day of the payroll period as continuing throughout such payroll period and it may omit deduction from earnable compensation for any period less than a full payroll period if a teacher or employee was not a member on the first day of the payroll period.

Each employer shall certify to the board on each and every payroll or in such other manner as the board may prescribe the amounts to be deducted and such amounts shall be deducted and, when deducted, shall be credited to said employee annuity savings fund, to the individual accounts of the members from whose compensation the deductions were made.

The rates of the deductions, without regard to a member's coverage under the Social Security Act, must be the percentage of earnable compensation as provided pursuant to Section 9-1-1085.

Each department and political subdivision shall pick up the employee contributions required by this section for all compensation paid on or after July 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the United States Internal Revenue Code. For this purpose, each department and political subdivision is deemed to have taken formal action on or before January 1, 2009, to provide that the contributions on behalf of its employees, although designated as employer contributions, shall be paid by the employer in lieu of employee contributions. The department and political subdivision shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The department and political subdivision may pick up these contributions by a reduction in the cash salary of the employee.

The employee, however, must not be given the option of choosing to receive the contributed amount of the pick ups directly instead of having them paid by the employer to the retirement system. Employee contributions picked up shall be treated for all purposes of this section in the same manner and to the extent as employee contributions made before the date picked up.

Payments for unused sick leave, single special payments at retirement, bonus and incentive-type payments, or any other payments not considered a part of the regular salary base are not compensation for which contributions are deductible. Not including Class Three employees, contributions are deductible on up to and including forty-five days' termination pay for unused annual leave. If a member has received termination pay for unused annual leave on more than one occasion, contributions are deductible on up to and including forty-five

days' termination pay for unused annual leave for each termination payment for unused annual leave received by the member. However, only an amount up to and including forty-five days' pay for unused annual leave from the member's last termination payment shall be included in a member's average final compensation calculation for other than Class Three employees."

Contributions

SECTION 5. Section 9-1-1050 of the 1976 Code is amended to read:

"Section 9-1-1050. The employer annuity accumulation fund shall be the account:

(1) in which shall be recorded the reserves on all employee annuities in force and against which shall be charged all employee annuities and all benefits in lieu of employee annuities;

(2) in which must be recorded all reserves for the payment of all employer annuities and other benefits payable from contributions made by employers and against which is charged all employer annuities and other benefits on account of members with prior service credit; and

(3) in which shall be recorded the reserves on all employer annuities granted to members not entitled to prior service credit and against which such employer annuities and benefits in lieu thereof shall be charged.

There shall be paid to the system and credited to the employer annuity accumulation fund contributions by the employers in an amount equal to a certain percentage of the earnable compensation of each member employed by each employer to be known as the 'normal contribution' and an additional amount equal to a percentage of such earnable compensation to be known as the 'accrued liability contribution'. The rate percent of such contributions shall be fixed on the basis of the liabilities of the system as shown by actuarial valuation but may not be less than those required pursuant to Section 9-1-1085."

Contributions

SECTION 6. Section 9-1-1080 of the 1976 Code is amended to read:

"Section 9-1-1080. The total amount payable in each year by each employer for credit to the employer annuity accumulation fund shall not be less than the sum of the rate percent known as the normal contribution rate and the accrued liability contribution rate of the total

earnable compensation of all members during the preceding year. The aggregate payment by employers shall be sufficient, when combined with the amount in the fund, to provide the employer annuities and other benefits payable out of the fund during the year then current."

Service credit purchase

SECTION 7. A. Section 9-1-1140 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

"Section 9-1-1140. (A) An active member may establish service credit for any period of paid public service by making an actuarially neutral payment to the system as determined by the actuary for the board based on the member's current age and service credit, but not less than sixteen percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member's career highest fiscal year salary shall include the member's salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated. A member may not establish credit for a period of public service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for public service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

(B) An active member may establish service credit for any period of paid educational service by making an actuarially neutral payment to the system determined by the actuary for the board based on the member's current age and service credit, but not less than sixteen percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member's career highest fiscal year salary shall include the member's salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of

less than a year must be prorated. A member may not establish credit for a period of educational service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for educational service to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code.

(C) An active member may establish up to six years of service credit for any period of military service, if the member was discharged or separated from military service under conditions other than dishonorable, by making an actuarially neutral payment to the system to be determined by the actuary for the board based on the member's current age and service credit, but not less than sixteen percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member's career highest fiscal year salary shall include the member's salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(D) An active member on an approved leave of absence from an employer that participates in the system who returns to covered employment within four years may purchase service credit for the period of the approved leave, but may not purchase more than two years of service credit for each separate leave period, by making an actuarially neutral payment to the system to be determined by the actuary for the board based on the member's current age and service credit, but not less than sixteen percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member's career highest fiscal year salary shall include the member's salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(E) An active member who has five or more years of earned service credit may establish up to five years of nonqualified service by making an actuarially neutral payment to the system to be determined by the

actuary for the board based on the member's current age and service credit, but not less than thirty-five percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member's career highest fiscal year salary shall include the member's salary while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education if the member has purchased service rendered under any of these programs pursuant to subsection (F) of this section. Periods of less than a year must be prorated.

(F) An active member may establish service credit for any period of service in which the member participated in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education, by making an actuarially neutral payment to the system to be determined by the actuary for the board based on the member's current age and service credit, but not less than sixteen percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. A member's career highest fiscal year salary shall include the member's salary while participating in the system or in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education. Periods of less than a year must be prorated. A member may not establish credit for a period of service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit under this subsection to the extent such service purchase would violate Section 415 or any other provision of the Internal Revenue Code. Service purchased under this subsection is 'earned service' and counts toward the required five or more years of earned service necessary for benefit eligibility. Compensation earned for periods purchased under this subsection while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education must be treated as earnable compensation and must be used in calculating a member's average final compensation. A member purchasing service under this subsection who has funds invested in a

TIAA Traditional account under a TIAA-CREF Retirement Annuity contract is eligible to make a plan to plan transfer in accordance with the terms of that contract.

(G) An active member who previously withdrew contributions from the system may reestablish the service credited to the member at the time of the withdrawal of contributions by repaying the amount of the contributions previously withdrawn, plus regular interest from the date of the withdrawal to the date of repayment to the system.

(H) An active member establishing retirement credit pursuant to this chapter may establish that credit by means of payroll deducted installment payments. Interest must be paid on the unpaid balance of the amount due at the rate of the prime rate plus two percent a year.

(I) An employer, at its discretion, may pay to the system all or a portion of the cost for an employee's purchase of service credit under this chapter. Any amounts paid by the employer under this subsection for all purposes must be treated as employer contributions.

(J) Service credit purchased under this section is not 'earned service' and does not count toward the required five or more years of earned service necessary for benefit eligibility except:

(1) earned service previously withdrawn and reestablished;

(2) service rendered while participating in the State Optional Retirement Program, the Optional Retirement Program for Teachers and School Administrators, or the Optional Retirement Program for Publicly Supported Four-Year and Postgraduate Institutions of Higher Education that has been purchased pursuant to subsection (F); or

(3) service earned as a participant in the system, the South Carolina Police Officers Retirement System, the Retirement System for Members of the General Assembly, or the Retirement System for Judges and Solicitors that is transferred to or purchased in the system.

(K) A member may purchase each type of service under this section once each fiscal year.

(L) The board shall promulgate regulations and prescribe rules and policies, as necessary, to implement the service purchase provisions of this chapter.

(M) At retirement, after March 31, 1991, a Class One or Class Two member shall receive credit for not more than ninety days of his unused sick leave from the member's last employer at no cost to the member. The leave must be credited at a rate where twenty days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

(N) An employee drawing workers' compensation who is on a leave of absence for a limited period may voluntarily contribute on his contractual salary, to be matched by the employer."

B. Upon approval of this act by the Governor, this section takes effect January 2, 2013.

Retirement eligibility

SECTION 8. Section 9-1-1510 of the 1976 Code, as last amended by Act 1 of 2001, is further amended to read:

"Section 9-1-1510. (A) A Class One or Class Two member may retire upon written application to the system setting forth at what time, no more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if the member at the time specified for the member's service retirement has:

(1) five or more years of earned service;

(2) attained the age of sixty years or has twenty-eight or more years of creditable service; and

(3) separated from service.

(B) A Class Three member may retire upon written application to the system setting forth at what time, no more than ninety days before nor more than six months after the execution and filing of the application, the member desires to be retired, if the member at the time specified for the member's service retirement has:

(1) eight or more years of earned service;

(2) attained the age of sixty years or satisfied the rule of ninety requirement; and

(3) separated from service.

(C) A member who is an elected official whose annual compensation is less than the earnings limitation pursuant to Section 9-1-1790 and who is otherwise eligible for service retirement may retire for purposes of this section without a break in service."

Early retirement eligibility

SECTION 9. Section 9-1-1515(A) of the 1976 Code, as last amended by Act 1 of 2001, is further amended to read:

"(A) In addition to other types of retirement provided by this chapter, a Class One or Class Two member may elect early retirement if the member:

(1) has five or more years of earned service;
(2) has attained the age of fifty-five years;
(3) has at least twenty-five years of creditable service; and
(4) has separated from service.

A member electing early retirement shall apply in the manner provided in Section 9-1-1510."

Disability retirement

SECTION 10. A. Section 9-1-1540 of the 1976 Code, as last amended by Act 162 of 2010, is further amended to read:

"Section 9-1-1540. (A) Upon the application of a member in service or of the member's employer that is received by the system before January 1, 2014, a member in service on or after July 1, 1970, who has the earned service required pursuant to Section 9-1-1510 for the member's class, or a contributing member who is disabled as a result of an injury arising out of and in the course of the performance of the member's duties regardless of length of membership on or after July 1, 1985, may be retired by the board not less than thirty days and not more than nine months next following the date of filing the application on a disability retirement allowance if the system, after a medical examination of the member, certifies that the member is mentally or physically incapacitated for the further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. For purposes of this section, a member is considered to be in service on the date the application is filed if the member is not retired and the last day the member was employed by a covered employer in the system occurred not more than ninety days prior to the date of filing.

The South Carolina Retirement System may contract with the Department of Vocational Rehabilitation to evaluate the medical evidence submitted with the disability application relative to the job being performed and make recommendations to the medical board. The system may approve a disability retirement subject to the member participating in vocational rehabilitation with the Department of Vocational Rehabilitation. Upon determination by the department that a member retired on disability is able to reenter the job market and work is available, the retirement system may adjust the benefit paid by

the system in accordance with Sections 9-1-1580, 9-1-1590, 9-9-60, and 9-11-90.

(B)(1) Upon the application of a member in service or of the member's employer received by the system after December 31, 2013, a member in service who has the earned service required for the member's class pursuant to Section 9-1-1510, or who is disabled as a result of an injury arising out of and in the course of the performance of the member's duties regardless of length of membership, may be retired by the board if the member is determined to be disabled pursuant to subsection (B)(2) of this section. For purposes of this section, a member is considered to be in service on the date the application is filed if the last day the member was employed by a covered employer in the system occurred not more than ninety days before the date of filing and, if the member has retired on a service retirement allowance, the member's date of retirement occurred not more than ninety days before the date of filing.

(2) A member whose application for disability retirement benefits was received by the system after December 31, 2013, is considered disabled if the member qualifies for the payment of Social Security disability benefits and is eligible for benefits pursuant to this section upon proof of the disability, provided that the date of disability established by the Social Security Administration falls within one year after the last day the member was employed by a covered employer in the system. The member shall submit to the retirement system the Social Security Award Notice certifying the date of entitlement for disability benefits as issued by the Social Security Administration. Upon final approval by the system, disability benefits become effective on the date of entitlement as established by the Social Security Administration or the day after the member's last day on the payroll of a covered employer, whichever is later."

B. Section 9-1-1560 of the 1976 Code, as last amended by Act 166 of 1993, is further amended to read:

"Section 9-1-1560. (A) Except as provided in subsection (E) of this section, upon retirement for disability on or after July 1, 1976, a Class One member shall receive a service retirement allowance if he has attained the age of sixty-five years. Otherwise he shall receive a disability retirement allowance which shall be computed as follows:

(1) Such allowance shall be equal to the service retirement allowance which would have been payable had he continued in service to age sixty-five based on the average final compensation, minus the

actuarial equivalent of the contribution the member would have made during such continued service, with an interest rate of four percent per annum.

(2) Notwithstanding the foregoing provisions, any Class One member whose creditable service commenced prior to July 1, 1976, shall receive not less than the benefit which would have been provided by the provisions of this section in effect immediately prior to July 1, 1976.

(B) Except as provided in subsection (E) of this section, upon retirement for disability on or after May 19, 1973, a Class Two member shall receive a service retirement allowance if he has attained the age of sixty-five years. Otherwise he shall receive a disability retirement allowance which shall be computed as follows:

(1) Such allowance shall be equal to the service retirement allowance which would have been payable had he continued in service to age sixty-five based on the average final compensation, minus the actuarial equivalent of the contribution the member would have made during such continued service, with an interest rate of four percent per annum.

(2) Notwithstanding the foregoing provisions, any Class Two member whose creditable service commenced prior to July 1, 1964, shall receive not less than the benefit provided by subsection (A) of this section.

(C) Except as provided in subsection (E) of this section, employees retired on disability subsequent to July 1, 1982, must have their benefits recalculated in accordance with the provisions of item (1) of subsection (A) and item (2) of subsection (B).

(D) Notwithstanding any other provision of this section, upon retirement for disability after October 15, 1992, at any age, a member must receive a disability retirement allowance equal to at least fifteen percent of his average final compensation.

(E)(1) Upon retirement for disability based on an application for disability benefits received by the system after December 31, 2013, a Class One member shall receive a disability retirement allowance equal to one and forty-five hundredths percent of his average final compensation multiplied by the number of years of his creditable service as of the date of retirement, without reduction because of commencement before the normal retirement date.

(2) Upon retirement for disability based on an application for disability benefits received by the system after December 31, 2013, a Class Two or Class Three member shall receive a disability retirement allowance equal to one and eighty-two hundredths percent of his

average final compensation, multiplied by the number of years of his creditable service as of the date of retirement, without reduction because of commencement before the normal retirement date."

C. Section 9-1-1570 of the 1976 Code is amended to read:

"Section 9-1-1570. (A) Once each year during the first five years following the retirement of a member on a disability retirement allowance and once in every three-year period thereafter the board may, and upon his application, require any disability beneficiary who has not yet attained the age of sixty-five years to undergo a medical examination to be made at the place of residence of the beneficiary or other place mutually agreed upon by a physician designated by the board. If any disability beneficiary who has not yet attained the age of sixty-five years refuses to submit to at least one medical examination in any such year by a physician designated by the board the member's disability retirement allowance may be discontinued until the member's withdrawal of refusal and if the member's refusal continues for one year, all the member's rights in and to the member's disability retirement allowance may be revoked by the board.

(B) A member who is retired on a disability retirement allowance based upon an application received by the system after December 31, 2013, and who has not yet attained the age of sixty-five years annually shall provide proof to the system that the member remains qualified for the receipt of Social Security disability benefits within thirty days of the anniversary of his retirement date. A member's disability retirement allowance ceases upon a determination by the Social Security Administration that the member is no longer entitled to Social Security disability benefits for any reason. If any disability beneficiary who has not yet attained the age of sixty-five years refuses to provide proof of disability required by the board, the member's disability retirement allowance must be discontinued until the member provides such proof. If a member's refusal to provide proof that the member remains qualified for Social Security disability benefits continues for one year, all of the member's rights in and to the member's disability retirement allowance pursuant to Section 9-1-1540 may be revoked by the board."

Retirement allowance calculation

SECTION 11. Section 9-1-1550 of the 1976 Code, as last amended by Act 1 of 2001, is further amended by adding a new subsection at the end to read:

"(C) Upon retirement from service after June 30, 2012, a Class Three member shall receive a service retirement allowance computed as follows:

(1) If the member's service retirement date occurs on or after his sixty-fifth birthday or if the member has satisfied the rule of ninety requirement, the allowance must be equal to one and eighty-two hundredths percent of the member's average final compensation, multiplied by the number of years of the member's creditable service.

(2) If the member's service retirement date occurs before his sixty-fifth birthday and before he satisfies the rule of ninety requirement the member's service retirement allowance is computed as in item (1) of this subsection but is reduced by five-twelfths of one percent thereof for each month, prorated for periods less than a month, by which his retirement date precedes the first day of the month coincident with or next following his sixty-fifth birthday."

Return of contributions, allowance eligibility

SECTION 12. The first undesignated paragraph of Section 9-1-1650 of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

"If a member ceases to be a teacher or employee except by death or retirement, the member must be paid within six months after the member's demand for payment, but not less than ninety days after ceasing to be a teacher or employee, the sum of the member's contributions and the accumulated regular interest on the contributions. If the member has five or more years of earned service or eight or more years of such service for a Class Three member, and before the time the member's membership would otherwise terminate, elects to leave these contributions in the system, the member, unless these contributions are paid to him as provided by this section before the attainment of age sixty, remains a member of the system and is entitled to receive a deferred retirement allowance beginning at age sixty computed as a service retirement allowance in accordance with Section 9-1-1550(A) or (B) for Class One and Class Two members and Section 9-1-1550(C)

for Class Three members. The employee annuity must be the actuarial equivalent at age sixty of the member's contributions with the interest credits on the contributions, if any, as allowed by the board. If a member dies before retirement, the amount of the member's accumulated contributions must be paid to the member's estate or to the person the member nominated by written designation, duly acknowledged and filed with the board."

Retirement allowance eligibility

SECTION 13. Section 9-1-1660(A) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

"(A) The person nominated by a member to receive the full amount of the member's accumulated contributions if the member dies before retirement may, if the member:

(1) has five or more years of earned service or eight or more years of such service for a Class Three member;

(2) dies while in service; and

(3) has either attained the age of sixty years or has accumulated fifteen years or more of creditable service, elect to receive in lieu of the accumulated contributions an allowance for life in the same amount as if the deceased member had retired at the time of the member's death and had named the person as beneficiary under an election of Option B of Section 9-1-1620(A).

For purposes of the benefit calculation, a member who is not yet eligible for service retirement is assumed to be sixty years of age."

Return to covered employment

SECTION 14. A. Section 9-1-1790(A) of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

"(A)(1) 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 this system or any other system provided in this title 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 the employment continues for at least forty-eight

consecutive months, the provisions of Section 9-1-1590 apply. If a retired member of the system returns to employment covered by this system or any other system provided in this title 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.

(2) The earnings limitation imposed pursuant to this item does not apply if the member meets at least one of the following qualifications:

(a) the member retired before January 2, 2013;

(b) the member has attained the age of sixty-two years at retirement; or

(c) 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."

B. Upon approval of this act by the Governor, this section takes effect January 2, 2013.

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SECTION 15. Section 9-1-2210 of the 1976 Code, as last amended by Act 112 of 2007, is further amended by adding a new subsection at the end to read:

"(J) Notwithstanding any other provision of this section, a member who begins participation after June 30, 2012, shall end his participation no later than the fifth anniversary of the date the member commenced participation in the program, or June 30, 2018, whichever is earlier. A member's participation may not continue after June 30, 2018, under any circumstance."

Repeal

SECTION 16. Section 9-1-1810 of the 1976 Code is repealed. Section 9-1-2210 of the 1976 Code is repealed effective July 1, 2018, for all purposes except the distribution of program accounts existing on that date.

Part II

Retirement System for Members of the General Assembly
of the State of South Carolina

System prospectively closed

SECTION 17. Chapter 9, Title 9 of the 1976 Code is amended by adding:

"Section 9-9-5.(A) Notwithstanding any other provision of law, the Retirement System for Members of the General Assembly of the State of South Carolina (GARS) established pursuant to this chapter is closed to nonmembers and persons who otherwise would have been required or eligible to become members of GARS, instead shall join the South Carolina Retirement System or the State Optional Retirement Program in the manner provided by law.

(B) For purposes of this section, a 'nonmember' is an individual first elected to serve in the General Assembly at or after the general election of 2012.

(C) Nothing in this section may be construed to alter or otherwise diminish the rights of persons who are active contributing members or special contributing members of the Retirement System for Members of the General Assembly of the State of South Carolina or who are retired members of that system or who are beneficiaries of deceased members of that system."

Member contributions

SECTION 18. Section 9-9-120(2) of the 1976 Code is amended to read:

"(2) Each member of the System shall contribute eleven percent of earnable compensation in each calendar year, up to twenty-two years of credited service, commencing with the calendar year 2013. Such contributions shall be made through payroll deductions in the case of members of the General Assembly or through direct remittance by contributing special members as set forth in Item (2)(ii) of Section 9-9-40. The twenty-two year limitation provided for in this item shall not apply to any member of the General Assembly during periods of active service."

Part III

South Carolina Police Officers Retirement System

Retirement allowance adjustment, contributions

SECTION 19. A. Article 1, Chapter 11, Title 9 of the 1976 Code is amended by adding:

"Section 9-11-312. Effective July 1, 2012, and annually thereafter, the retirement allowance received by retirees and their surviving annuitants pursuant to the provisions of this chapter, inclusive of Section 9-11-140 must be increased by the lesser of one percent or five hundred dollars. Only those retirees and their surviving annuitants in receipt of an allowance on July first preceding the effective date of the increase are eligible to receive the increase. Any increase in allowance granted pursuant to this section must be included in the determination of any subsequent increase."

B. Article 1, Chapter 11, Title 9 of the 1976 Code is amended by adding:

"Section 9-11-225. (A) As provided in Sections 9-11-210 and 9-11-220, the employer and employee contribution rates for the system beginning in Fiscal Year 2012-2013, expressed as a percentage of earnable compensation, are as follows:

Fiscal Year	Employer Contribution	Employee Contribution
2012-2013	12.30	7.00
2013-2014	12.50	7.50
2014-2015 and after	13.00	8.00

The employer contribution rate set out in this schedule includes contributions for participation in the incidental death benefit plan provided in Sections 9-11-120 and 9-11-125 and for participation in the accidental death benefit program provided in Section 9-11-140. The employer contribution rate for employers that do not participate in these programs must be adjusted accordingly.

(B) After June 30, 2015, the board may increase the percentage rate in employer and employee contributions for the system on the basis of the actuarial valuation, but any such increase may not result in a differential between the employee and employer contribution rate for

that system that exceeds 5.00 percent of earnable compensation. An increase in the contribution rate adopted by the board pursuant to this section may not provide for an increase in an amount of more than one-half of one percent of earnable compensation in any one year.

(C) If the scheduled employer and employee contributions provided in subsection (A), or the rates last adopted by the board pursuant to subsection (B), are insufficient to maintain a thirty year amortization schedule for the unfunded liabilities of the system, then the board shall increase the contribution rate as provided in subsection (A) or as last adopted by the board in equal percentage amounts for employer and employee contributions as necessary to maintain an amortization schedule of no more than thirty years. Such adjustments may be made without regard to the annual limit increase of one-half percent of earnable compensation provided pursuant to subsection (B), but the differential in the employer and employee contribution rates provided in subsection (A) or subsection (B), as applicable, of this section must be maintained at the rate provided in the schedule for the applicable fiscal year.

(D)(1) After June 30, 2015, if the most recent annual actuarial valuation of the system shows a ratio of the actuarial value of system assets to the actuarial accrued liability of the system (the funded ratio) that is equal to or greater than ninety percent, then the board, effective on the following July first, may decrease the then current contribution rates upon making a finding that the decrease will not result in a funded ratio of less than ninety percent. Any decrease in contribution rates must maintain the 5.0 percent differential between employer and employee contribution rates provided pursuant to subsection (B) of this section.

(2) If contribution rates are decreased pursuant to item (1) of this subsection and the most recent annual actuarial valuation of the system shows a funded ratio of less than ninety percent, then effective on the following July first, and annually thereafter as necessary, the board shall increase the then current contribution rates as provided pursuant to subsection (B) of this section until a subsequent annual actuarial valuation of the system shows a funded ratio that is equal to or greater than ninety percent."

Definitions

SECTION 20. A. Section 9-11-10(7) of the 1976 Code, as last amended by Act 387 of 2000, is further amended to read:

"(7)(a) 'Average final compensation' after July 1, 1986, for Class One and Class Two members means the average annual compensation of a member during the twelve consecutive quarters of the member's creditable service on which regular contributions as a member were made to the system producing the highest average; a quarter means a period January through March, April through June, July through September, or October through December. An amount up to and including forty-five days' termination pay for unused annual leave at retirement may be added to the average final compensation. Average final compensation for an elected official may be calculated as the average annual earnable compensation for the thirty-six consecutive months before the expiration of his term of office.

(b) 'Average final compensation' for Class Three members means the average annual earnable compensation of a member during the twenty consecutive quarters of the member's creditable service on which regular contributions as a member were made to the system producing the highest such average; a quarter means a period January through March, April through June, July through September, or October through December. Termination pay for unused annual leave at retirement may not be added to the average final compensation."

B. Section 9-11-10 of the 1976 Code, as last amended by Act 153 of 2005, is further amended by adding a new item after item (11) to read:

"(11A) 'Class Three member' means an employee member of the system with an effective date of membership after June 30, 2012."

Service credit purchase

SECTION 21. A. Section 9-11-50 of the 1976 Code, as last amended by Act 311 of 2008, is further amended to read:

"Section 9-11-50. (A) An active member may establish service credit for any period of paid public service by making an actuarially neutral payment to the system to be determined by the actuary for the board, based on the member's current age and service credit, but not less than sixteen percent of the member's current salary or career highest fiscal year salary, whichever is greater, for each year of credit purchased. Periods of less than a year must be prorated. A member may not establish credit for a period of public service for which the member also may receive a retirement benefit from another defined benefit retirement plan. A member may not establish service credit for

If the last act shown on the opposite page is not complete, it will be continued in the next Advance Sheet.

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Code Commissioner
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