Advance Sheet No. 2 | June 27, 2018 | Pages 1393-1852 Acts 152-253

2018 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.

Ashley Harwell-Beach, Acting Code Commissioner, P.O. Box 11489, Columbia, S.C. 29211

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

Steele Creek
Tega Cay
Tirzah
Tools Fork
University
Waterstone
Windjammer
Wylie
York No. 1
York No. 2

(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map on file with the Revenue and Fiscal Affairs Office, or its successor agency, designated as document P-91-18 and as shown on copies provided to the Board of Voter Registration and Elections of York County by the Revenue and Fiscal Affairs Office.

(C) The polling places for the precincts in subsection (A) must be determined by the Board of Voter Registration and Elections of York County with the approval of a majority of the York County Legislative Delegation."

Time effective

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

Ratified the 3rd day of April, 2018.

Approved the 4th day of April, 2018.

No. 152

(R161, H3591)

AN ACT TO AMEND SECTION 59-152-32, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BENCHMARKS AND OBJECTIVES REQUIRED AS PART OF THE FIRST STEPS TO SCHOOL READINESS COMPREHENSIVE LONG-RANGE INITIATIVE, SO AS TO PROVIDE THE BENCHMARKS AND OBJECTIVES MUST BE APPROVED BY THE FIRST STEPS TO SCHOOL READINESS BOARD OF TRUSTEES AND POSTED ON THE INTERNET WEBSITE OF

THE STATE OFFICE OF FIRST STEPS TO SCHOOL READINESS; TO AMEND SECTION 59-152-33, RELATING TO THE FIRST STEPS TO SCHOOL READINESS ASSESSMENT, SO AS TO IMPOSE CERTAIN REQUIREMENTS FOR REPORTING AND USES OF THE RESULTS OF THE ASSESSMENT; TO AMEND SECTION 59-152-50, RELATING TO MISCELLANEOUS REPORTING REQUIREMENTS OF THE STATE OFFICE OF FIRST STEPS TO SCHOOL READINESS, SO AS TO REVISE THE REQUIREMENTS; TO AMEND SECTION 59-152-70, RELATING TO FIRST STEPS PARTNERSHIP BOARDS, SO AS TO PROVIDE THE STATE OFFICE OF FIRST STEPS TO SCHOOL READINESS ANNUALLY SHALL PUBLISH THE COMPREHENSIVE PLANS OF THESE BOARDS ON THE INTERNET WEBSITE OF THE OFFICE, TO LIMIT THE PERIOD OF TIME IN WHICH LOCAL OFFICES MAY INCREASE THEIR ESTABLISHED OVERHEAD COST RATES, AND TO PROVIDE LOCAL PARTNERSHIPS THAT ARE NOT PART OF MULTICOUNTY PARTNERSHIPS AND EXCEED THEIR OVERHEAD COST RATES ARE INELIGIBLE TO RECEIVE STATE FUNDS; TO AMEND SECTION 63-11-1710, RELATING TO THE SOUTH CAROLINA FIRST STEPS TO SCHOOL READINESS BOARD OF TRUSTEES, SO AS TO REQUIRE THE BOARD ANNUALLY TO PROVIDE ACCOUNTABILITY REPORTS REQUIRED OF STATE AGENCIES; TO AMEND SECTION 63-11-1720, RELATING TO THE STATE OFFICE OF FIRST STEPS STUDY COMMITTEE, SO AS TO DELETE PROVISIONS CONCERNING THE COMMITTEE AND TO PROVIDE FOR LEGISLATIVE REVIEW OF THE STATE OFFICE OF FIRST STEPS TO SCHOOL READINESS IF THE OFFICE IS NOT REVIEWED BY THE HOUSE AND SENATE OVERSIGHT COMMITTEES WITHIN A PRESCRIBED TIME PERIOD; TO AMEND SECTION 63-11-1740, RELATING TO THE ADMINISTRATION OF THE STATE OFFICE OF FIRST STEPS TO SCHOOL READINESS, SO AS TO REQUIRE THE BOARD TO SUBMIT JUSTIFICATIONS AND RECOMMENDATIONS REGARDING THE SALARY OF ITS EXECUTIVE DIRECTOR TO THE AGENCY HEAD SALARY COMMISSION; TO AMEND ACT 287 OF 2014, RELATING TO THE FIRST STEPS TO SCHOOL READINESS INITIATIVE, SO AS TO REPEAL A SUNSET PROVISION AND TO REAUTHORIZE THE INITIATIVE TO JUNE 30, 2025; AND TO REPEAL SECTION

63-11-1735 RELATING TO THE BABYNET INTERAGENCY EARLY INTERVENTION SYSTEM.

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

Benchmarks and objectives

SECTION 1. Section 59-152-32(A)(2) of the 1976 Code is amended to read:

"(2) establish specific benchmarks and objectives for use by the board of trustees, local partnership boards, and any agency that administers a program to benefit preschool children. The benchmarks and objectives must be approved by the board and posted on the website of the Office of First Steps;"

Assessment reporting and uses

SECTION 2. Section 59-152-33(D) of the 1976 Code is amended to read:

"(D) The South Carolina First Steps to School Readiness Board of Trustees shall support the implementation of the school readiness assessment and must provide professional development to support the readiness assessment for teachers and parents of programs supported with First Steps funds. The board shall utilize the annual aggregate literacy and other readiness assessment information in establishing standards and practices to support all early childhood providers served by First Steps. The South Carolina First Steps to School Readiness Board of Trustees shall report the results of the kindergarten readiness assessment by state and by county on the annual report to the General Assembly required in Section 59-152-50(6), and use the results to assist county partnerships to support local initiatives to improve readiness for all students."

First Step Office reporting duties

SECTION 3. Section 59-152-50 of the 1976 Code is amended to read:

"Section 59-152-50. Under supervision of the South Carolina First Steps to School Readiness Board of Trustees, there is created an Office of South Carolina First Steps to School Readiness. The office shall:

(1) provide to the board information on best practice, successful strategies, model programs, and financing mechanisms;

(2) review the local partnerships' plans and budgets in order to provide technical assistance and recommendations regarding local grant proposals and improvement in meeting statewide and local goals;

(3) provide technical assistance, consultation, and support to local partnerships to facilitate their success including, but not limited to, model programs, strategic planning, leadership development, best practice, successful strategies, collaboration, financing, and evaluation;

(4) evaluate each program funded by the South Carolina First Steps to School Readiness Board of Trustees on a regular cycle to determine its effectiveness and whether it should continue to receive funding;

(5) recommend to the board the applicants meeting the criteria for First Steps partnerships and the grants to be awarded;

(6) submit an annual report to the board, the House Ways and Means Committee, the House Education and Public Works Committee, the Senate Finance Committee, and the Senate Education Committee by December first which includes, but is not limited to, the following information:

(a) the needs and resources available to meet the goals and purposes of the First Steps to School Readiness initiative statewide, to include each local partnership;

(b) a list of risk factors the office considers to affect school readiness;

(c) identification of areas where client-level data is not available;

(d) an explanation of how First Steps programs reach the most at-risk children;

(e) the ongoing progress and results of the First Steps to School Readiness initiative statewide and locally;

(f) fiscal information on the expenditure of funds, and recommendations and legislative proposals to further implement the South Carolina First Steps to School Readiness initiative statewide;

(g) kindergarten readiness results for the prior school year as well as longitudinal data to document progress toward improving kindergarten readiness;

(h) annual and five-year goals to serve a high proportion of at-risk children in the State along with a plan and timetable to reach the goals that align to the benchmarks and objectives established by the board;

(i) the evidence-based and evidence-informed programs provided and number of children and families served for the past three fiscal years. The data must include the percentage of total at-risk children served by the initiative;

(j) the total amount of state, local, federal, and other revenues received and the total amount of these funds expended by the State Office of First Steps and by each local partnership for services to children and families;

(k) availability of high-quality and affordable professional development and high-impact strategies such as coaching for child care providers to include the number of individuals, by partnership, who receive the professional development;

(l) innovative practices in counties that are making progress toward the benchmarks and objectives;

(m) technical assistance provided by State Office of First Steps to county partnerships with information related to the type of assistance provided and outcomes of the assistance;

(n) evidence of each local partnership's collaboration with public and private stakeholders; and

(o) performance reviews of the local partnership boards referenced in Section 59-152-70(F);

(7) provide for ongoing data collection. Before June 30, 2015, the board shall develop a response to the November 2014 external evaluation of each prevalent program and the overall goals of the initiative, as provided in Section 59-125-160. The office shall contract with an external evaluator to develop a schedule for an in-depth and independent performance audit designed to measure the success of each prevalent program in regard to its success in supporting the goals of the State Board and those set forth in Section 59-152-20 and Section 59-152-30. Results of all external performance audits must be published in the First Steps annual report;

(8) coordinate the First Steps to School Readiness initiative with all other state, federal, and local public and private efforts to promote good health and school readiness of young children and support for their families;

(9) complete an annual accountability report pursuant to Section 1-1-820 and identify key program area descriptions and expenditures and link these to key financial and performance results measures, and provide this report to the General Assembly to post on its Internet website; and

(10) submit to the Agency Head Salary Commission, pursuant to Sections 8-11-160 and 8-11-165, justification of and recommendations for the salary and any salary increases for the Executive Director of the South Carolina Office of First Steps to School Readiness."

Partnership boards, plans, reports, overhead rates

SECTION 4. Section 59-152-70(A) and (B) is amended to read:

"(A) A First Steps Partnership Board shall, among its other powers and duties:

(1) adopt bylaws as established by the First Steps to School Readiness Board to effectuate the provisions of this chapter which must include the creation of a periodic meeting schedule;

(2) coordinate a collaborative effort at the county or multicounty level which will bring the community together to identify the area needs related to the goals of First Steps to School Readiness; develop a strategic long-term plan for meeting those needs; develop specific initiatives to implement the elements of the plan; and integrate service delivery where possible;

(3) coordinate and oversee the implementation of the comprehensive strategic plan including, but not limited to, direct service provision, contracting for service provision, and organization and management of volunteer programs;

(4) effective July 1, 2016, each partnership's comprehensive plan shall include the following core functions:

(a) service as a local portal connecting families of preschool children to community-based services they may need or desire to ensure the school readiness of their children;

(b) service as a community convener around the needs of preschool children and their families; and

(c) support of state-level school readiness priorities as determined by the State Board;

(5) update a needs assessment every three years;

(6) implement fiscal policies and procedures as required by the First Steps office and as needed to ensure fiscal accountability of all funds appropriated to the partnership;

(7) keep accurate records of the partnership's board meetings, board member's attendance, programs, and activities for annual submission to the First Steps to School Readiness Board of Trustees;

(8) collect information and submit an annual report by October first to the First Steps to School Readiness Board of Trustees, and otherwise participate in the annual review and the three-year evaluation of operations and programs. Before December 1, 2017, and annually before December first thereafter, the Office of South Carolina First Steps shall publish each local partnership's comprehensive plan and annual

report on the office's website. Reports must include, but not be limited to:

(a) determination of the current level and data pertaining to the delivery and effectiveness of services for young children and their families, including the numbers of preschool children and their families served;

(b) strategic goals for increased availability, accessibility, quality, and efficiency of activities and services for young children and their families which will enable children to reach school ready to succeed;

(c) monitoring of progress toward strategic goals;

(d) report on implementation activities;

(e) recommendations for changes to the strategic plan which may include new areas of implementation;

(f) evaluation and report of program effectiveness and client satisfaction before, during, and after the implementation of the strategic plan, where available; and

(g) estimation of cost savings attributable to increased efficiency and effectiveness of delivery of services to young children and their families, where available.

(B) Each local partnership may, in the performance of its duties, employ or acquire staff pursuant to the local partnership bylaws established by the South Carolina First Steps School to Readiness Board of Trustees. Overhead costs of a First Step partnership's operations may not exceed eight percent of the total state funds appropriated for partnership grants. The South Carolina First Steps to School Readiness Board of Trustees shall contract with an independent cost accountant to provide recommendations as to an adequate, and not excessive, overhead cost rate for individual partnerships no later than July 1, 2017. Once these recommendations are received, the First Steps to School Readiness Board of Trustees may adjust the overhead percentage for the local partnership. Once the overhead rates are established, the rates may not be amended or revised for at least five years, and the board may not grant a waiver from this provision to the local partnership. Local partnerships that are not part of a multicounty partnership and exceed the overhead cost rate are ineligible to receive state funds."

State Board of Trustees, administrative responsibilities

SECTION 5. Section 63-11-1710 of the 1976 Code is amended to read:

"Section 63-11-1710. (A) There is established the South Carolina First Steps to School Readiness Board of Trustees, an eleemosynary corporation, which shall oversee the South Carolina First Steps to School Readiness initiative, a broad range of innovative early childhood development and education, family support, health services, and prevention efforts to meet critical needs of South Carolina's children through the awarding of grants to partnerships at the county level as provided for in Section 59-152-90.

(B) The board may accept gifts, bequests, and grants from any person or foundation. The fund and grants from the fund shall supplement and augment, but not take the place of, services provided by local, state, or federal agencies. The board of trustees shall carry out activities necessary to administer the fund including assessing service needs and gaps, soliciting proposals to address identified service needs, and establishing criteria for the awarding of grants.

(C) The board must ensure the fiscal and programmatic accountability of the administration of the State Office of First Steps through the submission of annual reports as required by a state agency including, but not limited to, required reports to the Office of the Governor, General Assembly, State Department of Administration, State Fiscal Accountability Authority, Comptroller General, Inspector General, and State Auditor, which includes the annual accountability report, debt collection report, composite bank account report, sole source reportings, annual budget request beginning with the Governor's annual deadline, recovery audits, Inspector General's fraud, waste, and abuse report, and agency head salary commission reports. Required reporting is to be made public on the recipient's website in the same manner in which state agency reports are made public."

Study Committee eliminated, alternate oversight

SECTION 6. Section 63-11-1720 of the 1976 Code is amended to read:

"Section 63-11-1720. (A) There is created the South Carolina First Steps to School Readiness Board of Trustees which must be chaired by the Governor, or his designee, and must include the State Superintendent of Education, or his designee, who shall serve as ex officio voting members of the board.

(B) In making the appointments specified in subsection (C)(1), (2), and (3) of this section, the Governor, President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall seek to

ensure diverse geographical representation on the board by appointing individuals from each congressional district as possible.

(C) The board shall include members appointed in the following manner:

(1) the Governor shall appoint one member from each of the following sectors:

(a) parents of young children;
(b) business community;
(c) early childhood educators;
(d) medical providers;
(e) child care and development providers; and
(f) the General Assembly, one member from the Senate and one member from the House of Representatives;

(2) the President Pro Tempore of the Senate shall appoint one member from each of the following sectors:

(a) parents of young children;
(b) business community;
(c) early childhood educators; and
(d) medical or child care and development providers;

(3) the Speaker of the House of Representatives shall appoint one member from each of the following sectors:

(a) parents of young children;
(b) business community;
(c) early childhood educators; and
(d) medical or child care and development;

(4) the Chairman of the Senate Education Committee or his designee;

(5) the Chairman of the House Education and Public Works Committee or his designee; and

(6) the chief executive officer of each of the following shall serve as an ex officio voting member:

(a) Department of Social Services;
(b) Department of Health and Environmental Control;
(c) Department of Health and Human Services;
(d) Department of Disabilities and Special Needs;
(e) State Head Start Collaboration Officer; and
(f) Children's Trust of South Carolina.

(D) The terms of the members are for four years and until their successors are appointed and qualify. The appointments of the members from the General Assembly shall be coterminous with their terms of office.

(E) Vacancies for any reason must be filled in the manner of the original appointment for the unexpired term. A member may not serve more than two terms or eight years, whichever is longer. A member who misses more than three consecutive meetings without excuse or a member who resigns must be replaced in the same manner as his predecessor. Members may be paid per diem, mileage, and subsistence as established by the board not to exceed standards provided by law for boards, committees, and commissions. A complete report of the activities of the First Steps to School Readiness Board of Trustees must be made annually to the General Assembly.

(F) In the event South Carolina First Steps to School Readiness is not reviewed by the House and Senate Legislative Oversight Committees within the period prescribed by Section 2-2-20, a joint House and Senate committee shall conduct a review. The joint committee shall consist of five members appointed by the Chairman of the House Education and Public Works Committee and five members appointed by the Chairman of the Senate Education Committee. The committee must be co-chaired by one member of the House and one member of the Senate. A report must be provided to the Speaker of the House and President Pro Tempore of the Senate within one hundred eighty days after the first meeting of the joint committee."

State Board of Trustees, salary duties

SECTION 7. Section 63-11-1740 of the 1976 Code is amended to read:

"Section 63-11-1740. The South Carolina First Steps to School Readiness Board of Trustees shall employ, by a majority vote, a director of the Office of South Carolina First Steps to School Readiness and other staff as necessary to carry out the South Carolina First Steps to School Readiness initiative, established in Title 59, Chapter 152, and other duties and responsibilities as assigned by the board. The director, with the approval of the board, shall hire such staff as is considered necessary to carry out the provisions of the initiative. The South Carolina First Steps to School Readiness Board of Trustees shall submit to the Agency Head Salary Commission, pursuant to Sections 8-11-160 and 8-11-165, justification of and recommendations for the salary and any salary increases for the Executive Director of the South Carolina Office of First Steps to School Readiness."

Sunset provision repealed, reauthorization

SECTION 8. Section 20B. of Act 287 of 2014 is repealed. Act 99 of 1999, South Carolina First Steps to School Readiness Act, as amended by this act, is reauthorized until June 30, 2025.

Repeal

SECTION 9. Section 63-11-1735 of the 1976 Code is repealed.

Time effective

SECTION 10. This act takes effect upon approval by the Governor.

Ratified the 12th day of April, 2018.

Approved the 12th day of April, 2018.

No. 153

(R162, S340)

AN ACT TO AMEND SECTION 1-3-230, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPOINTMENT OF SOUTH CAROLINA'S POET LAUREATE, SO AS TO PROVIDE THAT THE SOUTH CAROLINA ARTS COMMISSION SHALL PROVIDE THE GOVERNOR WITH RECOMMENDATIONS OF QUALIFIED CANDIDATES AND TO ESTABLISH TERMS OF OFFICE AND DUTIES.

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

Poet laureate appointment, term, and duties

SECTION 1. Section 1-3-230 of the 1976 Code is amended to read:

"Section 1-3-230. Upon the recommendation of qualified candidates by the South Carolina Arts Commission, the Governor shall name and appoint an outstanding and distinguished person of letters as poet laureate for the State of South Carolina for a term of four years and until

a successor has been appointed and qualified. A poet laureate is eligible for reappointment one time. The poet laureate shall respond to requests of the Governor and participate in other relevant public programming."

Time effective

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

Ratified the 12th day of April, 2018.

Approved the 17th day of April, 2018.

No. 154

(R164, S1014)

AN ACT TO AMEND SECTION 44-7-2060, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE POWERS AND DUTIES OF A REGIONAL HEALTH SERVICES DISTRICT'S BOARD OF DIRECTORS, SO AS TO PROVIDE THAT THE STATE INTEREST SHALL PREVAIL IF A CONFLICT EXISTS BETWEEN THE ANTITRUST LAWS OF THE STATE OR THE UNITED STATES AND THE EXERCISE OF POWER BY A REGIONAL HEALTH SERVICES DISTRICT WITH RESPECT TO THE OWNERSHIP, OPERATION, MANAGEMENT, OR LEASE OF A HOSPITAL, HEALTH CARE FACILITY, OR OTHER EXERCISE OF POWER.

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

Regional health services districts, antitrust laws

SECTION 1. Section 44-7-2060 of the 1976 Code is amended to read:

"Section 44-7-2060. (A) The board shall have the following powers and duties:

(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)(a) To acquire, by purchase or otherwise, any real property for any authorized use;

(b) To acquire by purchase or otherwise personal property deemed by it to be necessary and to dispose of such property when in its judgment, it is in the best interest of the district.

(5) Deposit and withdraw moneys realized from the sale of revenue bonds issued pursuant to provisions herein, and to expend the moneys in the manner prescribed by the proceedings authorizing the issuance of the revenue bonds.

(6) Deposit moneys derived from revenue producing facilities or services in any bank or trust company having an office within the district and withdraw the moneys for district purposes.

(7) Build, maintain, and equip and operate regional health care facilities or any other hospital or health care related facility in its charge under such rules and regulations as the board may from time to time promulgate.

(8) Provide for the operation of its regional health care facilities or any other hospital or health care related facility in its charge.

(9) Exercise the power of eminent domain in accordance with Chapter 5, Title 28 of the 1976 Code.

(10) Appoint personnel and prescribe the duties of such, fix their compensation and determine if and to what extent they shall be bonded for the faithful performance of their duties.

(11) Employ technical or professional services as may be desirable to the performance of the duties in the district.

(12) Apply for moneys from any source, public or private, made available by grant or loan or both for the purposes of the district. All federal moneys accepted under such terms and conditions as are prescribed by the United States and as are consistent with state law, and all other moneys accepted under this section shall be accepted and expended by the board upon such terms and conditions as are prescribed by the State or other sources thereof.

(13) To take such action as may be necessary to carry out the purposes of this article.

(14) Lease land or any hospital facility to any public or private hospital upon such terms, conditions and for such length of time as it may determine to be appropriate consistent with the purpose of providing health care services for the district.

(15) To exercise on behalf of the district all of the powers relating to the issuance of bonds granted to the governing bodies of counties under Article 11, Chapter 7, Title 44 of the 1976 Code (the Hospital Revenue Bond Act).

(B) As a basis for the power granted in subsection (A), the legislature hereby finds that:

(1) the nature and scope of the powers conferred on regional health services districts hereunder are such as may compel each regional health services district, in the course of exercising its powers or by virtue of such exercise of powers, to engage in activities that may be characterized as 'anticompetitive' pursuant to the antitrust laws of this State or the United States; and

(2) the state interest covered hereunder shall prevail if any such conflict exists between the antitrust laws of the State or the United States and the exercise of power hereunder by a regional health services district with respect to the ownership, operation, management, or lease of a hospital, health care facility, or other exercise of power hereunder, as an expression of the overriding public policy of this State with respect to the performance and fulfillment of a regional health service district's public purpose to ensure for the provision of adequate health care to residents of this State."

Time effective

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

Ratified the 12th day of April, 2018.

Approved the 17th day of April, 2018.

No. 155

(R165, S1038)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 4-10-390 SO AS TO PROVIDE THAT FOR ANY COUNTY WHICH BEGAN THE REIMPOSITION OF A CAPITAL PROJECTS SALES TAX ON APRIL 1, 2013, AND REIMPOSED THE TAX AT THE 2016 GENERAL ELECTION, THE REIMPOSED TAX THAT COMMENCED ON APRIL 1, 2013, IS EXTENDED UNTIL APRIL 30, 2020, AND THE COMMENCEMENT OF THE TAX THAT WAS REIMPOSED AT THE 2016 GENERAL ELECTION

IS DELAYED UNTIL MAY 1, 2020, AND EXPIRES ON APRIL 30, 2027.

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

Reimposition of capital projects sales tax

SECTION 1. Article 3, Chapter 10, Title 4 of the 1976 Code is amended by adding:

"Section 4-10-390. For any county which began the reimposition of a tax authorized by this article on April 1, 2013, and reimposed the tax at the 2016 General Election:

(1) the reimposed tax that commenced on April 1, 2013, is extended until April 30, 2020; and

(2) the commencement of the tax that was reimposed at the 2016 General Election is delayed until May 1, 2020, and expires on April 30, 2027."

Time effective

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

Ratified the 12th day of April, 2018.

Approved the 17th day of April, 2018.

No. 156

(R166, S1101)

AN ACT TO AMEND ACT 205 OF 2016, RELATING TO AN EXEMPTION OF PRIVATE, FOR-PROFIT PIPELINE COMPANIES FROM CERTAIN RIGHTS, POWERS, AND PRIVILEGES OF TELEGRAPH AND TELEPHONE COMPANIES THAT OTHERWISE ARE EXTENDED TO PIPELINE COMPANIES, SO AS TO EXTEND THE SUNSET PROVISION TO NOVEMBER 30, 2020.

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

Sunset provision extended

SECTION 1. SECTION 2 of Act 205 of 2016 is amended to read:

"SECTION 2. Unless the General Assembly amends Section 58-7-10 in any manner before the passing of three years after the effective date of this act or if the language of subsection (B) is reenacted or otherwise extended by the General Assembly, the provisions of subsection (B), as added by this act, are repealed November 30, 2020."

Time effective

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

Ratified the 12th day of April, 2018.

Approved the 17th day of April, 2018.

No. 157

(R168, S1144)

AN ACT TO AMEND SECTION 7-7-420, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN NEWBERRY COUNTY, SO AS TO ELIMINATE THE MIDWAY PRECINCT, AND TO REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Designation of Newberry County voting precincts

SECTION 1. Section 7-7-420 of the 1976 Code, as last amended by Act 137 of 2018, is further amended to read:

"Section 7-7-420. (A) In Newberry County there are the following voting precincts:

Beth-Eden
Bush River
Chappells
Fairview
Hartford
Helena
Johnstone
Kinards-Jalapa
Little Mountain
Maybinton
Mt.Bethel-Garmany
Consolidated Number 5
Newberry Ward 1
Newberry Ward 2
Newberry Ward 3
Newberry Ward 4
Newberry Ward 5
Newberry Ward 6
Oakland
O'Neal
Peak
Pomaria
Prosperity City
Prosperity Outside
St. Phillips-Jolly Street
Silverstreet
Stoney Hill
Wheeland
Whitmire City
Whitmire Outside

(B) The precinct lines defining the precincts provided in subsection (A) in Newberry County are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-71-18A and as shown on copies of the official map provided by the office to the State Election Commission and the Board of Voter Registration and Elections of Newberry County.

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

Time effective

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

Ratified the 12th day of April, 2018.

Approved the 17th day of April, 2018.

No. 158

(R169, H4654)

AN ACT TO AMEND SECTION 38-43-100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LICENSING REQUIREMENTS FOR INDIVIDUAL AND AGENCY INSURANCE PRODUCERS, SO AS TO ESTABLISH CERTAIN CHARACTER REQUIREMENTS AND REQUIRE AN APPLICANT TO PROVIDE A COMPLETE SET OF FINGERPRINTS WITH THE APPLICATION, TO PROVIDE THAT FAILURE TO PROVIDE A COMPLETE SET OF FINGERPRINTS CONSTITUTES GROUNDS FOR DENIAL OF AN APPLICATION, AND TO PROVIDE EXCEPTIONS TO THE FINGERPRINTING REQUIREMENT UNDER CERTAIN CIRCUMSTANCES.

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

Insurance producer license, character and fingerprint requirements

SECTION 1. Section 38-43-100 of the 1976 Code is amended to read:

"Section 38-43-100. (A) Business may not be done by the applicant except following issuance of a producer's license, and the license may not be issued until the director or his designee has determined that the applicant is qualified as an insurance producer, generally, and is particularly qualified for the line of business in which the applicant proposes to engage. The department shall promulgate regulations setting forth qualifying standards of producers as to all lines of business and shall require the producer applicant to stand a written examination. For

the purpose of interstate reciprocity, the department shall identify by bulletin which limited lines insurance are approved in South Carolina and which are exempt from examination. A bank, finance company, or other company handling credit transactions operating in this State and utilizing one or more credit life or accident and health or credit property producers in a particular geographical area who are licensed without having taken the written examination is required to have readily available at least one credit life or accident and health or credit property producer to answer customers' questions concerning credit life, credit accident and health insurance, or credit property, or any combination of these.

(B) A resident individual applying for an insurance producer license shall pass an examination. The examination must test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and regulations of this State. The examination required by this section must be developed and conducted under regulations prescribed by the director or his designee.

(C) The director or his designee may make arrangements, including contracting with an outside testing service, for administering licensing examinations.

(D) Each individual applying for a licensing examination shall remit a nonrefundable examination fee as required by the licensing exam administrator.

(E) An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

(F) A person applying for a resident insurance producer license or a person applying on behalf of the applicant shall make application to the director or his designee on the Uniform Application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief. Before approving the application, the director or his designee shall find that the applicant:

(1) is at least eighteen years of age;

(2) is a person of good moral character and has not been convicted of a felony or any act within the last ten years that is a ground for denial, suspension, or revocation as provided for in Section 38-43-130 or been convicted of a misdemeanor involving dishonesty, breach of trust, or other financial- or insurance-related crime within five years;

(3) has paid the fees provided for in Section 38-43-80; and

(4) has successfully passed the examination or examinations for the line or lines of insurance for which the person has applied.

(5) Before a license is issued to an applicant or is renewed permitting him to act as a resident producer, the applicant shall comply with the licensing and renewal requirements set forth in this section and by regulation. In addition to those licensing requirements, the applicant shall:

(a) furnish a complete set of his fingerprints and the required fees and information in accordance with this subsection to the director or his designee. Failure to furnish the complete set of fingerprints and required fees constitutes grounds for denial of an application for licensure. However, the director may waive the fingerprinting requirements if it is impossible for the applicant to provide fingerprints due to a medically certified physical injury; and

(b) undergo a state criminal records check, supported by his fingerprints, by the South Carolina Law Enforcement Division (SLED) and a national criminal records check, supported by his fingerprints, by the Federal Bureau of Investigation (FBI). The results of these criminal records checks must be reported to the department. SLED is authorized to retain the fingerprints for use in identification purposes including, but not limited to, unsolved latent prints. The cost associated with the criminal history records checks must be borne by the applicant. The applicant's fingerprints must be certified by a law enforcement officer authorized by SLED.

(G)(1) A licensed insurance producer seeking to renew their current resident insurance producer license is exempt from the fingerprinting requirement set forth in subsection (F)(5) if the applicant complies with the requirements of this section and:

(a) has previously provided and has on file with the appropriate agency of the State an accessible, current, complete, and legible set of fingerprints submitted as part of an earlier application for a license or for renewal of a license which was either approved or granted; and

(b) all licenses issued to the applicant by the department are in good standing on the date of the subsequent application with all licenses.

(2) A resident producer who has allowed the license to lapse for failure to comply with the continuing education requirements set forth in Section 38-43-106 is not required to submit new fingerprint records if the applicant has:

(a) applied to reinstate the same license within six months from the compliance date;

(b) met the continuing insurance education requirements; and

(c) paid a penalty set forth by the director or his designee in full.

(3) The director may require an applicant to furnish a complete set of fingerprints and payment of all applicable fingerprint processing fees for licensure or renewal of a license if the previously submitted set of fingerprints is no longer usable for obtaining a criminal history check for any reason.

(H) The individual's producer license must contain the licensee's name, address, personal identification number, the date of issuance, the line or lines of authority, and other information the director or his designee considers necessary.

(I) An agency acting as an insurance producer is required to obtain an insurance producer license. Application must be made using the Uniform Business Entity Application. Before approving the application, the director or his designee shall find that:

(1) the agency has paid the fees as prescribed by Section 38-43-80; and

(2) the agency has designated a licensed producer or other person responsible for the business entity's compliance with the insurance laws, rules, and regulations of this State.

(J) The director or his designee may require any documents reasonably necessary to verify the information contained in an application.

(K) The agency's license must contain the licensee's name, address, personal identification number, the date of issuance, and other information the director or his designee considers necessary.

(L) Each insurer that sells, solicits, or negotiates any form of credit insurance shall provide to each individual whose duties include selling, soliciting, or negotiating credit insurance, a program of instruction that has been filed with the director or his designee."

Time effective

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

Ratified the 12th day of April, 2018.

Approved the 17th day of April, 2018.

No. 159

(R170, S499)

AN ACT TO AMEND SECTION 56-1-148, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE IDENTIFYING CODE AFFIXED TO THE DRIVER'S LICENSE OF A PERSON CONVICTED OF CERTAIN CRIMES, SO AS TO REMOVE THE FIFTY DOLLAR FEE ASSOCIATED WITH PLACING THE IDENTIFYING CODE ON A DRIVER'S LICENSE.

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

Identifying code

SECTION 1. Section 56-1-148 of the 1976 Code is amended to read:

"Section 56-1-148. (A) As used in this chapter 'identifying code' means a symbol, number, or letter of the alphabet developed by the department to identify a person convicted of or pleading guilty or nolo contendere to a crime of violence as defined in Section 16-23-10(3) on or after July 1, 2011. The symbol, number, or letter of the alphabet shall not be defined on the driver's license or special identification card.

(B) In addition to the contents of a driver's license provided for in Section 56-1-140 or a special identification card provided for in Section 56-1-3350, a person who has been convicted of or pled guilty or nolo contendere to a crime of violence as defined in Section 16-23-10(3) on or after July 1, 2011, must have an identifying code determined by the department affixed to the reverse side of his driver's license or special identification card. The code must identify the person as having been convicted of a violent crime. The code must be developed by the department and made known to the appropriate law enforcement officers and judicial officials of this State.

(C) The presence of a special identifying code on a person's driver's license or special identification card may not be used as a grounds to extend the detention of the person by a law enforcement officer or grounds for a search of the person or his vehicle.

(D) A person whose driver's license or special identification card has been canceled pursuant to Section 56-1-146 may apply for a new license or special identification card in a manner prescribed by the department. The department must issue by mail or in person a new license or special identification card with the identifying code required by this section. The

department must not issue a new driver's license to a person during any period of suspension or revocation for any reason other than Section 56-1-146 and a driver's license may only be issued after the period of suspension or revocation has ended and the person is otherwise eligible to be issued a license.

(E) The intent of placing an identifying code on a driver's license or special identification card that identifies a person who has been convicted of a crime of violence as defined in Section 16-23-10(3) is to promote the state's fundamental right to provide for the public health, welfare, and safety of its citizens and law enforcement officers. Notwithstanding this legitimate stated purpose, this provision is not intended to violate the guaranteed constitutional rights of persons who have violated our state's laws.

(F) If a person's conviction or guilty plea for a crime of violence as defined in Section 16-23-10(3) is reversed on appeal, or if the person is subsequently pardoned, then the person may apply for a driver's license or special identification card that does not have the identifying code affixed.

(G) A person who is not convicted of a subsequent crime of violence as defined in Section 16-23-10(3) for five years after he has completely satisfied the terms of his sentence or during the term of the person's probation or parole, whichever the sentencing judge determines is appropriate, may file an application with the department to have the identifying code affixed to his driver's license or special identification card removed.

(H) A person must provide appropriate supporting documentation prescribed by the department to verify his eligibility to have the identifying code removed pursuant to subsection (F) or (G). Upon verification and payment of the fee provided in Section 56-1-140, the person must be issued a new driver's license or special identification card."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 160

(R171, S805)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 22 TO CHAPTER 11, TITLE 63 SO AS TO CREATE THE DEPARTMENT OF CHILDREN'S ADVOCACY, TO PROVIDE THAT THE DEPARTMENT SHALL BE HEADED BY THE STATE CHILD ADVOCATE, TO PROVIDE THAT THE DEPARTMENT SHALL BE COMPRISED OF DEPUTY CHILD ADVOCATES, INVESTIGATORS, AND OTHER STAFF TO BE EMPLOYED AS NECESSARY BY THE STATE CHILD ADVOCATE, TO PROVIDE THAT THE STATE CHILD ADVOCATE IS RESPONSIBLE FOR ENSURING THAT CHILDREN RECEIVE ADEQUATE PROTECTION AND CARE FROM SERVICES OR PROGRAMS OFFERED BY THE DEPARTMENT OF SOCIAL SERVICES, THE DEPARTMENT OF MENTAL HEALTH, THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE DEPARTMENT OF JUVENILE JUSTICE, THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, THE JOHN DE LA HOWE SCHOOL, THE WIL LOU GRAY OPPORTUNITY SCHOOL, AND THE SCHOOL FOR THE DEAF AND THE BLIND, TO PROVIDE THAT RECORDS ACQUIRED BY THE DEPARTMENT ARE CONFIDENTIAL, TO PROVIDE FOR THE DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT, INCLUDING THE RIGHT TO PERFORM AN INDEPENDENT INVESTIGATION OF A CRITICAL INCIDENT OR REVIEW A COMPLETED CRITICAL INCIDENT INVESTIGATION PERFORMED BY A STATE AGENCY, AND FOR OTHER PURPOSES; TO AMEND SECTION 63-7-360, RELATING TO MANDATORY REPORTING TO THE CORONER, SO AS TO REQUIRE THE MEDICAL EXAMINER OR CORONER TO REPORT SUSPECTED CHILD ABUSE OR NEGLECT FINDINGS TO THE DEPARTMENT OF CHILDREN'S ADVOCACY; TO AMEND SECTION 63-11-500, RELATING TO THE CASS ELIAS MCCARTER GUARDIAN AD LITEM PROGRAM, SO AS TO PROVIDE THAT THE PROGRAM IS ADMINISTERED BY THE DEPARTMENT OF CHILDREN'S ADVOCACY; TO AMEND SECTIONS 63-11-700 AND 63-11-730, BOTH RELATING TO THE DIVISION FOR

REVIEW OF THE FOSTER CARE OF CHILDREN, SO AS TO PROVIDE THAT THE DIVISION IS WITHIN THE DEPARTMENT OF CHILDREN'S ADVOCACY; TO AMEND SECTIONS 63-11-1310, 63-11-1340, 63-11-1360, AND 63-11-1510, ALL RELATING TO THE CONTINUUM OF CARE FOR EMOTIONALLY DISTURBED CHILDREN, SO AS TO PROVIDE THAT THE CONTINUUM OF CARE IS WITHIN THE DEPARTMENT OF CHILDREN'S ADVOCACY; TO AMEND SECTION 63-11-1930, RELATING TO THE STATE CHILD FATALITY ADVISORY COMMITTEE, SO AS TO ADD THE STATE CHILD ADVOCATE AS A COMMITTEE MEMBER; TO AMEND SECTION 59-36-20, RELATING TO THE COMPREHENSIVE SYSTEM OF SPECIAL EDUCATION AND SERVICES, SO AS TO DELETE ANY REFERENCE TO THE CHILDREN'S CASE RESOLUTION SYSTEM; TO AMEND SECTION 63-7-1990, RELATING TO CONFIDENTIALITY OF CHILD ABUSE OR NEGLECT REPORTS, SO AS TO AUTHORIZE RELEASE OF INFORMATION TO THE DEPARTMENT OF CHILDREN'S ADVOCACY; BY ADDING SECTION 1-3-60 SO AS TO REQUIRE THE GOVERNOR TO DESIGNATE THE AGENCY TO ADMINISTER THE SOUTH CAROLINA DEVELOPMENTAL DISABILITIES COUNCIL; TO AMEND SECTION 1-11-10, RELATING TO THE DEPARTMENT OF ADMINISTRATION, SO AS TO MAKE CONFORMING CHANGES; AND TO REPEAL ARTICLE 11 OF CHAPTER 11, TITLE 63 RELATING TO THE CHILDREN'S CASE RESOLUTION SYSTEM.

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

Creation of the Department of Children's Advocacy

SECTION 1. Chapter 11, Title 63 of the 1976 Code is amended by adding:

"Article 22

Department of Children's Advocacy

Section 63-11-2210. There is created the Department of Children's Advocacy. The department shall be headed by the State Child Advocate, who is the director of the department. The Governor shall appoint the

State Child Advocate from three candidates recommended by the Joint Citizens and Legislative Committee on Children and upon the advice and consent of the Senate for a term of six years. The Governor may reappoint the State Child Advocate for additional terms. The State Child Advocate is subject to removal by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity upon recommendation of the Joint Citizens and Legislative Committee on Children. A vacancy shall be filled in the same manner as appointment.

Section 63-11-2215. The Department of Administration shall provide administrative support to the Department of Children's Advocacy for the performance of its duties, including, but not limited to, financial accounting support, human resources administrative support, information technology shared services support, procurement services, and logistical support.

Section 63-11-2220. The department shall be comprised of deputy child advocates, investigators, and other staff to be employed as necessary by the State Child Advocate to carry out the duties of the department as authorized by law. The deputy child advocates serve at will and may be removed by the State Child Advocate. The State Child Advocate shall fix the salaries of all staff subject to the funds authorized in the annual general appropriations act.

Section 63-11-2230. For purposes of this article:

(1) 'Critical incident' means the fatality, near fatality, or serious bodily or emotional injury of a child who is in the custody of or receiving services from a state agency, or circumstances that result in a reasonable belief that a state agency failed in its duty to protect a child, resulting in the imminent risk or suffering of serious bodily or emotional injury, or death, of a child.

(2) 'State agency' means an agency as provided in Section 63-11-2240(A).

Section 63-11-2240. (A) The State Child Advocate is responsible for ensuring that children receive adequate protection and care from services or programs offered by the Department of Social Services, the Department of Mental Health, the Department of Health and Human Services, the Department of Juvenile Justice, the Department of Health and Environmental Control, the Department of Disabilities and Special

Needs, the John de la Howe School, the Wil Lou Gray Opportunity School, and the School for the Deaf and the Blind.

(B) The State Child Advocate must not have been the director or deputy director of a state agency for a period of four years preceding his appointment. This subsection does not apply to deputy directors employed by the Department of Children's Advocacy.

(C) The State Child Advocate must be selected without regard to political affiliation and on the basis of integrity and a capability for strong leadership and must possess the following minimum qualifications:

(1) a baccalaureate degree from an accredited college or university; and

(2) at least ten years of experience in family or children's law, children's social work, or children's health and welfare.

Section 63-11-2250. Any and all information and records acquired by the Department of Children's Advocacy in the exercise of the office's purpose and duties under this chapter shall be confidential and exempt from public disclosure under Chapter 4, Title 30.

Section 63-11-2260. The State Child Advocate shall receive compensation as established under the provisions of Section 8-11-160 and for which funds have been authorized in the general appropriations act.

Section 63-11-2270. The Department of Children's Advocacy shall:

(1) ensure that children under the care of a state agency, particularly children served by the child welfare or juvenile justice systems, receive timely, safe, and effective services and shall safeguard the health, safety, and well-being of all children receiving services;

(2) examine, on a system-wide basis, the care and services that state agencies provide children and shall provide recommendations to improve the quality of those services in order to give each child the opportunity to live a full and productive life;

(3) develop and promote a broad vision for reform, driven by the values and goals of child-serving agencies, to make the services and programs provided by state agencies more effective for children, youth, families, and communities;

(4) receive and investigate complaints related to the provision of services to children by a state agency, shall review and monitor the complaints that reasonably cause the department to believe that a child may be in need of assistance, and shall ensure that the complaints are

resolved. If a complaint is not resolved by the relevant state agency within a reasonable period of time in light of the circumstances, if the resolution is determined to be unsatisfactory to the State Child Advocate, or if the complaint reasonably causes the State Child Advocate to believe that a child may be in need of immediate assistance, then the State Child Advocate may conduct an investigation of the complaint;

(5) receive and investigate complaints from children in the care of the State, shall assist such children in resolving problems and concerns associated with their placement and plans for lifelong adult connections and independent living, shall ensure that relevant state agencies have been alerted to the complaints, and shall facilitate intra-agency cooperation, if appropriate;

(6) undertake activities designed to educate the public regarding the services and the independent role of the department and the mission of state agencies in providing services to children and families;

(7) annually submit a report to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, and Joint Citizens and Legislative Committee on Children detailing the State Child Advocate's activities; and

(8) have access at any and all reasonable times to any facility, residence, program, or portion thereof that is operated, licensed, or funded by a state agency and shall have unrestricted access to all electronic information systems records, reports, materials, and employees in order to better understand the needs of children in the custody of the State or children who are receiving services from a state agency. The Department of Children's Advocacy shall also have access to relevant records held by the clerks of the family courts and the clerks of the probate courts and shall also have the right to inspect and copy such records, without cost.

Section 63-11-2280. (A) A state agency shall inform the Department of Children's Advocacy within twenty-four hours of a critical incident.

(B) The State Child Advocate may perform an independent investigation of a critical incident, or the State Child Advocate may review a completed critical incident investigation performed by a state agency. If the State Child Advocate conducts his own investigation, then he shall investigate:

(1) the factual circumstances surrounding the critical incident;

(2) whether an agency's activities or services provided to a child and his family were adequate, appropriate, and in accordance with agency policies and state and federal law; and

(3) whether the agency's policies, regulations, training, or delivery of services or state law can be improved.

(C) As part of an investigation, the State Child Advocate may:

(1) administer oaths;

(2) examine witnesses under oath;

(3) issue subpoenas and subpoenas duces tecum; and

(4) examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained by an agency.

(D) The State Child Advocate may apply to a circuit court for an order holding an individual in contempt of court if the individual refuses to give sworn testimony under a subpoena issued by the State Child Advocate or otherwise disobeys a subpoena or subpoena duces tecum issued by the State Child Advocate.

(E) In addition to the reporting requirements in subsection (A), if the State Child Advocate has reasonable cause to believe that a crime has occurred or is occurring, then he shall immediately report the matter to the appropriate state or federal law enforcement agencies and prosecuting authorities with jurisdiction over the matter.

Section 63-11-2290. (A) The Department of Children's Advocacy shall establish a toll-free public telephone number and an electronic complaint submission form on the department's website for the purpose of receiving complaints relative to the provision of services to children by a state agency. The department shall transfer a complainant to the appropriate agency if the complainant's submission is related to abuse, neglect, or an open matter within another agency.

(B) The following agencies must post the toll-free public telephone number and the web address of the department's electronic complaint submission form prominently in clear view of all employees and the public and in a conspicuous location on the agency's website:

(1) Department of Social Services;

(2) Department of Mental Health;

(3) Department of Juvenile Justice;

(4) Department of Health and Environmental Control;

(5) Department of Health and Human Services;

(6) Department of Disabilities and Special Needs;

(7) John de la Howe School;

(8) School for the Deaf and the Blind; and

(9) Wil Lou Gray Opportunity School.

Section 63-11-2295. (A) Complaints regarding any allegations against the State Child Advocate, the Department of Children's Advocacy, or any of its affiliated divisions should be submitted in writing to the State Inspector General under the authority provided by the provisions of Chapter 6, Title 1. The State Inspector General shall determine if an investigation is warranted and shall provide a written finding at the end of an investigation, which must be provided to the complainant, the Governor, the Joint Citizens and Legislative Committee on Children, and the State Child Advocate. The State Child Advocate shall develop policies and procedures for receipt of such complaints and their referral to the State Inspector General.

(B) No discriminatory, disciplinary, or retaliatory action may be taken against an employee of an agency, an employee of an entity contracting with an agency, a foster parent, or a recipient of family and children's services for any communication made, or information given or disclosed, to aid the department in carrying out its responsibilities, unless the communication or information is made, given, or disclosed maliciously or without good faith."

Reporting of suspicious child death to coroner, Department of Children's Advocacy

SECTION 2. Section 63-7-360 of the 1976 Code is amended to read:

"Section 63-7-360. A person required under Section 63-7-310 to report cases of suspected child abuse or neglect, including workers of the department, who has reason to believe a child has died as the result of child abuse or neglect, shall report this information to the appropriate medical examiner or coroner. Any other person who has reason to believe that a child has died as a result of child abuse or neglect may report this information to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation and shall report his findings to the appropriate law enforcement agency, the circuit solicitor's office, the county department of social services, the Department of Children's Advocacy, and, if the institution making a report is a hospital, the hospital."

Cass Elias McCarter Guardian ad Litem Program, Department of Children's Advocacy

SECTION 3. Section 63-11-500(A) of the 1976 Code is amended to read:

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

Division for Review of the Foster Care of Children, Department of Children's Advocacy

SECTION 4. Section 63-11-700(A) of the 1976 Code is amended to read:

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

Employee background checks, Department of Children's Advocacy

SECTION 5. Section 63-11-730(A) of the 1976 Code is amended to read:

"(A) No person may be employed by the Department of Children's Advocacy or may serve on the state or a local foster care review board if the person:

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

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

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

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

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

Continuum of Care for Emotionally Disturbed Children, Department of Children's Advocacy

SECTION 6. Section 63-11-1310 of the 1976 Code is amended to read:

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

Continuum of Care staffing

SECTION 7. Section 63-11-1340 of the 1976 Code is amended to read:

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

Continuum of Care, annual report

SECTION 8. Section 63-11-1360 of the 1976 Code is amended to read:

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

Interagency System for Caring for Emotionally Disturbed Children, Department of Children's Advocacy

SECTION 9. Section 63-11-1510 of the 1976 Code is amended to read:

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

State Child Fatality Advisory Committee membership, Department of Children's Advocacy

SECTION 10. Section 63-11-1930(A) of the 1976 Code is amended by adding an appropriately numbered item to read:

"( ) the State Child Advocate."

Special education system, eliminate Children's Case Resolution System

SECTION 11. Section 59-36-20 of the 1976 Code is amended to read:

"Section 59-36-20. (A) The State Board of Education and the State Department of Education are responsible for establishing a comprehensive system of special education and related services and for ensuring that the requirements of the Federal Individuals with Disabilities Education Act are carried out. Other state agencies which provide services for children with disabilities are directed to cooperate in the establishment and support of the system. Agencies with responsibilities under this chapter include: the Department of Mental Retardation, the School for the Deaf and the Blind, the Commission for the Blind, the Department of Health and Environmental Control, the Department of Mental Health, the State Department of Social Services, Continuum of Care, and the State Department of Education.

(B) All public education programs for children with disabilities within the State, including all programs administered by any other state or local agency, are under the general supervision of the persons responsible for education programs for children with disabilities in the State Department of Education and must meet the standards of the State Board of Education.

(C) No provision of this section or of this chapter may be construed to limit the responsibilities of agencies other than the Department of Education from providing or paying for some or all of the cost of services to be provided the state's children with disabilities and the level of service must, at a minimum, be similar to that provided individuals with similar needs. "

Confidentiality of child abuse reports, Department of Children's Advocacy exception

SECTION 12. Items (1), (21), (22), and (23) of Section 63-7-1990(B) are amended to read:

"(1) the Department of Children's Advocacy;

(21) the Division for the Review of the Foster Care of Children, for purposes of certifying in accordance with Section 63-11-730 that no potential employee or no nominee to and no member of the state or a local foster care review board is a subject of an indicated report or affirmative determination;

(22) employees of the Division for the Review of the Foster Care of Children and members of local boards when carrying out their duties pursuant to Article 7, Chapter 11; the department and the division shall limit by written agreement or regulation, or both, the documents and information to be furnished to the local boards;

(23) the Division of Guardian ad Litem, for purposes of certifying that no potential employee or volunteer is the subject of an indicated report or an affirmative determination;"

Governor designation of agency to administer South Carolina Developmental Disabilities Council

SECTION 13. Article 1, Chapter 3, Title 1 of the 1976 Code is amended by adding:

"Section 1-3-60. The Governor shall designate, by executive order, the appropriate agency to administer the South Carolina Developmental Disabilities Council in accordance with the Federal Developmental Disabilities Act of 2000, Pub. Law 106-402. The Department of Administration shall provide such administrative support to the Developmental Disabilities Council as it may request and require in the performance of its duties, including, but not limited to, financial accounting support, human resources administrative support, information technology shared services support, procurement services, and logistical support."

Transfer of South Carolina Developmental Disabilities Council from Department of Administration

SECTION 14. Section 1-11-10(A)(5) of the 1976 Code is deleted.

Repeal of Children's Case Resolution System

SECTION 15. Article 11, Chapter 11, Title 63 of the 1976 Code is repealed.

Elimination of Children's Case Resolution System

SECTION 16. Section 1-11-10(A)(8) of the 1976 Code is deleted.

One subject

SECTION 17. The General Assembly finds that the sections presented in this act constitute one subject as required by Section 17, Article III of the South Carolina Constitution, 1895, in particular finding that each change and each topic relates directly to or in conjunction with other sections on the subject of establishing the Department of Children's Advocacy as clearly enumerated in the title.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

Transfer of duties, programs, and services to Department of Children's Advocacy

SECTION 18. A.Where the provisions of this act transfer duties, programs, or services of the Department of Administration to the Department of Children's Advocacy, the employees, authorized appropriations, and assets and liabilities of these divisions, services, and programs also are transferred to and become part of the Department of Children's Advocacy. All classified or unclassified personnel employed by the divisions, programs, services, or initiatives transferred from the Department of Administration, either by contract or by employment at will, become on July 1, 2019, employees of the Department of Children's Advocacy, with the same compensation, classification, and grade level, as applicable. Before the transfer of the applicable divisions, programs, services, or initiatives of the Department of Administration pursuant to this act, these agencies and organizations shall cause all necessary actions to be taken to accomplish this transfer in accordance with state and federal laws and regulations.

B.Applicable regulations promulgated by the Department of Administration are continued and are considered to be promulgated by the Department of Children's Advocacy. Applicable contracts entered into by the Department of Administration are continued and are considered to be devolved upon the Department of Children's Advocacy at the time of the transfer.

Savings

SECTION 19. The repeal or amendment by this act of any law, whether temporary, permanent, civil, or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Severability

SECTION 20. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then 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 21. This act takes effect July 1, 2019.

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 161

(R172, S937)

AN ACT TO AMEND SECTION 59-53-600, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TEMPORARY DEVOLUTION OF POWERS, DUTIES, AND OBLIGATIONS VESTED IN THE DENMARK TECHNICAL COLLEGE AREA COMMISSION TO THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION, SO AS TO EXTEND THE DEVOLUTION TO JANUARY 1, 2019, AND MAKE CONFORMING CHANGES; AND TO REPEAL SECTION 59-53-600 EFFECTIVE JANUARY 1, 2019.

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

Devolution of powers extended

SECTION 1. Section 59-53-600(A) and (B) of the 1976 Code is amended to read:

"(A) Notwithstanding any provision of law to the contrary, during the time period beginning May 1, 2017, and ending January 1, 2019, all powers, duties, and obligations vested in the Denmark Technical College Area Commission, as provided in this article, are devolved upon and become the powers, duties, and obligations of the State Board for Technical and Comprehensive Education. The state board shall consult with and receive input from the Denmark Technical College Area Commission. On January 1, 2019, all powers, duties, and obligations vested in the state board pursuant to this section shall revert back to the Denmark Technical College Area Commission.

(B) During the twenty-month period beginning on May 1, 2017, the state board shall provide quarterly status reports to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee concerning its activities in relation to Denmark Technical College, its operations, financial standing, recruitment and retention of students, actions taken to stabilize the college, and any other matters the state board deems relevant."

Repeal

SECTION 2. Section 59-53-600 of the 1976 Code is repealed January 1, 2019.

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 162

(R173, S1041)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 37-6-119 SO AS TO PROHIBIT A PERSON FROM SOLICITING OR UNLAWFULLY OBTAINING THE MONEY, PROPERTY, OR PERSONAL IDENTIFYING INFORMATION OF A VULNERABLE ADULT, TO PROVIDE A CIVIL REMEDY FOR THE VULNERABLE ADULT, AND TO PROVIDE A CRIMINAL PENALTY.

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

Trade practices targeting vulnerable adults prohibited

SECTION 1. Part 1, Chapter 6, Title 37 of the 1976 Code is amended by adding:

"Section 37-6-119. (A) For the purpose of this section:

(1) 'Personal identifying information' has the same meaning as provided in Section 16-13-510(D).

(2) 'Vulnerable adult' has the same meaning as provided in Section 43-35-10(11).

(B) A person shall not knowingly or wilfully solicit or obtain by deception, intimidation, undue influence, or false, misleading, or deceptive acts or practices:

(1) the money or property of a vulnerable adult; or

(2) the personal identifying information of a vulnerable adult for the purposes of committing financial identity fraud or identity fraud as defined in Section 16-13-510.

(C) A vulnerable adult, a person legally authorized, or the estate of an injured vulnerable adult may file a civil action to enforce the provisions of this section and may recover three times the amount of actual damages or three thousand dollars for each violation, whichever is greater, as well as reasonable attorney's fees and court costs. In addition, a person seeking damages pursuant to this section may pursue a civil action to enjoin and restrain future acts constituting a violation of this statute.

(D) For violations of this section, the administrator may issue an administrative order to cease and desist, to return property or money

received in violation of this section, and to impose penalties of up to ten thousand dollars per violation. The administrator may bring a civil action seeking equitable relief. Penalties received shall be retained by the administrator for administration of this title.

(E) Upon conviction, a person violating this section is guilty of:

(1) a misdemeanor, if the total value of the money or property obtained or sought to be obtained is two thousand dollars or less. The person must be fined not less than one thousand dollars, or imprisoned for not more than thirty days, or both;

(2) a felony, if the total value of money or property obtained or sought to be obtained is more than two thousand dollars but less than ten thousand dollars. The person must be fined in the discretion of the court or imprisoned for not more than five years, or both; or

(3) a felony, if the total value of the money or property obtained or sought to be obtained is ten thousand dollars or more. The person must be fined in the discretion of the court or imprisoned for not more than ten years, or both.

(F) Violations of this section may be considered grounds for revocation, suspension, or nonrenewal of a professional license or registration issued by an agency of this State.

(G) A violation of this section is considered a violation of Section 39-5-20.

(H) The remedial provisions of this chapter are cumulative of and in addition to any action at law or equity taken by the administrator."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 163

(R175, H3177)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 1-31-60 SO AS TO REQUIRE THAT ON THE EFFECTIVE DATE OF THIS ACT

RECOGNIZED NATIVE AMERICAN INDIAN GROUPS CONTINUE TO BE RECOGNIZED AND ELIGIBLE TO EXERCISE PRIVILEGES AND OBLIGATIONS AUTHORIZED BY THAT DESIGNATION, THAT THE COMMISSION FOR MINORITY AFFAIRS CEASE TO RECOGNIZE ADDITIONAL NATIVE AMERICAN INDIAN GROUPS, THAT ANY REGULATIONS PROVIDING FOR RECOGNITION AS A NATIVE AMERICAN INDIAN GROUP ARE REPEALED, AND THAT THE COMMISSION REVISE ITS REGULATIONS TO PROVIDE FOR THE PRIVILEGES AND OBLIGATIONS OF NATIVE AMERICAN INDIAN GROUPS THAT CONTINUE TO BE RECOGNIZED.

Whereas, Chapter 139 of the South Carolina Code of Regulations provides for recognition of Native American Indian Groups; and

Whereas, under the definition of "Native American Indian Group" found in Chapter 139, a group "means a number of individuals assembled together, which have different characteristics, interests, and behaviors that do not denote a separate ethnic and cultural heritage today, as they once did. The group is composed of both Native American Indians and other ethnic races. They are not all related to one another by blood. A tribal council and governmental authority unique to Native American Indians govern them"; and

Whereas, while the number of entities that may be recognized as Native American Indian Tribes is finite, recognition of Native American Indian Groups is unlimited; and

Whereas, by continuing to recognize Native American Indian Groups, all of which are entitled membership on the Advisory Committee of the Commission for Minority Affairs, the number of Group members could easily outnumber and outvote the number of Tribe members on the Advisory Committee. Now, therefore,

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

Native American Indian Groups, existing recognition, prospective repeal of regulations regarding recognition

SECTION 1. Chapter 31, Title 1 of the 1976 Code is amended by adding:

"Section 1-31-60. (A) Notwithstanding any other provision of law, upon and after the effective date of this statute:

(1) any Native American Indian Group that on the effective date of this section has been recognized by the Commission for Minority Affairs through its regulatory process remains and continues to be:

(a) recognized as a Native American Indian Group; and

(b) eligible to exercise the privileges and obligations authorized by that designation;

(2) the Commission for Minority Affairs must:

(a) eliminate the eligibility for any additional Native American Indian Groups to receive official recognized status in the State; and

(b) cease to recognize any additional entities as Native American Indian Groups; and

(3) any regulations providing for recognition as a Native American Indian Group are repealed.

(B) The Commission for Minority Affairs must revise any regulations to:

(a) eliminate any recognition procedure as a Native American Indian Group; and

(b) provide for the privileges and obligations a Native American Indian Group that continues to be recognized is authorized to exercise."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 164

(R176, H3698)

AN ACT TO AMEND SECTION 50-1-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO GEOGRAPHICAL BOUNDARIES FOR CERTAIN BODIES OF WATER, SO AS TO PROVIDE GEOGRAPHICAL BOUNDARIES FOR THE PORTION OF THE INTRACOASTAL WATERWAY LOCATED

IN HORRY COUNTY; TO AMEND SECTION 50-5-1556, RELATING TO LOCATIONS WHERE STRIPED BASS MAY BE TAKEN, SO AS TO REVISE THE PERIODS OF TIME WHEN STRIPED BASS MAY BE TAKEN IN VARIOUS BODIES OF WATER; AND TO AMEND SECTION 50-13-230, RELATING TO THE TAKING OF STRIPED BASS WITHIN VARIOUS BODIES OF WATER, SO AS TO PROVIDE FOR THE TAKING OF STRIPED BASS IN THE PORTION OF THE INTRACOASTAL WATERWAY IN HORRY COUNTY, TO REVISE THE PERIOD OF TIME WHEN STRIPED BASS MAY BE TAKEN WITHIN VARIOUS BODIES OF WATER, TO PROVIDE FOR LIMITS FOR THE TAKING OF STRIPED BASS WITHIN VARIOUS BODIES OF WATER, TO REVISE THE SIZE, LIMITS, AND PERIOD FOR THE TAKING OF STRIPED BASS IN THE SANTEE RIVER, AND TO EXTEND THE DEADLINE FOR THE COMPLETION OF THE DEPARTMENT OF NATURAL RESOURCES STUDY OF THE STRIPED BASS FISHERY ON THE SANTEE AND COOPER RIVER SYSTEMS.

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

Geographical boundaries of water bodies

SECTION 1. Section 50-1-50 of the 1976 Code is amended to read:

"Section 50-1-50. The following water bodies have the geographical 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 S.C. 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) 'Intracoastal Waterway (Horry County)' means all waters of the Intracoastal Waterway from its confluence with the Waccamaw River upstream to U.S. Highway 17.

(57) '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.

(58) '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.

(59) '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 Intracoastal Waterway to the headwaters of Socastee Creek.

(60) '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.

(61) '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.

(62) '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).

(63) '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.

(64) '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.

(65) '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.

(66) '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.

(67) '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.

(68) 'Mill Creek (Florence County)' means all waters of Mill Creek from its confluence with Muddy Creek upstream to its divergence from Lynches River.

(69) '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.

(70) '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.

(71) '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.

(72) 'Mungen Creek (Beaufort County)' means all waters of Mungen Creek from its divergence from the New River to its confluence with the New River.

(73) 'Murrells Inlet (Georgetown County)' means all saltwaters of Murrells Inlet from the seaward tip of the Murrells Inlet jetties inland. This includes these tributary creeks: Main Creek, Woodland Creek, Parsonage Creek, Allston Creek, and Oaks Creek and adjacent marshes.

(74) '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.

(75) '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.

(76) '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.

(77) 'Oolenoy River' means all waters of Oolenoy River from its confluence with the South Saluda River upstream to its headwaters near U.S. Highway 178 in Pickens County.

(78) '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.

(79) '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.

(80) '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.

(81) '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.

(82) '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.

(83) '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.

(84) '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.

(85) '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.

(86) 'Price Creek (Charleston County)' means all waters of Price Creek from its confluence with the Atlantic Ocean upstream to its divergence from Sewee Bay.

(87) '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.

(88) '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.

(89) '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.

(90) 'Rocky River' means all waters of Rocky River from Lake Secession upstream to the confluence of Little Beaverdam and Beaverdam Creeks in Anderson County.

(91) '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 east from the eastern 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 western 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).

(92) '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.

(93) '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.

(94) '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.

(95) '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.

(96) '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.

(97) 'Lower reach of the Saluda River' means all waters of Saluda River from its confluence with Broad River upstream to the Lake Murray Dam.

(98) '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.

(99) '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.

(100) '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.

(101) 'Sampit River' means all waters of Sampit River from its confluence with Winyah Bay upstream to U.S. Highway 17A in Georgetown County.

(102) '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.

(103) '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.

(104) '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.

(105) '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.

(106) '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.

(107) '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.

(108) '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.

(109) '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.

(110) '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.

(111) 'Socastee Creek (Horry County)' means all waters of Socastee Creek from its confluence with Waccamaw River upstream to the Intracoastal Waterway to the headwaters of Little River.

(112) 'Stevens Creek' means all waters of Stevens Creek from the backwaters of Stevens Creek Reservoir upstream to the confluence of Hard Labor Creek and Cuffytown Creek in McCormick County.

(113) '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.

(114) 'Story River (Beaufort County)' means all waters of Story River from its confluence with Fripp Inlet upstream to its confluence with Trenchards Inlet.

(115) '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.

(116) '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.

(117) 'Tulifinny River' means all waters of Tulifinny River from its confluence with the Coosawhatchie River upstream to its divergence from the Coosawhatchie River.

(118) '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.

(119) '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.

(120) '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.

(121) '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.

(122) '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.

(123) '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.

(124) 'Waccamaw River' means all waters of Waccamaw River from its confluence with Winyah Bay upstream to the North Carolina/South Carolina state line.

(125) '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.

(126) 'Wando River' means all waters of Wando River from its confluence with the Cooper River upstream to its headwaters.

(127) '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.

(128) 'Wateree River' means all waters of Wateree River from its confluence with the Congaree River upstream to the Lake Wateree Dam.

(129) '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.

(130) '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.

(131) '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.

(132) 'Wright River (Jasper County)' means all waters of Wright River from its confluence with the Atlantic Ocean upstream to its headwaters in Jasper County.

(133) '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.

(134) 'Lake William C. Bowen' means all waters of South Pacolet River impounded by the Lake Bowen Dam upstream to S.C. State Highway 11.

(135) '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).

(136) '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.

(137) '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.

(138) '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.

(139) '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.

(140) '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.

(141) '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.

(142) 'Lake Hartwell Tailwater' means all waters of Savannah River upstream of S.C. State Highway 181 to Lake Hartwell Dam.

(143) 'Lake Jocassee' means all waters of Keowee, Toxaway, and Whitewater Rivers impounded by the Lake Jocassee Dam upstream to the elevation of 1110 msl.

(144) '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.

(145) '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.

(146) '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.

(147) '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.

(148) 'Lake Monticello' means all waters impounded by the Frees Creek Dam including the recreational subimpoundment in Fairfield County.

(149) '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.

(150) '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.

(151) 'Parr Reservoir' means all waters of Broad River impounded by the Parr Reservoir Dam upstream to S.C. State Highway 34.

(152) '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.

(153) '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.

(154) '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.

(155) '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.

(156) '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).

(157) 'Lake Secession' means all the waters of Rocky River impounded by the Lake Secession Dam upstream to S.C. State Highway 413.

(158) '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.

(159) '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.

(160) '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.

(161) '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.

(162) '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.

(163) 'Lake Yonah' means all waters of Tugaloo River impounded by the Lake Yonah Dam upstream to the Lake Tugaloo Dam."

Possession of striped bass

SECTION 2. Section 50-5-1556 of the 1976 Code is amended to read:

"Section 50-5-1556. (A) In the inshore waters, except for that portion of the Savannah River from the saltwater-freshwater dividing line downstream to the mouth of the Savannah River defined by a line from Jones Island, S.C. (also known as Oysterbed Island) point at N. 32° 02' 18" (N 32.03833°), W. 80° 53' 21" (W 80.88917°); across Cockspur Island, Georgia, point at N. 32° 01' 58" (N 32.03278°), W. 80° 52' 56" (W 80.88222°) to Lazaretto Creek, Georgia, point at N. 32° 01' 2" (N 32.01722°), W. 80° 52' 51" (W 80.88083°), and the territorial sea from June sixteenth through September thirtieth, it is unlawful to possess any striped bass (rockfish). Any striped bass taken must be returned immediately to the waters from where it came.

(B) In the inshore waters, except for that portion of the Savannah River from the saltwater-freshwater dividing line downstream to the mouth of the Savannah River defined by a line from Jones Island, S.C. (also known as Oysterbed Island) point at N. 32° 02' 18" (N 32.03833°), W. 80° 53' 21" (W 80.88917°); across Cockspur Island, Georgia, point at N. 32° 01' 58" (N 32.03278°), W. 80° 52' 56" (W 80.88222°) to Lazaretto Creek, Georgia, point at N. 32° 01' 2" (N 32.01722°), W. 80°

52’ 51” (W 80.88083°), and the territorial sea from October first through June fifteenth it is unlawful to:

(1) take or possess more than three striped bass per day;
(2) take any striped bass less than twenty-six inches in length; or
(3) land any striped bass without the head and tail fin intact.”

Possession of striped bass

SECTION 3. Section 50-13-230 of the 1976 Code is amended to read:

“Section 50-13-230. (A) In the following freshwater bodies: the Ashepoo River; Ashley River; Back River in Jasper County and the Back River in Berkeley County; Black River; Black Mingo Creek; Bull Creek and Little Bull Creek; Combahee River; Cooper River system; Coosawhatchie River; Cuckholds Creek; Edisto River; Horseshoe Creek; Lumber River; Lynches River; Great Pee Dee and Little Pee Dee Rivers; Pocotaligo River in Beaufort, Jasper, and Hampton Counties; Salkehatchie and Little Salkehatchie Rivers; Sampit River; Santee River system except the lower reach of the Saluda River; Tulifinny River; Thoroughfare Creek; Intracoastal Waterway (Horry County); and Waccamaw River from June sixteenth through September thirtieth, it is unlawful to take, attempt to take, or to possess striped bass. Striped bass taken must be returned immediately to the waters from where it came.

(B) On the lower reach of the Saluda River from June sixteenth through September thirtieth, it is unlawful to take or possess striped bass. Striped bass taken must be returned immediately to the waters from where it came.

(C) In the following freshwater bodies: the Ashepoo River; Ashley River; Back River in Jasper County and the Back River in Berkeley County; Black River; Black Mingo Creek; Bull Creek and Little Bull Creek; Combahee River; Cooper River system; Coosawhatchie River; Cuckholds Creek; Edisto River; Horseshoe Creek; Lumber River; Lynches River; Great Pee Dee and Little Pee Dee Rivers; Pocotaligo River in Beaufort, Jasper, and Hampton Counties; Salkehatchie and Little Salkehatchie Rivers; Sampit River; Santee River system; Tulifinny River; Thoroughfare Creek; Intracoastal Waterway (Horry County); and Waccamaw River from October first through June fifteenth, it is unlawful to take or possess more than three striped bass a day.

(D) In the following freshwater bodies: the Ashepoo River; Ashley River; Back River in Jasper County and the Back River in Berkeley County; Black River; Black Mingo Creek; Bull Creek and Little Bull Creek; Combahee River; Cooper River system; Coosawhatchie River;

Cuckholds Creek; Edisto River; Horseshoe Creek; Lumber River; Lynches River; Great Pee Dee and Little Pee Dee Rivers; Pocotaligo River in Beaufort, Jasper, and Hampton Counties; Salkehatchie and Little Salkehatchie Rivers; Sampit River; Tulifinny River; Thoroughfare Creek; Intracoastal Waterway (Horry County); and Waccamaw River from October first through June fifteenth, it is unlawful to take or possess a striped bass less than twenty-six inches in total length.

(E) In the Santee River system from October first through June fifteenth, it is unlawful to take or possess a striped bass less than twenty-three inches or greater than twenty-five inches, provided that one striped bass taken or possessed may be greater than twenty-six inches.

(F) On Lake Murray and the middle reach of the Saluda River it is unlawful to possess more than five striped bass a day. From June first through September thirtieth, it is unlawful to take, attempt to take, or possess more than five striped bass a day.

(G) On Lake Murray and the middle reach of the Saluda River from October first through May thirty-first, it is unlawful to possess a striped bass less than twenty-one inches in total length. From June first to September thirtieth there is no minimum length.

(H) On Lakes Hartwell and Thurmond it is unlawful to possess more than ten striped bass or hybrid bass or a combination of those a day and only three may be over twenty-six inches in total length.

(I) On Lake Richard B. Russell and the Lake Hartwell tailwater it is unlawful to possess more than two striped bass or hybrid bass or a combination of those a day, and only one may be over thirty-four inches total length.

(J) On the lower reach of the Savannah River it is unlawful to possess more than two striped bass, hybrid bass, white bass, or a combination of these. Any of these fish taken from the lower reach of the Savannah River must be at least twenty-seven inches in total length.

(K) It is unlawful to land striped bass unless the head and tail fin are intact.

(L) The department shall establish the daily possession and size limits for striped bass on all other waters of this State, provided, limits must not be set by emergency regulation.

(M) The department shall make a study of the striped bass fishery on the Santee and Cooper River systems and make recommendations on any needed modifications of this section before January 2022."

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 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 165

(R177, H3699)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 63-7-765, 63-7-770, AND 63-9-80 SO AS TO ALLOW FOR THE DISCLOSURE OF PERSONAL HEALTH INFORMATION ABOUT A CHILD TO CERTAIN CAREGIVERS AS PART OF CHILD PROTECTION OR ADOPTION PROCEEDINGS; TO AMEND SECTION 63-7-1990, RELATING TO CONFIDENTIALITY OF CHILD ABUSE OR NEGLECT RECORDS, SO AS TO AUTHORIZE THE DEPARTMENT OF SOCIAL SERVICES TO RELEASE RECORDS CONTAINING PERSONAL HEALTH INFORMATION ABOUT THE CHILD TO CERTAIN CAREGIVERS; AND TO AMEND SECTION 63-7-2370, RELATING TO THE DISCLOSURE OF CERTAIN

INFORMATION ABOUT A FOSTER CHILD TO A FOSTER PARENT AT THE TIME OF PLACEMENT, SO AS TO MAKE CONFORMING CHANGES.

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

Required disclosure of personal health information to kinship care providers necessary to care for a child

SECTION 1. Subarticle 3, Article 3, Chapter 7, Title 63 of the 1976 Code is amended by adding:

"Section 63-7-765. Prior to and at the time the department places a child with a relative providing kinship care following the removal of the child from the home, the department shall disclose to the relative all information known by the person making the placement or reasonably accessible to the person making the placement that is necessary to provide adequate care and supervision for the child and to protect the health and safety of the child and the relative's family. The information that must be disclosed to the relative pursuant to this section includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral strengths and challenges, and matters related to the child's educational needs. If the department does not have this information at the time of making the placement, a member of the child's casework team or the child's caseworker shall contact the relative and provide the information known to the casework team or reasonably accessible during the first working day following the placement. The child's caseworker shall research the child's record and shall supplement the information provided to the relative no later than the end of the first week of placement if additional information is found. When the child's caseworker acquires new information which is likely to affect either the ability of the relative to provide adequate care and supervision for the child or is likely to place the health and safety of the child or the relative's family at risk, the department shall disclose that information to the relative. The obligation to provide this information continues until the placement ends."

Required disclosure of personal health information to residential facilities necessary to care for a child

SECTION 2. Subarticle 3, Article 3, Chapter 7, Title 63 of the 1976 Code is amended by adding:

"Section 63-7-770. (A) Prior to and at the time the department places a child in a public or private residential facility following the removal of the child from the home, the department shall disclose to the chief executive officer of the facility, or to a designated employee of the facility who provides health-related services to the child, all information known by the person making the placement or reasonably accessible to the person making the placement that is necessary to provide adequate care and supervision for the child and to protect the health and safety of the child and of other children residing in and personnel working at the facility. The information that must be disclosed pursuant to this section includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral strengths and challenges, and matters related to the child's educational needs. If the department does not have this information at the time of making the placement, a member of the child's casework team or the child's caseworker shall contact the designated employee of the facility to provide the information known to the casework team or reasonably accessible during the first working day following the placement. The child's caseworker shall research the child's record and shall supplement the information provided to the facility no later than the end of the first week of placement if additional information is found. When the child's caseworker acquires new information which is likely to affect either the ability of the facility to provide adequate care and supervision for the child or is likely to place the health and safety of the child or of other children residing in the facility or the facility's personnel at risk, the department shall disclose that information to the designated facility employee. The obligation to provide this information continues until the placement ends.

(B) For purposes of this section, 'public or private residential facility' means a group home, residential treatment center, or other facility that, pursuant to a contract with or a license or permit issued by the department, provides residential services to children in the custody of the department."

Required disclosure of personal health information to prospective adoptive parent necessary to care for a child

SECTION 3. Subarticle 1, Article 1, Chapter 9, Title 63 of the 1976 Code is amended by adding:

"Section 63-9-80. Prior to and at the time the department places a child with a prospective adoptive parent for purposes of adoption, the department shall disclose to the prospective adoptive parent all information known by the person making the placement or reasonably accessible to the person making the placement that is necessary to provide adequate care and supervision for the child and to protect the health and safety of the child and the prospective adoptive parent's family. The information that must be disclosed to the prospective adoptive parent pursuant to this section includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral strengths and challenges, and matters related to the child's educational needs. If the department does not have this information at the time of making the placement, a member of the child's casework team or the child's caseworker shall contact the prospective adoptive parent and provide the information known to the casework team or reasonably accessible during the first working day following the placement. The child's caseworker shall research the child's record and shall supplement the information provided to the prospective adoptive parent no later than the end of the first week of placement if additional information is found. When the child's caseworker acquires new information which is likely to affect either the ability of the prospective adoptive parent to provide adequate care and supervision for the child or is likely to place the health and safety of the child or the prospective adoptive parent's family at risk, the department shall disclose that information to the prospective adoptive parent. The obligation to provide this information continues until the adoption is finalized."

Confidentiality of child abuse or neglect reports, exceptions for disclosure of personal health information necessary to care for a child

SECTION 4. Section 63-7-1990(B)(20), (C), and (D) of the 1976 Code is amended to read:

"(20) prospective or current adoptive parents, caregivers, kinship care providers, foster parents, and public or private residential facilities, in contemplation of placement and after placement. For purposes of this item, 'public or private residential facility' has the same meaning as defined in Section 63-7-770;

(C) The department may limit the information disclosed to individuals and entities named in subsection (B)(13), (14), (15), (16), (17), (18), and (20) to that information necessary to accomplish the purposes for which it is requested or for which it is being disclosed; however, the department shall comply with subsection (D)(2) regarding the release of medical or mental health records to an individual or facility identified in subsection (B)(20). Nothing in this subsection gives to these entities or persons the right to review or copy the complete case record.

(D)(1) When a request for access to the record comes from an individual identified in subsection (B)(5), (6), or (7), or that person's attorney, the department shall review any reports from medical care providers and mental health care providers to determine whether the report contains information that does not pertain to the case decision, to the treatment needs of the family as a whole, or to the care of the child. If the department determines that these conditions exist, before releasing the document, the department shall provide a written notice identifying the report to the requesting party and to the person whose treatment or assessment was the subject of the report. The notice may be mailed to the parties involved or to their attorneys or it may be delivered in person. The notice shall state that the department will release the report after ten days from the date notice was mailed to all parties and that any party objecting to release may apply to the court of competent jurisdiction for relief. When a medical or mental health provider or agency furnishes copies of reports or records to the department and designates in writing that those reports or records are not to be further disclosed, the department must not disclose those documents to persons identified in subsection (B)(5), (6), or (7), or that person's attorney. The department shall identify to the requesting party the records or reports withheld pursuant to this subsection and shall advise the requesting party that he may contact the medical or mental health provider or agency about release of the records or reports.

(2) The department is authorized to release all records and reports in the department's possession from a child's medical providers and mental health providers to an individual or facility identified in subsection (B)(20) that are necessary for that individual or facility to provide adequate care and supervision for the child and to protect the

health and safety of the child and others. The department also is authorized to and shall release the information in its possession to a child-placing agency for the benefit of a foster parent recruited, trained and supported by the child-placing agency. Information that must be released includes, but is not limited to, the following:

(a) any medical, dental, and mental health, developmental, educational or other special needs of the child, including the names and addresses of the child's health and educational providers, the child's medical history, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child;

(b) the child's history of and risks relating to the child's history including, but not limited to, physical or sexual trauma, physical or sexual aggression, or psychological diagnoses; and

(c) treatment plans developed for the child."

Required disclosure of personal health information to foster parent necessary to care for a child

SECTION 5. Section 63-7-2370 of the 1976 Code is amended to read:

"Section 63-7-2370. Prior to and at the time the department places a child with a foster parent, the department shall disclose to the foster parent all information known by the person making the placement or reasonably accessible to the person making the placement that is necessary to provide adequate care and supervision for the child and to protect the health and safety of the child and the foster family. The information that must be disclosed pursuant to this section includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral strengths and challenges, and matters related to the child's educational needs. If the department does not have this information at the time of making the placement, a member of the child's casework team or the child's caseworker shall contact the foster parent and provide the information known to the casework team or reasonably accessible during the first working day following the placement. The child's caseworker shall research the child's record and shall supplement the information provided to the foster parent no later than the end of the first week of placement if additional information is found. When the child's caseworker acquires new information which is likely to affect either the ability of the foster parent to provide adequate care and supervision for the child or is likely to place the health and safety of the

child or the foster family at risk, the department shall disclose that information to the foster parent. The obligation to provide this information continues until the placement ends."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 166

(R178, H3822)

AN ACT TO AMEND SECTION 44-53-160, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROCESS FOR MAKING CHANGES TO CONTROLLED SUBSTANCE SCHEDULES, SO AS TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO NOTIFY THE CODE COMMISSIONER OF ADDITIONS, DELETIONS, AND RESCHEDULING OF SUBSTANCES.

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

Drug scheduling changes, notice to Code Commissioner

SECTION 1. Section 44-53-160(B) and (C) of the 1976 Code is amended to read:

"(B) Except as otherwise provided in this section, during the time the General Assembly is not in session, the department may add, delete, or reschedule a substance as a controlled substance after providing notice and a hearing to all interested parties. The addition, deletion, or rescheduling of a substance pursuant to this subsection has the full force of law unless overturned by the General Assembly. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public

and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, the Clerks of the Senate and House, and the Code Commissioner, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

(C) If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department shall, at the first regular or special meeting of the South Carolina Board of Health and Environmental Control within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register effecting the change in federal status of the substance. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, the Clerks of the Senate and House, and the Code Commissioner, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 167

(R179, H4411)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 48-39-40 RELATING TO THE COASTAL ZONE MANAGEMENT APPELLATE PANEL.

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

Coastal zone management appellate panel, repeal

SECTION 1. Section 48-39-40 is repealed.

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 168

(R180, H4488)

AN ACT TO AMEND SECTION 44-53-1650, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING IN PART TO PERSONS AUTHORIZED TO HAVE ACCESS TO DATA MAINTAINED IN THE PRESCRIPTION MONITORING PROGRAM, SO AS TO AUTHORIZE CORONERS, DEPUTY CORONERS, MEDICAL EXAMINERS, AND DEPUTY MEDICAL EXAMINERS IN CERTAIN CIRCUMSTANCES.

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

Prescription monitoring program data confidentiality exceptions, coroners and medical examiners

SECTION 1. Section 44-53-1650(D) of the 1976 Code is amended to read:

"(D) Drug control may provide data in the prescription monitoring program to the following persons:

(1) a practitioner or pharmacist or authorized delegate who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established pursuant to state law;

(3) a designated representative of the South Carolina Department of Labor, Licensing and Regulation responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(4) a local, state, or federal law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing licit drugs and who is involved in a bona fide specific drug-related investigation involving a designated person;

(5) the South Carolina Department of Health and Human Services regarding Medicaid program recipients;

(6) a properly convened grand jury pursuant to a subpoena properly issued for the records;

(7) personnel of drug control for purposes of administration and enforcement of this article;

(8) qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser must be deleted or redacted from such information prior to disclosure. Further, release of the information only may be made pursuant to a written agreement between qualified personnel and the department in order to ensure compliance with this subsection; and

(9) a coroner, deputy coroner, medical examiner, or deputy medical examiner who is involved in a specific inquiry into the cause and manner of death of a designated person pursuant to Chapter 5, Title 17."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 169

(R182, H4600)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-130-70 SO AS TO AUTHORIZE PHARMACISTS TO PRESCRIBE OPIOID ANTIDOTES TO CERTAIN COMMUNITY ORGANIZATIONS TO DISTRIBUTE TO A PERSON AT RISK OF EXPERIENCING AN OPIOID-RELATED OVERDOSE OR TO A CAREGIVER OF SUCH A PERSON; AND TO AMEND SECTION 44-130-20, RELATING TO TERMS DEFINED IN THE SOUTH CAROLINA OVERDOSE PREVENTION ACT, SO AS TO ADD A DEFINITION FOR "COMMUNITY DISTRIBUTOR".

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

Overdose Prevention Act, distributor of opioid antidotes by community organizations

SECTION 1. Chapter 130, Title 44 of the 1976 Code is amended by adding:

"Section 44-130-70. (A) A prescriber acting in good faith and exercising reasonable care may directly or by standing order prescribe an opioid antidote to a community distributor for the purpose of distributing the opioid antidote to:

(1) a person at risk of experiencing an opiate-related overdose; or

(2) a caregiver of a person at risk of experiencing an opiate-related overdose.

(B) A pharmacist may dispense an opioid antidote to a community distributor pursuant to a prescription or standing order issued in accordance with this section.

(C)(1) A community distributor acting in good faith may distribute an opioid antidote:

(a) obtained pursuant to a written prescription or standing order issued in accordance with this section; and

(b) pursuant to a written joint protocol issued by the Board of Medical Examiners and the Board of Pharmacy.

(2) Not later than six months after passage of this act, the Board of Medical Examiners and the Board of Pharmacy must issue a written joint protocol to authorize a community distributor to distribute an opioid antidote without a patient-specific written order or prescription to a person at risk of experiencing an opioid-related overdose or to a caregiver of such a person, and without the requirement for a pharmacist to dispense the opioid antidote.

(3) The Board of Medical Examiners and the Board of Pharmacy must appoint an advisory committee to advise and assist in the development of the joint protocol for their consideration. The membership of the committee must include, but not be limited to, a representative of the Department of Health and Environmental Control, a representative of the Department of Alcohol and Other Drug Abuse Services, and health care professionals licensed in the State.

(4) For purposes of this subsection, 'caregiver' means a person who is not at risk of an opioid overdose but who, in the judgment of the community distributor, may be in a position to assist another individual during an overdose.

(D) A community distributor that distributes an opioid antidote in accordance with the provisions of this section is not as a result of an act or omission subject to civil or criminal liability."

Overdose Prevention Act, definition of community distributor

SECTION 2. Section 44-130-20 of the 1976 Code is amended to read:

"Section 44-130-20. For purposes of this chapter:

(1) 'Caregiver' means a person who is not at risk of an opioid overdose but who, in the judgment of a physician, may be in a position to assist another individual during an overdose and who has received patient overdose information as required by Section 44-130-30 on the indications for and administration of an opioid antidote.

(2) 'Community distributor' means an organization, either public or private, which provides substance use disorder assistance and services, such as counseling, homeless services, advocacy, harm reduction, alcohol and drug screening, and treatment to individuals at risk of experiencing an opioid-related overdose.

(3) 'Department' means the Department of Health and Environmental Control.

(4) 'Drug overdose' means an acute condition including, but not limited to, physical illness, coma, mania, hysteria, or death resulting from the consumption or use of a controlled substance or other substance with which a controlled substance was combined and that a layperson would reasonably believe to require medical assistance.

(5) 'First responder' means an emergency medical services provider, a law enforcement officer, or a fire department worker directly engaged in examining, treating, or directing persons during an emergency.

(6) 'Medical assistance' means professional medical services that are provided to a person experiencing a drug overdose.

(7) 'Opioid antidote' means naloxone hydrochloride or other similarly acting drug approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

(8) 'Pharmacist' means an individual licensed pursuant to Chapter 43, Title 40 to engage in the practice of pharmacy.

(9) 'Prescriber' means a physician licensed pursuant to Chapter 47, Title 40, an advanced practice registered nurse licensed pursuant to Chapter 33, Title 40 and prescribing in accordance with the requirements of that chapter, and a physician assistant licensed pursuant to Article 7, Chapter 47, Title 40 and prescribing in accordance with the requirements of that article."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 170

(R183, H4644)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-96-85 SO AS TO ESTABLISH THE SOLID WASTE EMERGENCY FUND, TO PROVIDE FOR THE FUNDING OF THE FUND, TO PROVIDE EXCEPTIONS, TO AUTHORIZE THE RECOVERY OF COSTS BY THE ATTORNEY GENERAL OR THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, AND TO AUTHORIZE A REPRESENTATIVE TO INVESTIGATE A WASTE MANAGEMENT SITE AT ANY TIME TO ADDRESS AN EMERGENCY SITUATION; TO AMEND SECTION 44-96-120, RELATING TO THE SOLID WASTE MANAGEMENT TRUST FUND, SO AS TO INCLUDE FUNDING THE SOLID WASTE EMERGENCY FUND IN THE LIST OF AUTHORIZED SOLID WASTE MANAGEMENT TRUST FUND EXPENDITURES; TO AMEND SECTION 44-96-290, RELATING TO SOLID WASTE MANAGEMENT FACILITY PERMITTING, SO AS TO ALLOW THE DEPARTMENT TO LIMIT DEMONSTRATION OF NEED REQUIREMENTS, TO REMOVE LOCAL LAND USE AND ZONING ORDINANCES FROM A CONSTRUCTION PERMIT TO BUILD A NEW SOLID WASTE MANAGEMENT FACILITY OR EXPAND AN EXISTING FACILITY, AND TO REQUIRE A PERSON SEEKING A CONSTRUCTION PERMIT TO PROVIDE DOCUMENTATION OF COMPLIANCE WITH LOCAL LAND USE AND ZONING ORDINANCES; AND TO AMEND SECTION 44-96-360, RELATING TO SOLID WASTE PROCESSING FACILITIES, SO AS TO ESTABLISH CERTAIN CONDITIONS FOR FACILITIES THAT RECYCLE CONSTRUCTION AND DEMOLITION DEBRIS.

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

Solid Waste Emergency Fund Established

SECTION 1. Article 1, Chapter 96, Title 44 of the 1976 Code is amended by adding:

"Section 44-96-85. (A) There is established a Solid Waste Emergency Fund to be administered by the department of Health and Environmental Control.

(1) Beginning the state fiscal year after the effective date of this section, the department shall transfer two and one-half percent of the funds remitted quarterly to the Solid Waste Management Trust Fund pursuant to Sections 44-96-160, 44-96-170, 44-96-180, and 44-96-200 to a special sub-fund designated as the Solid Waste Emergency Fund.

(2) The department shall deposit quarterly payments into the Solid Waste Emergency Fund until the unencumbered balance equals $1,500,000.

(3) When expenditures from the account occur, the department shall, on a quarterly basis, transfer funds in accordance with this section until such time as the unencumbered balance of the fund equals $1,500,000.

(B) The monies in the Solid Waste Emergency Fund may be expended by the department exclusively at the discretion of the director to address a substantial release or threat of substantial release into the environment of any pollutant or other circumstance which may present an imminent and substantial danger to human health and the environment from a solid waste facility regulated under this chapter. The director may authorize the department to take direct emergency actions or enter into a contract to perform emergency actions to protect human health and the environment at solid waste sites.

(C) This subsection does not apply to the release or discharge of a substance which is in compliance with a permit, license, approval, special order, waiver or variance issued under this chapter or under applicable federal statutes or regulations.

(D) The Solid Waste Emergency Fund may not be used to perform routine actions at solid waste sites such as operations, maintenance, monitoring, or remedial actions in which no imminent threat to human health and the environment exists. The department shall take all reasonable efforts to compel a permittee or other responsible party to address the threat before expending funds from the Solid Waste Management Trust Fund.

(E) The collection or expenditure of funds under this section are separate from any activities by the department or the federal environmental protection agency acting under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S. Code 9601, et seq.

(F) The Attorney General or the department shall take all reasonable actions to recover costs for expenditures made from the Solid Waste

Emergency Fund. The department may seek cost recovery from persons whose wilful disregard of this statute or regulations promulgated pursuant to this statute resulted in the need for emergency action. Funds recovered must be deposited into the Solid Waste Emergency Fund.

(G) An authorized representative or employee of the department may enter at all times onto any site, facility, property, and surrounding areas for the purpose of investigating or addressing emergency situations. Notice to the owner or occupant is not required if immediate action is necessary and the delay required to provide this notice may present an imminent and substantial hazard to human health, safety or to the environment."

Funding authorization, Solid Waste Emergency Fund

SECTION 2. Section 44-96-120(A) of the 1976 Code is amended to read:

"(A) There is established a Solid Waste Management Trust Fund to be administered by the Office of Solid Waste Reduction and Recycling to fund:

(1) activities of the department to implement the provisions of this chapter;

(2) research by state-supported educational institutions or by private entities under contract with state-supported educational institutions on solid waste management technologies;

(3) activities of the Recycling Market Development Advisory Council including its staff in the amount of one hundred thousand dollars from the Solid Waste Management Trust Fund for fiscal year 1994-95;

(4) demonstration projects or pilot programs to be conducted by local governments within their jurisdictions, including local governments which contract with private entities to assist in conducting the demonstration projects or pilot programs;

(5) grants to local governments to carry out their responsibilities under this article, pursuant to the provisions of Section 44-96-130, including local governments which contract with private entities to assist in carrying out their responsibilities under this article;

(6) grants to school districts and public and private schools to establish waste reduction and recycling education programs;

(7) grants to public and private colleges and universities to establish waste reduction and recycling education programs and demonstration projects; and

(8) the activities of the Solid Waste Emergency Fund through the transfer of funds on a quarterly basis pursuant to the provisions of Section 44-96-85."

Solid Waste Management Facilities, local government compliance requirement

SECTION 3. Section 44-96-290(E), (F), and (G) of the 1976 Code is amended to read:

"(E) No permit to construct a new solid waste management facility or to expand an existing solid waste management facility may be issued until a demonstration of need is approved by the department, as required by regulation. Facilities which lawfully burn nonhazardous waste for energy recovery up to the normal rate of manufacturing production or which lawfully use or reuse the waste to make a product shall not be excluded from the demonstration of need requirement. No construction of new or expanded solid waste management facilities may be commenced until all permits required for construction have been issued. In determining if there is a need for new or expanded solid waste disposal sites, the department shall not consider solid waste generated in jurisdictions not subject to the provisions of a county or regional solid waste management plan pursuant to this chapter.

The department shall promulgate regulations to implement this section. These regulations must apply to all solid waste management facilities which have not obtained all permits required for construction. This subsection does not apply to inert or cellulosic solid waste facilities which are not commercial solid waste management facilities or to industrial facilities managing solid waste generated in the course of normal operations on property under the same ownership or control as the solid waste management facility if the industrial facility is not a commercial solid waste management facility.

(F) No permit to construct a new solid waste management facility or to expand an existing solid waste management facility within a county or municipality may be issued by the department unless the proposed facility or expansion is consistent with the local or regional solid waste management plan and the state solid waste management plan; and the host jurisdiction and the jurisdiction generating solid waste destined for the proposed facility or expansion can demonstrate that they are actively involved in and have a strategy for meeting the statewide goal of waste reduction established in this chapter. This subsection must not apply to industrial facilities managing solid waste generated in the course of

normal operations on property under the same ownership or control as the waste management facility. However, the facilities shall be consistent with the applicable local zoning and land use ordinances, if any; and provided further, that the industrial facility is not a commercial solid waste management facility.

(G) A permit to construct a new solid waste management facility or to expand an existing solid waste management facility as authorized by this chapter may not be issued until the applicant provides documentation from the applicable local government of compliance with local land use and zoning ordinances along with the permit application."

Construction and demolition debris recycling facilities, permit requirements

SECTION 4. Section 44-96-360 of the 1976 Code is amended to read:

"Section 44-96-360. (A) No later than eighteen months after this article is effective, the department shall promulgate, in addition to regulations generally applicable to all solid waste management facilities, regulations governing the siting, design, construction, operation, closure, and postclosure activities of facilities which receive solid waste for processing. The department, by regulation, may exempt certain facilities from all or part of the requirements of this section.

(B) All new processing facilities must comply with the requirements of this section. The department shall establish a schedule for existing facilities to come into compliance with the requirements of this section.

(C) The regulations governing solid waste processing facilities, at a minimum, shall contain the following requirements:

(1) the submission by the permit applicant of the following documents:

(a) an engineering report which, at a minimum, must contain a description of the facility, the process and equipment to be used, the proposed service area, the types and quantities of waste to be processed, and a description of existing site conditions;

(b) complete construction plans and specifications;

(c) a design report;

(d) a personnel training program;

(e) an identification of possible air releases and groundwater and surface water discharges;

(f) a waste control plan describing the manner in which waste from the processing activities will be managed. The plan, at a minimum, must identify the facilities to be approved by the department that will

receive the waste and a certification that such facilities have adequate capacity to manage the waste;

(g) a quality assurance and quality control report;

(h) a contingency plan describing the action to be taken in response to contingencies which could occur during operation of the facility;

(i) an operation plan describing how the facility will meet all applicable regulatory requirements;

(j) a draft operation and maintenance manual;

(k) a closure plan; and

(l) a description of the restrictions, if any, that the facility places on the materials it receives for processing and a statement explaining the need for such restrictions;

(2) locational criteria; provided, however, that the department shall grant exemptions from such criteria upon a demonstration by the permit applicant of circumstances which warrant an exemption;

(3) facility design and operational requirements including, but not limited to, access controls, reporting and recordkeeping requirements, receipt and handling of solid waste, process changes, emergency preparedness, and guidelines for identifying items or materials that may not be accepted for processing;

(4) monitoring requirements including, at a minimum, air quality monitoring and analysis, groundwater and surface water quality monitoring and analysis, and product quality testing and analysis;

(5) closure and postclosure requirements;

(6) financial responsibility requirements;

(7) personnel training requirements; and

(8) corrective action requirements.

(D)(1) All unpermitted facilities that recycle construction and demolition debris must register with the department on a form made available by the department no later than sixty days after the effective date of this subsection.

(2) A facility that recycles construction and demolition debris must submit a complete permit application to the department or complete closure in accordance with this section and regulations promulgated pursuant to this section within twelve months of the effective date of this subsection.

(3) A facility that recycles construction and demolition debris must obtain a permit from the department or complete closure in accordance with this section and regulations promulgated pursuant to this section within twenty-four months of the effective date of this subsection.

(4) A facility that recycles construction and demolition debris is exempt from obtaining a permit if:

(a) all materials accepted at the facility are segregated from solid waste and sorted by material type at the point of generation or at a permitted solid waste management facility;

(b) at least seventy-five percent of the total weight of each separated material type received during a calendar year and remaining on site from a previous year is used, reused, recycled, or transferred to a different site for use, reuse, or recycling; and

(c) the material is managed in a manner to demonstrate that the recovered material has value and is stored in such a way to protect it from theft, degradation, contamination, or other harm.

(5) A facility that recycles construction and demolition debris operating on the effective date of this subsection must register in accordance with the provision of this subsection but is exempt from the permitting requirements if it recycles seventy-five percent by weight of the material received at the facility each calendar year and the facility is located on a tax parcel of not more than two acres.

(6) A facility that only recycles land clearing debris is not required to obtain a permit pursuant to this section but is subject to all other applicable provisions of this chapter and regulations promulgated pursuant to this chapter.

(7) The department shall require each registered facility that recycles construction and demolition debris to submit an annual report by a date determined by the department. The annual report, at a minimum, must include:

(a) the total amount by weight of each separate recovered material type received at the facility during the calendar year;

(b) the total amount by weight of each recovered material type that remained on site at the close of the previous year;

(c) the total amount by weight of each recovered material that is used, reused, recycled, or transferred to another site for use, reuse, or recycling during the calendar year and the location of the other site; and

(d) the amount of solid waste removed and disposed of during the calendar year and the name and address of the facility where the solid waste was disposed.

(E) Records documenting the activities listed in subsection (D) must be maintained for no less than three years and must be made available upon request by the department."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 171

(R184, H4655)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "SOUTH CAROLINA INSURANCE DATA SECURITY ACT" BY ADDING CHAPTER 99 TO TITLE 38 SO AS TO DEFINE NECESSARY TERMS; TO REQUIRE A LICENSEE TO DEVELOP, IMPLEMENT, AND MAINTAIN A COMPREHENSIVE INFORMATION SECURITY PROGRAM BASED ON THE LICENSEE'S RISK ASSESSMENT AND TO ESTABLISH CERTAIN REQUIREMENTS FOR THE SECURITY PROGRAM, TO PROVIDE MINIMUM REQUIREMENTS FOR A LICENSEE'S BOARD OF DIRECTORS, IF APPLICABLE, TO REQUIRE A LICENSEE TO MONITOR THE SECURITY PROGRAM AND MAKE ADJUSTMENTS IF NECESSARY, TO PROVIDE THAT THE LICENSEE MUST ESTABLISH AN INCIDENT RESPONSE PLAN AND TO ESTABLISH CERTAIN REQUIREMENTS FOR THE INCIDENT RESPONSE PLAN, TO REQUIRE A LICENSEE TO SUBMIT A STATEMENT TO THE DIRECTOR OF THE DEPARTMENT OF INSURANCE ANNUALLY; TO ESTABLISH CERTAIN REQUIREMENTS FOR A LICENSEE IN THE EVENT OF A CYBERSECURITY EVENT; TO REQUIRE A LICENSEE TO NOTIFY THE DIRECTOR OF CERTAIN INFORMATION IN THE EVENT OF A CYBERSECURITY EVENT; TO GRANT THE DIRECTOR THE POWER AND AUTHORITY TO EXAMINE AND INVESTIGATE A LICENSEE; TO PROVIDE THAT DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN THE CONTROL OR POSSESSION OF THE DEPARTMENT MUST BE TREATED AS CONFIDENTIAL AND TO AUTHORIZE THE DIRECTOR TO SHARE OR RECEIVE

CONFIDENTIAL DOCUMENTS UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE EXEMPTIONS FROM THE PROVISIONS OF THIS CHAPTER; TO PROVIDE PENALTIES FOR VIOLATIONS; AND TO AUTHORIZE THE DIRECTOR TO PROMULGATE REGULATIONS.

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

Purpose

SECTION 1. The purpose and intent of this act is to establish standards for data security and standards for the investigation of and notification to the director of a cybersecurity event applicable to licensees. This act may not be construed to create or imply a private cause of action for a violation of its provisions nor may it be construed to curtail a private cause of action which would otherwise exist in the absence of this act.

Citation

SECTION 2. This act is known and may be cited as the "South Carolina Insurance Data Security Act".

Insurer data security requirements

SECTION 3. Title 38 of the 1976 Code is amended by adding:

"CHAPTER 99

South Carolina Insurance Data Security Act

Section 38-99-10. As used in this chapter:

(1) 'Authorized individual' means an individual known to and screened by the licensee and determined to be necessary and appropriate to have access to nonpublic information held by the licensee and its information systems.

(2) 'Consumer' means an individual including, but not limited to, an applicant, policyholder, insured, beneficiary, claimant, and certificate holder who is a resident of this State and whose nonpublic information is in a licensee's possession, custody, or control.

(3) 'Cybersecurity event' means an event resulting in unauthorized access to or the disruption or misuse of an information system or information stored on an information system. The term 'cybersecurity

event' does not include the unauthorized acquisition of encrypted nonpublic information if the encryption, process or key is not also acquired, released or used without authorization. The term 'cybersecurity event' also does not include an event with regard to which the licensee has determined that the nonpublic information accessed by an unauthorized person has not been used or released and has been returned or destroyed.

(4) 'Department' means the Department of Insurance.

(5) 'Director' means the Director of the Department of Insurance or his designee.

(6) 'Encrypted' means the transformation of data into a form which results in a low probability of assigning meaning without the use of a protective process or key.

(7) 'Information security program' means the administrative, technical, and physical safeguards that a licensee uses to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle nonpublic information.

(8) 'Information system' means a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination or disposition of electronic information, as well as any specialized system such as industrial or process controls systems, telephone switching and private branch exchange systems, and environmental control systems.

(9) 'Licensee' means a person licensed, authorized to operate, or registered, or required to be licensed, authorized, or registered pursuant to the insurance laws of this State but does not include a purchasing group or a risk retention group chartered and licensed in a state other than this State or a licensee that is acting as an assuming insurer that is domiciled in another state or jurisdiction.

(10) 'Multifactor authentication' means authentication through verification of at least two of the following authentication factors:

(a) knowledge factors, such as a password; or

(b) possession factors, such as a token or text message on a mobile phone; or

(c) inherence factors, such as a biometric characteristic.

(11) 'Nonpublic information' means information that is not publicly available information and is:

(a) business-related information of a licensee the tampering with which, or unauthorized disclosure, access, or use of which, would cause a material adverse impact to the business, operations, or security of the licensee;

(b) any information concerning a consumer which because of name, number, personal mark, or other identifier can be used to identify such consumer, in combination with any one or more of the following data elements:

(i) social security number;

(ii) driver's license number or nondriver identification card number;

(iii) account number, credit or debit card number;

(iv) security code, access code, or password that would permit access to a consumer's financial account; or

(v) biometric records;

(c) any information or data, except age or gender, in any form or medium created by or derived from a health care provider or a consumer and that relates to:

(i) the past, present, or future physical, mental or behavioral health or condition of a consumer or a member of the consumer's family;

(ii) the provision of health care to a consumer; or

(iii) payment for the provision of health care to a consumer.

(12) 'Person' means any individual or any nongovernmental entity including, but not limited to, a nongovernmental partnership, corporation, branch, agency, or association.

(13) 'Publicly available information' means information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state, or local governmental records, widely distributed media, or disclosures to the general public that are required to be made by federal, state, or local law. For the purposes of this item, a licensee has a reasonable basis to believe information is lawfully made available to the general public if the licensee has taken steps to determine:

(a) that the information is of the type that is available to the general public; and

(b) whether a consumer can direct that the information not be made available to the general public and, if so, that the consumer has not done so.

(14) 'Risk assessment' means the risk assessment that each licensee is required to conduct under this chapter.

(15) 'State' means the State of South Carolina.

(16) 'Third-party service provider' means a person not otherwise defined as a licensee that contracts with a licensee to maintain, process, store or otherwise is permitted access to nonpublic information through its provision of services to the licensee.

Section 38-99-20. (A) Commensurate with the size and complexity of the licensee, the nature and scope of the licensee's activities, including its use of third-party service providers, and the sensitivity of the nonpublic information used by the licensee or in the licensee's possession, custody, or control, each licensee shall develop, implement, and maintain a comprehensive written information security program based on the licensee's risk assessment and that contains administrative, technical, and physical safeguards for the protection of nonpublic information and the licensee's information system.

(B) A licensee's information security program must be designed to:

(1) protect the security and confidentiality of nonpublic information and the security of the information system;

(2) protect against threats or hazards to the security or integrity of nonpublic information and the information system;

(3) protect against unauthorized access to or use of nonpublic information, and minimize the likelihood of harm to a consumer; and

(4) define and periodically reevaluate a schedule for retention of nonpublic information and a mechanism for its destruction when no longer needed.

(C) The licensee shall:

(1) designate one or more employees, an affiliate, or an outside vendor designated to act on behalf of the licensee as responsible for the information security program;

(2) identify reasonably foreseeable internal or external threats that could result in the unauthorized access to or transmission, disclosure, misuse, alteration, or destruction of nonpublic information including the security of information systems and nonpublic information that are accessible to or held by third-party service providers;

(3) assess the likelihood and potential damage of these threats, considering the sensitivity of the nonpublic information;

(4) assess the sufficiency of policies, procedures, information systems, and other safeguards in place to manage these threats, taking into consideration threats in each relevant area of the licensee's operations, including:

(a) employee training and management;

(b) information systems, including network and software design, and information classification, governance, processing, storage, transmission, and disposal; and

(c) detecting, preventing, and responding to attacks, intrusions, or other systems failures; and

(5) implement information safeguards to manage the threats identified in its ongoing assessment, and at least annually assess the effectiveness of the safeguards' key controls, systems, and procedures.

(D) Based on its risk assessment, the licensee shall:

(1) design its information security program to mitigate the identified risks, commensurate with the size and complexity of the licensee's activities, including its use of third-party service providers, and the sensitivity of the nonpublic information used by the licensee or in the licensee's possession, custody, or control;

(2) determine the appropriateness of and implement the following security measures:

(a) placing access controls on information systems, including controls to authenticate and permit access only to authorized individuals to protect against the unauthorized acquisition of nonpublic information;

(b) identifying and managing the data, personnel, devices, systems, and facilities that enable the organization to achieve business purposes in accordance with their relative importance to business objectives and the organization's risk strategy;

(c) restricting access at physical locations containing nonpublic information to authorized individuals;

(d) protecting by encryption or other appropriate means, all nonpublic information while being transmitted over an external network and all nonpublic information stored on a laptop computer or other portable computing or storage device or media;

(e) adopting secure development practices for in-house developed applications used by the licensee and procedures for evaluating, assessing, and testing the security of externally developed applications used by the licensee;

(f) modifying the information system in accordance with the licensee's information security program;

(g) utilizing effective controls, which may include multifactor authentication procedures for an individual accessing nonpublic information;

(h) regularly testing and monitoring systems and procedures to detect actual and attempted attacks on, or intrusions into, information systems;

(i) including audit trails within the information security program designed to detect and respond to cybersecurity events and designed to reconstruct material financial transactions sufficient to support normal operations and obligations of the licensee;

(j) implementing measures to protect against destruction, loss, or damage of nonpublic information due to environmental hazards such

as fire and water damage or other catastrophes or technological failures; and

(k) developing, implementing, and maintaining procedures for the secure disposal of nonpublic information in any format;

(3) include cybersecurity risks in the licensee's enterprise risk management process;

(4) stay informed regarding emerging threats or vulnerabilities and use reasonable security measures when sharing information relative to the character of the sharing and the type of information shared;

(5) provide its personnel with cybersecurity awareness training that is updated as necessary to reflect risks identified by the licensee in the risk assessment.

(E)(1) If the licensee has a board of directors, the board or an appropriate committee of the board shall, at a minimum:

(a) require the licensee's executive management or its delegates to develop, implement, and maintain the licensee's information security program; and

(b) require the licensee's executive management or its delegates to report in writing at least annually:

(i) the overall status of the information security program and the licensee's compliance with this chapter; and

(ii) material matters related to the information security program addressing issues such as risk assessment, risk management and control decisions, third-party service provider arrangements, testing results, cybersecurity events or violations and management's responses, and recommendations for changes in the information security program.

(2) If the executive management of a licensee delegates any of its responsibilities under this chapter, it shall oversee the development, implementation, and maintenance of the licensee's information security program prepared by the delegates and receive a report from the delegates which must comply with the requirements of the report to the board of directors.

(F) A licensee shall:

(1) exercise due diligence in selecting its third-party service provider; and

(2) require a third-party service provider to implement appropriate administrative, technical, and physical measures to protect and secure the information systems and nonpublic information that are accessible to, or held by, the third-party service provider.

(G) The licensee shall monitor, evaluate and adjust the information security program consistent with any relevant changes in technology, the sensitivity of its nonpublic information, internal or external threats to

information, and the licensee's own changing business arrangements including, but not limited to, mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to information systems.

(H)(1) As part of its information security program, a licensee must establish a written incident response plan designed to promptly respond to, and recover from, a cybersecurity event that compromises the confidentiality, integrity, or availability of nonpublic information in its possession, the licensee's information systems, or the continuing functionality of any aspect of the licensee's business or operations.

(2) An incident response plan required in item (1) must address:

(a) the internal process for responding to a cybersecurity event;

(b) the goals of the incident response plan;

(c) the definition of clear roles, responsibilities and levels of decision-making authority;

(d) external and internal communications and information sharing;

(e) identification of requirements for the remediation of any identified weaknesses in information systems and associated controls;

(f) documentation and reporting regarding cybersecurity events and related incident response activities; and

(g) the evaluation and revision as necessary of the incident response plan following a cybersecurity event.

(I) Annually, each insurer domiciled in this State shall submit to the director, a written statement by February fifteenth, certifying that the insurer is in compliance with the requirements set forth in this section. Each insurer shall maintain for examination by the department all records, schedules, and data supporting this certificate for a period of five years. To the extent an insurer has identified areas, systems, or processes that require material improvement, updating or redesign, the insurer shall document the identification and the remedial efforts planned and underway to address such areas, systems, or processes. Such documentation must be available for inspection by the director.

Section 38-99-30. (A) If a licensee learns that a cybersecurity event has occurred or may have occurred, the licensee, an outside vendor, or service provider designated to act on behalf of the licensee must conduct a prompt investigation of the event.

(B) During the investigation, the licensee, outside vendor, or service provider designated to act on behalf of the licensee shall, at a minimum:

(1) determine whether a cybersecurity event occurred;

(2) assess the nature and scope of the cybersecurity event;

(3) identify nonpublic information that may have been involved in the cybersecurity event; and

(4) perform or oversee reasonable measures to restore the security of the information systems compromised in the cybersecurity event in order to prevent further unauthorized acquisition, release, or use of nonpublic information in the licensee's possession, custody, or control.

(C) If the licensee learns that a cybersecurity event has occurred or may have occurred in a system maintained by a third-party service provider, the licensee shall complete an investigation pursuant to the requirements of this section or confirm and document that the third-party service provider has completed an investigation pursuant to the requirements of this section.

(D) The licensee shall maintain records concerning all cybersecurity events for a period of at least five years from the date of the cybersecurity event and produce those records upon demand of the director.

Section 38-99-40. (A) A licensee shall notify the director no later than seventy-two hours after determining that a cybersecurity event has occurred when either of the following criteria are met:

(1) South Carolina is the licensee's state of domicile in the case of an insurer, or the licensee's home state in the case of a producer; or

(2) the licensee reasonably believes that the nonpublic information involved is of no less than two hundred and fifty consumers residing in this State, and the cybersecurity event:

(a) impacts the licensee of which notice is required to be provided to any governmental body, self-regulatory agency, or any other supervisory body pursuant to state or federal law; or

(b) has a reasonable likelihood of materially harming a consumer residing in this State or a material part of the normal operations of the licensee.

(B) The licensee shall provide as much of the following information as possible. The licensee shall provide the information in electronic form as directed by the director. The licensee shall have a continuing obligation to update and supplement initial and subsequent notifications to the director concerning the cybersecurity event. The information sent to the director must include:

(1) the date of the cybersecurity event;

(2) a description of how the information was exposed, lost, stolen, or breached, including the specific roles and responsibilities of third-party service providers, if any;

(3) how the cybersecurity event was discovered;

(4) whether any lost, stolen, or breached information has been recovered and if so, how this was done;

(5) the identity of the source of the cybersecurity event;

(6) whether the licensee has filed a police report or has notified any regulatory, governmental or law enforcement agencies and, if so, when such notification was provided;

(7) a description of the specific types of information acquired without authorization, which means particular data elements including, for example, types of medical information, types of financial information, or types of information allowing identification of the consumer;

(8) the period during which the information system was compromised by the cybersecurity event;

(9) the number of total consumers in this State affected by the cybersecurity event, in which case the licensee shall provide the best estimate in the initial report to the director and update this estimate with each subsequent report to the director pursuant to this section;

(10) the results of any internal review identifying a lapse in either automated controls or internal procedures, or confirming that all automated controls or internal procedures were followed;

(11) a description of efforts being undertaken to remediate the situation which permitted the cybersecurity event to occur;

(12) a copy of the licensee's privacy policy and a statement outlining the steps the licensee will take to investigate and notify consumers affected by the cybersecurity event; and

(13) the name of a contact person who is both familiar with the cybersecurity event and authorized to act on behalf of the licensee.

(C) A licensee shall comply with the notice requirements of Section 39-1-90, and other applicable law and provide a copy of the notice sent to consumers to the director when a licensee is required to notify the director.

(D)(1) In the case of a cybersecurity event in a system maintained by a third-party service provider of which the licensee has become aware, the licensee shall treat such event as it would under subsection (A).

(2) The computation of the licensee's deadlines shall begin on the day after the third-party service provider notifies the licensee of the cybersecurity event or the licensee otherwise has actual knowledge of the cybersecurity event, whichever is sooner.

(3) Nothing in this chapter shall prevent or abrogate an agreement between a licensee and another licensee, a third-party service provider or any other party to fulfill any of the investigation requirements or notice requirements imposed under this chapter.

(E)(1)(a) In the case of a cybersecurity event involving nonpublic information used by the licensee who is acting as an assuming insurer or in the possession, custody, or control of a licensee who is acting as an assuming insurer and that does not have a direct contractual relationship with the affected consumers, the assuming insurer shall notify its affected ceding insurers and the director of its state of domicile within seventy-two hours of making the determination that a cybersecurity event has occurred.

(b) A ceding insurer that has a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements imposed under Section 39-1-90, and other notification requirements relating to a cybersecurity event imposed under this chapter.

(2)(a) In the case of a cybersecurity event involving nonpublic information that is in the possession, custody, or control of a third-party service provider of a licensee who is an assuming insurer, the assuming insurer shall notify its affected ceding insurers and the director of its state of domicile within seventy-two hours after receiving notice from its third-party service provider that a cybersecurity event has occurred.

(b) A ceding insurer that has a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements of Section 39-1-90, and other notification requirements relating to a cybersecurity event imposed under this chapter.

(F) In the case of a cybersecurity event involving nonpublic information that is in the possession, custody, or control of a licensee that is an insurer or its third-party service provider and for which a consumer accessed the insurer's services through an independent insurance producer, the insurer shall notify the producers of record of all affected consumers as soon as practicable as directed by the director. The insurer is excused from this obligation for those instances in which it does not have the current producer of record information for an individual consumer.

Section 38-99-50. (A) The director has the power and authority to examine and investigate into the affairs of a licensee to determine whether the licensee is engaged in conduct in violation of this chapter. This power is in addition to the powers which the director has under this title. An investigation or examination must be conducted pursuant to Section 38-13-10, et seq.

(B) When the director has reason to believe that a licensee is engaged in conduct in this State which violates the provisions of this chapter, the

director may take necessary and appropriate action to enforce the provisions of this chapter.

Section 38-99-60. (A) Documents, materials, or other information in the control or possession of the department that are furnished by a licensee or an employee or agent acting on behalf of a licensee, or obtained by the director in an investigation or examination are confidential by law and privileged, are not subject to disclosure under the Freedom of Information Act, and are not subject to subpoena or discovery in a private or civil action; and are not admissible as evidence in a private or civil action. However, the director is authorized to use the documents, materials, or other information in the furtherance of a regulatory or legal action brought as a part of the director's duties.

(B) The director or a person who received documents, materials, or other information while acting under the authority of the director may not be permitted or required to testify in a private civil action concerning confidential documents, materials, or information.

(C) To assist in the performance of his duties, the director may:

(1) share documents, materials, or other information, including confidential and privileged documents, materials, or information, with other state, federal, and international regulatory agencies the National Association of Insurance Commissioners, its affiliates or subsidiaries, and state, federal, and international law enforcement authorities, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other information;

(2) receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;

(3) share documents, materials, or other information with a third-party consultant or vendor, provided the consultant agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information; and

(4) enter into an agreement governing the sharing and use of information consistent with this subsection.

(D) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information may occur from disclosure to the director under this section or sharing as authorized under this chapter.

(E) Nothing in this chapter prohibits the director from releasing final, adjudicated actions that are open to public inspection to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

Section 38-99-70. (A) The following licensees are exempt from the provisions of this chapter:

(1) a licensee with fewer than ten employees, including any independent contractors;

(2) an employee, agent, representative or designee of a licensee, who is also a licensee, is exempt from the provisions of this chapter and need not develop its own information security program to the extent that the employee, agent, representative or designee is covered by the information security program of the other licensee; and

(3) a licensee subject to the Health Insurance Portability and Accountability Act, Pub.L. 104-191, 110 Stat. 1936, that has established and maintains an information security program pursuant to such statutes, rules, regulations, procedures or guidelines established thereunder, will be considered to meet the requirements of this chapter, provided that the licensee is compliant with, and submits a written statement certifying its compliance with, the provisions of this chapter.

(B) In the event that a licensee ceases to qualify for an exception, such licensee shall have one hundred and eighty days to comply with this chapter.

Section 38-99-80. A licensee who violates a provision of this chapter is subject to penalties as provided in Section 38-2-10.

Section 38-99-90. The director is authorized to promulgate regulations necessary for the administration of this chapter.

Section 38-99-100. Nothing in this chapter creates any duty or liability for a provider of communication services for the transmission of voice, data, or other information over its network."

Delayed implementation date

SECTION 4. Licensees have until July 1, 2019, to implement Section 38-99-20 of this act and until July 1, 2020, to implement Section 38-99-20(F) of this act.

Severability

SECTION 5. 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 6. This act takes effect January 1, 2019.

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 172

(R185, H4656)

AN ACT TO AMEND SECTION 38-9-200, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REINSURANCE CREDITS, SO AS TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE TO ADOPT ADDITIONAL REQUIREMENTS FOR REINSURANCE CREDITS, TO REQUIRE A REINSURER TO DEMONSTRATE IT HAS ADEQUATE FINANCIAL CAPACITY TO MEET ITS REINSURANCE OBLIGATIONS TO QUALIFY FOR A CREDIT, TO ALLOW FOR THE REDUCTION OF A TRUSTEED

SURPLUS FOR AN ASSUMING INSURER WHO HAS PERMANENTLY DISCONTINUED UNDERWRITING NEW BUSINESS, TO ALLOW FOR CREDIT WHEN REINSURANCE IS CEDED AND ENUMERATE CERTAIN ELIGIBILITY REQUIREMENTS, TO ALLOW FOR AN ASSUMING INSURER WHO IS NOT LICENSED, CERTIFIED, OR ACCREDITED IN THIS STATE TO BECOME ELIGIBLE FOR A CREDIT UNDER CERTAIN CIRCUMSTANCES, TO ALLOW THE DIRECTOR TO SUSPEND OR REVOKE THE ACCREDITATION OR CERTIFICATION, TO REQUIRE AN INSURER TO MANAGE ITS REINSURANCE RECOVERABLES PROPORTIONATE TO ITS BOOK OF BUSINESS, AND TO AUTHORIZE THE DIRECTOR TO ADOPT RULES AND REGULATIONS; AND TO AMEND SECTION 38-9-210, RELATING TO LIABILITY REDUCTIONS FOR REINSURANCE, SO AS TO AUTHORIZE THE DIRECTOR TO ADOPT ADDITIONAL REQUIREMENTS FOR AN ASSET OR REDUCTION FROM LIABILITY FOR REINSURANCE CEDED BY A DOMESTIC INSURER AND TO EXPAND THE ACCEPTABLE FORM OF SECURITY FOR A LIABILITY REDUCTION.

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

Reinsurance credits certification

SECTION 1. Section 38-9-200 of the 1976 Code is amended to read:

"Section 38-9-200. (A) Credit for reinsurance must be allowed a domestic ceding insurer as an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subsection (B), (C), (D), (E), (F), or (G) provided that the director or his designee may, pursuant to subsection (M), adopt by regulation additional specific requirements in relation to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements, or the circumstances pursuant to which a credit may be reduced or eliminated. Credit only may be allowed under subsection (B), (C), or (D) of this section as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. If meeting the requirements

of subsection (D) or (E), the requirements of subsection (H) also must be met.

(B) Credit must be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this State, approved as a reinsurer by the director or designee provided by Section 38-5-60, or licensed as a captive reinsurance company pursuant to Chapter 90 of this title. It is not the intent of this provision to allow an insurer domiciled outside this State to take credit for reinsurance in its financial statements based on the domestic license, authorization, accreditation, or 'substantially similar' status of the captive reinsurance company.

(C) Credit must be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this State. An accredited reinsurer is one which:

(1) files with the director or designee evidence of its submission to this state's jurisdiction;

(2) submits to this state's authority to examine its books and records;

(3) is licensed to transact insurance or reinsurance in at least one state or, for a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance, in at least one state;

(4) files annually with the director or designee a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(5) demonstrates to the satisfaction of the director that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement at the time of its application if it maintains a surplus as it regards policyholders of no less than twenty million dollars and its accreditation has not been denied by the director or his designee within ninety days after the submission of its application.

(D)(1) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(a) maintains a surplus as regards policyholders in an amount not less than twenty million dollars; and

(b) submits to the authority of this State to examine its books and records.

(2) The requirement of Section (D)(1)(a) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(E)(1) Credit must be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, defined in Section 38-9-220(B), for the payment of the valid claims of its United States ceding insurers and their assigns and successors in interest. To enable the director to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the director or his designee information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the director and bear the expense of examination.

(2)(a) Credit for reinsurance must not be granted under this subsection (E) unless the form of the trust and any amendments to the trust have been approved by:

(i) the insurance commissioner of the state where the trust is domiciled; or

(ii) the insurance commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(b) The form of the trust and any trust amendments also must be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims must be valid and enforceable upon the final order of a court of competent jurisdiction in the United States. The trust must vest legal title to assets in the trustees of the trust for the benefit of the assuming insurers' United States ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the director or his designee.

(c) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February twenty-eighth of each year the trustees of the trust shall report to the director or designee in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust may not expire before the next following December thirty-first.

(3) The following requirements apply to the following categories of assuming insurers:

(a) The trust fund for a single assuming insurer consists of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars. However, after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight may authorize a reduction in the required trusteed surplus, but only after finding that the new required surplus level is adequate for the protection of domestic ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development based on an assessment of the risk. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows and shall consider all material risk factors including, but not limited to, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than thirty percent of the assuming insurer's liabilities attributable to reinsurance by domestic ceding insurers covered by the trust.

(b)(i) In the case of a group including incorporated and individual unincorporated underwriters:

(A) for reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, the trust consists of a trusteed account in an amount not less than the respective underwriter's several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

(B) for reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust consists of a trusteed account in an amount not less than the respective underwriter's several insurance and reinsurance liabilities attributable to business written in the United States; and

(C) in addition to these trusts, the group shall maintain in trust a trusteed surplus of which one hundred million dollars is held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account; and

(ii) The incorporated members of the group must not be engaged in any business other than underwriting as a member of the

group and are subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

(iii) The group, within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, shall provide to the director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member or if a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.

(c) In the case of a group of incorporated underwriters under common administration, the group shall:

(i) have continuously transacted an insurance business outside the United States for at least three years immediately before making application for accreditation;

(ii) maintain aggregate policyholders' surplus of at least ten billion dollars;

(iii) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

(iv) in addition, maintain a joint trusteed surplus of which one hundred million dollars must be held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities; and

(v) within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the director an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

(F) Credit must be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subsection (B), (C), (D), (E), or (G) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

(G)(1) Credit must be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the director or his designee as a reinsurer in this State and secures its obligations with the requirements of this subsection.

(2) In order to be eligible for certification, the assuming insurer must:

(a) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the director pursuant to this section;

(b) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the director or his designee pursuant to regulation;

(c) maintain financial strength ratings from two or more rating agencies deemed acceptable by the director or his designee pursuant to regulation;

(d) agree to submit to the jurisdiction of this State, appoint the director as its agent for service of process in this State, and agree to provide security for one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded by domestic ceding insurers if it resists enforcement of a final United States judgment;

(e) agree to meet applicable information filing requirements as determined by the director or his designee, both with respect to an initial application for certification and on an ongoing basis; and

(f) satisfy any other requirements for certification deemed relevant by the commissioner.

(3) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In addition to satisfying other requirements of item (2) of this subsection, in order to be eligible for certification:

(a) the association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities of the association and its members, which includes a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the director to provide adequate protection;

(b) the incorporated members of the association may not be engaged in any business other than underwriting as a member of the association and are subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

(c) within ninety days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the director an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements prepared by independent public accountants, of each underwriter member of the association.

(4) The director or his designee shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the director and a certified reinsurer.

(a) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the director has determined that the jurisdiction does not adequately and promptly enforce final United States judgment and arbitration awards. Additional factors may be considered in the discretion of the director.

(b) A list of qualified jurisdictions must be published through the National Association of Insurance Commissioners (NAIC) Committee Process. The director or his designee shall consider this list in determining qualified jurisdictions. If the director or his designee approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director or his designee shall provide thoroughly documented justification in accordance with criteria to be developed under regulations.

(c) United States jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program must be recognized as qualified jurisdictions.

(d) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the director or his designee has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

(5) The director or his designee shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the director or his designee pursuant to regulation. The director or his designee shall publish a list of all certified reinsurers and their ratings.

(6) A certified reinsurer shall secure obligations assumed from domestic ceding insurers under this subsection at a level consistent with its rating, as specified in regulations promulgated by the director or his designee.

(a) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the director or his designee and consistent with the provisions of this section, or in a multibeneficiary trust in accordance with subsection (E), except as otherwise provided in this subsection.

(b) If a certified reinsurer maintains a trust to fully secure its obligations subject to subsection (E), and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligation incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other domestic jurisdictions and for its obligations subject to subsection (E). It is a condition to the grant of certification under subsection (F) that the certified reinsurer shall bind itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other trust account.

(c) The minimum trusteed surplus requirements provided in subsection (E) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that the trust shall maintain a minimum trusteed surplus of ten million dollars.

(d) If the security is insufficient, the director or his designee shall reduce the allowable credit by an amount proportionate to the deficiency and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(e) A certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure one hundred percent of its obligations.

(i) As used in this subsection, the term 'terminate' refers to revocation, suspension, voluntary surrender, and inactive status.

(ii) If the director or his designee continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(7) If an applicant for certification has been certified as a reinsurer in a NAIC-accredited jurisdiction, the director or his designee has the discretion to defer to that jurisdiction's certification and to defer to the

rating assigned by that jurisdiction, and the assuming insurer must be considered to be a certified reinsurer in this State.

(8) A certified reinsurer that ceases to assume new business in this State may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the director or his designee shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(H) If the assuming insurer is not licensed, certified, or accredited to transact insurance or reinsurance in this State, the credit permitted by subsections (D) and (E) may not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1) that when the assuming insurer fails to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of a court of competent jurisdiction in a state of the United States, comply with all requirements necessary to give the court jurisdiction, and abide by the final decision of the court or of an appellate court in an appeal; and

(2) to designate the director or designee or a designated attorney as its true and lawful attorney upon whom may be served lawful process in an action, a suit, or a proceeding instituted by or on behalf of the ceding company.

(3) This subsection does not conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes if an obligation is created in the agreement.

(I) If the assuming insurer does not meet the requirements of subsection (B), (C), or (D), the credit permitted by subsection (E) or (G) may not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by subsection (E)(3), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(2) The assets must be distributed by and claims must be filed with and valued by the commissioner with regulatory oversight in accordance

with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(3) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part of them are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part of them must be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(4) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

(J) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the director may suspend or revoke the reinsurer's accreditation or certification.

(1) The director must give the reinsurer notice and opportunity for hearing. The suspension or revocation may not take effect until after the director's order on hearing, unless:

(a) the reinsurer waives its right to hearing;

(b) the director's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer; or

(c) the director finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the director's action.

(2) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 38-9-210. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (G)(6) or Section 38-9-210.

(K)(1) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the commissioner within thirty days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds fifty percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The

notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(2) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the director within thirty days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent of the ceding insurer's gross written premium in the proper calendar year, or after it has determined that the reinsurance ceding to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that exposure is safely managed by the domestic ceding insurer.

(L) The director may promulgate regulations to implement the provisions of this section and Section 38-9-210.

(M) The director is further authorized to adopt rules and regulations applicable to reinsurance relating to arrangements described in subitem (1):

(1) a regulation adopted pursuant to this subsection may apply only to reinsurance relating to:

(a) life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(b) universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(c) variable annuities with guaranteed death or living benefits;

(d) long-term care insurance policies; or

(e) any other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.

(2) A regulation adopted pursuant to this subsection may apply to any treaty containing policies issued on or after January 1, 2015, or policies issued prior to January 1, 2015, if risks pertaining to such pre-2015 policies are ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

(3) A regulation adopted pursuant to this subsection may require the ceding insurer, in calculating the amounts or forms of security required to be held under regulations promulgated under this authority, to use the valuation manual adopted by the NAIC under Section 11(B)(1) of the NAIC Standard Valuation Law, including all amendments adopted by the NAIC and in effect on the date as of which the calculation is made, to the extent applicable.

(4) A regulation adopted pursuant to this subsection shall not apply to cessions to an assuming insurer that:

(a) is certified in this State; or

(b) maintains at least two hundred fifty million dollars in capital and surplus when determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices and licensed in at least:

(i) twenty-six states; or

(ii) ten states and licensed or accredited in a total of at least thirty-five states.

(5) The authority to adopt regulations pursuant to this subsection does not limit the director's general authority to adopt regulations pursuant to subsection (L).

(N) This act shall apply to all cessions after the effective date of this act under reinsurance agreements that have an inception, anniversary or renewal date not less than six months after the effective date of this act."

Director of the Department of Insurance authorized to adopt regulations

SECTION 2. Section 38-9-210 of the 1976 Code is amended to read:

"Section 38-9-210. An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 38-9-200 must be allowed in an amount not exceeding the liabilities carried by the ceding insurer provided that the director or his designee may adopt by regulation pursuant to Section 38-9-200(M) specific additional requirements relating to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance arrangements, or the circumstances pursuant to which a credit may be reduced or eliminated.

The reduction must be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations, if the security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer or, for a trust, held in a qualified United States financial institution, defined in Section 38-9-220(B). This security may be in the form of:

(1) cash;

(2) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed

exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office and qualifying as admitted assets as defined in Section 38-13-80;

(3) clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution defined in Section 38-9-220(A) no later than December thirty-first of the year for which filing is being made and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

(4) other form of security acceptable to the director or designee."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 173

(R186, H4683)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "BEACHFRONT MANAGEMENT REFORM ACT"; TO AMEND SECTION 44-1-60, RELATING TO APPEALS FROM DECISIONS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL GIVING RISE TO CONTESTED CASES, SO AS TO EXCLUDE DECISIONS TO ESTABLISH BASELINES OR SETBACK LINES FROM THE APPEAL PROCEDURES; TO AMEND SECTION 48-39-10, RELATING TO COASTAL TIDELANDS AND WETLANDS DEFINITIONS, SO AS TO REDEFINE THE TERM "PRIMARY OCEANFRONT SAND DUNE" FOR PURPOSES OF ESTABLISHING A BASELINE

AND TO DEFINE THE TERM "STORM SURGE"; AND TO AMEND SECTION 48-39-280, RELATING TO THE STATE'S FORTY-YEAR RETREAT POLICY, SO AS TO IMPLEMENT A BEACH PRESERVATION POLICY, TO PROHIBIT THE SEAWARD MOVEMENT OF A BASELINE FROM A CERTAIN LOCATION, TO ESTABLISH THAT THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL MUST ESTABLISH BASELINES AND SETBACK LINES FOR CERTAIN AREAS AND UNDER CERTAIN GUIDELINES, TO PROHIBIT THE USE OF DATA FROM AN AREA IMPACTED BY A STORM SYSTEM OR EVENT NAMED BY THE NATIONAL WEATHER SERVICE FOR EIGHTEEN MONTHS AFTER THE STORM, TO REQUIRE THE DEPARTMENT TO GRANT A REVIEW OF A BASELINE OR SETBACK LINE FOR A LANDOWNER, A MUNICIPALITY, COUNTY, OR ORGANIZATION ACTING ON BEHALF OF A LANDOWNER THAT SUBMITS SUBSTANTIATING EVIDENCE SHOWING AN ADVERSE AFFECT ON HIS PROPERTY AND TO ESTABLISH GUIDELINES FOR REVIEW; TO AMEND SECTION 48-39-250, RELATING TO LEGISLATIVE FINDINGS REGARDING THE COASTAL BEACH AND DUNE SYSTEM, SO AS TO REMOVE REFERENCES TO THE RETREAT POLICY; TO AMEND SECTION 48-39-260, RELATING TO THE STATE'S POLICY STATEMENT ON THE BEACH AND DUNE SYSTEM, SO AS TO REMOVE REFERENCES TO THE RETREAT POLICY; TO AMEND SECTION 48-39-350, RELATING TO THE LOCAL COMPREHENSIVE BEACH MANAGEMENT PLAN, SO AS TO REMOVE REFERENCES TO THE RETREAT POLICY; BY ADDING SECTION 48-39-285 SO AS TO REQUIRE DHEC TO INITIATE A NEW BASELINE CYCLE BY NO SOONER THAN JANUARY 1, 2024, AND TO PROVIDE WHICH BASELINE AND SETBACK LINES WILL BE IN EFFECT FOR A LANDOWNER UNTIL THE NEW BASELINE AND SETBACK LINE ARE ESTABLISHED.

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

Citation

SECTION 1. This act must be known and may be cited as the "Beachfront Management Reform Act".

DHEC appeal procedures, baselines or setback lines excluded

SECTION 2. Section 44-1-60(A) of the 1976 Code is amended to read:

"(A) All department decisions involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, or other actions of the department which may give rise to a contested case, except a decision to establish a baseline or setback line, must be made using the procedures set forth in this section."

Definitions

SECTION 3. Section 48-39-10 of the 1976 Code is amended to read:

"Section 48-39-10. As used in this chapter:

(A) 'Applicant' means any person who files an application for a permit under the provisions of this chapter.

(B) 'Coastal zone' means all coastal waters and submerged lands seaward to the state's jurisdictional limits and all lands and waters in the counties of the State which contain any one or more of the critical areas. These counties are Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper, and Georgetown.

(C) 'Division' means the Coastal Division of the South Carolina Department of Health and Environmental Control.

(D) 'CDPS' means Coastal Division Permitting Staff.

(E) 'Saline waters' means those waters which contain a measurable quantity of sea water, at least one part chloride ion per thousand.

(F) 'Coastal waters' means the navigable waters of the United States subject to the ebb and flood of the tide and which are saline waters, shoreward to their mean high-water mark. Provided, however, that the department may designate boundaries which approximate the mean extent of saline waters until such time as the mean extent of saline waters can be determined scientifically.

(G) 'Tidelands' means all areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters whether or not the saline waters reach the area naturally or through artificial water courses and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. Provided, however, nothing in this definition shall apply

to wetland areas that are not an integral part of an estuarine system. Further, until such time as the exact geographic extent of this definition can be scientifically determined, the department shall have the authority to designate its approximate geographic extent.

(H) 'Beaches' means those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established.

(I) 'Primary oceanfront sand dune' means the dune or dunes that constitute the front row of dunes adjacent to the Atlantic Ocean.

(J) 'Critical area' means any of the following:

(1) coastal waters;

(2) tidelands;

(3) beaches;

(4) beach/dune system which is the area from the mean high-water mark to the setback line as determined in Section 48-39-280.

(K) 'Person' means any individual, organization, association, partnership, business trust, estate trust, corporation, public or municipal corporation, county, local government unit, public or private authority and shall include the State of South Carolina, its political subdivisions and all its departments, boards, bureaus or other agencies, unless specifically exempted by this chapter.

(L) 'Estuarine sanctuary' means a research area designated as an estuarine sanctuary by the Secretary of Commerce.

(M) 'Marine sanctuary' means any water and wetland areas designated as a marine sanctuary by the Secretary of Commerce.

(N) 'Minor development activities' means the construction, maintenance, repair, or alteration of any private piers or erosion control structure, the construction of which does not involve dredge activities.

(O) 'Dredging' means the removal or displacement by any means of soil, sand, gravel, shells, or other material, whether of intrinsic value or not, from any critical area.

(P) 'Filling' means either the displacement of saline waters by the depositing into critical areas of soil, sand, gravel, shells, or other material or the artificial alteration of water levels or water currents by physical structure, drainage ditches, or otherwise.

(Q) 'Submerged lands' means those river, creek, and ocean bottoms lying below mean low-water mark.

(R) 'Oil' means crude petroleum oil and all other hydrocarbons, regardless of specific gravity, that are produced in liquid form by ordinary production methods, but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir.

(S) 'Gas' means all natural gas and all other fluid hydrocarbons not hereinabove defined as oil, including condensate because it originally was in the gaseous phase in the reservoir.

(T) 'Fuel' means gas and oil.

(U) 'Emergency' means any unusual incident resulting from natural or unnatural causes which endanger the health, safety, or resources of the residents of the State, including damages or erosion to any beach or shore resulting from a hurricane, storm, or other such violent disturbance.

(V) 'Department' means the South Carolina Department of Health and Environmental Control.

(W) 'Board' means the board of the department.

(X) 'Maintenance dredging' means excavation to restore the depth of underwater lands or restore channels, basins, canals, or similar waterway accesses to depths and dimensions that support and maintain prior or existing levels of use that previously have been dredged pursuant to a license issued by the department or an exemption as provided in Section 48-39-130(D)(10) as added by Act 41 of 2011.

(Y) 'Storm surge' means an abnormal rise of water generated by a storm over and above the predicted astronomical tide."

Beach Preservation Policy established, notice requirements, appeals procedures

SECTION 4. Section 48-39-280 of the 1976 Code is amended to read:

"Section 48-39-280. (A) A policy of beach preservation is established. The department must implement this policy and utilize the best available scientific and historical data in the implementation. The department must establish a baseline that parallels the shoreline for each standard erosion zone and each inlet erosion zone.

(1) The baseline for each standard erosion zone is established at the location of the crest of the primary oceanfront sand dune in that zone. In standard erosion zones in which the shoreline has been altered naturally or artificially by the construction of erosion control devices, the baseline must be established by the department using the best scientific and historical data, as where the crest of the primary oceanfront sand dune for that zone would be located if the shoreline had not been altered.

(2) The baseline for inlet erosion zones that are not stabilized by jetties, terminal groins, or other structures must be determined by the department as the most landward point of erosion at any time during the

past forty years, unless the best available scientific and historical data of the inlet and adjacent beaches indicate that the shoreline is unlikely to return to its former position. In collecting and utilizing the best scientific and historical data available for the implementation of the beach preservation policy, the department, as part of the State Comprehensive Beach Management Plan provided for in this chapter, among other factors, must consider historical inlet migration, inlet stability, channel and ebb tidal delta changes, the effects of sediment bypassing on shorelines adjacent to the inlets, and the effects of nearby beach restoration projects on inlet sediment budgets.

(3) The baseline within inlet erosion zones that are stabilized by jetties, terminal groins, or other structures must be determined in the same manner as provided for in item (1). However, the actual location of the crest of the primary oceanfront sand dune of that erosion zone is the baseline of that zone, not the location if the inlet had remained unstabilized.

(4) A baseline established pursuant to this section must not move seaward from the most seaward location of the following:

(a) the location of the baseline as established during the 2008 through 2012 establishment cycle;

(b) the location of the baseline as proposed by the department on October 6, 2017; and

(c) the location of the proposed October 6, 2017, baseline as revised by the department pursuant to a review or an appeal initiated before January 1, 2018.

(B) To implement the beach preservation policy provided for in subsection (A), a setback line must be established landward of the baseline a distance which is forty times the average annual erosion rate or not less than twenty feet from the baseline for each erosion zone based upon the best historical and scientific data adopted by the department as a part of the State Comprehensive Beach Management Plan.

(C) The department must establish baselines and setback lines for all geographic areas where baselines and setback lines were established on or before January 31, 2012. The baselines and setback lines must be established anew during establishment cycles that are not less than every seven years, but not more than every ten years following a previous establishment cycle and must be based upon the best available data.

Until the department establishes new baselines and setback lines for a geographic area, the existing baselines and setback lines for the geographic area must be used.

(D)(1) In each new establishment cycle of the baselines and setback lines, the department must:

(a) stagger the establishment of the baselines and setback lines by geographic area and provide a tentative schedule of establishment for each geographic area on the department's website at least one hundred twenty days prior to beginning a new establishment cycle;

(b) publish proposed locations of baselines and setback lines for a geographic area on the department's website for public input at least one hundred twenty days prior to establishing the baselines and setback lines for the geographic area;

(c) on the date of the publication of the proposed locations of baselines and setback lines for a geographic area:

(i) provide notice of the publication in a newspaper of general statewide circulation and a newspaper of local circulation in the geographic area; and

(ii) make readily available to the public, including on the department's website, the information and raw data that the department used to determine the locations of the proposed baselines and setback lines and explanations for these determinations;

(d) hold at least one public hearing in the county or municipality of a geographic area at least ninety days prior to establishing the baselines and setback lines for the geographic area; and

(e) accept and review data up to thirty days prior to establishing baselines and setback lines for a geographic area to determine if a proposed baseline or setback line for the geographic area should be revised.

(2) Baselines and setback lines for a geographic area are in effect upon the date of establishment and are subject to review pursuant to the provisions of subsection (F).

(E)(1) In order to locate the baselines and the setback lines, the department must establish monumented and controlled survey points in each county fronting the Atlantic Ocean. The department must acquire sufficient surveyed topographical information on which to locate the baselines.

(2) Surveyed topographical data typically must be gathered at two thousand foot intervals. However, in areas subject to significant near-term development and in areas currently developed, the interval, at the discretion of the department, may be more frequent. The resulting surveys must locate the crest of the primary oceanfront sand dune to be used as the baseline for computing the forty-year erosion rate. In cases where no primary oceanfront sand dune exists, a study conducted by the department is required to determine where the upland location of the crest of the primary oceanfront sand dune would be located if the shoreline had not been altered.

(3) The department, by regulation, may exempt specifically described portions of the coastline from the survey requirements of this section when, in its judgment, the portions of coastline are not subject to erosion or are not likely to be developed by virtue of local, state, or federal programs in effect on the coastline which would preclude significant development, or both.

(4) If an erosion zone incurs extraordinary erosion due to the impact of a storm system or event named by the National Weather Service after June 1, 2018, then data collected from the erosion zone within eighteen months of the date of impact of the storm system or event must not be used to locate the crests of primary oceanfront sand dunes or to establish baselines pursuant to subsection (A)(1) and (A)(3).

(F)(1) A landowner claiming ownership of property adversely affected by the establishment of a baseline or setback line, upon submittal of substantiating evidence, must be granted a review of the baseline or setback line. Alternatively, the municipality or county in which the property is situated, acting on behalf of the landowner with his written authorization, or an organization acting on behalf of the landowner with his written authorization, upon submittal of substantiating evidence, must be granted a review of the baseline and setback line. A review is initiated by filing a request for a review conference with the department board via certified mail within one year of the establishment of the baseline or setback line and must include a one hundred-dollar-review fee per property.

(2) The initial decision to establish a baseline or setback line must be a department staff decision.

(3) No later than sixty calendar days after the receipt of a request for review, the board must:

(a) decline to schedule a review conference in writing; or

(b) conduct a review conference in accordance with the provisions of item (4).

(4) A review conference may be conducted by the board, its designee, or a committee of three members of the board appointed by the chair. The board shall set the place, date, and time for the conference; give twenty calendar days' written notice of the conference; and advise the landowner or the county, municipality, or organization acting on behalf of the landowner that evidence may be presented at the conference. The review conference must be held as follows:

(a) Review conferences are open to the public; however, the officers conducting the conference may meet in closed session to deliberate on the evidence presented at the conference. The burden of proof in a conference is upon the landowner or the county, municipality,

or organization acting on behalf of the landowner. During the course of the review conference, the staff must explain the staff decision and the materials relied upon to support its decision. The landowner or the county, municipality, or organization acting on behalf of the landowner shall state the reasons for contesting the staff decision and may provide evidence to support amending the staff decision. The staff may rebut information and arguments presented by the landowner or the county, municipality, or organization acting on behalf of the landowner, and the landowner or the county, municipality, or organization acting on behalf of the landowner may rebut information and arguments presented by the staff. Any review conference officer may request additional information and may question the landowner or the county, municipality, or organization acting on behalf of the landowner and the staff.

(b) After the review conference, the board, its designee, or a committee of three members of the board appointed by the chair shall issue, based upon the evidence presented, a written decision to the landowner or the county, municipality, or organization acting on behalf of the landowner via certified mail no later than thirty calendar days after the date of the review conference. The written decision must explain the basis for the decision and inform the landowner or the county, municipality, or organization acting on behalf of the landowner of the right to request a contested case hearing before the Administrative Law Court.

(5) The landowner or the county, municipality, or organization acting on behalf of the landowner may file a request with the Administrative Law Court, in accordance with Chapter 23, Title 1, for a contested case hearing within thirty calendar days after:

(a) written notice is received by the landowner or the county, municipality, or organization acting on behalf of the landowner that the board declines to hold a review conference;

(b) the sixty-calendar-day deadline to hold the review conference has lapsed and no conference has been held; or

(c) the final agency decision resulting from the review conference is received by the landowner or the county, municipality, or organization acting on behalf of the landowner."

Reference to forty-year retreat policy removed

SECTION 5. Section 48-39-250(6) of the 1976 Code is amended to read:

"(6) Erosion is a natural process which becomes a significant problem for man only when structures are erected in close proximity to the beach/dune system. It is in both the public and private interests to afford the beach/dune system space to accrete and erode in its natural cycle. This space can be provided only by discouraging new construction in close proximity to the beach/dune system."

Reference to forty-year retreat policy removed

SECTION 6. Section 48-39-260(2) of the 1976 Code is amended to read:

"(2) create a comprehensive, long-range beach management plan and require local comprehensive beach management plans for the protection, preservation, restoration, and enhancement of the beach/dune system. These plans must promote wise use of the state's beachfront;"

Reference to forty-year retreat policy removed

SECTION 7. Section 48-39-350(A)(9) of the 1976 Code is amended to read:

"(9) a detailed strategy for achieving the goals of this chapter;"

DHEC regulation authority granted

SECTION 8. The Department of Health and Environmental Control must promulgate regulations to implement the provisions of this act, including regulations that the department will use to locate a primary oceanfront sand dune as defined by Section 48-39-10, by January 14, 2020.

Severability

SECTION 9. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then 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.

Mandatory establishment cycle baseline and setback in effect until new lines established

SECTION 10. A.Chapter 39, Title 48 of the 1976 Code is amended by adding:

"Section 48-39-285. (A) Notwithstanding the provisions of Section 48-39-280, the department must initiate a new baseline cycle by no sooner than January 1, 2024. Until the department establishes a new baseline and setback line affecting a landowner as part of that establishment cycle, the baseline and setback line in effect for the landowner are the most seaward of the following, respectively:

(1)(a) the baseline established during the 2008 through 2012 establishment cycle; or

(b) the baseline proposed by the department on October 6, 2017; and

(2)(a) the setback line established during the 2008 through 2012 establishment cycle; or

(b) the setback line proposed by the department on October 6, 2017.

(B) Notwithstanding the provisions of subsection (A) and Section 48-39-280, if the department, pursuant to a review or an appeal initiated before January 1, 2018, revises the baseline proposed on October 6, 2017, to a location seaward of both the baseline established during the 2008 through 2012 establishment cycle and the baseline proposed on October 6, 2017, then both the revised proposed baseline and revised proposed setback line will be in effect for the landowner until the department establishes a new baseline and setback line."

B.The provisions contained in this SECTION are repealed upon completion of the establishment cycle initiated on or after January 1, 2024.

Pending actions, rights, duties or liabilities unaffected

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.

Time effective

SECTION 12. This act takes effect upon approval by the Governor.

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 174

(R187, H4704)

AN ACT TO AMEND SECTION 48-39-130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERMITS TO UTILIZE CRITICAL AREAS, SO AS TO AUTHORIZE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO ISSUE GENERAL PERMITS UNDER CERTAIN CIRCUMSTANCES.

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

Department of Health and Environmental Control authorized to issue general permits

SECTION 1. Section 48-39-130 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) The department, in its discretion, may issue a general permit when the issuance of the general permit would advance the implementation of the goals, policies, and purposes contained in Sections 48-39-20, 48-39-30, and 48-39-280."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 175

(R188, H4832)

AN ACT TO AMEND SECTION 63-11-710, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LOCAL FOSTER CARE REVIEW BOARDS, SO AS TO REQUIRE THAT THE MEMBERS OF AT LEAST ONE LOCAL REVIEW BOARD IN THE FIFTH JUDICIAL CIRCUIT BE APPOINTED BY THE KERSHAW COUNTY LEGISLATIVE DELEGATION.

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

Local foster care review boards

SECTION 1. Section 63-11-710 of the 1976 Code is amended by adding a subsection at the end to read:

"( ) In the Fifth Judicial Circuit, the members of one of the local review boards authorized pursuant to subsection (B) must be appointed by the Kershaw County Legislative Delegation. The local review board appointed by the Kershaw County Legislative Delegation shall be the board in the Fifth Judicial Circuit which primarily deals with cases in Kershaw County."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 176

(R190, H4946)

AN ACT TO AMEND SECTION 50-5-1005, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SHELLFISH IMPORTATION PERMITS AND PERMITS TO POSSESS, PRODUCE, PURCHASE, OR SELL GENETICALLY MODIFIED SHELLFISH, INCLUDING POLYPLOID SHELLFISH, SO AS TO NO LONGER PROVIDE FOR THE ISSUANCE OF PERMITS BY THE DEPARTMENT OF NATURAL RESOURCES TO PERSONS TO POSSESS, PRODUCE, PURCHASE, OR SELL GENETICALLY MODIFIED SHELLFISH AND TO NO LONGER PROVIDE FOR THE ISSUANCE OF PERMITS BY THE DEPARTMENT FOR THE PLACEMENT OF GENETICALLY MODIFIED SHELLFISH IN CERTAIN WATERS OF THIS STATE.

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

Shellfish permits

SECTION 1. Section 50-5-1005(B) of the 1976 Code is amended to read:

"(B)(1)The department may grant permits to persons to possess, produce, purchase, or sell polyploid shellfish.

(2) No polyploid shellfish, may be placed in the waters of this State or waters connected to the waters of this State, except under the provisions of a permit issued by the department."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 177

(R192, H5038)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-71-2150 SO AS TO ESTABLISH PROHIBITED ACTS FOR A PHARMACY BENEFIT MANAGER.

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

Pharmacy benefit manager, prohibited acts

SECTION 1. Article 20, Chapter 71, Title 38 of the 1976 Code is amended by adding:

"Section 38-71-2150. A pharmacy benefit manager may not:

(1) prohibit a pharmacist or pharmacy from providing an insured information on the amount of the insured's cost share for a prescription drug. A pharmacist or pharmacy may not be penalized by a pharmacy benefit manager for discussing such information to an insured or for selling a more affordable alternative to the insured if one is available;

(2) prohibit a pharmacist or pharmacy from offering and providing direct and limited delivery services to an insured as an ancillary service of the pharmacy;

(3) charge or collect a copayment from an insured that exceeds the total submitted charges by the network pharmacy;

(4) charge or hold a pharmacist or pharmacy responsible for a fee relating to the adjudication of a claim unless the fee is reported on the remittance advice of the adjudicated claim or is set out in contract between the pharmacy benefits manager and the pharmacy. This section does not apply with respect to claims under an employee benefit plan

under the Employee Retirement Income Security Act of 1974 or Medicare Part D; or

(5) penalize or retaliate against a pharmacist or pharmacy for exercising rights provided pursuant to the provisions of this chapter."

Time effective

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

Ratified the 1st day of May, 2018.

Approved the 3rd day of May, 2018.

No. 178

(R194, S27)

AN ACT TO AMEND SECTION 59-3-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ELECTION OF THE STATE SUPERINTENDENT OF EDUCATION, SO AS TO PROVIDE FOR THE APPOINTMENT OF THE SUPERINTENDENT BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE TO SERVE AT THE PLEASURE OF THE GOVERNOR, TO PROVIDE FOR THE MANNER OF FILLING VACANCIES, TO PROVIDE FOR THE COMPENSATION OF THE SUPERINTENDENT, AND TO PROVIDE TIME LIMITS WITHIN WHICH JUDICIAL CHALLENGES TO THE QUALIFICATIONS OF SUCH AN APPOINTED SUPERINTENDENT MAY BE BROUGHT, ALL TO TAKE EFFECT UPON THE APPROVAL AND RATIFICATION OF A CERTAIN RELATED AMENDMENT TO THE STATE CONSTITUTION AND TO BECOME APPLICABLE BEGINNING WITH THE 2018 GENERAL ELECTION, AND TO PROVIDE REVISED ACADEMIC AND EXPERIENCE QUALIFICATIONS OF THE SUPERINTENDENT WHICH IMMEDIATELY TAKE EFFECT UPON APPROVAL OF THE GOVERNOR; TO AMEND SECTION 1-30-10, RELATING TO THE GOVERNING AUTHORITIES OF THE VARIOUS DEPARTMENTS OF STATE GOVERNMENT, SO AS TO MAKE A CONFORMING CHANGE

WITH RESPECT TO THE STATE DEPARTMENT OF EDUCATION, TO TAKE EFFECT UPON THE APPROVAL AND RATIFICATION OF A CERTAIN RELATED AMENDMENT TO THE STATE CONSTITUTION AND TO BECOME APPLICABLE BEGINNING WITH THE 2018 GENERAL ELECTION; TO AMEND SECTION 1-1-1210, RELATING TO THE SALARIES OF SPECIFIC STATE OFFICERS, SO AS TO MAKE A CONFORMING CHANGE BY REMOVING THE STATE SUPERINTENDENT OF EDUCATION, TO TAKE EFFECT UPON THE APPROVAL AND RATIFICATION OF A CERTAIN RELATED AMENDMENT TO THE STATE CONSTITUTION AND TO BECOME APPLICABLE BEGINNING WITH THE 2018 GENERAL ELECTION; TO PROVIDE THAT THE PERSON ELECTED STATE SUPERINTENDENT OF EDUCATION IN THE 2018 GENERAL ELECTION SHALL SERVE THE REMAINDER OF HIS TERM, AND TO PROVIDE FOR THE APPOINTMENT OF HIS SUCCESSOR IF HE VACATES THE OFFICE BEFORE THE END OF THIS TERM, BOTH TO TAKE EFFECT UPON THE APPROVAL AND RATIFICATION OF A CERTAIN RELATED AMENDMENT TO THE STATE CONSTITUTION AND TO BECOME APPLICABLE BEGINNING WITH THE 2018 GENERAL ELECTION; AND TO REPEAL SECTION 59-3-20 RELATING TO VACANCIES IN THE OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION.

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

Appointment, tenure, compensation, qualifications, judicial challenges

SECTION 1. Section 59-3-10 of the 1976 Code is amended to read:

"Section 59-3-10. (A) The State Superintendent of Education must be appointed by the Governor, with the advice and consent of the Senate. The superintendent shall serve at the pleasure of the Governor and must receive such compensation as may be established under the provision of Section 8-11-160. A vacancy in the office of superintendent must be filled as provided in Section 1-30-10(B)(1)(iv) and in Section 1-3-210, as applicable.

(B) The Superintendent of Education must possess:

(1) the minimum of a master's degree and substantive and broad-based experience in the field of public education including, but not limited to, service as a classroom teacher, principal, other school or school district administrator, school district superintendent, or other education policy making body at either the state or local level or any combination of them; or

(2) the minimum of a master's degree and substantive and broad-based experience in operational and financial management in any field of expertise including, but not limited to, finance, economics, accounting, law, or business.

(C) Any judicial action challenging the qualifications of a candidate or appointee, as appropriate, must be brought in circuit court within thirty days of the close of candidate filing or appointment for Superintendent of Education."

State Department of Education governing authority, conforming change

SECTION 2. Section 1-30-10(B)(1) of the 1976 Code is amended to read:

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

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

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

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

(iv) in the case of the Department of Education, the State Superintendent of Education appointed by the Governor with the advice and consent of the Senate, serving at the pleasure of the Governor; or

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

State officers' salaries, conforming change

SECTION 3. Section 1-1-1210 of the 1976 Code is amended to read:

"Section 1-1-1210. The annual salaries of the state officers listed below are:

Governor	$98,000
Lieutenant Governor	43,000
Secretary of State	85,000
State Treasurer	85,000
Attorney General	85,000
Comptroller General	85,000
Adjutant General	85,000
Commissioner of Agriculture	85,000

These salaries must be increased by two percent on July 1, 1991, and on July first of each succeeding year through July 1, 1994.

A state officer whose salary is provided in this section may not receive compensation for ex officio service on any state board, committee, or commission."

Superintendent elected in 2018, vacancies

SECTION 4. The person elected State Superintendent of Education in the 2018 General Election shall serve out his term; however, if the person vacates that office before the term expires in January 2023, any successors must: (1) be appointed as provided in Section 1-30-10(B)(1)(iv); and (2) must satisfy the experience requirements of Section 59-3-10(B).

Repeal

SECTION 5. Section 59-3-20 of the 1976 Code is repealed.

Time effective

SECTION 6. The provisions of Section 59-3-10(B), as contained in SECTION 1, take effect upon approval by the Governor. The remaining provisions of this act take effect upon approval and ratification of an amendment to Section 7, Article VI of the South Carolina Constitution, 1895, providing for the appointment of the State Superintendent of Education by the Governor, with the advice and consent of the Senate, and are applicable beginning with the 2018 General Election.

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 179

(R195, S28)

AN ACT TO AMEND SECTION 59-39-112, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ELECTIVE CREDIT FOR RELEASED TIME CLASSES IN RELIGIOUS INSTRUCTION FOR HIGH SCHOOL STUDENTS, SO AS TO PROVIDE THAT THE SCHOOL DISTRICT BOARD OF TRUSTEES MAY, AS A MEANS TO ENSURE EVALUATION OF INSTRUCTION ON THE BASIS OF PURELY SECULAR CRITERIA, ACCEPT RELEASED TIME CREDITS AS TRANSFER CREDITS FROM AN ACCREDITED PRIVATE SCHOOL THAT HAS AWARDED PRIVATE SCHOOL CREDITS FOR A RELEASED TIME PROGRAM OPERATED BY AN UNACCREDITED ENTITY; AND TO MAKE THESE PROVISIONS EFFECTIVE JULY 1, 2018.

Whereas, the South Carolina General Assembly finds that the free exercise of religion is an inherent, fundamental, and inalienable right secured by the First Amendment to the United States Constitution; and

Whereas, the free exercise of religion is important to the intellectual, moral, civic, and ethical development of students in South Carolina, and that any such exercise must be conducted in a constitutionally appropriate manner; and

Whereas, the United States Supreme Court, in its decision, *Zorach v. Clauson*, 343 U.S. 306 (1952), upheld the constitutionality of released time programs for religious instruction during the school day if the programs take place away from school grounds, school officials do not promote attendance at religious classes, and solicitation of students to attend is not done at the expense of public schools; and

Whereas, the United States Fourth Circuit Court of Appeals, in *Moss v. Spartanburg County School District Seven*, 683 F.3d 599 (4th Cir. 2012),

held, without requiring the practice, that a public school district could constitutionally accept credits for a released time program approved by an accredited private school but operated by an unaccredited private entity; and

Whereas, the federal Constitution and state law allow the state's school districts to offer religious released time education for the benefit of the state's public school students; and

Whereas, the purpose of this act is to incorporate a constitutionally acceptable method of allowing school districts to award the state's public high school students elective Carnegie unit credits for classes in religious instruction taken during the school day in released time programs, because the absence of an ability to award such credits has essentially eliminated the school districts' ability to accommodate parents' and students' desires to participate in released time programs. Now, therefore,

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

Off-campus released time classes, evaluations and assessments

SECTION 1. Section 59-39-112 of the 1976 Code is amended to read:

"Section 59-39-112. (A) A school district board of trustees may award high school students no more than two elective Carnegie units for the completion of released time classes in religious instruction as specified in Section 59-1-460 if:

(1) for the purpose of awarding elective Carnegie units, the released time classes in religious instruction are evaluated on the basis of purely secular criteria that are substantially the same criteria used to evaluate similar classes at established private high schools for the purpose of determining whether a student transferring to a public high school from a private high school will be awarded elective Carnegie units for such classes. However, any criteria that released time classes must be taken at an accredited private school is not applicable for the purpose of awarding Carnegie unit credits for released time classes; and

(2) the decision to award elective Carnegie units is neutral as to, and does not involve any test for, religious content or denominational affiliation.

(B) For the purpose of subsection (A)(1), secular criteria may include, but are not limited to, the following:

(1) number of hours of classroom instruction time;

(2) review of the course syllabus which reflects the course requirements and materials used;

(3) methods of assessment used in the course; and

(4) whether the course was taught by a certified teacher.

(C) The provisions of subsection (A)(1) also shall be satisfied if a school district leaves the evaluation and assessment function for an off-campus released time class to an accredited private school, and accepts the off-campus released time transfer of credit without individually assessing the quality or subject matter of the class, trusting the private school accreditation process to ensure adequate academic standards."

Severability

SECTION 2. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 3. This act takes effect on July 1, 2018.

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 180

(R196, S67)

AN ACT TO AMEND SECTION 12-10-88, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REDEVELOPMENT FEES, SO AS TO SPECIFY TO WHOM REDEVELOPMENT FEES MAY BE REMITTED; AND BY AMENDING SECTION 31-12-70, RELATING TO THE POWERS OF A REDEVELOPMENT AUTHORITY, SO AS TO AUTHORIZE A REDEVELOPMENT AUTHORITY TO USE REDEVELOPMENT FEES ON CERTAIN OPERATING COSTS.

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

Redevelopment fees

SECTION 1. Section 12-10-88, of the 1976 Code is amended to read:

"Section 12-10-88. (A) Subject to the conditions provided in subsection (B), South Carolina individual income tax withholding equal to five percent of all South Carolina wages paid with respect to employees that are employed by a federal employer at a closed or realigned federal installation must be remitted by the department to the redevelopment authority vested with authority under Section 31-12-40(A) to oversee the closed or realigned federal installation. The amounts of withholding collected and remitted to the applicable redevelopment authority are referred to as 'redevelopment fees'.

(B) The department shall remit the redevelopment fees during the period described in subsection (C) for each calendar quarter for which the redevelopment authority provides the department with a timely statement from the federal employer that employs the employees working at the closed or realigned federal installation setting forth the number of employees employed at the installation, the total wages paid to these employees, and the total amount of South Carolina withholding withheld from the employees for each quarter. In order to receive the redevelopment fees for the applicable quarter, the redevelopment authority shall submit the statement within thirty days of the later of the date that the federal employer's South Carolina withholding tax return is due or the date the federal employer files the withholding tax return. The department may extend the time for submission of the statement at its discretion.

(C) Redevelopment fees may be remitted to the applicable redevelopment authority for any quarter beginning on or after the date that the applicable redevelopment authority first submits the information described in subsection (B) to the department. If the redevelopment authority fails to provide the department with the required statement within the requisite time limits, no redevelopment fees must be remitted for that quarter. Notwithstanding subsection (A), the redevelopment fee remitted by the department in any fiscal year may not exceed the amount remitted in Fiscal Year 2014-2015.

(D) Neither the federal employer nor the applicable redevelopment authority is required to meet the requirements of Section 12-10-50 for subsection (A) to apply and the restrictions contained in Section 12-10-80(C) do not apply to redevelopment fees.

(E) For purposes of this section 'closed or realigned federal installation' means:

(1) until January 1, 2028, a federal defense site in which permanent employment was reduced by three thousand or more jobs from the level of such jobs on December 31, 1990, or a federal military base or installation which has been closed or realigned under:

(a) the Defense Base Closure and Realignment Act of 1990;

(b) Title 11 of the Defense Authorization Amendments and Base Closure and Realignment Act; or

(c) Section 2687 of Title 10, United States Code."

Redevelopment authority powers

SECTION 2. Section 31-12-70(A) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

"( ) to use the redevelopment fees provided pursuant to Section 12-10-88 for the administration and implementation of the redevelopment authority's redevelopment plans which may include programs to reduce unemployment or increase the property tax base in the area served by the authority, including without limitation, by permitting the use of the fees by multicounty economic development not-for-profit corporations whose members include one or more counties that contain some or all of the area of operation of the redevelopment authority for their administration and operating costs."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 181

(R197, S79)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-220 SO AS TO DESIGNATE THE MONTH OF JULY OF EACH YEAR AS "FIBROID TUMOR AWARENESS MONTH" AND RAISE AWARENESS OF THE IMPACT UTERINE FIBROID TUMORS HAVE ON WOMEN'S HEALTH.

Whereas, the General Assembly has an interest in protecting and promoting the health and wellness of the state's citizens and recognizes the importance of shining a spotlight on certain health issues that affect women in particular; and

Whereas, uterine fibroid tumors, clinically known as uterine leiomyoma, are the most common benign tumors in the uterus and the single most common indication for hysterectomy; and

Whereas, three out of four women will have uterine fibroids during their lives and the overall incidence in African American women is estimated to be three to five times higher than the general population; and

Whereas, these benign tumors are a significant cause of pelvic pain, abnormal uterine bleeding, and reproductive dysfunction; and

Whereas, to increase awareness of the prevalence and effect that uterine fibroids have on women's health, the General Assembly finds it of such importance that it is fitting to designate the month of July of each year as "Fibroid Tumor Awareness Month". Now, therefore,

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

Fibroid Tumor Awareness Month

SECTION 1. Chapter 3, Title 53 of the 1976 Code is amended by adding:

"Section 53-3-220. The month of July of each year is designated as 'Fibroid Tumor Awareness Month' to raise awareness of the impact fibroid tumors have on women's health."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 182

(R198, S131)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-17-425 SO AS TO PROVIDE IT IS UNLAWFUL FOR SCHOOL OR COLLEGE STUDENTS TO MAKE THREATS TO TAKE THE LIVES OF OR TO INFLICT BODILY HARM UPON OTHERS BY USING ANY FORM OF COMMUNICATION WHATSOEVER, AND TO PROVIDE THE SECTION MAY NOT BE CONSTRUED TO REPEAL, REPLACE, OR PRECLUDE APPLICATION OF ANY OTHER CRIMINAL STATUTE; AND TO AMEND SECTION 16-17-420, RELATING TO OFFENSES INVOLVING DISTURBING SCHOOLS, SO AS TO RESTRUCTURE THE OFFENSES TO PROVIDE A DELINEATED LIST OF THOSE ACTIONS WHICH CONSTITUTE A VIOLATION, TO LIMIT ITS APPLICATION TO ACTIONS BY PERSONS WHO ARE NOT STUDENTS, TO DEFINE NECESSARY TERMINOLOGY, TO REVISE THE PENALTY FOR A VIOLATION OF A DISTURBING SCHOOLS OFFENSE, AND TO ELIMINATE

JURISDICTION OF SUMMARY COURTS AND FAMILY COURTS.

Whereas, recent reports indicate there has been an increase in the number of South Carolina students arrested for disturbing schools; and

Whereas, it is in the best interest of all South Carolinians that all students be given every opportunity to succeed in South Carolina's school systems. Now, therefore,

Be it resolved that educators and school administrators throughout the State are urged to exhaust all avenues of behavioral discipline in accordance with the school's code of conduct prior to requesting the involvement of law enforcement officials. Similarly, law enforcement officials are urged to seek the normal standards of proof when enforcing the criminal laws of this State on school grounds. Law enforcement officials should also maintain and apply officer discretion when enforcing the criminal laws of this State on school grounds.

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

School disturbances by nonstudents

SECTION 1. Section 16-17-420 of the 1976 Code is amended to read:

"Section 16-17-420. (A) It is unlawful for a person who is not a student to wilfully interfere with, disrupt, or disturb the normal operations of a school or college in this State by:

(1) entering upon school or college grounds or property without the permission of the principal or president in charge;

(2) loitering upon or about school or college grounds or property, after notice is given to vacate the grounds or property and after having reasonable opportunity to vacate;

(3) initiating a physical assault on, or fighting with, another person on school or college grounds or property;

(4) being loud or boisterous on school or college grounds or property after instruction by school or college personnel to refrain from the conduct;

(5) threatening physical harm to a student or a school or college employee while on school or college grounds or property; or

(6) threatening the use of deadly force on school or college property or involving school or college grounds or property when the

person has the present ability, or is reasonably believed to have the present ability, to carry out the threat.

(B) For the purpose of this section, 'person who is not a student' means a person who is not enrolled in, or who is suspended or expelled from, the school or college that the person interferes with, disrupts, or disturbs at the time the interference, disruption, or disturbance occurs.

(C) Any person who violates a provision 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 one year, or both."

Student threats

SECTION 2. Article 7, Chapter 17, Title 16 of the 1976 Code is amended by adding:

"Section 16-17-425. (A) It is unlawful for a student of a school or college in this State to make threats to take the life of or to inflict bodily harm upon another by using any form of communication whatsoever.

(B) Nothing contained in this section may be construed to repeal, replace, or preclude application of any other criminal statute."

Savings

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 183

(R199, S170)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 17-5-541 AND 17-5-542 SO AS TO PROVIDE THAT THE CORONER OF EACH COUNTY SHALL SCHEDULE A LOCAL CHILD FATALITY REVIEW TEAM TO PERFORM A REVIEW OF A CASE WHERE A CHILD UNDER THE AGE OF EIGHTEEN DIES IN THE COUNTY HE SERVES AND TO PROVIDE THE PURPOSE OF THE REVIEW TEAM, RESPECTIVELY; BY ADDING SECTION 17-5-140 SO AS TO PROVIDE THAT FUNDS MUST BE DISBURSED TO THE COUNTIES EQUALLY TO PAY THE DULY ELECTED FULL-TIME CORONER OR OTHER RELATED PERSONNEL OR EQUIPMENT; TO AMEND SECTION 17-5-130, RELATING TO THE CORONERS TRAINING ADVISORY COMMITTEE, SO AS TO PROVIDE ADDITIONAL DUTIES FOR THE COMMITTEE INCLUDING TRAINING, GOVERNING QUALIFICATIONS, AND PERFORMANCE REVIEWS OF CORONERS AND DEPUTY CORONERS, AMONG OTHER THINGS; BY ADDING SECTIONS 17-5-543 AND 17-5-544 BOTH SO AS TO PROVIDE FOR THE CONFIDENTIALITY OF INFORMATION RECEIVED IN THE MEETINGS OF CHILD FATALITY REVIEW TEAMS AND OTHER INFORMATION, DOCUMENTS, AND RECORDS OF THE TEAMS AND THE RESULTING EXEMPTIONS UNDER CERTAIN CIRCUMSTANCES FROM THE FREEDOM OF INFORMATION ACT AND TO PROVIDE PENALTIES FOR VIOLATIONS.

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

Coroners, Local Child Fatality Review Teams

SECTION 1. Article 7, Chapter 5, Title 17 of the 1976 Code is amended by adding:

"Section 17-5-541. (A) For the purposes of this section, 'a person responsible for a child's welfare' has the same meaning as in Section 63-7-20(16).

(B) The coroner of each county, within a timeframe not exceeding seven working days, shall schedule a local Child Fatality Review Team to perform a review of a case where a child under the age of eighteen dies in the county he serves. The team may be composed of:

(1) the county coroner or his designee;

(2) a local law enforcement officer;

(3) an agent from the State Law Enforcement Division's Department of Child Fatalities assigned to the case;

(4) a board certified child abuse pediatrician;

(5) a representative from the local county department of social services; and

(6) a forensic pathologist.

(C) In addition to the mandatory notification requirement in Section 17-5-540, the coroner shall immediately notify the local county department of social services and request any involvement of the agency, excluding any economic services, in the life of the child, a sibling, or a person responsible for a child's welfare that resulted in a referred, indicated, or unfounded case.

(D) The local county department of social services, within twenty-four hours or one working day, whichever comes first, must provide the coroner and the State Law Enforcement Division's Department of Child Fatalities information related to any involvement of the agency, excluding any economic services, in the life of the child, a sibling, or a person responsible for a child's welfare that resulted in a referred, indicated, or unfounded case.

Section 17-5-542. (A) The purpose of the local Child Fatality Review Team is to rapidly and expeditiously review all child deaths that occur in the county in which each coroner serves.

(B) To achieve this purpose, the local Child Fatality Review Team shall:

(1) enter the team's findings of each reviewed child death into the Child Death Review Case Reporting System at the direction of the coroner;

(2) submit to the State Child Fatality Advisory Committee, a monthly report and any other reports prepared by the team, including the team's findings of each reviewed child death; and

(3) submit a report of the findings of each reviewed child death to the Bureau of Vital Statistics as prescribed by the State."

Coroners, funding

SECTION 2. Article 3, Chapter 5, Title 17 of the 1976 Code is amended by adding:

"Section 17-5-140. (A) From the funds appropriated for the implementation of this section, and subject to the provisions of subsection (C), the State Treasurer shall disburse an equal amount to each county treasurer on a monthly basis. These funds must supplement, and not supplant, existing funds utilized for full-time county coroners.

(B) From the funds received pursuant to this section, each county treasurer must pay the duly elected full-time coroner at least thirty-five thousand dollars annually. If the funds are not totally expended to pay the duly elected full-time coroner, then at the discretion of the coroner he may use the funds to hire a deputy coroner, administrative personnel, or personnel with forensic training. Also, the coroner may use the funds to provide an office or office equipment.

(C) Upon disbursing thirty-five thousand dollars to each county treasurer in a fiscal year, the State Treasurer shall credit any remaining funds pursuant to subsection (D) to the full-time coroners of each county for the performance of their duties. The remaining funds shall be disbursed as follows:

(1) For those counties with a population of one hundred fifty thousand and above, according to the latest official United States Decennial Census, each full-time coroner shall receive an equal share of fifty-five percent of the remaining funds.

(2) For those counties with a population of at least fifty thousand but not more than one hundred forty-nine thousand, nine hundred ninety-nine, according to the latest official United States Decennial Census, each full-time coroner shall receive an equal share of thirty-five percent of the remaining funds.

(3) For those counties with a population of less than fifty thousand, according to the latest official United States Decennial Census, each full-time coroner shall receive an equal share of ten percent of the remaining funds.

(D) Implementation of this section is contingent upon the appropriation of state general funds or the availability of financial support from other sources and must be operational within one year of adequate funding becoming available."

Coroners Training Advisory Committee, duties expanded

SECTION 3. Section 17-5-130(G) of the 1976 Code is amended to read:

"(G)(1) 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. Also, the committee shall assist in determining annual training requirements as set forth in 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.

(2) The Coroners Training Advisory Committee shall govern the qualifications of all coroners, deputy coroners, and candidates for coroner as set forth in this section. Also, the committee must certify all coroners. The committee may require a coroner or a deputy coroner to appear before it for performance review. Failure to appear before the committee or failure to follow state law relating to the performance of official duties may result in sanctioning in the form of a private or public reprimand. Also, the committee may recommend suspension to the Governor and loss of funding to the county council. A person may appeal an action of the committee pursuant to the provisions of Chapter 23, Title 1. The committee may hire an administrative assistant if it is determined necessary."

Local Child Fatality Review Teams, confidentiality

SECTION 4. Article 7, Chapter 5, Title 17 of the 1976 Code is amended by adding:

"Section 17-5-543. (A) Meetings of the Child Fatality Review Team, the 'review team', are closed to the public and are not subject to Chapter

4, Title 30, the Freedom of Information Act, when the review team is discussing individual cases of child deaths.

(B) Except as provided in subsection (C), meetings of the review team are open to the public and subject to the Freedom of Information Act when the review team is not discussing individual cases of child deaths.

(C) Information identifying a deceased child or a family member, guardian, or caretaker of a deceased child, or an alleged or suspected perpetrator of abuse or neglect upon a child may not be disclosed during a public meeting and information regarding the involvement of any agency with the deceased child or family may not be disclosed during a public meeting.

(D) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both."

Local Child Fatality Review Teams, confidentiality

SECTION 5. Article 7, Chapter 5, Title 17 of the 1976 Code is amended by adding:

"Section 17-5-544. (A) All information, documents, and records of the Child Fatality Review team, records acquired by the review team, or records prepared by members of the review team in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, and only may be disclosed as necessary to carry out the review team's duties and purposes.

(B) Statistical compilations of data that do not contain information that would permit the identification of a person to be ascertained are public records.

(C) Reports of the review team that do not contain information that would permit the identification of a person to be ascertained are public information.

(D) Except as necessary to carry out the review team's purposes and duties, members of the committee and persons attending their meeting may not disclose what transpired at a meeting and may not disclose information, the disclosure of which is prohibited by this section.

(E) Members of the Child Fatality Review Team, persons attending a committee meeting, and persons who present information to the review team may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting,

except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or department or because it is maintained by the committee or department. Nothing in this subsection may be construed to prevent a person from testifying to information obtained independently of the committee or which is public information.

(F) All information, documents, and records of the Child Fatality Review team, records acquired by the review team, and records prepared by the review team are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the committee or department or because they are maintained by the committee or department.

(G) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 184

(R200, S176)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 24-1-300 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO OPERATE AN UNMANNED AERIAL VEHICLE NEAR A DEPARTMENT OF CORRECTIONS FACILITY BY CERTAIN PERSONS, TO PROVIDE PENALTIES FOR VIOLATING THIS PROVISION, AND TO PROVIDE FOR THE CONFISCATION AND RELEASE OF CERTAIN UNMANNED AERIAL VEHICLES UNDER

CERTAIN CIRCUMSTANCES; BY ADDING SECTION 24-5-175 SO AS TO PROVIDE THAT IT IS UNLAWFUL TO OPERATE AN UNMANNED AERIAL VEHICLE NEAR A LOCAL DETENTION FACILITY BY CERTAIN PERSONS, TO PROVIDE PENALTIES FOR VIOLATING THIS PROVISION, AND TO PROVIDE FOR THE CONFISCATION AND RELEASE OF CERTAIN UNMANNED AERIAL VEHICLES UNDER CERTAIN CIRCUMSTANCES; BY ADDING SECTION 24-1-310 SO AS TO PROVIDE THAT THE DEPARTMENT OF CORRECTIONS SHALL PETITION THE FEDERAL AVIATION ADMINISTRATION (FAA) TO DESIGNATE CERTAIN DETENTION AND CORRECTIONAL FACILITIES AS FIXED-SITE FACILITIES AND THE STATE AERONAUTICS COMMISSION SHALL PUBLISH DESIGNATIONS BY THE FAA ON THE COMMISSION'S WEBSITE; AND BY ADDING SECTION 24-1-320 SO AS TO PROVIDE THAT THE DEPARTMENT OF CORRECTIONS AND LOCAL DETENTION FACILITIES SHALL PROVIDE THE STATE AERONAUTICS COMMISSION A LIST OF DESIGNATED SITES OR FACILITIES AND UNMANNED AERIAL VEHICLE BOUNDARIES.

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

Unlawful operation of unmanned aerial vehicle

SECTION 1. Chapter 1, Title 24 of the 1976 Code is amended by adding:

"Section 24-1-300. (A) Except as provided in subsection (D), a person shall not operate an unmanned aerial vehicle within a horizontal distance of five hundred feet or a vertical distance of two hundred fifty feet from any Department of Corrections facility without written consent from the Director of the Department of Corrections.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(C)(1) In addition to the penalty provided in this section, an unmanned aerial vehicle involved in the violation of this section may be confiscated by the Department of Corrections. An unmanned aerial vehicle must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined, or

as otherwise required by Section 17-28-300, et seq. Records must be kept of all confiscated unmanned aerial vehicles received by the Department of Corrections under the provisions of this section. Upon conviction, pursuant to a violation of this section, the relevant unmanned aerial vehicle shall be transferred to the State Law Enforcement Division to use within the agency for any lawful purpose or for destruction, unless otherwise provided in this section.

(2) Any unmanned aerial vehicle confiscated pursuant to this section shall be administratively released to an innocent owner. The unmanned aerial vehicle must not be released to the innocent owner until the results of any legal proceedings in which the unmanned aerial vehicle may be involved are finally determined, or as otherwise required by Section 17-28-300, et seq. Before the unmanned aerial vehicle may be released, the innocent owner shall provide the Department of Corrections with proof of ownership; shall certify that the innocent owner neither was a consenting party to nor had knowledge of the use of the unmanned aerial vehicle that made it subject to confiscation; and shall certify that the innocent owner will not release the unmanned aerial vehicle to the person who was charged with the violation of this section that resulted in the confiscation of the unmanned aerial vehicle. The Department of Corrections shall notify the innocent owner when the unmanned aerial vehicle is available for release. If the innocent owner fails to recover the unmanned aerial vehicle within thirty days after notification of the release, the Department of Corrections may use the unmanned aerial vehicle within the agency for any lawful purpose or destroy it.

(D) The provisions of this section do not apply to any person who: registers with the Federal Aviation Administration as an operator of a commercial unmanned aerial vehicle; operates the vehicle for the purpose of monitoring, operating, maintaining or enhancing electric, communications, water conveyance, or transportation infrastructure or determining if repairs to such infrastructure are necessary; and separately notifies the Director of the Department of Corrections or his designee no more than five days and no less two hours prior to each operation of the vehicle, provided that the notification must include the registration number the Federal Aviation Administration has issued for the vehicle."

Unlawful operation of unmanned aerial vehicle

SECTION 2. Article 1, Chapter 5, Title 24 of the 1976 Code is amended by adding:

"Section 24-5-175. (A) Except as provided in subsection (D), a person shall not operate an unmanned aerial vehicle within a horizontal distance of five hundred feet or a vertical distance of two hundred fifty feet from any local detention facility without written consent from the jail administrator.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(C)(1) In addition to the penalty provided in this section, an unmanned aerial vehicle involved in the violation of this section may be confiscated by the jail administrator of a local detention facility. An unmanned aerial vehicle must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined, or as otherwise required by Section 17-28-300, et seq. Records must be kept of all confiscated unmanned aerial vehicles received by the jail administrator under the provisions of this section. Upon conviction, pursuant to a violation of this section, the relevant unmanned aerial vehicle shall be transferred to the South Carolina Law Enforcement Division to use within the agency for any lawful purpose or for destruction, unless otherwise provided in this section.

(2) Any unmanned aerial vehicle confiscated pursuant to this section shall be administratively released to an innocent owner. The unmanned aerial vehicle must not be released to the innocent owner until the results of any legal proceedings in which the unmanned aerial vehicle may be involved are finally determined, or as otherwise required by Section 17-28-300, et seq. Before the unmanned aerial vehicle may be released, the innocent owner shall provide the jail administrator with proof of ownership; shall certify that the innocent owner neither was a consenting party to nor had knowledge of the use of the unmanned aerial vehicle that made it subject to the confiscation; and shall certify that the innocent owner will not release the unmanned aerial vehicle to the person who was charged with the violation of this section that resulted in the confiscation of the unmanned aerial vehicle. The jail administrator shall notify the innocent owner when the unmanned aerial vehicle is available for release. If the innocent owner fails to recover the unmanned aerial vehicle within thirty days after notification of the release, the local detention facility may use the unmanned aerial vehicle within the agency for any lawful purpose or destroy it.

(D) The provisions of this section do not apply to any person who: registers with the Federal Aviation Administration as an operator of a commercial unmanned aerial vehicle; operates the vehicle for the purpose of monitoring, operating, maintaining or enhancing electric,

communications, water conveyance, or transportation infrastructure or determining if repairs to such infrastructure are necessary; and separately notifies the jail administrator or his designee no more than five days and no less two hours prior to each operation of the vehicle, provided that the notification must include the registration number the Federal Aviation Administration has issued for the vehicle."

Fixed site facility designation

SECTION 3. Chapter 1, Title 24 of the 1976 Code is amended by adding:

"Section 24-1-310. The Department of Corrections shall petition the Federal Aviation Administration (FAA) to designate any local detention facility, or state or federal correctional facility in the State as a fixed-site facility within ninety days of the effective date of this section, pursuant to rules and regulations adopted pursuant to Section 2209 of the FAA Extension, Safety, and Security Act of 2016, Public Law No. 114-190. The department shall follow all guidance from the FAA in submitting and processing the petition. The South Carolina Aeronautics Commission shall publish designations by the FAA in accordance with this act on the commission's website."

Unmanned aerial vehicle boundary

SECTION 4. Chapter 1, Title 24 of the 1976 Code is amended by adding:

"Section 24-1-320. To promote harmonization and air safety, the Department of Corrections and local detention facilities shall provide the South Carolina Aeronautics Commission a list of designated sites or facilities, and shall provide the commission with the unmanned aerial vehicle boundary in electronic format (ARGIS or AutoCAD) necessary to display the information within the Geographical Information Systems formats utilized by the commission within thirty days of the effective date of this section, and the commission shall publish the designated sites or facilities' information on the commission's website."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 185

(R201, S302)

AN ACT TO AMEND SECTION 59-29-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REQUIRED PHYSICAL EDUCATION COURSEWORK IN PUBLIC SCHOOLS AND THE ACCEPTABILITY OF ROTC TRAINING IN LIEU OF SUCH COURSEWORK, SO AS ALSO TO PROVIDE THAT CERTAIN MARCHING BAND INSTRUCTION MUST BE ACCEPTED IN LIEU OF SUCH PHYSICAL EDUCATION COURSEWORK, SUBJECT TO CERTAIN REQUIREMENTS CONCERNING THE INCORPORATION OF SOUTH CAROLINA ACADEMIC STANDARDS FOR PHYSICAL EDUCATION AND APPROVAL BY THE STATE DEPARTMENT OF EDUCATION; BY ADDING SECTION 59-103-155 SO AS TO PROVIDE INSTITUTION OF HIGHER EDUCATION DEGREE PROGRAMS IN HEALTH CARE PROFESSIONS WHICH ALLOW THE PRESCRIBING OF CERTAIN CONTROLLED SUBSTANCES MUST INCLUDE COURSEWORK ON THE PRESCRIBING AND MONITORING OF SUCH SUBSTANCES, AND TO PROVIDE THESE INSTITUTIONS SHALL COORDINATE WITH CERTAIN STATE AGENCIES AND BOARDS TO DEVELOP THE RELATED CURRICULUM; AND TO AMEND SECTION 59-32-20, RELATING TO THE SELECTION OR ADOPTION OF CERTAIN INSTRUCTIONAL UNITS PURSUANT TO THE COMPREHENSIVE HEALTH EDUCATION ACT BY THE STATE BOARD OF EDUCATION, SO AS TO PROVIDE THAT BEFORE AUGUST 1, 2018, AND AS LATER CONSIDERED NECESSARY THROUGH THE CYCLICAL REVIEW PROCESS, THE BOARD ALSO SHALL INCLUDE CERTAIN INSTRUCTION ON PRESCRIPTION OPIOID ABUSE PREVENTION AND MAKE AVAILABLE TO DISTRICTS A LIST OF INSTRUCTIONAL MATERIALS THAT MEET APPLICABLE STATE STANDARDS, AND TO PROVIDE

DISTRICTS SHALL CONTINUE TO ADOPT OR DEVELOP CURRICULUM LOCALLY.

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

Physical education, marching band

SECTION 1. Section 59-29-80(A) of the 1976 Code is amended to read:

"Section 59-29-80. (A) There is established and provided in all the public schools of this State physical education, training, and instruction of pupils of both sexes. Every pupil attending public school, in so far as he is physically fit and able to do so, shall take the course or courses provided by this section. Suitable modified courses must be provided for students physically or mentally unable or unfit to take the course or courses prescribed for normal pupils. However, in public school that offers a military or naval ROTC program sponsored by one of the military services of the United States, training in such a program must be considered to be the equivalent of physical education instruction and must be accepted in lieu of such instruction for all purposes, academic or nonacademic, as may hereinafter be provided. Additionally, in a public school that offers instruction in marching band based on the South Carolina Academic Standards for the Visual and Performing Arts and that incorporates the South Carolina Academic Standards for Physical Education, this instruction must be considered to be the equivalent of physical education instruction and must be accepted in lieu of physical education instruction for all purposes; provided the district first shall submit a plan to the department documenting that all South Carolina Academic Standards for Physical Education are met in the proposed marching band instruction, and upon approval of the plan by the department, this instruction may be offered and considered to be the equivalent of physical education instruction."

Health profession education, drug training

SECTION 2. Article 1, Chapter 103, Title 59 of the 1976 Code is amended by adding:

"Section 59-103-155. Any public or private institution of higher education in the State from which a student may earn a degree in a health care profession that allows the person to prescribe controlled substances

listed in Schedules II, III, and IV in the State shall require for those programs that students complete coursework on the prescription and monitoring of Schedule II, III, and IV controlled substances, including coursework on the prescription of Schedule II controlled substances to treat or manage pain, and strategies that can be employed to recognize signs of and reduce the likelihood of patient addiction. These institutions of higher education shall coordinate with the state's Commission on Higher Education, Board of Medical Examiners, Board of Dentistry, and Board of Nursing to develop the curriculum."

Comprehensive Health Education Act, drug training

SECTION 3. Section 59-32-20 of the 1976 Code is amended to read:

"Section 59-32-20. (A) Before August 1, 1988, the board, through the department, shall select or develop an instructional unit with separate components addressing the subjects of reproductive health education, family life education, pregnancy prevention education, and sexually transmitted diseases and make the instructional unit available to local school districts. The board, through the department, also shall make available information about other programs developed by other states upon request of a local school district.

(B) In addition to the provisions of subsection (A), before September 1, 2015, the board, through the department, shall select or develop instructional units in sexual abuse and assault awareness and prevention, with separate units appropriate for each age level from four-year-old kindergarten through twelfth grade.

(C) Before August 1, 2018, and through the cyclical review process, if deemed necessary, the board shall include instruction on prescription opioid abuse prevention, with an emphasis on the prescription drug epidemic and the connection between opioid abuse and addiction to other drugs, such as heroin, in the health standards. In addition, the board shall make available to districts a list of instructional materials that meet state standards. Districts shall continue to adopt or develop curriculum locally."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 186

(R202, S337)

AN ACT TO AMEND SECTION 34-26-410, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE POWERS OF CREDIT UNIONS, SO AS TO PROVIDE THAT A CREDIT UNION MAY SELL CERTAIN FINANCIAL INSTRUMENTS TO PERSONS IN THE FIELD OF MEMBERSHIP; TO AMEND SECTION 34-26-500, RELATING TO MEMBERSHIP IN A CREDIT UNION, SO AS TO PROVIDE THE PROCEDURE FOR A CREDIT UNION TO SERVE NEW COMMUNITY GROUPS AND UNDERSERVED COMMUNITIES; TO AMEND SECTION 34-26-640, RELATING TO BOARD MEETINGS, SO AS TO REQUIRE THE BOARD TO MEET AT LEAST ONCE EACH YEAR AND TO ALLOW PARTICIPATION REMOTELY IN CERTAIN MEETINGS; AND TO AMEND SECTION 34-26-1020, RELATING TO PERMISSIBLE INVESTMENTS OF CREDIT UNION FUNDS, SO AS TO ALLOW FOR AN INVESTMENT IN CERTAIN CHARITABLE DONATION ACCOUNTS.

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

Credit union services

SECTION 1. Section 34-26-410 of the 1976 Code is amended by adding an appropriately numbered item to read:

"( ) sell, to persons in the field of membership, negotiable checks, including traveler's checks, money orders, and other similar money transfer instruments, including international and domestic electronic fund transfers and remittance transfers and cash checks and money orders for persons in the field of membership for a fee."

Credit union membership

SECTION 2. Section 34-26-500 of the 1976 Code is amended to read:

"Section 34-26-500. (1) The membership of a credit union may consist of groups having different common bonds, having been duly admitted as members, having paid any required one-time or periodic membership fee, or both, having subscribed to one or more shares, and having complied with such other requirements as the articles of incorporation and bylaws specify.

(2) Credit union membership may also consist of groups having different common bonds of occupation, association, community, or persons employed within a defined business district, building, industrial park or shopping center, and members of the family of such persons who are related by either blood or marriage.

(3) A credit union may add additional occupation and association groups not to exceed two hundred fifty potential members to its field of membership, as necessary, provided the groups reasonably are served by one of the credit union's service facilities, and the group has provided a written request for service to the credit union. However, the Board of Financial Institutions may revoke the power of a credit union to add groups provided by this section upon a finding that permitting additions pursuant to the provisions of this section are not in the best interest of the credit union. The adding of these groups must be consistent with the following:

(a) In order to add additional groups, a credit union first shall obtain a letter on the group's letterhead, if possible, signed by an official representative identified by title, requesting credit union service. The groups shall indicate the number of potential members seeking service. This document must be maintained by the credit union permanently with its bylaws.

(b) A credit union adding groups shall maintain a log of these groups. The log must include the following: the date the group obtained service, the name and location of the group, the number of potential members added, the number of miles to the nearest main or branch office, and the date of the approval of the group by the board of directors.

(c) Upon complying with the above procedures, board approval is not necessary to add groups with no more than two hundred fifty potential members to a credit union's field of membership. Approval of the Board of Financial Institutions must be obtained before the addition of groups in excess of two hundred fifty.

(4)(a) For the purposes of this subsection:

(i) 'Well-defined' means that the area has specific geographic boundaries.

(ii) 'Geographic boundaries' may include a municipality, city, county, or clearly identifiable neighborhood.

(b) State chartered credit unions may apply to the board to serve community groups. A community group shall consist of persons who live in, attend school in, or work in a community and have common interests or interact. The area to be served must be a well-defined neighborhood, business district, community, or rural district where the credit union maintains a service facility, has a membership presence, and has the ability to serve those who qualify for and request credit union service. More than one credit union may share the same community. The credit union requesting to serve a community must provide to the board:

(i) documentation describing how the area meets standards for community interaction or common interests and clearly defining the geographic boundaries of the proposed service area;

(ii) documentation establishing the area as a well-defined local neighborhood, community, rural district, or business district; and

(iii) current financial statements and a plan showing how the credit union intends to market its products and services to the entire community, and the credit union must have been determined by recent examinations to have a strong financial position.

(c) Upon compliance with the above procedures, approval of the Board of Financial Institutions must be obtained in order to add a community group to a credit union's field of membership.

(5)(a) For the purposes of this subsection:

(i) 'Underserved community' means a local community, neighborhood, or rural district that is an investment area.

(ii) 'Investment area' means an area:

(A) encompassed or located in an Empowerment Zone or Enterprise Community designated under Section 1391 of the Internal Revenue Code of 1996 (26 U.S.C. 1391);

(B) where the percentage of the population living in poverty is at least twenty percent;

(C) in a metropolitan area where the median family income is at or below eighty percent of the metropolitan area median family income or the national metropolitan area median family income, whichever is greater;

(D) outside of a metropolitan area where the median family income is at or below eighty percent of the statewide nonmetropolitan area median family income or the national nonmetropolitan area median family income, whichever is greater;

(E) where the unemployment rate is at least one and a half times the national average;

(F) where the percentage of occupied distressed housing, as indicated by lack of complete plumbing and occupancy of more than one person per room, is at least twenty percent; or

(G) located outside of a metropolitan area with a county population loss between 1980 and 1990 and subsequent ten year intervals of at least ten percent.

(b) State chartered credit unions may apply to include underserved communities in their field of membership. More than one credit union may serve the same underserved community. A credit union requesting to serve an underserved community must provide to the board:

(i) documentation establishing that the community meets the definition of an investment area; and

(ii) current financial statements and a business plan showing how the credit union intends to serve the community. The business plan must identify the credit and depository needs of the community and detail how the credit union plans to serve those needs. The credit union must have been determined by recent examinations to have a strong financial position.

(c) Upon compliance with the above procedures, approval of the Board of Financial Institutions must be obtained in order to add a community group to a credit union's field of membership."

Credit union board meetings

SECTION 3. Section 34-26-640 of the 1976 Code is amended to read:

"Section 34-26-640. (A) The board of directors shall meet at least monthly and at other times as is necessary.

(B) Unless the bylaws provide otherwise, one regular meeting each calendar year must be conducted in person. If a quorum is present in person for the annual in person meeting, then the remaining board members may participate using audio or video teleconference methods. The other regular meetings may be conducted using audio or video teleconference methods."

Investment of credit union funds

SECTION 4. Section 34-26-1020 of the 1976 Code is amended to read:

"Section 34-26-1020. Funds not used in loans to members may be invested:

(1) in any investment which is legal for state-chartered banks;

(2) in deposits, obligations, or other accounts of financial institutions organized under state or federal law;

(3) in loans to or in shares or deposits of other credit unions or corporate credit unions;

(4) in deposits, in loans to, or shares of any Federal Reserve Bank, U.S. Central Credit Union, or of any central liquidity facility established under state or federal law;

(5) in shares, stocks, deposits in, loans to, or other obligations of any credit union service organization, or association exclusively providing services associated with the credit union or engaging in activities incidental to the operations of a credit union. Investments in the aggregate may not exceed fifteen percent of the credit union's reserves and undivided profits;

(6) in participation loans with other credit unions;

(7) in fixed assets; and

(8) in charitable donation accounts if those accounts meet the requirements of 12 C.F.R. 721.3. A credit union shall notify the commissioner before it establishes a charitable donation account."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 187

(R204, S506)

AN ACT TO AMEND SECTION 40-43-170, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AUTHORITY OF A PHARMACIST TO DISPENSE A ONE-TIME REFILL OF A PRESCRIBED MEDICATION DURING A STATE OF EMERGENCY DECLARED BY THE GOVERNOR, SO AS TO

INCREASE THE QUANTITY OF SUCH A REFILL FROM A FIFTEEN-DAY SUPPLY TO A THIRTY-DAY SUPPLY.

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

Emergency refills, quantity increased

SECTION 1. Section 40-43-170(A)(1) of the 1976 Code is amended to read:

"(A) When the Governor issues a 'State of Emergency':

(1) A pharmacist may work in the affected county and may dispense a one-time emergency refill of up to a thirty-day supply of a prescribed medication if:

(a) the pharmacist has all prescription information necessary in order to accurately refill the prescription;

(b) in the pharmacist's professional opinion the medication is essential to the maintenance of life or to the continuation of therapy;

(c) the pharmacist reduces the information to a written prescription marked 'Emergency Refill', files the prescription as required by law, and notifies the prescribing physician within fifteen days of the emergency refill; and

(d) the prescription is not for a controlled substance."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 188

(R205, S567)

AN ACT TO AMEND SECTION 41-18-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICABILITY OF AND EXCEPTIONS TO THE "SOUTH CAROLINA AMUSEMENT RIDES SAFETY CODE", SO AS TO

PROVIDE THE SAFETY CODE APPLIES TO CONCESSION GO-KARTS BUT DOES NOT APPLY TO SUPER-KARTS EXCEPT FOR CERTAIN LIMITED PURPOSES CONCERNING THE AGE OF OPERATORS, REQUIREMENTS OF ESTABLISHMENTS WHERE SUPER-KARTS MAY BE OPERATED, AND LIABILITY INSURANCE COVERAGE REQUIREMENTS OF SUPER-KART OWNERS; AND TO AMEND SECTION 41-18-40, RELATING TO DEFINITIONS IN THE "SOUTH CAROLINA AMUSEMENT RIDES SAFETY CODE", SO AS TO PROVIDE NECESSARY DEFINITIONS.

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

Applicability, go-karts included, super-karts excluded

SECTION 1. Section 41-18-30 of the 1976 Code is amended to read:

"Section 41-18-30. (A) This chapter applies to amusement devices at carnivals, fairs, and amusement parks where an admission or fee is customarily or usually charged located within the State or at other places open to the public and to the managers of these devices, to the persons employed in connection with these devices, and to their employees.

(B) This chapter does not apply to single passenger, coin-operated, manually, mechanically, or electrically operated rides, except where admission is charged for the use of the equipment, and this chapter may not be construed so as to limit the right of a person to conduct any hotel, restaurant, or eating place at an amusement park.

(C) This chapter does not apply to air-supported structures.

(D) This chapter applies to concession go-karts. This chapter does not apply to super-karts, provided that:

(1) Only persons age eighteen or above who hold a valid driver's license are allowed to operate super-karts.

(2) No person shall operate a super-kart in any establishment where other amusement devices are located or operated. Establishments offering super-karts must not share an entrance or exit with any other establishment offering an amusement device and must charge a separate fee for operating super-karts.

(3) A sign shall be on display on the premises where super-karts are operated stating: 'Super-karts are not amusement devices regulated by the South Carolina Department of Labor, Licensing and Regulation. Super-karts may reach speeds in excess of fifty miles per hour. Drive at your own risk.'

(4) The owner of a super-kart must carry an insurance policy in an amount not less than one million dollars per occurrence against liability for injury to persons or property arising out of the operation or use of such device."

Definitions

SECTION 2. Section 41-18-40 of the 1976 Code is amended by adding appropriately numbered items to read:

"( )(a) 'Concession go-kart' means an amusement ride or device that:

(i) is a single vehicle, unattached to other vehicles or a common frame system;

(ii) is powered without connection to a common energy source;

(iii) is driver-controlled with respect to acceleration, speed, braking, and steering;

(iv) operates within the containment system of a defined track;

(v) simulates competitive motor sports; and

(vi) is used by members of the general public for a fee.

(b) A concession go-kart has a maximum capacity of two persons and no cargo capacity.

( ) 'Super-kart' means an open-wheel motorsport vehicle, with or without gearbox or shifter capability, used for racing in excess of fifty miles per hour. Super-kart does not mean 'concession go-kart' as defined by this section."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 189

(R206, S648)

AN ACT TO AMEND SECTION 59-53-1784, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DISPOSAL OF

SURPLUS PROPERTY BY THE MIDLANDS TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITY, SO AS TO PROVIDE THAT THE EXEMPTION OF THE AUTHORITY FROM SURPLUS PROPERTY LAWS APPLIES TO REAL, PERSONAL, AND MIXED PROPERTY IN CERTAIN CIRCUMSTANCES; AND TO PROVIDE THE PROVISIONS OF THIS ACT EXPIRE JUNE 30, 2020.

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

Surplus property disposal

SECTION 1. Section 59-53-1784(C) of the 1976 Code is amended to read:

"(C)(1) The authority is exempt from all regulations and general laws including, but not limited to, Sections 1-11-58 and 1-11-65, governing disposal of surplus government property, whether real, personal, or mixed.

(2) The exemption provided in item (1) includes an exemption for the sale of real property but only if the sale is for a price not less than a market value determined by an appraisal conforming to the Department of Administration's appraisal standards and the transfer of title is by quit claim deed. After the recording of the deed for the sold real property, the authority shall file with the Department of Administration a copy of the recorded deed and a copy of the appraisal."

Time effective

SECTION 2. This act takes effect upon approval by the Governor and its provisions expire June 30, 2020.

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 190

(R208, S758)

AN ACT TO AMEND SECTION 50-25-1330, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO WATERCRAFT RESTRICTIONS ALONG LAKE H. TAYLOR BLALOCK, SO AS TO EXTEND THE PERIOD FOR WATERFOWL HUNTING ON DEPARTMENT OF NATURAL RESOURCES LEASED PREMISES ON THE LAKE.

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

Lake H. Taylor Blalock

SECTION 1. Section 50-25-1330(B)(2) of the 1976 Code is amended to read:

"(2) operate any boat, watercraft, or any other type of vessel between midnight and one hour before sunrise, except that public access to Lake H. Taylor Blalock for the purpose of hunting waterfowl on department leased premises shall be open on Wednesday mornings during the federal waterfowl hunting season beginning at 5:00 a.m., provided the hunting of waterfowl shall no longer be allowed on Lake H. Taylor Blalock after the 2023-2024 federal waterfowl hunting season, unless reauthorized in statute;"

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 191

(R209, S810)

AN ACT TO AMEND SECTION 40-39-70, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RECORDKEEPING AND MISCELLANEOUS REQUIREMENTS OF PAWNBROKERS, SO AS TO REQUIRE PAWNBROKERS KEEP DIGITAL PHOTOGRAPHS OF GOODS, ARTICLES, OR THINGS PAWNED; TO AMEND SECTION 40-39-90, RELATING TO RECORDS PAWNBROKERS SHALL MAINTAIN FOR INSPECTION BY CERTAIN PUBLIC OFFICIALS, SO AS TO PROVIDE PAWNSHOPS OPERATING IN THIS STATE SHALL PROVIDE ALL RECORDS OF PLEDGED ITEMS BY ELECTRONIC DATA TRANSFER TO A DATABASE SYSTEM ACCESSIBLE BY LAW ENFORCEMENT AND APPROVED BY THE SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS; TO AMEND SECTION 40-39-145, RELATING TO HOLD ORDERS, SO AS TO REVISE PROCEDURES FOR LAW ENFORCEMENT TREATMENT OF PAWNED PROPERTY BELIEVED TO BE STOLEN OR MISAPPROPRIATED, AND RIGHTS AND OBLIGATIONS OF CERTAIN RELATED PARTIES; AND TO AMEND SECTION 40-39-160, RELATING TO PENALTIES FOR VIOLATIONS, SO AS TO PROVIDE CRIMINAL PENALTIES FOR CERTAIN KNOWING AND WILLING VIOLATIONS CONCERNING PAWN TICKETS.

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

Recordkeeping requirements, digital photographs

SECTION 1. Section 40-39-70 of the 1976 Code is amended to read:

"Section 40-39-70. (A) A pawnbroker shall keep a record, at the time of any loan or purchase, containing:

(1) an account, description, and digital photograph of the goods, articles, or things pawned, pledged, or purchased;

(2) the amount of money loaned thereon;

(3) the time of pledging them;

(4) the charges or the rate of interest to be paid on the loan; and

(5) the name and residence of the person selling, pawning, or pledging the goods, articles, or things.

(B) Before a pledge or purchase, the pawnbroker shall verify the identity of the pledgor or seller by reviewing a state-issued or federally issued photographic identification card, including a United States military identification card, or a passport issued by the United States.

(C) A pawn or purchase transaction must be performed by the owner of the property, or his authorized agent, whose identity and agency relationship must be verified by the pawnbroker."

Recordkeeping, electronic transfers, database

SECTION 2. Section 40-39-90 of the 1976 Code is amended to read:

"Section 40-39-90. (A) Records kept by pawnbrokers pursuant to this chapter must at all reasonable times be open to the inspection by court officials, law enforcement officers, the Administrator of the Department of Consumer Affairs, and their designees. Any loan records identifying any individual must be handled in a confidential manner at all times.

(B) Pawnshops operating in this State shall provide all records of pledged items by electronic data transfer to a database system accessible by law enforcement and approved by the South Carolina Department of Consumer Affairs."

Hold orders

SECTION 3. Section 40-39-145 of the 1976 Code is amended to read:

"Section 40-39-145. (A) When an appropriate law enforcement official has probable cause to believe that property in the possession of a pawnbroker is misappropriated or stolen, he shall deliver to the pawnbroker the relevant police report or case number pertaining to the property, and the pawnbroker shall release the property to the appropriate law enforcement agency for use in a criminal investigation or return the property to the identified innocent owner. A pawnbroker who releases the property to law enforcement must be listed as a statutory victim on all transmitted reports and case files. If at the conclusion of the criminal investigation no identifiable innocent owner is found, the property must be returned to the pawnbroker by the appropriate law enforcement agency.

(B) The release of the property to the custody of the appropriate law enforcement official is not considered a waiver or release of the pawnbroker's property rights or interest in the property. Upon completion of the criminal proceeding involving the property identified as stolen, the court additionally shall order the conveying customer to pay restitution to the pawnbroker in the amount received by the conveying customer for the property.

(C) When law enforcement seizes property pursuant to subsection (A), they shall hold the seized property for ten business days before releasing it to an innocent owner. During this ten business day period, a pawnbroker may file an action for claim and delivery of the seized property, provided it also shall serve notice of this action to the law enforcement agency. If no notice is received within this ten business day period, the law enforcement agency may release the property to an identified innocent owner. A law enforcement agency that receives notice shall hold the property during the pendency of the action."

Penalties

SECTION 4. Section 40-39-160 of the 1976 Code is amended to read:

"Section 40-39-160. (1) If a pawnbroker violates Section 40-39-80, 40-39-100, 40-39-110, or 40-39-130, the pledgor has a cause of action to recover from the pawnbroker actual damages and the right in an action other than a class action to recover from the person violating these provisions a penalty in an amount to be determined by the court of not less than one hundred nor more than one thousand dollars. No action pursuant to this subsection may be brought more than one year after the scheduled or accelerated maturity of the debt.

(2) A pledgor is not obligated to pay a charge in excess of that allowed by this chapter, and has a right of refund of any excess charge paid within ten days of written demand. A refund may not be made by reducing the consumer's obligation by the amount of the excess charge unless the pawnbroker has notified the pledgor that the pledgor may request a refund and the pledgor has not so requested within ten days thereafter.

(3) In an action in which it is found that a pawnbroker has violated this chapter, the court shall award to the pledgor the costs of the action and to the pledgor's attorney reasonable fees. In determining attorney's fees the amount of recovery on behalf of the consumer is not controlling.

(4) Liability to the pledgor for violation of Section 40-39-130 is in lieu of and not in addition to his liability under the Federal Truth in

Lending Act. No action with respect to the same violation may be maintained pursuant to both subsection (1) of this section and the Federal Truth in Lending Act.

(5) A pawnbroker who knowingly and intentionally violates the provisions of Section 40-39-90 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. A violation of the provisions of this section is triable in magistrates or municipal court, as appropriate."

Time effective

SECTION 5. This act takes effect ninety days after approval by the Governor.

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 192

(R210, S812)

AN ACT TO AMEND SECTION 33-57-120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RAFFLES CONDUCTED BY NONPROFIT ORGANIZATIONS FOR CHARITABLE PURPOSES, SO AS TO INCREASE THE VALUE OF NONCASH PRIZES ALLOWED FOR THESE RAFFLES; TO AMEND SECTION 33-57-140, RELATING TO STANDARDS FOR THESE RAFFLES, SO AS TO INCREASE THE ALLOWANCE FOR THE PRICE OF A RAFFLE TICKET PRODUCED BY NONPROFIT ORGANIZATIONS FOR CHARITABLE PURPOSES; AND BY ADDING SECTION 12-21-3925 SO AS TO ALLOW A BINGO VOLUNTEER TO PARTICIPATE IN BINGO GAMES UNDER CERTAIN CIRCUMSTANCES.

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

Charitable raffles, value of noncash prizes increased

SECTION 1. Section 33-57-120(B) of the 1976 Code is amended to read:

"(B)(1) The requirement to register with the secretary for the purpose of operating raffles for charitable purposes shall apply to any and all nonprofit organizations that intend to operate a raffle in this State, including those organizations that are exempt from or not required to follow the requirements for solicitation of charitable funds pursuant to Chapter 56, Title 33.

(2) An exemption from registration for the purpose of operating raffles is authorized for:

(a) raffles operated by a nonprofit organization for charitable purposes, where a noncash prize is donated for the nonprofit raffle and the total value of the prize or prizes offered for a raffle event is not more than nine hundred fifty dollars; and

(b) fifty-fifty raffles where the tickets are sold to members or guests of a nonprofit organization, and not to the general public, and the total value of proceeds collected is not more than nine hundred fifty dollars.

(3) An organization operating a raffle that is within an exemption authorized by the provisions of item (2) shall not operate more than one raffle every seven calendar days."

Charitable raffles, raffle ticket prices increased

SECTION 2. Section 33-57-140(M) of the 1976 Code is amended to read:

"(M) The purchase price for a raffle ticket may not exceed three hundred dollars."

Bingo volunteers, participation in games

SECTION 3. Article 24, Chapter 21, Title 12 of the 1976 Code is amended by adding:

"Section 12-21-3925. A volunteer who assists a house in operating bingo games is not an agent, promoter, or representative of the house and may participate in a bingo game at the house in which he volunteers except on days he has volunteered."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 193

(R211, S820)

AN ACT TO AMEND SECTION 61-6-2010, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TEMPORARY ALCOHOL PERMITS UPON A REFERENDUM VOTE, SO AS TO DELETE A PRIOR REFERENCE TO A DATE AND PROVIDE A SUBSEQUENT REFERENDUM MAY NOT BE HELD LESS THAN FORTY-EIGHT MONTHS FOLLOWING THE FAILURE OF A QUESTION.

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

Alcohol, temporary permits by referendum, timing

SECTION 1. Section 61-6-2010(C) of the 1976 Code is amended to read:

"(C)(1) A permit authorized by this section may be issued only in those counties or municipalities where a majority of the qualified electors voting in a referendum vote in favor of the issuance of the permit. The county or municipal election commission, as the case may be, shall conduct a referendum upon petition of at least ten percent but not more than seven thousand five hundred qualified electors of the county or municipality, as the case may be. The petition form must be submitted to the election commission not less than one hundred twenty days before the date of the referendum. The names on the petition must be on the petition form provided to county election officials by the State Election Commission. The names on the petition must be certified by the election commission within sixty days after receiving the petition

form. The referendum must be conducted at the next general election. The election commission shall cause a notice to be published in a newspaper circulated in the county or municipality, as the case may be, at least seven days before the referendum. The state election laws shall apply to the referendum, mutatis mutandis. The election commission shall publish the results of the referendum and certify them to the South Carolina Department of Revenue. On or after June 21, 1993, the question on the ballot shall be one or both of the following:

(a) 'Shall the South Carolina Department of Revenue be authorized to issue temporary permits in this (county) (municipality) for a period not to exceed twenty-four hours to allow the possession, sale, and consumption of alcoholic liquors by the drink to bona fide nonprofit organizations and business establishments otherwise authorized to be licensed for consumption-on-premises sales?' or

(b) 'Shall the Department of Revenue be authorized to issue temporary permits in this (county) (municipality) for a period not to exceed twenty-four hours to allow the sale of beer and wine at permitted off-premises locations without regard to the days or hours of sales?'.

(2) On or after June 21, 1993, a question authorized by this subsection may not appear on the ballot for a county or municipality less than forty-eight months following the failure of a question authorized by this subsection in said county or municipality.

(3) The expenses for a referendum for this purpose must be paid by the county or municipality conducting the referendum.

(4) In addition to the petition method of calling the referendum provided for in item (1) of this subsection, a county or municipal governing body by ordinance may also call the referendum. Upon receipt of a copy of the ordinance filed with the county or municipal election commission at least sixty days before the date of the next general election, the commission shall conduct the referendum in the manner provided in this section at that general election. The provisions of this item are in addition to the authority of a municipal governing body to call for a referendum under the circumstances enumerated in subsection (D)."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 194

(R212, S857)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-51-35 SO AS TO PROVIDE ALL MEMBERS OF THE WIL LOU GRAY OPPORTUNITY SCHOOL BOARD OF TRUSTEES SHALL COMPLETE TRAINING ON THE POWERS, DUTIES, AND RESPONSIBILITIES OF BOARD MEMBERS AND HOW TO BEST SERVE THE AT-RISK STUDENTS IN THEIR CARE, AND TO PROVIDE ALL PERSONS ELECTED TO THE BOARD AFTER JULY 1, 2018, SHALL COMPLETE THIS TRAINING WITHIN ONE YEAR OF TAKING OFFICE; AND TO AMEND SECTION 59-51-30, RELATING TO THE WIL LOU GRAY OPPORTUNITY SCHOOL BOARD OF TRUSTEES, SO AS TO REVISE THE COMPOSITION OF THE BOARD BY ELIMINATING TWO EX OFFICIO SEATS, AND TO ELIMINATE THE BOARD OFFICES OF SECRETARY AND TREASURER.

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

Mandatory training

SECTION 1. Chapter 51, Title 59 of the 1976 Code is amended by adding:

"Section 59-51-35. (A) All members of the board of trustees shall complete successfully a training program on the powers, duties, and responsibilities of a board member including, but not limited to, topics on policy development, personnel, school leadership and board relations, at-risk programs, finance, school law, ethics, and community relations, as determined by the board of trustees. Training also must be provided regarding how to best serve the at-risk students in their care.

(B) Within one year of taking office, all persons elected as members of the board of trustees after July 1, 2018, also must complete the training prescribed in subsection (A)."

Ex officio trustees eliminated

SECTION 2. Section 59-51-30 of the 1976 Code is amended to read:

"Section 59-51-30. The Wil Lou Gray Opportunity School is under the management and control of a board of twelve trustees, all of whom must be elected by the General Assembly. The trustees so elected must be citizens of the State who are interested in the aims and ambitions of the school. Members of the board shall serve for terms of four years and until their successors are elected and qualify. The board shall elect a chairman and a vice chairman. In case a vacancy occurs on the board for any reason other than expiration of a term when the General Assembly is not in session, the Governor may fill it by appointment until the next session of the General Assembly, at which time a successor must be elected for the remainder of the unexpired term. Elections to fill vacancies which are caused for any reason other than expiration of a term may be held earlier than the first day of April of the year the vacancy is filled. A quorum of the board is seven members."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 195

(R213, S862)

AN ACT TO AMEND SECTION 35-1-602, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SECURITIES COMMISSIONERS' INVESTIGATIONS AND SUBPOENAS, SO AS TO PROVIDE THAT THIS SECTION DOES NOT PRECLUDE A PERSON FROM APPLYING TO THE RICHLAND COUNTY COURT OF COMMON PLEAS FOR RELIEF.

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

Application for relief

SECTION 1. Section 35-1-602(d) of the 1976 Code is amended to read:

"(d) This section does not preclude a person from applying to the Richland County Court of Common Pleas for relief from a request to appear, testify, file a statement, produce records, or obey a subpoena."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 196

(R214, S874)

AN ACT TO AMEND SECTION 56-5-170, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF AUTHORIZED EMERGENCY VEHICLES, SO AS TO ADD ORGAN PROCUREMENT ORGANIZATION VEHICLES TO THE DEFINITION.

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

Authorized emergency vehicles, organ procurement organization vehicles

SECTION 1. Section 56-5-170(A) of the 1976 Code is amended by adding an appropriately numbered item to read:

"( ) organ procurement organization vehicles, which means vehicles operated by organizations that perform or coordinate the procurement, preservation, and transport of organs and maintain systems for locating prospective recipients for available organs."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 197

(R215, S877)

AN ACT TO AMEND SECTION 40-60-330, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FINANCIAL STATEMENTS THAT APPRAISAL MANAGEMENT COMPANIES MUST PROVIDE WHEN REGISTERING WITH THE REAL ESTATE APPRAISERS BOARD, SO AS TO PROVIDE REGISTRANTS ALTERNATIVELY MAY CHOOSE TO PROVIDE SURETY BONDS IN AMOUNTS NOT TO EXCEED FIFTY THOUSAND DOLLARS, TO PROVIDE APPRAISAL MANAGEMENT COMPANIES ARE RESPONSIBLE FOR THE COSTS OF SUCH SURETY BONDS, AND TO PROVIDE THESE REGISTRATION REQUIREMENTS DO NOT APPLY TO INDIVIDUAL APPRAISERS OR INDIVIDUAL APPRAISERS SERVING ON APPRAISAL PANELS OF APPRAISAL MANAGEMENT COMPANIES; AND TO AMEND SECTION 40-1-70, RELATING TO POWERS AND DUTIES OF PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS, SO AS TO INCLUDE FILING CLAIMS AGAINST ANY SURETY BONDS ON BOARD-APPROVED FORMS IN ACCORDANCE WITH BOARD-ESTABLISHED PROCEDURES.

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

Registration requirements

SECTION 1. Section 40-60-330(B)(11) of the 1976 Code is amended to read:

"(11) a detailed statement of current financial condition of the entity on a form approved by the board or a surety bond in an amount not to exceed fifty thousand dollars, whichever the registering appraisal management company selects;"

General powers of professional and occupational licensing boards

SECTION 2. Section 40-1-70 of the 1976 Code is amended by adding an appropriately numbered item to read:

"( ) filing claims against any surety bond on a form approved by a board and in accordance with procedures established by the board in regulation."

Registration requirements

SECTION 3. Section 40-60-330 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

"( ) The registration requirement provided in subsection (B)(11), whether a financial statement or a surety bond is selected, does not apply to individual appraisers or individual appraisers serving on an appraisal panel of an appraisal management company. Appraisal management companies shall be responsible for any cost of a surety bond as required by subsection (B)(11)."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 198

(R216, S888)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-25-47 SO AS TO PROVIDE THE GOVERNING BODIES OF PUBLIC SCHOOL DISTRICTS AND CHARTER SCHOOLS MAY ALLOW CERTAIN FACULTY AND STAFF TO BE COMPENSATED FOR UNUSED ANNUAL LEAVE AND SICK LEAVE IN EXCESS OF NINETY DAYS AT THE END OF EACH FISCAL YEAR, TO MAKE THIS PROVISION APPLICABLE TO LEAVE IN EXCESS OF NINETY DAYS ACCRUED AFTER JULY 1, 2018, AND TO CLARIFY THE IMPACT ON EXISTING TEACHER INCENTIVE PROGRAMS AND LOCAL AUTHORITY RELATING TO SUCH PROGRAMS.

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

Unused leave payments authorized

SECTION 1. Article 1, Chapter 25, Title 59 of the 1976 Code is amended by adding:

"Section 59-25-47. (A) A local school district board of trustees or, in the case of a charter school, the governing body of a charter school, is authorized to adopt a policy consistent with the school district or, in the case of a charter school, the school budget, providing that all certified and noncertified public school teachers identified in the Professional Certified Staff listing, certified special school classroom teachers, certified media specialists, certified guidance counselors, and career specialists who are employed by a school district or a charter school who earn, but do not use sick and annual leave in excess of ninety days, may be eligible to receive payment at the end of each fiscal year for these earned days in excess of ninety days for each excess day at a district's or charter school's established rate of substitute pay for their individual job classification, or another amount, subject to approval by the local school board, or, in the case of a charter school, the governing body of the charter school. This provision applies only to sick leave and annual leave in excess of ninety days that is accrued after July 1, 2018.

(B) Notwithstanding any provision contained in this section, this section does not and may not be construed to amend or to repeal:

(1) the rights of a school district, charter school, or legislative delegation to set or restrict any existing teacher incentive payment programs; or

(2) any existing teacher incentive payment programs provided by current law or any existing limitation on the fiscal autonomy of a school district or charter school that are more restrictive than any incentives provided in subsection (A)."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 199

(R217, S891)

AN ACT TO AMEND SECTION 44-37-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INFORMATION THAT MUST BE MADE AVAILABLE TO PARENTS OF NEWBORNS, SO AS TO INCLUDE SAFE SLEEP PRACTICES AND THE CAUSES OF SUDDEN UNEXPECTED INFANT DEATH SYNDROME IN THE INFORMATION THAT MUST BE PROVIDED.

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

Newborn safe sleep practices information

SECTION 1. Section 44-37-50 of the 1976 Code is amended to read:

"Section 44-37-50. (A) Every hospital in this State must make available to the parents of each newborn baby delivered in the hospital a video presentation on safe sleep practices, the causes of Sudden Unexpected Infant Death Syndrome, and the dangers associated with shaking infants and young children. Every hospital also must make available information on the importance of parents and caregivers

learning infant CPR. The hospital must request that the maternity patient, the father, or the primary caregiver view the video. Those persons whom the hospital requested to view the video shall sign a document prescribed by the Department of Health and Environmental Control stating that they have been offered an opportunity to view the video.

(B) The director, or his designee, of the Department of Health and Environmental Control must approve the video to be utilized by a hospital, pursuant to subsection (A). Upon the request of a hospital, the Director of the Department of Health and Environmental Control, or his designee, shall review a hospital's proposed video for possible approval. The Department of Health and Environmental Control may not require a hospital to use a video that would require the hospital to pay royalties for use of the video, restrict viewing in order to comply with public viewing or other restrictions, or be subject to other costs or restrictions associated with copyrights. The department must provide a copy of any approved video, at cost, to a hospital or any interested individual.

(C) The Department of Health and Environmental Control shall make available to all childcare facilities and childcare providers, regulated pursuant to Chapter 13, Title 63, a video presentation on safe sleep practices, the causes of Sudden Unexpected Infant Death Syndrome, and the dangers associated with shaking infants and young children. Childcare facilities, as defined in Section 63-13-20, shall include this video presentation in the initial and ongoing training of caregivers in the childcare facility. Caregivers in a registered family childcare home or church or religious childcare facility may participate in presentations offered pursuant to this subsection. The Department of Health and Environmental Control must provide a copy of any approved video, at cost, to a childcare facility or childcare provider or any interested individual.

(D) The Department of Health and Environmental Control shall establish a protocol for health care providers to educate parents or primary caregivers about safe sleep practices, the causes of Sudden Unexpected Infant Death Syndrome, and the dangers associated with shaking infants and young children. The Department of Health and Environmental Control shall request family medicine physicians, pediatricians, and other pediatric health care providers to review these dangers with the parent or primary caregiver, who are present, of infants and young children up to the age of one at each well-baby visit.

(E) The Department of Social Services, Adoption Services must make available to all adopting parents a video presentation, approved by the Department of Health and Environmental Control, on safe sleep practices, the causes of Sudden Unexpected Infant Death Syndrome, the

dangers associated with shaking infants and young children, and the importance of parents and caregivers learning infant CPR. The department must request that the adopting parents view the video. The adopting parents must sign a document prescribed by the department stating that they have been offered an opportunity to view the video. This subsection only applies to adoptive placements administered by the Department of Social Services, Adoption Services.

(F) Nothing contained in this section may be construed to create any civil, criminal, or administrative cause of action or other liability against a health care facility or health care provider for any acts or omissions relating to compliance with this section."

Time effective

SECTION 2. This act takes effect six months after approval by the Governor.

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 200

(R218, S913)

AN ACT TO AMEND SECTION 50-9-740, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO YOUTH HUNTING DAYS, SO AS TO PROVIDE FOR A YOUTH HUNTING DAY FOR HUNTING ANTLERED DEER ONLY AND TO PROVIDE A BAG LIMIT, TO PROVIDE THAT YOUTH HUNTERS WHO HAVE NOT COMPLETED THE HUNTER EDUCATION PROGRAM MUST BE ACCOMPANIED BY AN ADULT, AND TO PROVIDE THE LICENSE OR TAG REQUIREMENT IS WAIVED FOR A YOUTH HUNTER ON A YOUTH HUNTING DAY.

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

South Carolina Youth Hunting Day

SECTION 1. Section 50-9-740 of the 1976 Code is amended to read:

"Section 50-9-740. (A) The department may select one or more days to designate as a 'South Carolina Youth Hunting Day', in addition to the regular seasons for a species of wild game. A youth hunting day must be held outside a regular season on a weekend, holiday, or other nonschool day when a youth hunter may have the maximum opportunity to participate. A day must be held on the Saturday before the regular game zone season framework for hunting antlered deer only. The daily bag limit on this day is one antlered deer. For all other game, the day may be held up to fourteen days before or after a regular season framework or within a split of a regular season, or within another open season.

(B) A person who is less than eighteen years of age may be a youth hunter. Youth hunters who have not completed the hunter education program pursuant to Section 50-9-310, who hunt on a statewide youth hunting day, must be accompanied by an adult who is at least twenty-one years of age. The adult may not harvest or attempt to harvest game during this special hunting event. A license or tag requirement pursuant to this chapter is waived for a youth hunter on a youth hunting day. A daily harvest limit remains the same as allowed during regular seasons for each species of game."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 201

(R219, S918)

AN ACT TO AMEND SECTION 44-53-360, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PRESCRIPTIONS, SO AS TO ESTABLISH LIMITATIONS FOR INITIAL OPIOID PRESCRIPTIONS; BY ADDING SECTION 44-53-1655 SO AS TO

REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO PROVIDE PRESCRIPTION REPORT CARDS TO PRACTITIONERS; AND TO AMEND SECTION 44-53-1650, RELATING TO CONFIDENTIALITY OF PRESCRIPTION MONITORING PROGRAM DATA, SO AS TO PROVIDE AN EXCEPTION FOR PURPOSES OF PRACTITIONER PRESCRIPTION REPORT CARDS.

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

Initial opioid prescriptions, acute and postoperative pain

SECTION 1. Section 44-53-360 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( )(1) Initial opioid prescriptions for acute pain management or postoperative pain management must not exceed a seven-day supply, except when clinically indicated for cancer pain, chronic pain, hospice care, palliative care, major trauma, major surgery, treatment of sickle cell disease, treatment of neonatal abstinence syndrome, or medication-assisted treatment for substance use disorder. Upon any subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill, or new opioid prescription.

(2) This subsection does not apply to opioid prescriptions issued by a practitioner who orders an opioid prescription to be wholly administered in a hospital, nursing home, hospice facility, or residential care facility.

(3) A practitioner who acts in accordance with the limitation on prescriptions as set forth in this subsection is immune from any civil liability or disciplinary action from the practitioner's professional licensing board.

(4) As used in this subsection:

(A) 'Acute pain' means pain that a practitioner reasonably expects to last for three months or less, whether resulting from disease, accident, intentional trauma, or other cause. The term does not include 'chronic pain' or pain being treated as part of cancer care, chronic care, hospice care, palliative care, major trauma, major surgery, treatment of sickle cell disease, treatment of neonatal abstinence syndrome, or medication-assisted treatment for substance use disorder.

(B) 'Chronic pain' means pain that typically lasts for longer than three months or that lasts beyond the time of normal tissue healing.

(C) 'Postoperative pain' means acute pain experienced immediately after a surgical procedure.

(D) 'Surgical procedure' means a procedure performed for the purpose of altering the human body by incision or destruction of tissues as part of the practice of medicine such as diagnostic or therapeutic treatment of conditions or disease processes by use of instruments and includes lasers, ultrasound, ionizing, radiation, scalpels, probes, or needles that cause localized alteration or transportation of live human tissue by cutting, burning, vaporizing, freezing, suturing, probing, or manipulating by closed reduction for major dislocations and fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic, or chemical means."

Practitioner prescription report cards

SECTION 2. Article 15, Chapter 53, Title 44 of the 1976 Code is amended by adding:

"Section 44-53-1655. (A) The department shall develop and maintain as part of the prescription monitoring program a system to provide prescription report cards to practitioners to inform the practitioner about certain prescribing trends. The report card must provide, at a minimum:

(1) a comparison of the practitioner's number of prescriptions issued per month by therapeutic class code or by specific substances to peer averages by specialty throughout the State;

(2) a comparison of the practitioner's number of milligrams prescribed per month by therapeutic class code or by specific substances to peer averages by specialty throughout the State;

(3) the total number of patients receiving ninety morphine milligram equivalents (MMEs) or more a day;

(4) the total number of patients receiving opioid medications for thirty days or more;

(5) the total number of patients receiving opioids and benzodiazepines medications at the same time;

(6) the total number of patients issued prescriptions from three or more practitioners;

(7) the total number of patients filling prescriptions at three or more pharmacies;

(8) the total number of patients with controlled substance prescriptions whose dispensing dates overlap;

(9) the total number of patients obtaining refills on their prescriptions more than one week early; and

(10) the total number of prescription drug monitoring program queries made by the practitioner and a ratio of the queries to the number of patients or prescriptions issued.

The report card also must provide data on the number of practitioners registered against which the comparisons of items (1) and (2) are being made and any other demographic data relating to the pool of practitioners and may include regional or nationwide prescribing comparison data that would be useful to the practitioner. Prescription report cards, data, documents, records, and any other information accessed or compiled in preparing prescription report cards, are confidential and not subject to discovery, subpoena, or introduction into evidence in any civil action, unless confidentiality is waived by the practitioner.

(B) The department shall coordinate with the Board of Medical Examiners and any other appropriate professional boards as part of the development and implementation of a prescription report card program. The department may contract with another agency of the State or with a private vendor, as necessary, to ensure effective operation of the report card program, as provided in Section 44-53-1660, and may apply for public or private grants or other funding to develop, implement, and maintain the program."

Prescription monitoring program confidentiality exceptions

SECTION 3. Section 44-53-1650(D) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

"( ) a practitioner in a prescription report card provided to practitioners in accordance with Section 44-53-1655."

Time effective

SECTION 4. SECTION 2 is effective six months after the effective date of this act. All other SECTIONS are effective upon approval by the Governor.

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 202

(R220, S928)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6-1-180 SO AS TO DELINEATE THE CONDITIONS UNDER WHICH SPECIAL PURPOSE DISTRICTS MAY TRANSFER OWNERSHIP OF WORKS OF ART ACQUIRED BY GIFT, BEQUEST, PURCHASE, OR BY OTHER MEANS TO NONPROFIT CORPORATIONS ORGANIZED FOR THE PURPOSE OF DISPLAYING WORKS OF ART.

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

Conditions under which special purpose districts may transfer works of art

SECTION 1. Article 1, Chapter 1, Title 6 of the 1976 Code is amended by adding:

"Section 6-1-180. (A) Notwithstanding another provision of law, a special purpose district that has acquired a work of art by gift, bequest, purchase, or other means, may transfer ownership of the object:

(1) to a nonprofit corporation organized for the purpose of displaying works of art for the public; and

(2) for the consideration and upon the terms the governing body of the special purpose district, in its discretion, finds to be sufficient and appropriate.

(B) A transfer of a work of art by a special purpose district to a nonprofit corporation pursuant to this section must be documented by written agreement in which the nonprofit corporation must covenant that money proceeds, if any, which arise from its subsequent transfer of a work of art must be held by the nonprofit corporation and expended solely in furtherance of its purpose of displaying works of art for the public."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 203

(R221, S933)

AN ACT TO AMEND SECTION 50-5-1705, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CATCH LIMITS FOR ESTUARINE AND SALTWATER FINFISH, SO AS TO REVISE THE CATCH LIMIT FOR RED DRUM.

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

Red drum catch limit

SECTION 1. Section 50-5-1705(D) of the 1976 Code is amended to read:

"(D) It is unlawful for a person to take or have in possession more than two red drum in any one day, not to exceed six red drum in any one day on any boat."

Time effective

SECTION 2. This act takes effect on July 1, 2018.

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 204

(R222, S959)

AN ACT TO AMEND SECTION 16-11-770, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ILLEGAL

GRAFFITI VANDALISM, SO AS TO REVISE THE PENALTY FOR A FIRST OFFENSE.

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

Graffiti vandalism, first offense penalty revised

SECTION 1. Section 16-11-770(B) of the 1976 Code is amended to read:

"(B) It is unlawful for a person to engage in the offense of illegal graffiti vandalism and, upon conviction, for a:

(1) first offense, is guilty of a misdemeanor and must be fined not more than one thousand dollars or imprisoned not more than thirty days;

(2) second offense, within ten years, is guilty of a misdemeanor and must be fined not more than two thousand five hundred dollars or imprisoned not more than one year; and

(3) third or subsequent offense within ten years of a first offense, is guilty of a misdemeanor and must be fined not more than three thousand dollars or imprisoned not more than three years."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 205

(R223, S1027)

AN ACT TO AMEND SECTION 41-27-370, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO UNEMPLOYMENT, SO AS TO PROVIDE THAT CERTAIN FILING PROVISIONS IMPOSED PURSUANT TO A REGULATION OR PROCEDURE OF THE DEPARTMENT DO NOT APPLY TO EMPLOYERS IN THIS STATE WITH FEWER THAN FIFTY EMPLOYEES.

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

Filing provisions, exemptions

SECTION 1. Section 41-27-370(4) of the 1976 Code is amended to read:

"(4) An individual may not be considered unemployed in a week, not to exceed two in any benefit year, in which the department finds his unemployment is due to a vacation week that is constituted a vacation period without pay by reason of a written contract between the employer and the employees or by reason of the employer's written vacation policy for his employees. This provision applies only if the department finds employment will be available for the claimant with the employer at the end of a vacation period as described in this section. This subsection is not applicable to a claimant whose employer fails to comply, in respect to this vacation period, with the requirements of a regulation or procedure of the department regarding the filing of a notice, report, information, or claim in connection with an individual, group, or mass separation arising from the vacation, provided that filing requirements imposed pursuant to such a regulation or procedure of the department do not apply to employers in this State with fewer than fifty employees."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 206

(R224, S1042)

AN ACT TO AMEND SECTION 38-1-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS APPLICABLE TO TITLE 38, SO AS TO DEFINE THE TERM "INTERNATIONAL MAJOR MEDICAL INSURANCE" AND TO

INCLUDE THIS FORM OF INSURANCE IN THE DEFINITION FOR THE TERM "SURPLUS LINES INSURANCE".

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

International major medical insurance, surplus lines insurance defined

SECTION 1. A.Section 38-1-20 of the 1976 Code is amended by adding an appropriately numbered item to read:

"( ) 'International major medical insurance' means a temporary health insurance policy that covers the expenses associated with illnesses or accidents that occur while traveling or when temporarily residing outside of a person's home country."

B. Section 38-1-20(56) of the 1976 Code is amended to read:

"(56) 'Surplus lines insurance' means insurance in this State of risks located or to be performed in this State, permitted to be placed through a licensed broker, or a licensed broker as provided in Section 38-45-10(8)(b)(ii), with a nonadmitted insurer eligible to accept the insurance, other than reinsurance, wet marine and transportation insurance, insurance independently procured, and life and health insurance and annuities. Excess and stop-loss insurance coverage upon group life, accident, and health insurance or upon a self-insured's life, accident, and health benefits program, disability insurance in excess of any benefit limit available from an admitted insurer, and international major medical insurance may be approved as surplus lines insurance."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 207

(R225, S1044)

AN ACT TO AMEND SECTION 50-13-260, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF A "CATCH AND RELEASE" FISHERY FOR TROUT, SO AS TO ESTABLISH A YEAR-ROUND "CATCH AND RELEASE" ZONE ON THE LOWER REACH OF THE SALUDA RIVER; TO PROVIDE THAT THE DEPARTMENT OF NATURAL RESOURCES SHALL MAKE A STUDY OF THE LOWER SALUDA RIVER TROUT FISHERY; AND TO PROVIDE FOR THE REPEAL OF THIS ACT.

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

Catch and release zone

SECTION 1. Section 50-13-260 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

"( ) In order to establish a year-round 'catch and release' zone on the lower reach of the Saluda River, it is unlawful to take and retain trout from the eastbound I-20 bridge downstream to Stacey's Ledge."

Study of the lower Saluda River

SECTION 2. The Department of Natural Resources shall make a study of the lower Saluda River trout fishery and make recommendations on any needed modifications to the fishery by November 1, 2023.

Repeal

SECTION 3. The provisions of this act are repealed on June 30, 2025.

Time effective

SECTION 4. This act takes effect on July 1, 2018.

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 208

(R226, S1083)

AN ACT TO AMEND SECTION 56-3-210, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TIME PERIOD FOR PROCURING REGISTRATION AND LICENSING, TEMPORARY LICENSE PLATES, AND THE TRANSFER OF LICENSE PLATES, SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES IS AUTHORIZED TO ADMINISTER A PROGRAM FOR AND REGULATE THE ISSUANCE OF TEMPORARY LICENSE PLATES FOR NEWLY ACQUIRED VEHICLES, TO PROVIDE FOR DESIGN AND OTHER SPECIFICATIONS FOR THE LICENSE PLATES, TO PROVIDE THAT THE DEPARTMENT IS AUTHORIZED TO ADMINISTER AN ELECTRONIC SYSTEM FOR COUNTY AUDITORS' OFFICES, LICENSED MOTOR VEHICLE DEALERS, LEASING COMPANIES, AND OTHER ENTITIES AUTHORIZED BY THE DEPARTMENT TO USE IN ISSUING TEMPORARY LICENSE PLATES, TO PROVIDE THAT ANY PERSON OR ENTITY AUTHORIZED BY THIS SECTION TO ISSUE A TEMPORARY LICENSE PLATE SHALL MAINTAIN RECORDS AS REQUIRED BY THE DEPARTMENT, TO PROVIDE FOR EXEMPTIONS, TO PROVIDE FOR PENALTIES, AND TO PROVIDE THAT ALL ENTITIES AUTHORIZED TO ISSUE TEMPORARY PLATES MUST COMPLY WITH ALL PROGRAM SPECIFICATIONS WITHIN A CERTAIN TIME PERIOD.

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

Temporary license plate issuance

SECTION 1. Section 56-3-210 of the 1976 Code is amended to read:

"Section 56-3-210. (A)(1) The department is authorized to administer a program for and regulate the issuance of temporary license plates for newly acquired vehicles.

(2) The department shall establish the design and layout of all temporary license plates to be issued within the State. Temporary license plates shall be of a material specified by the department so as to resist deterioration or fading from exposure to the elements during the period for which display is required.

(3) Temporary license plates must be six inches wide and at least eleven inches in length. Temporary motorcycle license plates must be four inches wide and seven inches in length.

(4) Licensed motor vehicle dealers, leasing companies, and other entities shall not:

(a) obtain or procure a temporary license plate from any entity other than the department or one of the department's registered temporary license plate distributors; or

(b) charge a fee that exceeds the actual cost of issuing a temporary license plate plus standard shipping and handling costs.

(5) The department is authorized to administer an electronic system for county auditors' offices, licensed motor vehicle dealers, leasing companies, and other entities authorized by the department to use in issuing temporary license plates. The department may contract with vendors to provide service connection between the issuing entities and the department, or may provide the service directly to participating entities.

(6) Each temporary license plate must contain a vehicle's identifying information as determined by the department, to include the date of issue, the date of expiration, the name of the issuing entity, and a unique identifying license plate text that will be assigned by the department.

(7) The temporary license plate text must be linked to the vehicle record and the vehicle's owner in the department's vehicle database. The issuing entity must produce a temporary license plate with the prescribed plate text immediately upon sale of a vehicle and assignment of a temporary license plate, so that law enforcement and authorized entities can identify the owner of the vehicle.

(8) The department shall develop program specifications that define the requirements of the temporary license plate program governing the issuance of temporary license plates by all authorized entities.

(9) Registered temporary license plate distributors must be statewide dealer associations.

(a) Licensed dealers and leasing companies must receive temporary license plates from registered temporary license plate distributors.

(b) Counties and other nondealer entities may receive temporary license plates from a registered distributor or the department.

(B) A person who newly acquires a vehicle or an owner of a foreign vehicle that is being moved into this State, that is required to be registered under this chapter, and that is not properly registered and licensed, before operating the vehicle on the state's highways during the forty-five day period contained in this section, must:

(1) transfer a license plate from another vehicle pursuant to subsection (G) of this section and Section 56-3-1290;

(2) purchase a new license plate and registration;

(3) purchase a temporary license plate from the department pursuant to subsection (D) of this section;

(4) purchase a temporary license plate from the county auditor's office in the county in which the person resides pursuant to subsection (D) of this section; or

(5) obtain a temporary license plate from a dealer of new or used vehicles pursuant to subsection (E) of this section.

(C) The owner of a foreign vehicle being moved into this State from a state in which the vehicle is properly licensed and registered need not purchase a temporary license plate. The owner has forty-five days to properly license and register the vehicle in South Carolina, unless his foreign registration is expired, in which case he must properly license and register the vehicle immediately.

(D) The department or the county auditor's office must, upon proper application, issue a temporary license plate to a casual buyer of a vehicle pursuant to subsection (B) of this section. The expiration date may not extend beyond forty-five days from the vehicle's date of purchase or lease. The bill of sale, title, lease contract, temporary registration card issued in conjunction with a temporary license plate, or copy of one of these documents must be maintained in the vehicle at all times to verify the vehicle's date of purchase to a law enforcement officer. The bill of sale, title, lease contract, or copy of one of these documents must provide a description of the vehicle, the name and address of both the seller and purchaser of the vehicle, and its date of sale or lease. The department may charge a five-dollar fee for the temporary license plate. The county auditor's office also may charge a five-dollar fee for the temporary license plate to defray the expenses of the county auditor's office associated with the production and issuance of the temporary license plates.

(E) A licensed vehicle dealer or a leasing company of new or used vehicles may issue to the buyer or lessee of a vehicle at the time of its sale or lease a temporary license plate in accordance with subsection (A). The expiration date may not extend beyond forty-five days from the date of purchase or lease. Issuing entities may utilize the top fifty percent free space on their temporary license plates for dealer or company identification. The bottom fifty percent of all temporary license plates is reserved to display the temporary license plate number and other information required by the department. The bill of sale, title, lease contract, temporary registration card issued in conjunction with a temporary license plate, or copy of one of these documents must be maintained in the vehicle at all times to verify the vehicle's date of purchase or lease to a law enforcement officer. The bill of sale, title, lease contract, or copy of one of these documents must contain a description of the vehicle, the name and address of both the seller and purchaser of the vehicle, and its date of sale or lease. Except as provided for in this section, a dealer or leasing company may not use a temporary license plate for any other purpose, which includes, but is not limited to, vehicle demonstration, employee use, or transporting vehicles from one location to another location. A dealer or leasing company may not place a temporary license plate on a vehicle until the vehicle is sold to a purchaser and until the temporary license plate number and other identifying information has been recorded in the electronic database and printed on the bottom fifty percent of the temporary license plate. A dealer that issues or allows a temporary license plate to be issued in violation of this section also may have the dealer violation points assessed. A nondealer issuing entity that violates this section may have its issuing privileges suspended by the department.

(F) Any person or entity authorized by this section to issue a temporary license plate shall maintain records as required by the department. Records maintained pursuant to this subsection shall be open to inspection by the department or its agents during reasonable business hours.

(G) If a person intends to transfer a license plate from one vehicle to another vehicle, he may place the license plate to be transferred on the newly acquired vehicle on the date of its purchase. The bill of sale and a copy of the registration which corresponds to the license plate must be maintained in the newly acquired vehicle at all times to verify its date of purchase to a law enforcement officer. The purchaser must register the vehicle with the department within forty-five days from its purchase date. A person who transfers a license plate or allows a license plate to

be transferred in violation of this subsection is subject to the vehicle registration and licensing provisions of law.

(H) A person must replace a temporary license plate issued pursuant to this section with a permanent license plate and registration card as required by Section 56-3-110 within forty-five days of acquiring the vehicle or moving a foreign vehicle into this State. A person who operates a vehicle in violation of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars.

(I) Nothing in this section may be construed to displace or effect the responsibility of a person to obtain insurance before operating a vehicle.

(J) Only one temporary license plate shall be issued to a purchaser of a vehicle for the vehicle he has purchased before it is registered permanently. The department may issue special permits to consumers who have not received their registration within the prescribed forty-five days.

(K) The department may restrict or revoke the ability to issue temporary license plates for an issuing entity found to be in violation of this section."

Compliance

SECTION 2. All entities authorized to issue temporary license plates pursuant to Section 56-3-210 must comply with all program specifications within one hundred eighty days of the effective date of this act.

Time effective

SECTION 3. This act takes effect twelve months after approval by the Governor.

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 209

(R227, S1099)

AN ACT TO AMEND SECTION 48-20-280, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ACTIVITIES EXEMPT FROM THE PROVISIONS OF THE SOUTH CAROLINA MINING ACT, SO AS TO EXEMPT CERTAIN ACTIVITIES UNDERTAKEN BY THE DIVISION OF PUBLIC RAILWAYS OF THE DEPARTMENT OF COMMERCE.

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

Public rail infrastructure activities exempt from South Carolina Mining Act provisions

SECTION 1. Section 48-20-280 of the 1976 Code is amended to read:

"Section 48-20-280. The provisions of this chapter do not apply to those activities of the:

(1) South Carolina State Ports Authority, nor of a person acting under contract with the authority; undertaken solely in connection with the construction, repair, and maintenance of the authority's shipping container terminals;

(2) Department of Transportation, nor of a person acting under contract with the department, on highway rights-of-way or borrow pits maintained solely in connection with the construction, repair, and maintenance of the public road systems of the State. This exemption does not become effective until the department has adopted reclamation standards applying to those activities and the standards have been approved by the council. At the discretion of the department, the provisions of this chapter may apply to mining on federal lands; or

(3) Department of Commerce, Division of Public Railways, nor of a person acting under contract with the Department of Commerce, on rail rights-of-way or borrow pits maintained solely in connection with the construction, repair, and maintenance of the public rail infrastructure of the State."

Reclamation standards required

SECTION 2. Section 48-20-280(3) is effective upon adoption of the Department of Commerce's reclamation standards applying to those activities used by the Department of Transportation.

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 15th day of May, 2018.

No. 210

(R228, S1111)

AN ACT TO AMEND SECTION 50-5-2730, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FEDERAL FISHING REGULATIONS, SO AS TO PROVIDE A SPECIFIC SIZE AND POSSESSION LIMIT FOR COBIA.

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

Cobia fishing limits revised

SECTION 1. Section 50-5-2730(B) of the 1976 Code is amended to read:

"(B) This provision does not apply to:

(1) black sea bass (Centropristis striata) whose lawful catch limit is five fish per person per day or the same as the federal limit for black sea bass, whichever is higher. The lawful minimum size is thirteen inches total length. Additionally, there is no closed season on the catching of black sea bass (Centropristis striata);

(2) cobia (Rachycentron canadum) located in the Southern Cobia Management Zone. Subject to a minimum size requirement of thirty-six inches in fork length, possession of cobia caught in the Southern Cobia Management Zone is limited to one per person per day, and no more than

three per boat per day, from June first to April thirtieth. It is unlawful to take and possess cobia in the Southern Cobia Management Zone from May first to May thirty-first, and at any time federal regulations provide for the closure of the recreational cobia season in the waters of the South Atlantic Ocean; or

(3) cobia (Rachycentron canadum) located in the waters of this State outside of the Southern Cobia Management Zone. Subject to a minimum size requirement of thirty-six inches in fork length, possession of cobia caught in the waters of this State outside of the Southern Cobia Management Zone is limited to one per person per day, and no more than six per boat per day."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 211

(R249, H4116)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-47-38 SO AS TO PROVIDE THAT THE MEDICAL PRACTICE ACT MAY NOT BE CONSTRUED TO REQUIRE PHYSICIANS TO SECURE MAINTENANCE OF CERTIFICATIONS AS A CONDITION OF LICENSURE, REIMBURSEMENT, EMPLOYMENT, OR ADMITTING PRIVILEGES AT HOSPITALS OR FEDERALLY QUALIFIED HEALTH CENTERS IN THIS STATE; AND TO DEFINE NECESSARY TERMS.

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

Not required for licensure, reimbursement, employment or admitting privileges

SECTION 1. Article 1, Chapter 47, Title 40 of the 1976 Code is amended by adding:

"Section 40-47-38. (A) No provision of this article may be construed to require a physician to secure a Maintenance of Certification as a condition of:

(1) licensure;

(2) reimbursement;

(3) employment; or

(4) admitting privileges at a hospital or federally qualified health center in this State.

(B) For the purposes of this article:

(1) 'Federally qualified health center' or 'FQHC' means a health center that receives a federal public health services grant under the Public Health Services Act, 42 U.S.C. 254b, as amended, or another health center designated by the United States Health Resources and Services Administration as a federally qualified health center.

(2) 'Maintenance of Certification' or 'MOC' means a continuing education program that measures core competencies in the practice of medicine and surgery and is approved by a nationally recognized accrediting organization."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 212

(R250, H4117)

AN ACT TO AMEND SECTION 44-53-1650, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXCEPTIONS TO CONFIDENTIALITY OF DATA IN THE PRESCRIPTION

MONITORING PROGRAM, SO AS TO ADD AN EXCEPTION FOR THE PROVISION OF DATA TO DRUG COURTS.

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

Prescription monitoring program, confidentiality exceptions

SECTION 1. Section 44-53-1650(D) of the 1976 Code is amended to read:

"(D) Drug control may provide data in the prescription monitoring program to the following persons:

(1) a practitioner or pharmacist or authorized delegate who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established pursuant to state law;

(3) a designated representative of the South Carolina Department of Labor, Licensing and Regulation responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(4) a local, state, or federal law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing licit drugs and who is involved in a bona fide specific drug-related investigation involving a designated person;

(5) the South Carolina Department of Health and Human Services regarding Medicaid program recipients;

(6) a properly convened grand jury pursuant to a subpoena properly issued for the records;

(7) personnel of drug control for purposes of administration and enforcement of this article;

(8) qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser must be deleted or redacted from such information prior to disclosure. Further, release of the information only may be made pursuant to a written agreement between qualified personnel and the department in order to ensure compliance with this subsection; and

(9) the presiding judge of a drug court pertaining to a specific case involving a designated person."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 213

(R251, H4434)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 33, TITLE 59 SO AS TO DEFINE NECESSARY TERMS; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO PROVIDE TRAINING AND SUPPORT FOR A STATEWIDE MULTI-TIERED SUPPORT SYSTEM SCHOOLING MODEL WHICH MUST INCLUDE A UNIVERSAL SCREENING PROCESS TO IDENTIFY WHO MAY BE AT RISK OF EXPERIENCING ACADEMIC DIFFICULTIES AND SOCIAL-EMOTIONAL DEVELOPMENT DIFFICULTIES; TO PROVIDE LOCAL SCHOOL DISTRICTS SHALL USE THE UNIVERSAL SCREENING PROCESS FOR CERTAIN STUDENTS BEGINNING WITH THE 2019-2020 SCHOOL YEAR, SUBJECT TO GENERAL ASSEMBLY FUNDING; TO PROVIDE SCREENING MAY BE REQUESTED BY PARENTS, GUARDIANS, AND CERTAIN SCHOOL PERSONNEL; TO PROVIDE SCHOOL DISTRICTS SHALL CONVENE SCHOOL-BASED TEAMS TO ANALYZE DATA FROM SCREENINGS TO PLAN AND IMPLEMENT APPROPRIATE INSTRUCTION AND INTERVENTIONS FOR ALL STUDENTS AT RISK OF EXPERIENCING ACADEMIC DIFFICULTIES; TO REQUIRE DISTRICTS TO PROVIDE PARENTS OF SUCH AT-RISK STUDENTS WITH NOTICE OF SCREENING FINDINGS AND RELATED SUPPORT INFORMATION; TO REQUIRE DISTRICTS TO PROVIDE AT-RISK STUDENTS

WITH CERTAIN INTERVENTIONS AND TO MONITOR THE EFFECTIVENESS OF THESE INTERVENTIONS AND STUDENT PROGRESS; TO REQUIRE THE DEPARTMENT TO PROVIDE EDUCATORS WITH CERTAIN PROFESSIONAL DEVELOPMENT TRAINING AND RESOURCES CONCERNING THE STATEWIDE MULTI-TIERED SUPPORT SYSTEM AND RELATED IDENTIFICATION AND INTERVENTION METHODS; TO REQUIRE THE DEPARTMENT TO DEVELOP AND REPORT FINDINGS CONCERNING THE IMPLEMENTATION OF THE STATEWIDE MULTI-TIERED SUPPORT SYSTEM; TO CREATE THE LEARNING DISORDERS TASK FORCE TO WORK WITH THE DEPARTMENT IN MATTERS RELATING TO READING DISORDERS; AND TO PROVIDE FOR THE COMPOSITION AND MISCELLANEOUS FUNCTIONS OF THE TASK FORCE, AMONG OTHER THINGS.

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

Screenings, interventions, training, reporting, task force

SECTION 1. Chapter 33, Title 59 of the 1976 Code is amended by adding:

"Article 5

Dyslexia Screenings

Section 59-33-510. As used in this section:

(1) 'Evidence-based reading instruction' means reading, writing, and spelling instruction that employs direct instruction of systematic and cumulative content, with the sequence beginning with the easiest and most basic elements, and progressing methodically to more difficult material. Each step also must be based on steps already learned. Components of evidence-based reading instruction include instruction targeting phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(2) 'Dyslexia-specific intervention' means evidence-based, specialized reading, writing, and spelling instruction that is multisensory in nature, equipping students to simultaneously use multiple senses, such as vision, hearing, touch, and movement. Dyslexia-specific intervention requires greater intensity, such as smaller groups, increased frequency

of instruction, and individualized progression through steps, than typical evidence-based reading instruction.

(3) 'Multi-tiered system of supports' or 'MTSS' means an evidence-based model of schooling that uses data-based problem solving to integrate academic and behavioral instruction and intervention. The integrated academic and behavioral supports are delivered to students at varying intensities by means of multiple tiers based on student need. Need-driven decision making seeks to ensure that district resources reach the appropriate students at their schools at the appropriate levels to accelerate the performance of all students to fulfill the profile of the South Carolina Graduate.

(4) 'Response to Intervention' or 'RTI' means the process of providing high-quality instruction and intervention matched to student needs using learning rate over time and level of performance to make important instructional decisions. To ensure efficient use of resources, schools begin with the identification of trends and patterns using schoolwide data and grade level data. Students who need instructional intervention beyond what is provided universally for positive behavior or academic content areas are provided with targeted, supplemental interventions delivered individually or in small groups at increasing levels of intensity. RTI is a process that is driven by the use of a problem-solving model and is used for the purpose of revealing what works best for groups of students and individual students, regardless of placement.

(5) 'Tiered instruction' means instruction and intervention provided with increasing intensity in response to student needs. This instruction is typically provided in an RTI process depicted as a three-tier model. Data is collected at each tier and is used to measure the efficacy of the instruction and intervention so that meaningful decisions may be made about how instruction and intervention should be maintained and layered. Tier 1 is the foundation and consists of scientific, research-based core instructional and behavioral methodologies, practices, and supports designed for all students in the general curriculum. Tier 2 consists of supplemental, targeted instruction and interventions that are provided in addition to and in alignment with effective core instruction and behavioral supports to groups of targeted students who need additional instructional support, behavioral support, or both. Tier 3 consists of intensive instructional or behavioral interventions provided in addition to and in alignment with effective core instruction with the goal of increasing an individual student's rate of progress. Tier 3 interventions are developed for individual students using a problem-solving process. Students receiving Tier 3 level supports may

or may not be eligible for specially designed instruction and related services in accordance with the Individuals with Disabilities Education Improvement Act.

(6) 'Problem-solving model' means a problem-solving method used to match instructional resources to educational need. The problem-solving model uses data to define the problem, establish performance goals, develop intervention plans, monitor progress, and evaluate outcomes.

(7) 'Universal screening process (USP)' means the process a district employs to screen all students who may be experiencing academic and/or social-emotional difficulties. The screening tools and the process must be based on approval and guidelines provided by the department, which must include screening tools that must be administered at no cost to the district.

Section 59-33-520. (A)(1) The State Department of Education shall establish and provide training and support for a statewide MTSS framework that must contain a common data-based problem-solving model, on-going student assessment, and a layered continuum of supports using evidence-based practices. As part of the assessment, a universal screening process must be used to identify students who may be at risk of experiencing academic difficulties in reading, math, or writing, and who also may be at risk of experiencing difficulties in social-emotional development.

(2) Beginning with the 2019-2020 School Year, to the extent funding is provided or that approved screening tools are available at no cost, a local school district shall use the universal screening process to screen each student in the district who is in kindergarten through first grade three times each school year and as needed in second grade as outlined in the district's universal screening procedures, and any other student as required by the department, for reading difficulties, including dyslexia, and the need for intervention.

(3) In addition to screening required by this subsection, screening also may be requested for a student by his parent or guardian, teacher, counselor, or school psychologist.

(B) The district, following the universal screening procedures it conducted, shall convene a school-based team to analyze screening data and progress monitoring data to assist teachers in planning and implementing appropriate instruction and evidence-based interventions for all students who, based on the screening, are at risk of experiencing academic difficulties, including those students who exhibit the characteristics of dyslexia, as provided by the department. Guidance may

include suggestions of tiered interventions, dyslexia-specific interventions, academic and social-emotional supports, and supplemental technology as appropriate for the student's access to assistive technology.

(C) If the RTI process conducted by the district indicates that a student is at risk for experiencing academic difficulties, including dyslexia, the district shall:

(1) notify the parent or legal guardian of the student;

(2) provide the parent or legal guardian of the student with information and resource material so that they may assist and support learning for their child;

(3) provide the student with tiered, evidence-based intervention as defined in Section 59-33-510; and

(4) monitor and evaluate the effectiveness of the intervention and the student's progress.

Section 59-33-530. The department shall provide appropriate professional development training and resources for all educators in the area of MTSS and the identification of, and evidence-based intervention methods for, students who are at risk of experiencing academic difficulties, including students with dyslexia.

Section 59-33-540. The State Board of Education shall create a reporting template and guidelines for districts and charter schools to complete the template. School districts and charter school authorizers shall complete the template and provide the compiled results to the department annually by June thirtieth, commencing June 30, 2020. The department shall provide the compiled information to the State Board of Education, State Superintendent of Education, and the Chairs of the House Education and Public Works Committee and Senate Education Committee by July thirty-first of each year commencing July 31, 2020. The template must include the following:

(1) identification of the screening tool used;

(2) the type and amount of professional development specifically applicable to reading difficulties including, but not limited to, dyslexia and other related disorders that are provided to faculty and staff;

(3) the number of students screened and the number who were identified as having reading difficulties including, but not limited to, dyslexia and who required intervention, and the interventions employed by the school; and

(4) longitudinal data reported by grade that separately identifies academic growth for students who are identified as having reading

difficulties including, but not limited to, dyslexia and provided intervention services, and students who do not receive services. Individual students must not be identified.

Section 59-33-550. (A) There is created a Learning Disorders Task Force for the purpose of working with the department in matters relating to reading disorders to include, but not be limited to, dyslexia. The State Superintendent of Education shall convene the first meeting at which time a chair shall be elected by the task force. The task force is composed of nine members as follows:

(1) an education specialist in school psychology appointed by the State Superintendent of Education, for a term of three years;

(2) a representative from the South Carolina branch of the International Dyslexia Association, appointed by the president of the association for a term of three years;

(3) a special education teacher with an understanding of reading difficulties including, but not limited to, dyslexia, appointed by the State Superintendent of Education for a term of three years;

(4) a primary school teacher, appointed by the State Superintendent of Education for a term of three years;

(5) a middle school teacher, appointed by the State Superintendent of Education for a term of three years;

(6) a high school teacher, appointed by the State Superintendent of Education for a term of three years;

(7) a parent of a child with dyslexia, appointed by the State Superintendent of Education for a term of three years;

(8) a certified school speech pathologist, appointed by the State Superintendent of Education for a term of three years; and

(9) a member in good standing of the South Carolina Optometric Physicians Association, appointed by that association's board of directors for a term of three years.

(B) Initially, the members representing subsection (A)(1), (3), (5), (7), and (9) shall serve terms of five years or until their successors are appointed and qualified. At the end of the first appointment term for these members, new appointments shall serve terms of three years or until their successors are appointed and qualified. All appointments must be provided to the State Superintendent of Education by July 1, 2018. The terms of the members shall commence July 1, 2018.

(C) A vacancy must be filled in the same manner of the original appointment for the unexpired portion of the term. A member may be appointed to successive terms.

(D) The members of the task force shall serve without compensation, mileage, per diem, or subsistence allowances.

(E) The task force shall meet at least quarterly. A quorum consists of a majority of the membership of the task force.

(F) The task force shall coordinate with the department and the South Carolina branch of the International Dyslexia Association in the identification of universal screening tools to be used pursuant to Section 59-33-520, and collaborate with the department in the creation of the reporting guidelines required by Section 59-33-540."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 214

(R252, H4458)

AN ACT TO AMEND SECTION 16-11-700, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DUMPING OF LITTER ON PRIVATE OR PUBLIC PROPERTY AND ITS PENALTIES, SO AS TO RESTRUCTURE THE OFFENSES TO ENSURE CIGARETTE BUTTS AND CIGARETTE COMPONENT LITTER AND DECEASED ANIMALS ARE INCLUDED IN THE PURVIEW OF THE STATUTE, AND TO RESTRUCTURE THE PENALTIES.

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

Litter, cigarette butts and component litter, penalties restructured

SECTION 1. Section 16-11-700 of the 1976 Code is amended to read:

"Section 16-11-700. (A) A person, from a vehicle or otherwise, may not dump, throw, drop, deposit, discard, or otherwise dispose of litter or other solid waste, as defined by Section 44-96-40(2), (6), (32), (33), (43),

(46), (73), and (74), and including cigarette butts and cigarette component litter, upon waters or public or private property in the State for which he is not the legal owner or a person otherwise granted permission by the legal owner including, but not limited to, a highway, park, beach, campground, forest land, recreational area, trailer park, road, street, or alley except:

(1) on property designated by the State for the disposal of litter and other solid waste and the person is authorized to use the property for that purpose; or

(2) into a litter receptacle in a manner that the litter is prevented from being carried away or deposited by the elements upon a part of the private or public property or waters.

(B) Responsibility for the removal of litter from property or receptacles is upon the person convicted pursuant to this section of littering the property or receptacles. If there is no conviction for littering, the responsibility is upon the owner of the property.

(C) A person who violates the provisions of this section in an amount not more than fifteen pounds, including cigarette butts and cigarette components, is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars and not more than one hundred dollars or imprisoned for not more than thirty days. In addition to the fine or term of imprisonment, the court also must impose eight hours of litter-gathering labor or other form of community service.

(D) The fine for a deposit of a collection of litter or garbage in an amount not more than fifteen pounds in an area or facility not intended for public deposit of litter or garbage is not less than fifty dollars and not more than one hundred and fifty dollars. The provisions of this subsection apply to a deposit of litter or solid waste, as defined by Section 44-96-40(2), (6), (32), (33), (43), (46), (73), and (74), including cigarette butts and cigarette components, in an area or facility not intended for public deposit of litter or garbage. This subsection does not prohibit a private property owner from depositing litter or garbage as a property enhancement if the depositing does not violate applicable local or state health and safety regulations. In addition to a fine and for each offense pursuant to the provisions of this subsection, the court also shall impose a minimum of sixteen hours of litter-gathering labor or other form of community service.

(1) The court, instead of payment of the monetary fine imposed for a violation of this section, may direct the substitution of additional litter-gathering labor or other form of community service.

(2) In addition to other punishment authorized by this section, in the discretion of the court in which conviction is obtained, the person

may be directed by the judge to pick up and remove from any public place or any private property, with prior permission of the legal owner of the property upon which it is established by competent evidence that the person has deposited litter, all litter deposited on the place or property by any person before the date of execution of sentence.

(E) A person who violates the provisions of this section in an amount exceeding fifteen pounds, but not exceeding five hundred pounds on any public or private property, any portion of the road right of way, fresh-water lake, river, canal or stream, or tidal or coastal waters of the State must be charged with illegal dumping of litter and is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete sixteen hours of litter-gathering labor or perform other community service. For a second conviction, the person must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete twenty-four hours of litter-gathering labor or other community service. For a third or subsequent conviction, the person must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete thirty-two hours of litter-gathering labor or other community service.

(F)(1) A person who violates the provisions of this section in an amount exceeding five hundred pounds is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars, or imprisoned not more than one year, or both. In addition, the court may order the violator to:

(a) remove or render harmless the litter that he dumped in violation of this subsection;

(b) repair or restore property damaged by, or pay damages for damage arising out of, his dumping of litter in violation of this subsection; or

(c) perform community service relating to the removal of litter dumped in violation of this subsection or relating to the restoration of an area polluted by litter dumped in violation of this subsection.

(2) A court may enjoin a violation of this subsection.

(3) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than five hundred pounds of litter in violation of this subsection is declared contraband and is subject to seizure and summary forfeiture to the State.

(4) If a person sustains damages in connection with a violation of this subsection that gives rise to a felony against the person or his property, a court, in a civil action for those damages, shall order the wrongdoer to pay the injured party threefold the actual damages or two hundred dollars, whichever amount is greater. In addition, the court shall order the wrongdoer to pay the injured party's court costs and attorney's fees.

(5) A fine imposed pursuant to this subsection must not be suspended, in whole or in part.

(G)(1) When the penalty for a violation of this section includes litter-gathering labor in addition to a fine or imprisonment, the litter-gathering portion of the penalty is mandatory and must not be suspended; however, the court, upon the request of a person convicted of violating this section, may direct that the person pay an additional monetary penalty instead of the litter-gathering portion of the penalty that must be equal to the amount of fifteen dollars an hour of litter-gathering labor. Probation must not be granted instead of the litter-gathering requirement, except for a person's physical or other incapacities.

(2) Funds collected pursuant to this subsection instead of the mandatory litter-gathering labor must be remitted to the county or municipality where the littering violation took place. The money collected may be used for the litter-gathering supervision.

(H) A prior violation within the meaning of this section means only a violation of this section which occurred within a period of five years including and immediately preceding the date of the last violation.

(I) Magistrates and municipal courts have jurisdiction to try violations of subsections (A), (B), (C), (D), (E), and (F).

(J)(1) This section shall not apply to the discarding of deceased fish, game, or wildlife, or the parts or remains thereof, taken as a result of legal hunting or fishing pursuant to Title 50. The exception provided for by this subsection does not apply to deceased animals, animal parts, or remains thereof that are deposited or discarded onto the private lands or waters of another without the owner's permission.

(2) For the purposes of subsections (E) and (F), illegal dumping is defined as disposing of more than fifteen pounds of any collection of solid waste, litter, or other materials defined in subsection (A), including discarded, deceased animals or deceased animal parts which create a hazard to the public health and welfare, but not defined as a careless, scattered littering of smaller items.

(K)(1) Nothing in this section shall prohibit the authority of a local government to enforce ordinances relating to the upkeep of property pursuant to Section 4-9-25 and Section 5-7-80.

(2) If a conflict occurs between this section and the Solid Waste Policy and Management Act as contained in Chapter 96, Title 44, the latter controls.

(L) The Department of Public Safety shall maintain statistical information regarding citations issued pursuant to this section.

(M) Nothing in this section shall be construed as granting any cause of action against the State, any political subdivision, or any employee thereof acting in their official capacity to an individual performing community service under this section who is completing litter pickup without direct oversight, including any claim under Workers' Compensation. Routine follow up to ensure completion of litter pickup by a county, municipality, or state employee is not considered oversight."

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 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 215

(R253, H4479)

AN ACT TO AMEND SECTION 23-23-80, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE POWERS AND DUTIES OF THE SOUTH CAROLINA LAW ENFORCEMENT TRAINING COUNCIL, SO AS TO PROVIDE THAT THE LAW ENFORCEMENT TRAINING COUNCIL IS AUTHORIZED TO APPOINT ATTORNEYS EMPLOYED BY THE SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY TO SIT AS HEARING OFFICERS FOR CONTESTED CASE HEARINGS; AND BY ADDING SECTION 23-23-150 SO AS TO PROVIDE DEFINITIONS FOR CERTAIN TERMS, TO PROVIDE THAT A SHERIFF OR CHIEF OF A LAW ENFORCEMENT AGENCY OR DEPARTMENT MUST REPORT TO THE CRIMINAL JUSTICE ACADEMY CERTAIN MISCONDUCT BY A LAW ENFORCEMENT OFFICER WHO SHALL BE NOTIFIED OF THE ALLEGATION OF MISCONDUCT AND MAY REQUEST A CONTESTED CASE HEARING, TO PROVIDE FOR A PROCEEDING TO ADJUDICATE THE ALLEGATION, TO PROVIDE FOR THE EMPLOYMENT OF PERSONS WHO HAVE ALLEGATIONS OF MISCONDUCT FILED AGAINST THEM, AND TO PROVIDE THAT CERTAIN PERSONS MUST KEEP THE ACADEMY INFORMED OF THEIR CURRENT ADDRESS.

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

Law enforcement training council

SECTION 1. Section 23-23-80 of the 1976 Code is amended by adding the following appropriately numbered item:

"( ) appoint attorneys employed by the South Carolina Criminal Justice Academy to sit as hearing officers for contested case hearings. The attorneys are authorized to submit hearing officers' recommendations to the council."

Adjudication of allegations of misconduct

SECTION 2. Chapter 23, Title 23 of the 1976 Code is amended by adding:

"Section 23-23-150. (A) For purposes of this section:

(1) 'Academy' means the South Carolina Criminal Justice Academy.

(2) 'Council' means the Law Enforcement Training Council.

(3) 'Misconduct' means:

(a) a conviction, plea of guilty, plea of no contest or admission of guilt to a felony, a crime punishable by a sentence of more than one year, regardless of the sentence actually imposed, or a crime of moral turpitude, any of which were committed in this State or any other jurisdiction;

(b) the unlawful use of a controlled substance;

(c) the repeated use of excessive force in dealing with the public or prisoners;

(d) dangerous or unsafe practices involving firearms, weapons, or vehicles which indicate either a wilful or wanton disregard for the safety of persons or property;

(e) the physical or psychological abuse of members of the public or prisoners;

(f) the misrepresentation of employment-related information;

(g) wilfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency, except when required by departmental policy or by the laws of this State;

(h) wilfully making false, misleading, incomplete, deceitful, or incorrect statements to any court of competent jurisdiction, or their staff members, whether under oath or not;

(i) wilfully providing false, misleading, incomplete, deceitful, or incorrect information on a document, record, report, or form, except when required by departmental policy or by the laws of this State;

(j) the falsification of any application for certification and training based upon which the officer was admitted for training; or

(k) providing false information to the Criminal Justice Academy.

(B) The sheriff or the chief executive officer of a law enforcement agency or department within the State must report to the academy the occurrence of any act or multiple acts of misconduct by a law enforcement officer which could result in the withdrawal of the

certification of the law enforcement officer who is currently or was last employed by his agency. The report shall be made within fifteen days of the final agency or department action resulting from the internal investigation conducted by the agency or department, and shall be on a form prescribed by the council. A wilful failure to report information related to acts of misconduct shall subject the violator to a civil penalty as provided by the council.

(C) A person against whom an allegation of misconduct has been received by the academy shall be notified of the allegation of misconduct and his right to a contested case hearing, either by delivering a copy of the allegation personally or by leaving a copy of the allegation at his dwelling house or usual place of abode with some person of suitable age and discretion residing therein.

(D) A person against whom an allegation of misconduct has been received by the academy may request a contested case hearing. The request must be made within three years after receipt of the allegation of misconduct and the service of the allegation on the officer, whichever is later. A person who fails to request a contested case hearing within the time allowed shall be deemed to have waived his right to a contested case hearing. The Law Enforcement Training Council shall proceed to enter a final agency decision to deny the person his law enforcement certification or telecommunications certification for a specified time period, up to a permanent denial. Hearings must be scheduled and conducted expeditiously and efficiently, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record. The academy shall schedule a contested case hearing within sixty days of receiving a request for a hearing, however, a continuance may be granted for cause.

(E) The parties must be sent, via certified mail, or electronically if requested, a copy of the hearing officer's recommendation to the full Law Enforcement Training Council. Either party who opposes the recommendation may file a motion in opposition of the hearing officer's recommendation but must do so within fifteen working days of receipt. Another party may file a response to the motion in opposition but must do so within ten working days of the receipt of the motion in opposition. These motions shall be submitted to the full Law Enforcement Training Council, along with the recommendation, hearing transcript, and exhibits. The council may schedule oral arguments for the next quarterly scheduled meeting. After reviewing the motions, recommendation, hearing transcript, and exhibits, the council may vote and issue a final agency decision at any time other than at a quarterly or special meeting.

(F) The council must not accept an allegation of law enforcement certification misconduct in an original personnel change in status form, amended form, or any other form more than thirty days after the officer's separation from an agency, unless extenuating circumstances exist, as determined by the council.

(G) No person who has a pending allegation of misconduct filed against him pursuant to subsection (B) by a law enforcement agency with the Criminal Justice Academy may be employed as a law enforcement officer or as a telecommunications operator; have the authority of a law enforcement officer; perform any duties of a law enforcement officer, including those duties involving the control and direction of members of the public, detainees, or prisoners; or exercise the power of arrest until:

(1) the council has issued a final agency decision that the person may be granted certification, be granted certification with probation, be granted certification with any additional requirements deemed just and proper by the council, or be granted certification with a public reprimand; or

(2) an appellate court issues a ruling that the Law Enforcement Training Council shall issue the person his law enforcement certification or telecommunications certification and the Law Enforcement Training Council or Criminal Justice Academy has not appealed the ruling.

(H) A law enforcement candidate, law enforcement officer, or telecommunications operator must keep the academy informed of his current address and must notify the academy of any change of address within thirty days.

(I) All information submitted by a law enforcement agency or department to the Criminal Justice Academy related to the separation of a law enforcement officer must be submitted by a certified law enforcement officer from the agency or department.

(J) In addition to other actions outlined in regulations promulgated by the Law Enforcement Training Council, wilful submission of false, misleading, incomplete, deceitful, or incorrect statements to the Criminal Justice Academy, or its representatives, constitutes law enforcement certification misconduct and must be addressed as other allegations of misconduct are addressed by the council.

(K) For any allegation of misconduct of a law enforcement officer pursuant to this section, SLED, the appropriate investigating agency, or the internal affairs division of the agency must complete their investigation within ninety days from the date of the request for a hearing by the officer unless they seek leave from the hearing officer to extend for a specified time period.

(L) In addition to the allegations of misconduct specified in this section, any finding by a law enforcement agency as to the use of excessive force by a law enforcement officer must be reported to the academy by the appropriate law enforcement agency or department within thirty days of the finding, the information of which must be maintained by the academy for investigative and personnel hiring purposes. This information is not a public document and not subject to disclosure other than to a law enforcement or prosecution agency, or attorneys representing a law enforcement or prosecution agency, except by court order. This exemption does not preclude the disclosure of any information contained in these records from another source or by another provision of law.

(M) If an officer with an allegation of misconduct is found not guilty or not at-fault, the records of the misconduct allegation must be expunged by the council within thirty days."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 216

(R255, H4487)

AN ACT TO AMEND SECTION 44-53-160, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SCHEDULING OF CONTROLLED SUBSTANCES, SO AS TO REQUIRE NOTIFICATION TO THE CODE COMMISSIONER OF CERTAIN SCHEDULING CHANGES; TO AMEND SECTION 44-53-280, RELATING TO REGISTRATIONS TO MANUFACTURE, DISTRIBUTE, OR DISPENSE CONTROLLED SUBSTANCES, SO AS TO ELIMINATE REGISTRATION RENEWAL GRACE PERIODS; TO AMEND SECTION 44-53-290, RELATING IN PART TO REGISTRATIONS ISSUED TO PRACTITIONERS TO DISPENSE NARCOTICS FOR MAINTENANCE OR

DETOXIFICATION TREATMENTS AND TO NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS TO PRESCRIBE SCHEDULE V DRUGS, SO AS TO CHANGE CERTAIN REQUIREMENTS; TO AMEND SECTION 44-53-480, RELATING TO THE DEPARTMENT OF NARCOTICS AND DANGEROUS DRUGS WITHIN THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION (SLED), SO AS TO ELIMINATE ENFORCEMENT OF DRUG LAWS AS A FUNCTION OF DHEC; AND TO REPEAL SECTION 44-53-560 RELATING TO THE TRANSFER OF AGENTS FROM DHEC TO SLED.

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

Scheduling of controlled substances, notifications

SECTION 1. Section 44-53-160 of the 1976 Code is amended to read:

"Section 44-53-160. (A)(1) Annually, within thirty days after the convening of each regular session of the General Assembly, the department shall recommend to the General Assembly any additions, deletions, or revisions in the schedules of controlled substances enumerated in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270 which the department deems necessary. Except as otherwise provided in this section, the department shall not make any additions, deletions, or revisions in the schedules until after notice and an opportunity for a hearing is afforded to all interested parties. In making a recommendation to the General Assembly regarding a substance, the department shall consider the following:

(a) the actual or relative potential for abuse;

(b) the scientific evidence of the substance's pharmacological effect, if known;

(c) the state of current scientific knowledge regarding the substance;

(d) the history and current pattern of abuse;

(e) the scope, duration, and significance of abuse;

(f) the risk to public health;

(g) the potential of the substance to produce psychic or physiological dependence liability;

(h) whether the substance is an immediate precursor of a substance already controlled pursuant to this chapter; and

(i) whether the substance has an accepted or recognized medical use.

(2) After considering the factors listed in subsection (A)(1), the department shall make a recommendation to the General Assembly specifying to what schedule the substance should be added, deleted, or rescheduled, if the department finds that the substance has a potential for abuse.

(B) Except as otherwise provided in this section, during the time the General Assembly is not in session, the department may add, delete, or reschedule a substance as a controlled substance after providing notice and a hearing to all interested parties. The addition, deletion, or rescheduling of a substance pursuant to this subsection has the full force of law unless overturned by the General Assembly. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, and to the Clerks of the Senate and House, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

(C) If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department shall, at the first regular or special meeting of the South Carolina Board of Health and Environmental Control within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register effecting the change in federal status of the substance. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Chairman of the Medical, Military, Public and Municipal Affairs Committee, the Chairman of the Judiciary Committee of the House of Representatives, the Clerks of the Senate and House, and the Code Commissioner, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

(D) The department shall exclude any nonnarcotic substance from a schedule if the substance may, under the federal Food, Drug, and

Cosmetic Act and the laws of this State, be lawfully sold over the counter without a prescription.

(E) The department's addition, deletion, or rescheduling of a substance as a controlled substance is governed by this section and is not subject to the promulgation requirements of Chapter 23, Title 1."

Registrations to manufacture, distribute, or dispense controlled substances

SECTION 2. Section 44-53-280(C) and (D) of the 1976 Code is amended to read:

"(C) A class 20-28 registration, as provided for by the board in regulation, expires October first of each year. The registration of a registrant who fails to renew by October first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.

(D) All registrations other than class 20-28, as provided for by the board in regulation, expire on April first of each year. The registration of a registrant who fails to renew by April first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew."

Registrations to dispense narcotics for maintenance treatments, registrations issued to certain health care practitioners

SECTION 3. Section 44-53-290(i) and (j) of the 1976 Code is amended to read:

"(i) Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The board shall register an applicant to dispense but not prescribe narcotic drugs to individuals for maintenance treatment or detoxification treatment, or both:

(1) if the applicant is a practitioner who is otherwise qualified to be registered under the provisions of this article to engage in the treatment with respect to which registration has been sought;

(2) if the board determines that the applicant will comply with standards established by the board respecting security of stocks of narcotic drugs for such treatment, and the maintenance of records in

accordance with Section 44-53-340 and the rules issued by the board on such drugs; and

(3) if the board determines that the applicant will comply with standards established by the board respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

(j) Pursuant to the procedures set forth in Section 44-53-300, the department may issue a registration to a licensed nurse practitioner, certified nurse-midwife, or clinical nurse specialist authorized to prescribe controlled substances by the State Board of Nursing for South Carolina, consistent with such prescription authorization. The department also may issue a registration, pursuant to the procedures set forth in Section 44-53-300, to a licensed physician assistant authorized to prescribe controlled substances by the State Board of Medical Examiners, consistent with such prescription authorization. A nurse practitioner, certified nurse-midwife, clinical nurse specialist, or physician assistant registered by the department pursuant to this subsection may not acquire, possess, or dispense, other than by prescription, a controlled substance except as provided by law."

SLED, elimination of drug enforcement role of DHEC

SECTION 4. Section 44-53-480 of the 1976 Code is amended to read:

"Section 44-53-480. (a) The South Carolina Law Enforcement Division shall establish within its Division a Department of Narcotics and Dangerous Drugs, which shall be administered by a director and shall be primarily responsible for the enforcement of all laws pertaining to illicit traffic in controlled and counterfeit substances. The Department of Narcotics and Dangerous Drugs, in discharging its responsibilities concerning illicit traffic in narcotics and dangerous substances and in suppressing the abuse of controlled substances, shall enforce the State plan formulated in cooperation with the Narcotics and Controlled Substance Section as such plan relates to illicit traffic in controlled and counterfeit substances.

As part of its duties the Department of Narcotics and Dangerous Drugs shall:

(1) Assist the Commission on Alcohol and Drug Abuse in the exchange of information between itself and governmental and local law-enforcement officials concerning illicit traffic in and use and abuse of controlled substances.

(2) Assist the commission in planning and coordinating training programs on law enforcement for controlled substances at the local and state level.

(3) Establish a centralized unit which shall accept, catalogue, file and collect statistics and make such information available for federal, state and local law enforcement purposes.

(4) Have the authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses.

(b) The Department of Health and Environmental Control shall be primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, doctors, hospitals, health care facilities and other practitioners as well as in the possession of any individuals or institutions authorized to have possession of such substances and shall also be primarily responsible for such other duties in respect to controlled substances as shall be specifically delegated to the Department of Health and Environmental Control by the General Assembly. Drug inspectors and special agents of the Department of Health and Environmental Control as provided for in Section 44-53-490, while in the performance of their duties as prescribed herein, shall have:

(1) statewide police powers;

(2) authority to carry firearms;

(3) authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses;

(4) authority to make investigations to determine whether there has been unlawful dispensing of controlled substances or the removal of such substances from regulated establishments or practitioners into illicit traffic;

(5) authority to seize property; and

(6) authority to make arrests without warrants for offenses committed in their presence."

Repeal, transfer of agents from DHEC to SLED

SECTION 5. Section 44-53-560 of the 1976 Code is repealed.

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 217

(R257, H4612)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-11-262 SO AS TO PROVIDE APPLICANTS FOR GENERAL CONTRACTOR LICENSURE OR MECHANICAL CONTRACTOR LICENSURE WHO ARE SUBJECT TO CERTAIN FINANCIAL STATEMENT REQUIREMENTS MAY PROVIDE CERTAIN SURETY BONDS IN LIEU OF PROVIDING THESE FINANCIAL STATEMENTS, TO PROVIDE REQUIREMENTS CONCERNING THESE SURETY BONDS, AND TO PROVIDE PROCEDURES FOR FILING CLAIMS AGAINST THESE SURETY BONDS.

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

Surety bonds in lieu of financial statements

SECTION 1. Article 1, Chapter 11, Title 40 of the 1976 Code is amended by adding:

"Section 40-11-262. (A) In lieu of providing a financial statement showing a minimum net worth for a license group as required by Section 40-11-260, an applicant may provide a surety bond from a surety authorized to transact surety business in this State in an amount of two times the required net worth for the applicant's license group with his initial or renewal application.

(B) The surety bond provided in subsection (A) must:

(1) be continuous in form and must be maintained in effect for as long as the applicant maintains the license issued by the department or until the applicant submits a financial statement showing that he meets the net worth requirements for his license group as provided in Section 40-11-260;

(2) list the State of South Carolina as obligee for the bond;

(3) be for the benefit of any person who is damaged by an act or omission of the applicant constituting a breach of construction contract or a contract for the furnishing of labor, materials, or professional services for construction undertaken by the applicant, or by any unlawful act or omission of the applicant in performing construction; and

(4) be in addition to, and not in lieu of, any other surety bond required of the applicant by law or regulation, or by any party to a contract with the applicant.

(C) The surety bond provided in subsection (A) only may be canceled by notification to the board by the surety and the applicant thirty days prior to cancellation. When the surety bond is canceled, the licensee shall provide proof of net worth for his license group as required by Section 40-11-260 within ten days of cancellation or his license is suspended until written proof of net worth is provided.

(D) Claims may be filed against the bond on a form approved by the board in accordance with procedures established by the board in regulation."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 218

(R258, H4628)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 21 TO TITLE 37 SO AS TO ENACT THE "SOUTH CAROLINA TELEPHONE PRIVACY PROTECTION ACT"; TO DEFINE RELEVANT TERMS; TO PROHIBIT TELEPHONE SOLICITORS FROM INITIATING OR CAUSING TO BE INITIATED A TELEPHONE SOLICITATION DURING CERTAIN HOURS OF THE DAY AND TO PROVIDE EXCEPTIONS; TO REQUIRE TELEPHONE SOLICITORS TO DISCLOSE CERTAIN INFORMATION AT THE OUTSET OF A TELEPHONE SOLICITATION,

INCLUDING THE CONSUMER'S RIGHT TO BE ADDED TO THE TELEPHONE SOLICITOR'S IN-HOUSE "DO NOT CALL LIST" UPON REQUEST; TO PROHIBIT A PERSON, WITH FRAUDULENT OR OTHER SPECIFIED INTENT, FROM MAKING OR INITIATING A TELEPHONE CALL OR TEXT MESSAGE OR ENGAGING IN CONDUCT THAT RESULTS IN THE DISPLAY OF MISLEADING, FALSE, OR INACCURATE CALLER IDENTIFICATION INFORMATION; TO REQUIRE TELEPHONE SOLICITORS TO PLAY CERTAIN PRERECORDED IDENTIFICATIONS AND OPT-OUT MESSAGES UNDER CERTAIN CIRCUMSTANCES; TO PROHIBIT A PERSON FROM INITIATING OR CAUSING TO BE INITIATED A TELEPHONE SOLICITATION DIRECTED TO A TELEPHONE NUMBER WHEN A PERSON AT THAT TELEPHONE NUMBER PREVIOUSLY STATED A DESIRE NOT TO BE CONTACTED, AND TO PROHIBIT TELEPHONE SOLICITORS FROM INITIATING OR CAUSING TO BE INITIATED A TELEPHONE SOLICITATION TO A TELEPHONE NUMBER ON THE NATIONAL DO NOT CALL REGISTRY; TO PROVIDE REMEDIES FOR VIOLATIONS; TO AUTHORIZE THE ADMINISTRATOR OF THE DEPARTMENT OF CONSUMER AFFAIRS TO ISSUE ADMINISTRATIVE ORDERS REQUIRING A PERSON TO CEASE AND DESIST, OR RETURN PROPERTY OR MONEY RECEIVED IN VIOLATION OF THIS ACT, TO IMPOSE PENALTIES, AND TO AUTHORIZE THE ATTORNEY GENERAL TO INVESTIGATE AND ENFORCE ALLEGED VIOLATIONS OF THIS ACT; TO PROVIDE THAT NOTHING IN THIS ACT MAY BE CONSTRUED TO LIMIT OTHER REMEDIES AVAILABLE UNDER FEDERAL OR STATE LAW; AND TO DELETE SECTION 16-17-445.

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

South Carolina Telephone Privacy Protection Act

SECTION 1. Title 37 of the 1976 Code is amended by adding:

"CHAPTER 21

South Carolina Telephone Privacy Protection Act

Section 37-21-10. This chapter may be known and cited as the 'South Carolina Telephone Privacy Protection Act'.

Section 37-21-20. As used in this chapter:

(1) 'Consumer' means a natural person who is the object of a telephone solicitation.

(2) 'Established business relationship' means a relationship between the consumer and the person on whose behalf the telephone solicitation call is being made based on the consumer's:

(a) purchase from, or transaction with, the person on whose behalf the telephone solicitation is being made within the eighteen months immediately preceding the solicitation date; or

(b) inquiry or application regarding a property, good, or service offered by the person on whose behalf the telephone solicitation is being made within the three months immediately preceding the solicitation date.

(3) 'Person' means any individual, corporation, partnership, association, unincorporated organization, or other form of entity, however organized.

(4) 'Personal relationship' means the relationship between a telephone solicitor making a telephone solicitation and a family member, friend, or acquaintance of that telephone solicitor.

(5) 'Prize promotion' means:

(a) a sweepstakes or other game of chance; or

(b) an oral or written representation that a person has won, has been selected to receive, or may be eligible to receive a prize or purported prize.

(6) 'Telephone solicitation' means the initiation of a telephone call, or a text or media message sent, to a natural person's residence in the State, or to a wireless telephone with a South Carolina area code, for the purpose of offering or advertising a property, good, or service for sale, lease, license, or investment, including offering or advertising an extension of credit, prize promotion, or for the purposes of obtaining information that will or may be used for the direct solicitation thereof. 'Telephone solicitation' does not mean:

(a) a political campaign-related call made, or a text or media message sent, in compliance with the Telephone Consumer Protection Act, 47 U.S.C. Section 227;

(b) except for the purposes of Section 37-21-70, and unless the consumer previously stated a desire not to be contacted by or on behalf of the person on whose behalf the telephone solicitation is being made, a telephone solicitation made to a consumer with:

(i) that consumer's prior express invitation or permission as evidenced by a signed or electronically signed, written agreement stating that the person agrees to be contacted by or on behalf of a specific party and including the telephone number to which they may be placed;

(ii) whom the person on whose behalf the telephone solicitation is made has an established business relationship; or

(iii) whom the telephone solicitor making the telephone call or sending a text message has a personal relationship; or

(c) calls by institutions licensed and regulated under Title 38.

(7) 'Telephone solicitor' means a person who makes, or causes another person to make, a telephone solicitation.

(8) 'Text Message' means a communication consisting of text, images, sounds, or other information that is transmitted to or from a device that is identified as the receiving or transmitting device by means of a ten-digit telephone number or N11 service code;

(a) includes a short message service (commonly referred to as 'SMS') message and a multimedia message service (commonly referred to as 'MMS') message; and

(b) does not include:

(i) a real-time, two-way voice or video communication; or

(ii) a message sent over an IP-enabled messaging service to another user of the same messaging service, except a message described in subitem (a).

Section 37-21-30. A telephone solicitor may not initiate, or cause to be initiated, a telephone solicitation at any time other than between 8:00 a.m. and 9:00 p.m. local time at the consumer's location, unless the telephone solicitor has obtained the prior written consent of the consumer.

Section 37-21-40. (A) At the outset of a telephone solicitation, a telephone solicitor shall provide, in a clear and conspicuous manner, a first and last name to identify himself and provide the name of the person on whose behalf the telephone solicitation is being made and promptly disclose to the consumer the following information:

(1) a telephone number and address at which the telephone solicitor may be contacted;

(2) the purpose of the telephone solicitation;

(3) that no purchase or payment is necessary to be able to win a prize or participate in a prize promotion if a prize promotion is offered. This disclosure must be made before or in conjunction with the description of the prize to the consumer. If requested by that person, the

telephone solicitor must disclose the no purchase/no payment entry method for the prize promotion; and

(4) the option to be added to the telephone solicitor's in-house 'do not call' list if the consumer requests being added to such list, confirmation that the consumer's name and telephone number will be placed on such list.

(B) At the time of solicitation or offering, the telephone solicitor shall further disclose:

(1) a reasonable and good-faith estimate of the total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of the solicitation or offer; and

(2) if the telephone solicitor, or the person on whose behalf the telephone solicitation is being made, has a policy of not making refunds, cancellations, exchanges, or repurchases, a statement informing the consumer of that policy.

(C) If the consumer indicates that he does not want to hear the offer, the telephone solicitor must immediately end the contact.

Section 37-21-50. (A) Notwithstanding another provision of law, a person may not, with the intent to defraud, harass, cause harm or wrongfully obtain anything of value, including, but not limited to, financial resources or personal identifying information as defined by Section 16-13-510, make, place, or initiate a call or text message or engage in conduct that results in the display of misleading, false or inaccurate caller identification information on the receiving party's telephone or otherwise circumvent caller identification technology that allows the receiving party to identify from what phone number, location, or organization the call or text message has originated from or misrepresent the origin and nature of the call or text message. A person may not, with the intent described in this subsection:

(1) display a South Carolina area code on the recipient's caller identification system unless the person making, placing, or initiating the call or text message maintains a physical presence in the State; or

(2) display the receiving party's telephone number on the contacted party's caller identification system.

(B) the provisions of subsection (A) do not apply to a provider of landline or wireless communications services merely by virtue of its involvement in delivering a call or text message initiated by or on behalf of a third party, unless the provider provides substantial assistance or support to the telephone solicitor initiating the call when the provider knows or consciously avoids knowing such telephone solicitor is engaged in any act or practice that violates this chapter.

(C) A telephone solicitor who makes a telephone solicitation shall transmit the telephone number, and, when available by the telephone solicitor's carrier, the name of the telephone solicitor; provided, however, that it is not a violation of this subsection to substitute the name of the person on behalf of whom the telephone solicitation is initiated and the customer service telephone number of that person. The number provided must permit, during regular business hours, a consumer to make a request not to receive telephone solicitations.

(D) This section shall not apply to:

(1) lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency, a State, or a political subdivision of a State, or of an intelligence agency of the United States; or

(2) activity engaged in pursuant to a court order that specifically authorizes the use of caller identification manipulation.

Section 37-21-60. When a live telephone solicitor is not available to speak with the consumer answering a telephone solicitation call within two seconds of the completed greeting, the telephone solicitor shall:

(1) play a prerecorded identification and opt-out message that is limited to disclosing that the call was for telephone solicitation purposes and states the name and telephone number of the person on whose behalf the telephone solicitation call is being made, and a telephone number for such person that permits the consumer to make a do-not-call request during regular business hours; provided that, such telephone number may not be a 900 number or any other number for which charges exceed local or long distance transmission charges; and

(2) an automated, interactive voice- and/or key press-activated opt-out mechanism that enables the consumer to make a do-not-call request prior to terminating the call, including brief explanatory instructions on how to use such mechanism. When the consumer elects to opt-out using such mechanism, the mechanism must automatically record the consumer's number to the telephone solicitor's in-house do-not-call list and immediately terminate the call.

Section 37-21-70. (A) A person may not initiate, or cause to be initiated, a telephone solicitation directed to a telephone number when a person at that telephone number previously stated a desire not to be contacted again by or on behalf of the person on whose behalf the telephone solicitation is being made. This statement may be made to a telephone solicitor or to the person on whose behalf the telephone solicitation is being made if that person is different from the telephone

solicitor. Any request not to receive telephone solicitations must be honored for at least five years from the time the request is made.

(B) A telephone solicitor may not initiate, or cause to be initiated, a telephone solicitation to a telephone number on the National Do Not Call Registry maintained by the federal government pursuant to the Telemarketing Sales Rule, 16 C.F.R. Part 310, and 47 C.F.R. Section 64.1200.

(C) It is an affirmative defense in any action brought pursuant to Section 37-21-80 or 37-21-90 for a violation of this section that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitation in violation of this section, including using in accordance with applicable federal regulations a version of the National Do Not Call Registry obtained from the administrator of the registry no more than thirty-one days prior to the date a telephone solicitation is made.

Section 37-21-80. (A) A person who is aggrieved by a violation of this chapter is entitled to initiate an action to enjoin the violation and to recover actual losses in addition to damages in the amount of one thousand dollars for each violation.

(B) If the court finds a wilful violation, the court may, in its discretion, increase the amount of the award to an amount not exceeding five thousand dollars for each violation.

(C) Notwithstanding another provision of law, in addition to any damages awarded, the person initiating the action for a violation of this chapter may be awarded reasonable attorneys' fees and court costs.

(D) An action for damages, attorneys' fees, and costs brought pursuant to this section may be filed in an appropriate circuit court or municipal or magistrates court so long as the amount claimed does not exceed the jurisdictional limits as applicable. An action brought pursuant to this section that includes a request for an injunction must be filed in an appropriate circuit court.

(E) It must be a defense to any action brought under this section that the violation was not intentional and resulted from a bona fide error.

Section 37-21-90. (A) The administrator, upon finding a violation of this chapter, may issue an administrative order requiring the person to cease and desist, to return property or money received in violation of this chapter and imposing penalties of up to five thousand dollars for each violation. The department may bring a civil action seeking similar relief, including injunctive relief, pursuant to subsection (B). Monies received

in enforcement of this chapter shall be retained by the department for administration of this title.

(B)(1) The Attorney General may investigate and enforce violations of this chapter. The Attorney General, may bring an action to enjoin a violation of this chapter by any person and to recover damages for an aggrieved person or persons in the amount of five thousand dollars for each violation.

(2) If the court finds a wilful violation, the court, in its discretion, also may award a civil penalty of not more than five thousand dollars for each violation. Civil penalties awarded pursuant to this section in an action brought in the name of the State by the Attorney General must be paid to the general fund.

(3) In an action brought pursuant to this section, the Attorney General may recover reasonable expenses incurred by the State or local governmental agency or department in investigating and preparing the case, and attorneys' fees.

Section 37-21-100. Nothing in this chapter must be construed to limit any remedies, causes of action, or penalties available to a person or governmental agency under another federal or state law."

Code section deleted

SECTION 2. Title 16, Chapter 17 is amended by deleting Section 16-17-445 in its entirety.

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 219

(R259, H4657)

AN ACT TO AMEND SECTION 38-2-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ADMINISTRATIVE

PENALTIES FOR THE VIOLATION OF THE INSURANCE LAWS OF SOUTH CAROLINA, SO AS TO ALLOW THE DEPARTMENT OF INSURANCE TO ENFORCE THESE PENALTIES FOR VIOLATIONS OF FEDERAL INSURANCE LAWS SUBJECT TO ENFORCEMENT BY THE DEPARTMENT; TO AMEND SECTION 38-13-70, RELATING TO INVESTIGATIONS CONDUCTED BY THE DEPARTMENT OF INSURANCE, SO AS TO AUTHORIZE THE DEPARTMENT TO RESPOND TO MOTIONS AND COMPLAINTS AGAINST HEALTH MAINTENANCE ORGANIZATIONS AND PERSONS LICENSED TO TRANSACT THE BUSINESS OF INSURANCE IN THIS STATE AND TO ESTABLISH A DEADLINE FOR RESPONSES TO THE DEPARTMENT'S INQUIRIES; TO AMEND SECTION 38-33-170, RELATING TO THE EXAMINATIONS OF THE AFFAIRS OF A HEALTH MAINTENANCE ORGANIZATION, SO AS TO REQUIRE AN EXAMINATION NO LESS THAN EVERY FIVE YEARS; TO AMEND SECTION 38-33-230, RELATING TO LEVY OF ADMINISTRATIVE PENALTY IN LIEU OF OTHER PENALTIES, SO AS TO ALLOW THE LEVY OF AN ADMINISTRATIVE PENALTY FOR VIOLATIONS OF STATE AND FEDERAL INSURANCE LAWS SUBJECT TO ENFORCEMENT BY THE DEPARTMENT OF INSURANCE; TO AMEND SECTION 38-61-20, RELATING TO THE APPROVAL OF INSURANCE POLICIES, CONTRACTS, OR POLICIES BY THE DEPARTMENT OF INSURANCE, SO AS TO REQUIRE THAT ALL FORMS FILED WITH THE DEPARTMENT SATISFY ALL APPLICABLE STATE AND FEDERAL LAWS AND TO AUTHORIZE THE DIRECTOR TO IMPOSE A PENALTY IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 38-71-90, RELATING TO THE PENALTIES FOR ISSUING OR DELIVERING A POLICY THAT VIOLATES CHAPTER 71, SO AS TO EXTEND THE PENALTIES TO ANY INSURER OR HEALTH MAINTENANCE ORGANIZATION WHO VIOLATES APPLICABLE STATE OR FEDERAL LAWS GOVERNING THE TRANSACTION OF THE BUSINESS OF INSURANCE SUBJECT TO ENFORCEMENT BY THE DEPARTMENT OF INSURANCE; AND TO AMEND SECTIONS 38-51-20 AND 38-51-30, RELATING TO ADMINISTRATORS OF INSURANCE BENEFIT PLANS, SO AS TO PROVIDE THAT AN APPLICANT FOR LICENSURE AS AN ADMINISTRATOR MUST PROVIDE CERTAIN FINANCIAL STATEMENTS AND

REPORTS AND REQUIRE THE SUBMISSION OF A SURETY BOND FOR THE RENEWAL OF AN ADMINISTRATOR'S LICENSE.

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

Administrative penalties for violations of insurance laws

SECTION 1. Section 38-2-10 of the 1976 Code is amended to read:

"Section 38-2-10. (A) Unless otherwise specifically provided by law, the following administrative penalties apply for each violation of the insurance laws of this State or federal insurance laws subject to enforcement by the Department of Insurance:

(1) If the violator is an insurer or a health maintenance organization licensed in this State, the director or his designee shall fine the violator in an amount not to exceed fifteen thousand dollars, suspend or revoke the violator's authority to do business in this State, or both. If the violation is wilful, the director or his designee shall fine the violator in an amount not to exceed thirty thousand dollars, suspend or revoke the violator's authority to do business in this State, or both.

(2) If the violator is a person, other than an insurer or a health maintenance organization, licensed by the director or his designee in this State, the director or his designee shall fine the person in an amount not to exceed two thousand five hundred dollars, suspend or revoke the license of the person, or both. If the violation is wilful, the director or his designee shall fine the person in an amount not to exceed five thousand dollars, suspend or revoke the license of the person, or both.

(B) The penalties in subsection (A) are in addition to any criminal penalties provided by law or any other remedies provided by law. The administrative proceedings in subsection (A) do not preclude civil or criminal proceedings from taking place before, during, or after the administrative proceeding."

Department of Insurance investigations into insurance law violations

SECTION 2. Section 38-13-70 of the 1976 Code is amended to read:

"Section 38-13-70. Upon his own motion or upon written complaint filed by a citizen of this State that an insurer, health maintenance organization, or other person licensed or authorized to transact business

in this State has violated this title, the director or his designee shall investigate the matter and, if necessary, examine under oath the president and other officers or agents of the insurer, health maintenance organization, or other person and all books, records, and papers of the insurer, health maintenance organization, or other person. The insurer, health maintenance organization, or other person and its representatives shall respond to the department's inquiries, requests for information, or investigations within seven calendar days or within a larger timeframe granted by the director or his designee. If the director or his designee finds upon substantial evidence that a complaint is justified, the insurer, health maintenance organization, or other person, in addition to the penalties imposed for violation of this title, is liable for the expenses of the investigation, and the director or his designee shall promptly present the insurer with a statement of the expenses. If the insurer, health maintenance organization, or other person refuses or neglects to pay, the director or his designee is authorized to revoke its license and to bring civil action for the collection of the expenses."

Affairs of a health maintenance organization examined no less than every five years

SECTION 3. Section 38-33-170(A) and (B) of the 1976 Code is amended to read:

"(A) The director or his designee may make an examination of the affairs of a health maintenance organization and providers with whom the organization has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this State but not less frequently than once every five years. The director or his designee may accept the report of an examination made by the state where the health maintenance organization is domiciled.

(B) The director or his designee may make an examination concerning the quality of health care service of a health maintenance organization and providers with whom the organization has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this State but not less frequently than once every five years."

Levy of an administrative penalty in lieu of revocation or suspension of a certificate of authority

SECTION 4. Section 38-33-230(A) of the 1976 Code is amended to read:

"(A) The director or his designee, in lieu of revocation or suspension of a certificate of authority under Section 38-33-180, may levy an administrative penalty of not more than fifteen thousand dollars for each violation of state or federal law the Department of Insurance is authorized to enforce or ground as prescribed therein. A series of acts by an organization which merely implement a basic violation and are not separate and distinct violations of an independent nature are considered to be part of the basic violation and only one penalty may be imposed. A monetary penalty may be imposed under this paragraph only after notice and an opportunity to be heard have been afforded in accordance with Section 38-33-210."

Penalties for use of policies or contracts that violate applicable insurance laws governing accident and health insurance

SECTION 5. Section 38-61-20(A) and (C) of the 1976 Code is amended to read:

"(A) It is unlawful for an insurer doing business in this State to issue or sell in this State a policy, contract, or certificate until it has been filed with and approved by the director or his designee. The director or his designee may disapprove the form if it:

(1) does not meet the requirements of applicable state or federal law the Department of Insurance is authorized to enforce;

(2) contains provisions which are unfair, deceptive, ambiguous, misleading, or unfairly discriminatory; or

(3) is solicited by means of advertising, communication, or dissemination of information which is deceptive or misleading.

However, this subsection does not apply to surety contracts or fidelity bonds, except as required in Section 38-15-10, or to insurance contracts, riders, or endorsements prepared to meet special, unusual, peculiar, or extraordinary conditions applying to an individual risk or exempt commercial policies.

(C) At any time after having given written approval, and after an opportunity for a hearing for which at least thirty days' written notice

has been given, the director or his designee may withdraw approval, impose the penalties pursuant to Section 38-2-10 if the insurer continues use of the form after it has been ordered withdrawn, or both, if he finds that the form:

(1) does not meet the requirements of applicable state or federal law the Department of Insurance is authorized to enforce;

(2) contains provisions which are unfair, deceptive, ambiguous, misleading, or unfairly discriminatory; or

(3) is solicited by means of advertising, communication, or dissemination of information which is deceptive or misleading."

Administrative penalty for health maintenance organization that violates laws governing accident and health insurance

SECTION 6. Section 38-71-90 of the 1976 Code is amended to read:

"Section 38-71-90. An insurer, health maintenance organization, or its officer or agent that issues or delivers to any person in this State any policy in wilful violation of any of the provisions of this chapter or any other applicable state or federal law governing the transaction of business of insurance the Department of Insurance is authorized to enforce is subject to the provisions of Section 38-2-10 for each offense."

Administrator license application and surety bond requirements

SECTION 7. Sections 38-51-20 and 38-51-30 of the 1976 Code is amended to read:

"Section 38-51-20. No person may act as an administrator in this State without first being licensed by the director or his designee.

Any person who acts as an administrator without a license is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than two years, or both, and is subject to revocation of any insurance licenses issued by the director or his designee.

Application for a license must be upon forms prescribed by the director or his designee and must be accompanied by an initial license fee of one hundred dollars, annual financial statements or reports for the two preceding calendar years, and any other documents that the director or his designee may require to ensure that the administrator meets the requirements for licensure set forth in this section. Thereafter, the

administrator shall pay to the department a license renewal fee of one hundred dollars by March first of each year.

Before granting any license, the director or his designee must be satisfied that the administrator is competent, trustworthy, financially responsible, has a good personal and business reputation, has not had an insurance license revoked, suspended, or denied in any jurisdiction within the preceding five years, and has not been convicted of a crime involving fraud, dishonesty, or moral turpitude in any jurisdiction. For purposes of this section, 'convicted' includes a plea of guilty or a plea of nolo contendere.

The director or his designee may revoke or suspend any license issued to an administrator when he finds that any condition exists which would have prohibited issuance of the original license, that the administrator has violated any provision of this chapter, or that the administrator has deceived or dealt unjustly with the citizens of this State. In lieu of revocation or suspension of license, the director or his designee may impose an administrative monetary penalty not to exceed one thousand dollars for each offense.

Section 38-51-30. Every administrator shall file and maintain with the department a surety bond in favor of the state executed by a surety company authorized to transact business in this State. In lieu of bond, the administrator may file with the department letters of credit, certificates of deposit of building and loan associations, or federal savings and loan associations located within the state in which deposits are guaranteed by the Federal Savings and Loan Insurance Corporation, not to exceed the amount of insurance, or of banks located within the state in which deposits are guaranteed by the Federal Deposit Insurance Corporation, not to exceed the amount covered by insurance or any other financial instrument that the director or his designee deems appropriate. The director or his designee may also in his sole discretion accept in lieu of a bond or certificates of deposit or letter of credit a corporate guaranty by an insurer licensed to transact business in this State. The corporate guaranty must meet any requirements the director or his designee requires. The director or his designee may withdraw his acceptance of a corporate guaranty in lieu of bonds or certificates of deposit at any time. The amount of the bond, certificates of deposit, corporate guaranty letter of credit, or any other instrument the director or his designee deems appropriate, filed with the department must be in the amount of seventy-five thousand dollars for initial applicants. Upon renewal, the applicant shall submit a surety bond in an amount that represents ten percent of the total premiums handled or managed in South Carolina for

the previous calendar year. The amount of the surety bond for renewal applications must not be less than seventy-five thousand dollars and may not exceed five hundred thousand dollars. All bonds must include a provision requiring a thirty-day advance notification of cancellation to the department. The bond must be on a form approved by the director or his designee. Any of the above-described financial instruments must be conditioned to pay any person who sustains a loss as a result of: (a) the administrator's violation of or failure to comply with any requirement of this chapter; (b) the administrator's failure to transmit properly any payment received by it for transmission to an insurer or other person; (c) the administrator's misapplication or misappropriation of funds received by it; or (d) any act of fraud or dishonesty committed by the administrator in the administration of an insurance benefit plan. Any aggrieved person may institute an action in the county of his residence against the administrator or his surety, or both, to recover on the bond or to recover from the certificates of deposit or corporate guaranty or letters of credit. Nothing in this section may be construed to prohibit agreements between administrators and insurers providing for additional bonds. The director or his designee may waive the bonding requirements of this section in whole or in part to the extent that funds handled by the administrator are handled on behalf of a licensed insurance company, if the administrator has furnished a bond or other security to the insurance company which meets the purposes of this section. Under no circumstances may the director or his designee waive the bonding requirements of this section with respect to funds handled by the administrator on behalf of self-insured persons, groups, or entities."

Time effective

SECTION 8. This act takes effect upon approval by the Governor.

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 220

(R260, H4672)

AN ACT TO AMEND SECTION 56-1-220, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE VISION SCREENING REQUIRED FOR ISSUANCE OF A DRIVER'S LICENSE, SO AS TO PROVIDE THAT THE VISION SCREENING IS REQUIRED TO OBTAIN AN INITIAL LICENSE AND UPON RENEWAL OF A LICENSE, TO PROVIDE THAT THE VISION SCREENING MUST BE OFFERED BY THE DEPARTMENT OF MOTOR VEHICLES, TO PROVIDE THAT A PERSON'S SCREENING MUST BE WAIVED UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE THAT A CERTIFICATE OF VISION EXAMINATION FORM MUST BE EXECUTED BY THE CERTIFYING OPHTHALMOLOGIST OR OPTOMETRIST AND TRANSMITTED TO THE DEPARTMENT ELECTRONICALLY.

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

Vision screening

SECTION 1. Section 56-1-220(A) and (B) of the 1976 Code is amended to read:

"(A) The department shall require vision screening for all persons obtaining an initial license and upon license renewal. The vision screening must be offered by the department, however, a person's screening must be waived upon the submission of a certificate of vision examination dated within the previous twelve months from an ophthalmologist or optometrist licensed in any state.

(B) The renewal license forms distributed by the department must be designed to contain a certification that the vision of the person screened meets the minimum standards required by the department or have been corrected to meet these requirements. The certification must be executed by the person conducting the screening. A Certificate of Vision Examination form must be executed by the certifying ophthalmologist or optometrist and must be transmitted to the department electronically pursuant to its electronic specifications. The minimum standards of the department shall not require a greater degree of vision than 20/40

corrected in one eye. Persons using bioptic lenses must adhere to the provisions contained in Section 56-1-222."

Time effective

SECTION 2. This act takes effect October 1, 2020.

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 221

(R263, H4698)

AN ACT TO AMEND SECTION 40-47-32, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EXAMINATION REQUIREMENTS TO OBTAIN A LICENSE TO PRACTICE MEDICINE IN THE STATE, SO AS TO WAIVE CERTAIN ADDITIONAL EXAMINATION REQUIREMENTS FOR APPLICANTS WHO ARE TO PRACTICE IN A POSITION WITHIN THE DISABILITY DETERMINATION SERVICES UNIT OF THE STATE AGENCY OF VOCATIONAL REHABILITATION; AND TO AMEND SECTIONS 9-1-1540, 9-9-65, AND 9-11-80, RELATING TO DISABILITY RETIREMENT FOR MEMBERS OF THE SOUTH CAROLINA RETIREMENT SYSTEM, THE RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY, AND THE POLICE OFFICERS RETIREMENT SYSTEM, RESPECTIVELY, SO AS TO PROVIDE THAT A MEMBER IS CONSIDERED TO BE IN SERVICE ON THE DATE THE APPLICATION FOR DISABILITY RETIREMENT IS FILED IF THE LAST DAY THE MEMBER WAS EMPLOYED IN THE SYSTEM OCCURRED NOT MORE THAN ONE YEAR BEFORE THE DATE OF FILING.

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

Medical license examination requirements, exceptions

SECTION 1. Section 40-47-32(E) of the 1976 Code is amended to read:

"(E) The additional examination required pursuant to subsection (D) must be waived if the applicant is to practice in a position within the South Carolina Department of Corrections, the South Carolina Department of Health and Environmental Control, the South Carolina Department of Mental Health, the South Carolina Department of Disabilities and Special Needs, or the Disability Determination Services Unit of the State Agency of Vocational Rehabilitation. A license issued pursuant to this waiver is immediately invalid if the individual leaves that position or acts outside the scope of employment within the department. A change in agency may be approved upon presentation to the board of a copy of a contract in which the individual has been offered a position within the South Carolina Department of Corrections, the South Carolina Department of Health and Environmental Control, the South Carolina Department of Mental Health, the South Carolina Department of Disabilities and Special Needs, or the Disability Determination Services Unit of the State Agency of Vocational Rehabilitation."

Disability retirement

SECTION 2. A.Section 9-1-1540(B)(1) of the 1976 Code is amended to read:

"(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 one year 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 one year before the date of filing."

B. Section 9-9-65(1) of the 1976 Code is amended to read:

"(1) Upon the application of a member in service or of the State, any member in service on or after July 1, 1977, who has five or more years of credited service or any contributing member who is disabled as a result of an injury arising out of and in the course of the performance of his duties regardless of length of membership on or after July 1, 1985, may be retired by the board not less than thirty days nor more than ninety days next following the date of filing the application on a disability retirement allowance if the system, after a medical examination of the member, shall certify that the member is mentally or physically incapacitated for 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 held office as a member of the General Assembly occurred not more than one year before the date of filing."

C. Section 9-11-80(1) of the 1976 Code is amended to read:

"(1) On the application of a member in service or the member's employer, a member who has the years of earned service required for the member's class pursuant to Section 9-11-60(1) or any 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, may be retired by the retirement 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 one year before 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 system. 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."

D. This SECTION takes effect upon approval by the Governor and applies to members who retire after December 31, 2016. A member whose one year deadline has expired or will expire in less than ninety days from the date of the Governor's approval has ninety days from the Governor's approval of this act to file an application for disability retirement.

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 222

(R264, H4705)

AN ACT TO AMEND SECTION 63-7-310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MANDATED REPORTERS OF CHILD ABUSE OR NEGLECT, SO AS TO ADD RELIGIOUS COUNSELORS AS MANDATED REPORTERS AND TO REQUIRE MANDATED REPORTERS TO COMPLY WITH THE INDIVIDUAL DUTY TO REPORT; AND TO AMEND SECTION 63-7-450, RELATING TO THE DEPARTMENT OF SOCIAL SERVICES' DUTY TO NOTIFY MANDATED REPORTERS OF REPORTING REQUIREMENTS, SO AS TO MAKE TECHNICAL CORRECTIONS.

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

Mandated reporting of child abuse or neglect

SECTION 1. Section 63-7-310 of the 1976 Code is amended to read:

"Section 63-7-310. (A) The following persons must report in accordance with this section when, in such person's professional capacity, he has received information that gives him reason to believe that a child has been or may be abused or neglected as defined in Section 63-7-20: a physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, clerical or nonclerical religious counselor who charges for services, school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, foster parent, police or law enforcement officer, juvenile justice worker, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, judge, and a volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA.

(B) If a person required to report pursuant to subsection (A) has received information in the person's professional capacity which gives the person reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child's welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child's welfare, the reporter must make a report to the appropriate law enforcement agency.

(C) A person, as provided in subsections (A) and (B), who reports child abuse or neglect to a supervisor or person in charge of an institution, school, facility, or agency is not relieved of his individual duty to report in accordance with this section. The duty to report is not superseded by an internal investigation within the institution, school, facility, or agency.

(D) Except as provided in subsection (A), a person who has reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect may report, and is encouraged to report, in accordance with this section. A person, as provided in subsection (A) or (B), who reports child abuse or neglect to

a supervisor or person in charge of an institution, school, facility, or agency is not relieved of his individual duty to report in accordance with this section. The duty to report is not superseded by an internal investigation within the institution, school, facility, or agency.

(E) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found.

(F) Nothing in this section shall be construed as requiring a person under the age of eighteen to be a mandated reporter pursuant to subsection (A)."

Notice of mandated child abuse or neglect reporting requirements

SECTION 2. Section 63-7-450(A) of the 1976 Code is amended to read:

"(A) The Department of Social Services Protective Services shall inform all persons required to report pursuant to Section 63-7-310(A) of the nature, problem, and extent of child abuse and neglect and of their duties and responsibilities in accordance with this article. The department also, on a continuing basis, shall conduct training programs for department staff and appropriate training for persons required to report pursuant to Section 63-7-310(A)."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 223

(R265, H4715)

AN ACT TO AMEND SECTION 50-23-11, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO WATERCRAFT DEALER DEMONSTRATION NUMBERS, SO AS TO PROVIDE

FOR A THIRTY-DOLLAR APPLICATION FEE, TO PROVIDE FOR THE EXPIRATION OF DEMONSTRATION NUMBERS, AND TO PROVIDE FOR THE USE OF FEE REVENUE; TO AMEND SECTION 50-23-70, RELATING TO WATERCRAFT CERTIFICATE OF NUMBER FEES AND DECALS, SO AS TO PROHIBIT THE DEPARTMENT OF NATURAL RESOURCES FROM ISSUING DUPLICATE DECALS WHEN AD VALOREM TAXES ARE OUTSTANDING; TO AMEND SECTION 50-23-340, RELATING TO THE APPLICATION FEE FOR WATERCRAFT CERTIFICATES OF NUMBER, SO AS TO REDUCE THE FEE TO TEN DOLLARS; TO AMEND SECTION 50-23-345, RELATING TO TEMPORARY WATERCRAFT CERTIFICATES OF NUMBER, SO AS TO PROVIDE A CERTIFICATE OF NUMBER MAY NOT BE ISSUED UNTIL AD VALOREM TAXES ARE PAID FOR THE YEAR IN WHICH THE CERTIFICATE IS ISSUED; TO AMEND SECTION 50-23-370, RELATING TO THE EXPIRATION AND RENEWAL OF WATERCRAFT CERTIFICATES OF NUMBER, SO AS TO PROVIDE FOR THE ISSUANCE OF RENEWAL NOTICES AND PROCESSING OF RENEWALS BY COUNTY AUDITORS, AND TO MAKE RENEWALS ANNUAL INSTEAD OF EVERY THREE YEARS, AND TO PROVIDE FOR THE IMPLEMENTATION OF THESE PROVISIONS OVER A THREE-YEAR PERIOD; BY ADDING SECTION 50-23-12 SO AS TO REQUIRE THE COMPLETION OF CERTAIN CHANGE IN STATUS FORMS FOR WATERCRAFT AND OUTBOARD MOTOR TRADE-INS; BY ADDING SECTION 50-23-35 SO AS TO PROVIDE FOR THE ISSUANCE OF WATERCRAFT TITLES UPON PROVIDING EVIDENCE OF AD VALOREM TAX PAYMENT, AND TO PROVIDE EXCEPTIONS; AND BY ADDING ARTICLE 26 TO CHAPTER 37, TITLE 12 SO AS TO PROVIDE PROCEDURES CONCERNING ASSESSMENTS AND PAYMENTS FOR PROPERTY TAXATION OF BOATS AND WATERCRAFT AND THE ISSUANCE OF CERTIFICATES OF NUMBER FOR BOATS AND WATERCRAFT.

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

Dealer demonstration number, application fee created

SECTION 1. Section 50-23-11 of the 1976 Code is amended by adding a subsection at the end to read:

"(E) The fee for a dealer demonstration number is thirty dollars and the fee must accompany the application for each demonstration number. Demonstration numbers expire on December thirty-first of each year or on the same date the marine dealer permit under which they were issued is voided, surrendered, or revoked. All revenue from each demonstration number must be used to support the Marine Investigations section of the department."

Duplicate certificates of number, outstanding taxes

SECTION 2. Section 50-23-70 of the 1976 Code is amended by adding a subsection at the end to read:

"(E) The department must not issue a duplicate document for a certificate of number decal, certificate of number card, outboard motor decal, or watercraft title decal if the department has notice that ad valorem taxes are due."

Certificates of Number, application fee reduced

SECTION 3. Section 50-23-340 of the 1976 Code is amended to read:

"Section 50-23-340. The owner of each motorboat requiring numbering by this chapter shall file an application for a number with the department on forms approved by it. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of ten dollars. Upon receipt of the application in approved form, the department shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the motorboat and the name and address of the owner. The certificate of number shall be pocket size."

Temporary certificates of number, outstanding taxes

SECTION 4. Section 50-23-345(A) of the 1976 Code is amended to read:

"(A) A transferee shall utilize the temporary certificate of number on the department's application form as a temporary certificate of number to permit the use of watercraft while applications for certificates of number are processed. Temporary certificates of number apply to new

and previously owned watercraft. A temporary certificate is valid for not more than sixty days from the date of purchase. No temporary certificate of number may be issued for a boat, boat motor, or watercraft until the ad valorem tax is paid for the year for which the registration is to be issued."

Certificates of number renewals, county auditors' role, renewal period reduced

SECTION 5.A. Section 50-23-370 of the 1976 Code is amended to read:

"Section 50-23-370. (A) Except as otherwise provided, a certificate of number awarded pursuant to this chapter continues in effect for one year unless sooner terminated or discontinued in accordance with this chapter. A certificate of number may be renewed by the owner as provided in subsection (B). The department shall fix a month of the year on which certificates of number expire unless renewed pursuant to this chapter.

(B)(1) Beginning January 1, 2020, each county auditor annually shall mail watercraft certificate of number renewal notices to the owners of watercraft in the county as determined by the Department of Natural Resources no later than forty-five days before expiration of the certificate. The renewal notices, including the fees upon completion, must be returned to that county which shall:

(a) process the application and, if granting the renewal, notify the department to issue a renewed certificate and decal;

(b) transmit the processed renewal notices to the department within seven days; and

(c) transmit the fees, including any late fees, to the appropriate state fund.

(2) Each county auditor must have access to the motorboat titling and registration records of the department as applicable to the county auditor in the manner the county auditor and department agree for the purpose of the county auditor performing the functions required in item (1).

(3) The department may not charge counties for online access network fees for watercraft and owner information.

(4) If a certificate of number is not approved immediately by the department, an owner may operate under a paid tax receipt for thirty days.

(C)(1) A renewal application for a certificate of number, except those from marine dealers, presented after thirty days from its expiration date is subject to a late penalty of fifteen dollars.

(2) A renewal application for a certificate of number presented after sixty days from its expiration date is subject to a late penalty of thirty dollars."

B. (A) Beginning January 1, 2020, the provisions of SECTION 5.A. of this act will be phased in over a three-year period as certificates of number expire. Any certificate of number awarded prior to January 1, 2020, will remain in effect for the full three-year term unless terminated or discontinued by the Department of Natural Resources. Certificates of number awarded after January 1, 2020, will become effective on an annual basis. Full implementation of SECTION 5.A. of this act begins on December 31, 2022.

(B) It is the intent of the General Assembly that the provisions of this act result in only one tax payment due per boat, boat motor, or watercraft in any twelve-month period. All interpretation and implementation of this act should be consistent with this intent.

Change in status forms required for trade-ins

SECTION 6. Article 1, Chapter 23, Title 50 of the 1976 Code is amended by adding:

"Section 50-23-12. A permitted marine dealer that accepts any watercraft or outboard motor as a trade-in must obtain from the owner a completed change in status form indicating the trade-in. The dealer must submit the form to the department within thirty days in the manner prescribed."

Watercraft title issuance, tax payment proof required, exceptions

SECTION 7. Article 1, Chapter 23, Title 50 of the 1976 Code is amended by adding:

"Section 50-23-35. (A) No title for a watercraft or outboard motor may be issued by the department if currently titled in this State or titled or registered in another state unless it is accompanied by a receipt from the applicant's appropriate county official stating payment of ad valorem taxes due for the tax year in which the ownership was initiated has been paid. Applications submitted more than one year after ownership was

initiated must be accompanied by paid tax receipts for all subsequent years up to the date the application was accepted by the department.

(B) A title for a watercraft or outboard motor sold by a permitted marine dealer is exempt from the requirement for a paid tax receipt and may be titled by the department without the receipt indicating ad valorem taxes have been paid. The department must transmit daily a list of the titles and certificates of registration issued under this exemption to the respective county official for collection of ad valorem taxes.

(C) No receipt is required for a watercraft or outboard motor designated as exempt from ad valorem taxes by the appropriate county official, provided that each county makes such a determination when a watercraft or outboard motor is titled in their respective county."

Boats and watercraft taxes, assessments and tax payments

SECTION 8. Chapter 37, Title 12 of the 1976 Code is amended by adding:

"Article 26

Boats and Watercraft

Section 12-37-3200. The tax year for boats, boat motors, and watercraft subject to property tax pursuant to Section 12-37-714 begins with the last day of the month in which a certificate of number required by Section 50-23-370 is issued and ends on the last day of the month in which the certificate of number expires or is due to expire. No certificate of number may be issued for a boat, boat motor, or watercraft until the ad valorem tax is paid for the year for which the registration is to be issued. All ad valorem taxes on a boat, boat motor, or watercraft are due and payable one hundred twenty days from the date of purchase.

Section 12-37-3210. (A) The auditor shall prepare a tax notice for all boats, boat motors, and watercraft owned by the same person and titled at the same time for each tax year. A notice must describe the boats, boat motors, or watercraft by name, model, and identification number. The notice must set forth the assessed value of the boat, the millage, the taxes due on each boat, and the tax year. The notice must be delivered to the county treasurer or official charged with the collection of taxes, who must collect or receive payment of the taxes. One copy of the notice must be in the form of a bill or statement for the taxes due on the boat and, when practical, the auditor shall mail that copy to the owner of the boat.

When the tax and all other charges included on the tax bill have been paid, the county treasurer or official charged with the collections of taxes shall issue the taxpayer a paid receipt once all charges on the tax bill including the taxes have been paid. The receipt or a copy may be delivered by the taxpayer to the Department of Natural Resources with either the application for and issuance of number and certificate referenced in Section 50-23-340 or the renewal application for a certificate of number referenced in Section 50-23-370. A record of the payment of the tax must be retained by the treasurer. The auditor shall maintain a separate duplicate for boats, boat motors, and watercraft. No certificate of number may be issued by the Department of Natural Resources unless the application is accompanied by the receipt, or notice from the county treasurer, by other means satisfactory to the Department of Natural Resources, of payment of the tax.

(B) Tax bills (notices) for county-assessed personal property valued in accordance with applicable Department of Revenue regulations must include notification of the taxpayer's appeal rights, to include a minimum amount of information of how the taxpayer should file his appeal, to whom, and within what time period.

Section 12-37-3220. When a boat, boat motor, or watercraft is first taxable in a county, the owner shall make a property tax return prior to submitting the application for and issuance of number and certificate as referenced in Section 50-23-340. The return must be made to the auditor of the county in which the owner resides. The return must be signed under oath and must set forth the county, school district, special or tax district, and municipality in which the boat, boat motor, or watercraft is principally located.

Section 12-37-3230. The county auditor shall determine the assessed value of boats, boat motors, and watercraft and shall calculate the amount of taxes due on the property.

Section 12-37-3240. The provisions of this article do not apply to a boat, boat motor, or watercraft exempt from ad valorem taxation pursuant to Section 12-37-220(B)(38)(a) or classified as a primary or secondary residence pursuant to Section 12-37-224(B)."

Time effective

SECTION 9. This act takes effect January 1, 2020.

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 224

(R266, H4727)

AN ACT TO AMEND SECTION 48-59-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SOUTH CAROLINA CONSERVATION BANK DEFINITIONS, SO AS TO REDEFINE THE TERM "ELIGIBLE TRUST FUND RECIPIENT"; TO AMEND SECTION 48-59-40, RELATING TO THE BOARD OF THE SOUTH CAROLINA CONSERVATION BANK, SO AS TO ESTABLISH CERTAIN REQUIREMENTS FOR MEMBERS OF THE BOARD; TO AMEND SECTION 48-59-50, RELATING TO THE POWERS AND DUTIES OF THE SOUTH CAROLINA CONSERVATION BANK, SO AS TO REQUIRE THE BANK TO COLLABORATE AND ADVISE ON MITIGATION EFFORTS WHEN REQUESTED, TO AUTHORIZE THE BANK TO DEVELOP CONSERVATION CRITERIA TO ADVANCE AND SUPPORT FEDERAL, STATE, AND LOCAL CONSERVATION GOALS, TO PROVIDE CERTAIN RESTRICTIONS ON WHO MAY SERVE AS EXECUTIVE DIRECTOR, AND TO PROHIBIT THE AWARD OF A GRANT OR LOAN UNLESS THE FUNDS ARE PRESENTLY AVAILABLE IN THE TRUST FUND; TO AMEND SECTION 48-59-70, RELATING TO GRANTS OR LOANS FOR LAND INTERESTS, SO AS TO EXPAND THE CONSERVATION CRITERIA TO INCLUDE THE VALUE OF THE PROPOSAL FOR ACCESS TO THE PUBLIC, TO REQUIRE A DETAILED STATEMENT OF APPLICABLE FEES AND COSTS OF THE ACQUISITION OF THE INTEREST IN THE LAND ON THE APPLICATION, TO REQUIRE THE ESTABLISHMENT OF A GRANT REVIEW COMMITTEE, AND TO ESTABLISH CERTAIN APPLICATION REQUIREMENTS; TO AMEND SECTION 48-59-110, RELATING TO USE

RESTRICTIONS ON TRUST FUNDS, SO AS TO AUTHORIZE THE BANK TO AWARD ADDITIONAL GRANT FUNDS TO CERTAIN AGENCIES FOR THE ACQUISITION OF FEE SIMPLE TITLE TO LAND AND TO ESTABLISH APPLICATION AND REPORTING REQUIREMENTS; TO REPEAL SECTION 12-24-95 AND 12-24-97 BOTH RELATING TO THE PORTION OF THE DEED RECORDING FEE CREDITED TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND; TO REPEAL SECTION 27-8-120 RELATING TO THE REPEAL OF THE SOUTH CAROLINA CONSERVATION BANK; TO REPEAL SECTION 48-59-75 RELATING TO THE RESTRICTION OF DEED RECORDING FEES TO THE TRUST FUND; AND TO REPEAL SECTIONS 3, 4, 5, AND 7 OF ACT 200 OF 2002 RELATING TO THE REQUIREMENT TO PERIODICALLY REAUTHORIZE THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND.

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

County is an eligible trust fund recipient

SECTION 1. Section 48-59-30(4) of the 1976 Code is amended to read:

"(4) 'Eligible trust fund recipient' means:

(a) the following state agencies, which own and manage land for the land's natural resource, historical, and outdoor recreation values:

(i) South Carolina Department of Natural Resources,

(ii) South Carolina Forestry Commission, and

(iii) South Carolina Department of Parks, Recreation and Tourism.

(b) a municipality of this State and any agency, commission, or instrumentality of such a municipality;

(c) a county of this State and any agency, commission, or instrumentality of such county; or

(d) a not-for-profit charitable corporation or trust authorized to do business in this State whose principal activity is the acquisition and management of interests in land for conservation or historic preservation purposes and which has tax-exempt status as a public charity under the Internal Revenue Code of 1986."

South Carolina Conservation Bank board requirements

SECTION 2. Section 48-59-40 of the 1976 Code is amended to read:

"Section 48-59-40. (A) There is established the South Carolina Conservation Bank. The bank is governed by a fourteen-member board selected as follows:

(1) the Chairman of the Board for the Department of Natural Resources, the Chairman of the South Carolina Forestry Commission, and the Director of the South Carolina Department of Parks, Recreation and Tourism, all of whom shall serve ex officio and without voting privileges;

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

(3) four members appointed by the Speaker of the House of Representatives, one each from the Third, Fourth, and Sixth Congressional Districts and one member from the State at large; and

(4) four members appointed by the President Pro Tempore of the Senate, one each from the First, Second, Fifth, and Seventh Congressional Districts.

(B)(1) In making their respective appointments to the board, the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate shall take all reasonable steps to ensure that the members of the board reflect the state's racial and gender diversity.

(2) Each member of the board must possess experience in the areas of natural resources, land development, forestry, finance, land conservation, real estate, or law.

(C) Terms of board members are for four years and until their successors are appointed and qualify, except that the initial terms of each appointing official's appointees must be staggered with the initial term noted on the appointment. Regardless of the date of appointment, all terms expire on July first of the applicable year. Vacancies must be filled in the manner of original appointments for the unexpired portion of the term. Members shall serve without compensation, but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions. The board shall elect a chairman and other officers as necessary from its membership.

(D) Board members must recuse themselves from any vote in which they have a conflict of interest including, but not limited to, any vote affecting or providing funding for the acquisition of interests in land:

(1) on land owned or controlled by the board member, the board member's immediate family, or an entity the board member represents, works for, or in which the member has a voting or ownership interest;

(2) on land contiguous to land described in item (1) of this subsection; and

(3) by an eligible trust fund recipient that the board member represents, works for, or in which the member has a voting or ownership interest.

The provisions of this subsection are cumulative to and not in lieu of provisions of law or applicable rule relating to the ethics of public officers.

(E) The board shall meet at least quarterly in regularly scheduled meetings and in special meetings as the chairman may call. The bank is a public body and its records and meetings are public records and public meetings for purposes of Chapter 4, Title 30, the Freedom of Information Act. All meetings shall be open to the public and allow for public input.

(F) Board members shall have no personal liability for any actions or refusals to act in their official capacity as long as such actions or refusals to act do not involve wilful or intentional malfeasance or recklessness."

South Carolina Conservation Bank powers and duties

SECTION 3. Section 48-59-50 of the 1976 Code is amended to read:

"Section 48-59-50. (A) The bank is established and authorized to:

(1) award grants to eligible trust fund recipients for the purchase of interests in land, so long as the grants advance the purposes of this chapter and meet criteria contained in Section 48-59-70;

(2) make loans to eligible trust fund recipients for the purchase of interests in land, at no interest or at an interest rate determined by the board, and under terms determined by the board, so long as the loans advance the purposes of this chapter and meet criteria contained in Section 48-59-70;

(3) apply for and receive additional funding for the trust fund from federal, private, and other sources, to be used as provided in this chapter;

(4) receive charitable contributions and donations to the trust fund, to be used as provided in this chapter;

(5) receive contributions to the trust fund in satisfaction of any public or private obligation for environmental mitigation or habitat conservation, whether such obligation arises out of law, equity, contract, regulation, administrative proceeding, or judicial proceeding. Such contributions must be used as provided for in this chapter;

(6) exercise its discretion in determining what portion of trust funds shall be expended, awarded, or loaned in any particular year, and what portion of trust funds shall remain in the trust fund from one fiscal year to the next. Funds within the trust fund shall be invested or deposited into interest-bearing instruments or accounts, with the interest accruing and credited to the fund; and

(7) when requested, collaborate and advise on mitigation efforts between state agencies and other parties to help ensure that mitigation efforts are consistent with the purposes set forth in this chapter.

(B) To carry out its functions, the bank shall:

(1) operate a program in order to implement the purposes of this chapter;

(2) develop additional guidelines and prescribe procedures, consistent with the criteria and purposes of this chapter, as necessary to implement this chapter;

(3) submit an annual report to the Governor, Lieutenant Governor, and General Assembly that:

(a) accounts for trust fund receipts and dispersals;

(b) briefly describes applications submitted to the bank, and in greater detail describes grants and loans that were approved or funded during the current year, and the public benefits, including public access, resulting from such grants and loans;

(c) describes recipients of trust fund grants and loans; and

(d) sets forth a list and description of all grants and loans approved, and all acquisitions of land or interests in land obtained with trust funds since the bank's inception. The report shall include a map setting forth the location and size of all such protected lands;

(4) have an annual audit of the Conservation Bank and Conservation Bank Trust Fund conducted by outside independent certified public accountants and submitted to the Governor, Lieutenant Governor, and General Assembly. The accounting of trust fund receipts and expenditures required above shall be part of this annual audit; and

(5) develop conservation criteria to be used, in addition to the criteria set forth in Section 48-59-70(D), that advance and support federal, state, and local conservation goals, plans, objectives, and initiatives. In order to assist in the development of conservation criteria, the bank must coordinate with the appropriate groups to integrate the goals, plans, objectives, and initiatives, as well as land use patterns, into a statewide conservation map. The map must be created by July 1, 2019, and the criteria and map must be reviewed no less than every ten years thereafter. The criteria list and map must be submitted to the General Assembly annually.

(C)(1) To operate the bank and carry out the purposes of this chapter the board shall hire an executive director with the advice and consent of the Senate, and may hire staff, contract for services, and enter into cooperative agreements with other state agencies. The executive director must possess experience in the areas of natural resources, land development, forestry, finance, land conservation, real estate, or law. The executive director must notify the municipality and county where the land is located upon receipt of the application. However, the bank may not contract for services that include land management or the enforcement of conservation easements, nor may the bank contract for services with an eligible trust fund recipient or nonprofit organization. Enforcement of conservation easements and management of interest in land acquired with trust funds are the sole responsibility of the owner or eligible trust fund recipient.

(2) A board member or member of the General Assembly or member of his immediate family may not be hired to serve as executive director while the member is serving on the board or in the General Assembly unless the member either:

(a) ceases to be a member of the board or the General Assembly; or

(b) is not reappointed in accordance with Section 48-59-40 or fails to file for election to the General Assembly in accordance with Section 7-11-15.

Also, a lobbyist or member of his immediate family may not be hired to serve as the executive director for a period of one year after the person ceases to be a lobbyist. For purposes of this paragraph, the definitions provided in Chapter 17, Title 2 apply.

(D) Operating expenses of the bank must be paid out of the trust fund.

(E) The bank may not award a grant or make a loan unless the funds for the grant or loan are in the trust fund at the time of the award. However, the bank may make an award for an extraordinary conservation opportunity in excess of the funds in the trust fund. Such awards must be approved by a two-thirds vote of the board members and go before the Joint Bond Review Committee to review the application for an extraordinary conservation opportunity and make a recommendation for approval or denial before the funds may be used. These awards may cross fiscal years and, in certain situations, may rely on anticipated funds."

Grant application requirements and award limits

SECTION 4. Section 48-59-70 of the 1976 Code is amended to read:

"Section 48-59-70. (A) An eligible trust fund recipient may apply for a grant or loan from the trust fund to acquire a specific interest in land identified in its application. An application must not be submitted to the board without the written consent of the owner of the interest in land identified in the application and a detailed statement of applicable fees and costs of the acquisition of the interest in the land including, but not limited to, finders' fees, real estate commissions, and closing fees. The executive director must notify the municipality and county where the land is located upon receipt of the application. Contiguous landowners and other interested parties may submit in writing to the board their views in support of or in opposition to the application. The board must hold a public hearing on the application at which the eligible trust fund recipient, contiguous landowners, and other interested parties shall be heard. Interested parties include representatives of the municipality, county, and public or private utilities in the area wherein the property is located. The board shall conduct a public hearing on an application before awarding a grant or loan pursuant to the application.

(B) Before applying for trust funds for the purchase of an interest in land, the eligible trust fund recipient receiving the funds must notify the owner of the land that is the subject of the trust fund grant or loan of the following in writing:

(1) that interests in land purchased with trust funds result in a permanent conveyance of such interests in land from the landowner to the eligible trust fund recipient or its assigns; and

(2) that it may be in the landowner's interest to retain independent legal counsel, appraisals, and other professional advice.

The application must contain an affirmation that the notice requirement of this subsection has been met.

(C) Grants and loans from the trust fund must be awarded based upon the conservation criteria contained in subsection (D) and the financial criteria contained in subsection (E). In each application the qualifying entity must provide information regarding how the proposal meets one or more of the following criteria and advances the purposes of the bank.

(D) For purposes of this chapter, conservation criteria include:

(1) the value of the proposal for the conservation of unique or important wildlife habitat;

(2) the value of the proposal for the conservation of any rare or endangered species;

(3) the value of the proposal for the conservation of a relatively undisturbed or outstanding example of an ecosystem indigenous to South Carolina;

(4) the value of the proposal for the conservation of riparian habitats, wetlands, water quality, watersheds of significant ecological value, critical aquifer recharge areas, estuaries, bays, or beaches;

(5) the value of the proposal for the conservation of outstanding geologic features;

(6) the value of the proposal for the conservation of a site of unique historical or archaeological significance;

(7) the value of the proposal for the conservation of an area of critical forestlands, farmlands, or wetlands;

(8) the value of the proposal for the conservation of an area of forestlands or farmlands which are located on prime soils, in microclimates or have strategic geographical significances;

(9) the value of the proposal for the conservation of an area for public outdoor recreation, greenways, or parkland;

(10) the value of the proposal for the conservation of a larger area or ecosystem already containing protected lands, or as a connection between natural habitats or open space that are already protected;

(11) the value of the proposal for the amount of land protected;

(12) the value of the proposal for the unique opportunity it presents to accomplish one or more of the criteria contained in this subsection, where the same or a similar opportunity is unlikely to present itself in the future; and

(13) the value of the proposal for access to the public.

(E) For purposes of this chapter, financial criteria include:

(1) the degree to which the proposal presents a unique value opportunity in that it protects land at a reasonable cost;

(2) the degree to which the proposal leverages trust funds by including funding or in-kind assets or services from other governmental sources;

(3) the degree to which the proposal leverages trust funds by including funding or in-kind assets or services from private or nonprofit sources, or charitable donations of land or conservation easements;

(4) the degree to which the proposal leverages trust funds by purchasing conservation easements that preserve land at a cost that is low relative to the fair market value of the fee simple title of the land preserved; and

(5) the degree to which other conservation incentives and means of conservation, such as donated conservation easements or participation in other governmental programs, have been explored, applied for, secured, or exhausted.

(F)(1) The board shall evaluate each proposal according to the conservation criteria listed in subsection (D), the financial criteria listed

in subsection (E), and the extent to which the proposal provides public access for hunting, fishing, outdoor recreational activities, and other forms of public access. The board shall award grants or loans on the basis of how well proposals meet these three criteria.

(2) The chairman shall establish a grant review committee to review, comment, and make recommendations on proposals received by the bank. The chairman shall appoint five members of the board to serve on the committee for a term of no more than one year, and no member may serve consecutive terms.

(G) For each grant or loan application the applicant shall specify:

(1) the purpose of the application;

(2) how the application satisfies criteria listed in subsections (D), (E), and (F);

(3) the uses to which the land will be put;

(4) the extent to which hunting, fishing, or other forms of outdoor recreation will be conducted upon the land;

(5) the extent to which farming, forestry, timber management, or wildlife habitat management will be conducted upon the land;

(6) the party responsible for managing and maintaining the land;

(7) the parties responsible for enforcing any conservation easements or other restrictions upon the land;

(8) the extent to which the public is afforded access on the land, including documentation that clearly specifies:

(i) the level of public access on the land;

(ii) limitations on public access to the land and the reason for the limit; and

(iii) the manner in which the public access will be maintained and monitored.

(H) Where an eligible trust fund recipient seeks a trust fund grant or loan to acquire fee simple title to land, it must demonstrate both the expertise and financial resources to manage the land for the purposes set forth in its application. Where an eligible trust fund recipient seeks a trust fund grant or loan to acquire a conservation easement, it must demonstrate both the expertise and financial resources to manage and enforce the restrictions placed upon the land for the purposes set forth in its application. The board shall evaluate each proposal to determine the qualifications of the proposed managing party and to determine whether the proposed management is consistent with the purposes of the bank and the purposes set forth in the application.

(I) An eligible trust fund recipient seeking a grant or loan from the trust fund must:

(1) demonstrate that it is able to complete the project and acquire the interests in land proposed;

(2) indicate the total number of acres of land it has preserved in the State; and

(3) briefly describe the lands it has preserved in the State, including their size, location, and method of preservation. The reporting requirement of this subsection need not be complied with for specific preserved lands when in the grant or loan applicant's discretion, or in the discretion of the owners of such preserved lands, the privacy or proprietary interests of the owners of such preserved lands would be violated.

(J) Partnerships, matching contributions, management agreements, management leases, and similar collaborations among state agencies, the federal government, eligible trust fund recipients, and local governments, boards, and commissions may be encouraged to fulfill the requirements of this section and promote the objectives of this chapter.

(K) No matching funds or other contributions are required to receive grants or loans from the trust fund. However, the board shall encourage matching funds and other contributions by weighing the degree to which applications meet the criteria of subsection (E)(2) and (3) when determining which proposals to fund.

(L) The board may not authorize the purchase of a conservation easement for more than one million dollars unless the transaction is reviewed by the Joint Bond Review Committee and the committee provides its recommendation to the board.

(M) The board only may authorize grants or loans to purchase interests in lands at or below fair market value. In no cases may funds from the trust fund be used to acquire interests in lands at a price that exceeds the fair market value of the interest being acquired. The board must establish reasonable procedures and requirements to document the fair market value of interests in lands and to ensure that the purchase price does not exceed the fair market value. The requirements may include the qualifications that appraisers must meet in order to submit appraisals for consideration by the board. The board shall promulgate regulations pursuant to Chapter 23, Title 1, the Administrative Procedures Act, that provide for the procurement of appraisal services and for the procedure and process in those cases where a discrepancy of ten percent or more arises between the determination of fair market value obtained by the board and that provided by the owner or others interested in the subject land or interest in land. The board must also establish reasonable procedures to ensure the confidentiality of appraisals before

the award of a grant or loan, and the subsequent acquisition of interests in lands obtained with such grant or loan.

(N) In awarding a grant or loan from the trust fund the board shall set forth findings that indicate:

(1) how the application satisfies the purposes of this chapter, and the criteria and other considerations set forth in this section;

(2) the purpose of the award and the use to which the land will be put;

(3) the extent to which public access, hunting, fishing, or other forms of outdoor recreation will be conducted upon the land;

(4) the extent to which farming, forestry, timber management, or wildlife habitat management will be conducted upon the land;

(5) the party responsible for managing and maintaining the land;

(6) the party responsible for enforcing any easements or other restrictions upon the land;

(7) the parties designated in items (5) and (6) possess the expertise and financial resources to fulfill their obligations; and

(8) any other findings or information relevant to the award.

(O)(1) Trust funds may not be used to acquire interest in land downzoned within three years of the application unless the interest is sold for the predownzoning value or current value, whichever is greater. However, this requirement is waived if the owner of the downzoned property agrees to accept a lesser amount.

(2) If the owner of an interest in land which is the subject of an application for acquisition with trust funds proves to the satisfaction of the board that intentional and improper acts of planning, zoning, or other regulatory officials resulted in substantial delay or denial of a lawful permit or permission to develop the interest in land and the permit or permission was requested by the owner before the application, then the value of the interest in land is deemed to be its value as if those permits or permissions were granted unless the owner of the interest agrees to a lesser value in writing. An owner aggrieved by the decision of the board with respect to this item may appeal to the Administrative Law Court where the matter must be heard as a contested case.

(P) Upon application from the Department of Natural Resources, the board shall award up to three million dollars annually in trust funds to provide the state match for federally funded grant programs in order to leverage funds to meet the conservation criteria set forth in subsection (D).”

Board authorized to award additional funds to certain agencies

SECTION 5. Section 48-59-110 of the 1976 Code is amended to read:

"Section 48-59-110. (A) Trust funds may be used only by eligible trust fund recipients for the acquisition of interests in land, including closing costs. Trust funds may not be used to pay general operating expenses of eligible trust fund recipients, nor may trust funds be used for the management or maintenance of acquired interests in land. Trust funds only may be dispersed at the closing of transactions in which an interest in land is acquired.

(B) The board, in its discretion, may award additional grant funds to the South Carolina Department of Natural Resources, the South Carolina Department of Parks, Recreation and Tourism, or the South Carolina Forestry Commission for the acquisition of fee simple title to land to which the public will have full access. The additional funds must be used only for improvements that create or enhance wildlife habitats. The state agency receiving the funds shall include with its grant application a request for the additional funds and a detailed description of how the additional funds, if awarded, would be used. If additional funds are awarded by the board, the state agency receiving the funds shall submit a report to the board every six months after the award has been made describing in detail how the funds have been used and continue to submit a report until the funds are fully utilized. If the additional funds have not been utilized two years after receipt, the remaining balance must be refunded to the trust fund."

Sections repealed

SECTION 6. A.Sections 12-24-95, 12-24-97, 27-8-120, and 48-59-75 of the 1976 Code are repealed.

B. SECTIONS 3, 4, 5, and 7 of Act 200 of 2002 are repealed.

Board composition on July 1, 2018

SECTION 7. (A) Effective July 1, 2018, the South Carolina Conservation Bank Board must be made up of members elected pursuant to the provisions of Section 48-59-40, as amended by this act. The members serving on the board immediately prior to July 1, 2018, only may serve on the commission until their successor has been appointed or the member is reappointed pursuant to Section 48-59-40, as amended

by this act. The initial appointments to the board must be staggered so that one of the members appointed by the Governor, the member from the Third Congressional District and the member appointed from the State at large appointed by the Speaker of the House of Representatives, and the members from the First and Fifth Congressional Districts appointed by the President Pro Tempore of the Senate must be appointed to an initial term of two years. The Governor must clearly specify which of his appointments are for two-year terms. The remaining initial appointments and all subsequent appointments must be for four-year terms pursuant to Section 48-59-40.

(B) To ensure an efficient transition, upon approval by the Governor, the appointing officials may begin appointing members whose terms will take effect on July 1, 2018.

Time effective

SECTION 8. This act takes effect July 1, 2018.

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 225

(R267, H4795)

AN ACT TO AMEND SECTION 56-15-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TERMS AND THEIR DEFINITIONS REGARDING THE REGULATION OF MANUFACTURERS, DISTRIBUTORS, AND DEALERS, SO AS TO REVISE THE DEFINITION OF "DEALER" OR "MOTOR VEHICLE DEALER" TO EXCLUDE CERTAIN PERSONS CONDUCTING AUCTIONS OF CERTAIN INVESTMENT GRADE OR COLLECTOR MOTOR VEHICLES, AND TO PROVIDE DEFINITIONS FOR CERTAIN ADDITIONAL TERMS.

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

Definition revised

SECTION 1. Section 56-15-10(h) of the 1976 Code is amended to read:

"(h) 'Dealer' or 'motor vehicle dealer', any person who sells or attempts to effect the sale of any motor vehicle. These terms do not include:

(1) distributors or wholesalers;

(2) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(3) public officers while performing their official duties;

(4) persons disposing of motor vehicles acquired for their own use and so used in good faith and not for the purpose of avoiding the provisions of law. Any person who effects or attempts to effect the sale of more than five motor vehicles in any one calendar year is considered a dealer or wholesaler, as appropriate, for purposes of this chapter;

(5) finance companies or other financial institutions who sell repossessed motor vehicles and insurance companies who sell motor vehicles they own as an incident to payments made under policies of insurance; or

(6) a South Carolina dealer that conducts the auction of investment grade or collector motor vehicles not more than three days per year and that:

(a) has obtained a surety bond in the amount of one million dollars;

(b) provides this service for an entity organized under Section 501(c)(3) of the Internal Revenue Code;

(c) possesses during the event all vehicle titles unencumbered by liens; and

(d) is responsible for ensuring all taxes are paid and all vehicles have been registered and titled property.

This subitem shall not permit any other temporary retail auctions or any other retail auctions of consignment vehicles."

Definitions added

SECTION 2. Section 56-15-10 of the 1976 Code is amended by adding appropriately lettered items at the end to read:

"( ) 'Investment grade vehicle', a motor vehicle not currently sold by a franchised motor vehicle dealer and not in current production with a value that exceeds two hundred fifty thousand dollars.

( ) 'Collector motor vehicle', a motor vehicle that is at least twenty years old.

( ) 'Charity vehicle', a donated vehicle for which the net proceeds go to charity.

( ) 'Special interest vehicle', a unique vehicle of rarity, originality, unique or special coachwork, or previous ownership of significance that is not or has not been mass produced."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 226

(R268, H4799)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 45, TITLE 40 ENTITLED THE "PHYSICAL THERAPY LICENSURE COMPACT"; TO PROVIDE FOR THE ENTRY OF SOUTH CAROLINA INTO THIS MULTI-STATE COMPACT, TO PROVIDE FOR THE STRUCTURE, FUNCTIONS, POWERS, AND DUTIES OF THE GOVERNING BODY OF THE COMPACT; TO PROVIDE THE OBLIGATIONS, BENEFITS, AND RIGHTS OF COMPACT MEMBERS; AND TO DESIGNATE THE EXISTING PROVISIONS OF CHAPTER 45, TITLE 40 AS "GENERAL PROVISIONS".

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

Physical Therapy Licensure Compact

SECTION 1. Chapter 45, Title 40 of the 1976 Code is amended by adding:

"Article 3

Physical Therapy Licensure Compact

Section 40-45-510. (A) The purpose of this compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

(B) This compact is designed to achieve the following objectives:

(1) increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;

(2) enhance the states' ability to protect the public's health and safety;

(3) encourage the cooperation of member states in regulating multi-state physical therapy practice;

(4) support spouses of relocating military members;

(5) enhance the exchange of licensure, investigative, and disciplinary information between member states; and

(6) allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

Section 40-45-520. As used in this article:

(1) 'Active duty military' means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

(2) 'Adverse action' means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

(3) 'Alternative program' means a nondisciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.

(4) 'Compact privilege' means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

(5) 'Continuing competence' means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

(6) 'Data system' means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.

(7) 'Encumbered license' means a license that a physical therapy licensing board has limited in any way.

(8) 'Executive board' means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(9) 'Home state' means the member state that is the licensee's primary state of residence.

(10) 'Investigative information' means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.

(11) 'Jurisprudence requirement' means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.

(12) 'Licensee' means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

(13) 'Member state' means a state that has enacted the compact.

(14) 'Party state' means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

(15) 'Physical therapist' means an individual who is licensed by a state to practice physical therapy.

(16) 'Physical therapist assistant' means an individual who is licensed/certified by a state and who assists the physical therapist in selected components of physical therapy.

(17) 'Physical therapy', 'physical therapy practice', and 'the practice of physical therapy' mean the care and services provided by or under the direction and supervision of a licensed physical therapist.

(18) 'Physical Therapy Compact Commission' or 'Commission' means the national administrative body whose membership consists of all states that have enacted the compact.

(19) 'Physical therapy licensing board' or 'licensing board' means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

(20) 'Remote state' means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

(21) 'Rule' means a regulation, principle, or directive promulgated by the commission that has the force of law.

(22) 'State' means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy.

Section 40-45-530. (A) To participate in the compact, a state must:

(1) participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(2) have a mechanism in place for receiving and investigating complaints about licensees;

(3) notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

(4) for initial licensure require the applicant to undergo a state criminal record check, supported by fingerprints, by the State Law Enforcement Division (SLED); and a national criminal record check, supported by fingerprints, by the Federal Bureau of Investigation (FBI). The results of these criminal record checks must be reported to the board for review in accordance with Section 40-1-140. The fees for conducting the criminal record checks shall be borne by the applicant. SLED is authorized to store the prints for notification purposes;

(5) comply with the rules of the commission;

(6) utilize a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

(7) have continuing competence requirements as a condition for license renewal.

(B) Upon adoption of this article, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. Section 534 and 42 U.S.C. Section 14616.

(C) A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

(D) Member states may charge a fee for granting a compact privilege.

(E) A member state cannot participate in issuing compact privileges until such member state has completed the requirements to implement the state criminal record check, supported by fingerprints, by the State Law Enforcement Division (SLED); and a national criminal record check, supported by fingerprints, by the Federal Bureau of Investigation (FBI) and promulgated all regulations necessary to carry out the requirements of the compact, including, but not limited to, establishing fees for granting a compact privilege.

Section 40-45-540. (A) To exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

(1) hold a license in the home state;

(2) have no encumbrance on any state license;

(3) be eligible for a compact privilege in any member state in accordance with subsections (D), (G), and (H);

(4) have not had any adverse action against any license or compact privilege within the previous two years;

(5) notify the commission that the licensee is seeking the compact privilege within a remote state;

(6) pay any applicable fees, including any state fee, for the compact privilege;

(7) meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege; and

(8) report to the commission adverse action taken by any nonmember state within thirty days from the date the adverse action is taken.

(B) The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of subsection (A) to maintain the compact privilege in the remote state.

(C) A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(D) A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of

its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

(E) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

(1) the home state license is no longer encumbered; and

(2) two years have elapsed from the date of the adverse action.

(F) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (A) to obtain a compact privilege in any remote state.

(G) If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

(1) the specific period of time for which the compact privilege was removed has ended;

(2) all fines have been paid; and

(3) two years have elapsed from the date of the adverse action.

(H) Once the requirements of subsection (G) have been met, the licensee must meet the requirements in subsection (A) to obtain a compact privilege in a remote state.

Section 40-45-550. A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

(1) home of record;

(2) Permanent Change of Station (PCS); or

(3) state of current residence if it is different than the PCS state or home of record.

Section 40-45-560. (A) A home state shall have exclusive power to impose adverse action against a license issued by the home state.

(B) A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

(C) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

(D) Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

(E) A remote state shall have the authority to:

(1) take adverse actions as set forth in subsection (D) against a licensee's compact privilege in the state;

(2) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, must be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

(3) if otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

(F)(1) In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

Section 40-45-570. (A) The compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission.

(1) The commission is an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact may be construed to be a waiver of sovereign immunity.

(B) Membership, voting, and meetings:

(1) each member state shall have and be limited to one delegate selected by that member state's licensing board;

(2) the delegate must be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator;

(3) any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed;

(4) the member state board shall fill any vacancy occurring in the commission;

(5) each delegate must be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission;

(6) a delegate shall vote in person or by other means as provided in the bylaws, which may provide for delegates' participation in meetings by telephone or other means of communication;

(7) the commission shall meet at least once during each calendar year, and additional meetings must be held as set forth in the bylaws.

(C) The commission shall have the following powers and duties:

(1) establish the fiscal year of the commission;

(2) establish bylaws;

(3) maintain its financial records in accordance with the bylaws;

(4) meet and take such actions as are consistent with the provisions of this compact and the bylaws;

(5) promulgate uniform rules to facilitate and coordinate implementation and administration of this compact;

(6) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law must not be affected;

(7) purchase and maintain insurance and bonds;

(8) borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

(9) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(10) accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

(11) lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

(12) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(13) establish a budget and make expenditures;

(14) borrow money;

(15) appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(16) provide and receive information from, and cooperate with, law enforcement agencies;

(17) establish and elect an executive board; and

(18) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of physical therapy licensure and practice.

(D) The executive board shall have the power to act on behalf of the commission according to the terms of this compact.

(1) The executive board must be composed of nine members:

(a) seven voting members who are elected by the commission from the current membership of the commission;

(b) one ex officio, nonvoting member from the recognized national physical therapy professional association; and

(c) one ex officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

(2) The ex officio members will be selected by their respective organizations.

(3) The commission may remove any member of the executive board as provided in bylaws.

(4) The executive board shall meet at least annually.

(5) The executive board shall have the following duties and responsibilities:

(a) recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

(b) ensure compact administration services are appropriately provided, contractual or otherwise;

(c) prepare and recommend the budget;

(d) maintain financial records on behalf of the commission;

(e) monitor compact compliance of member states and provide compliance reports to the commission;

(f) establish additional committees as necessary; and

(g) other duties as provided in rules or bylaws.

(E) Meetings of the commission:

(1) All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in Section 40-45-590.

(2) The commission or the executive board or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive board or other committees of the commission must discuss:

(a) noncompliance of a member state with its obligations under the compact;

(b) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(c) current, threatened, or reasonably anticipated litigation;

(d) negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(e) accusing any person of a crime or formally censuring any person;

(f) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigative records compiled for law enforcement purposes;

(i) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(j) matters specifically exempted from disclosure by federal or member state statute.

(3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(4) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including

a description of the views expressed. All documents considered in connection with an action must be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(F) Financing of the commission:

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission must be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission.

(G) Qualified immunity, defense, and indemnification:

(1) The members, officers, executive director, employees and representatives of the commission must be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this item must be construed to protect any such person from suit or liability

for any damage, loss, injury, or liability caused by the intentional or wilful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein may be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or wilful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or wilful or wanton misconduct of that person.

Section 40-45-580. (A) The commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(B) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) identifying information;

(2) licensure data;

(3) adverse actions against a license or compact privilege;

(4) nonconfidential information related to alternative program participation;

(5) any denial of application for licensure, and the reason for such denial; and

(6) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(C) Investigative information pertaining to a licensee in any member state will only be available to other party states.

(D) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(E) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(F) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information must be removed from the data system.

Section 40-45-590. (A) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments must become binding as of the date specified in each rule or amendment.

(B) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(C) Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

(D) Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking on the website of:

(1) the commission or other publicly accessible platform; and

(2) each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(E) The notice of proposed rulemaking shall include:

(1) the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(F) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public.

(G) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) at least twenty-five persons;

(2) a state or federal governmental subdivision or agency; or

(3) an association having at least twenty-five members.

(H) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings must be recorded. A copy of the recording will be made available on request.

(4) Nothing in this section must be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(I) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(J) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(K) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(L) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section must be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:

(1) meet an imminent threat to public health, safety, or welfare;

(2) prevent a loss of commission or member state funds;

(3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) protect public health and safety.

(M) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the website of the commission. The revision must be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

Section 40-45-600. (A) Oversight:

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

(3) The commission must be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(B) Default, technical assistance, and termination:

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(a) provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and any other action to be taken by the commission; and

(b) provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact must be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(4) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member must be awarded all costs of such litigation, including reasonable attorney's fees.

(C) Dispute resolution:

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(D) Enforcement:

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member must be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies herein must not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Section 40-45-610. (A) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, must be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(B) Any state that joins the compact subsequent to the commission's initial adoption of the rules must be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(C) Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(D) Nothing contained in this compact may be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(E) This compact may be amended by the member states. No amendment to this compact may become effective and binding upon any member state until it is enacted into the laws of all member states.

Section 40-45-620. This compact must be liberally construed so as to effectuate the purposes thereof. The provisions of this compact must be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance may not be affected thereby. If this compact must be held contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and

in full force and effect as to the party state affected as to all severable matters."

General provisions designated

SECTION 2. The existing provisions of Chapter 45, Title 40 are designated "General Provisions".

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 227

(R269, H4807)

AN ACT TO AMEND SECTION 7 OF ACT 41 OF 2015, RELATING TO THE ACT'S TIME EFFECTIVE PROVISION, WHICH PROVIDES FOR THE SUSPENSION OF WILD TURKEY HUNTING SEASON AND BAG LIMITS FOR A CERTAIN PERIOD OF TIME AND THE REPEAL OF CERTAIN PROVISIONS RELATING TO WILD TURKEY HUNTING, SO AS TO EXTEND THE SUSPENSION PERIOD AND REVISE THE DATE WHEN THE REPEAL BECOMES EFFECTIVE.

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

Wild turkey seasons and bag limits

SECTION 1. Section 7 of Act 41 of 2015 is amended to read:

"SECTION 7. This act takes effect on June 30, 2015. Provided, upon the effective date of this act until July 1, 2019, the provisions of Section 50-11-520 are suspended. On July 1, 2019, the turkey hunting seasons and bag limits in effect for the respective counties prior to the effective

date of this act and delineated in Section 50-11-520 are effective, and Section 50-11-580 is repealed."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 228

(R270, H4913)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 53-3-230 SO AS TO DESIGNATE THE SECOND SATURDAY OF NOVEMBER OF EACH YEAR AS "PENN CENTER HERITAGE DAY" IN SOUTH CAROLINA.

Whereas, founded in 1862, Penn School was one of the first academic schools in the South established by Northern missionaries, to provide a formal education for formerly enslaved West Africans. After the school closed in 1948, Penn became the first African American site in South Carolina whose primary purpose was to safeguard the heritage of a Gullah Geechee community; and

Whereas, later, in the 1960s, Penn Center took up the mantle of social justice by ushering in the Civil Rights Movement and serving as the only location in South Carolina where interracial groups, such as Dr. Martin L. King, Jr., the Southern Christian Leadership Conference, and the Peace Corps could have safe sanctuary in an era of mandated segregation; and

Whereas, Penn Center continues to thrive as a national monument promoting historic preservation, as well as a catalyst for economic sustainability throughout the Sea Islands. Its far-reaching impact on local, national, and international communities has been the greatest legacy of the Penn Center's history; and

Whereas, the mission of Penn Center is to promote and preserve Penn's true history and culture through its commitment to education, community development, and social justice; and

Whereas, Penn Center's vision is that it will be a world-class organization that serves as a local, national, and international resource center, and catalyst for the development of programs for community self-sufficiency, civil and human rights, and positive change. Penn Center will encourage the development of critical thinking, creative skills, and social consciousness through preserving and documenting history, collecting and exhibiting, presenting, and exploring ideas. Now, therefore,

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

Penn Center Heritage Day

SECTION 1. Chapter 3, Title 53 of the 1976 Code is amended by adding:

"Section 53-3-230. The second Saturday of November of each year is designated as 'Penn Center Heritage Day' in South Carolina to promote and preserve Penn Center's true history and culture through its commitment to education, community development, and social justice."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 229

(R271, H4962)

AN ACT TO AMEND SECTION 38-7-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RETALIATORY

TAXES BY OTHER STATES AGAINST INSURANCE COMPANIES CHARTERED IN THIS STATE, SO AS TO PROVIDE TITLE INSURERS ONLY MAY INCLUDE THEIR PORTION OF THE PREMIUM IN THE RETALIATORY TAX COMPUTATIONS AND ARE PROHIBITED FROM INCLUDING THESE AMOUNTS IN THE SOUTH CAROLINA COLUMN OF RETALIATORY TAX WORKSHEETS.

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

Computations for title insurers

SECTION 1. Section 38-7-90 of the 1976 Code is amended to read:

"Section 38-7-90. (A) When the laws of any other state or the regulations or actions of any public official of another state subject, or would subject, insurance companies chartered by this State, or their agents or representatives, to fees, taxes, obligations, conditions, restrictions, or penalties for the privilege of doing business in that state which are greater than those required by this State of similar insurers organized or domiciled in the other state by or in this State for the privilege of doing business herein, then all similar insurers organized or domiciled in that state are subjected to the greater requirements which are or would be imposed by or in that state upon similar insurers of this State.

(B) This section must be applied, regardless of whether an insurer chartered by this State is doing business in the other state. The application of this section is based upon a comparison of the aggregate requirements imposed by this State with the aggregate requirements imposed by the other state. Taxes, fees, or other obligations imposed by municipalities are considered in the application of this section.

(C) This section is effective for all insurance premiums collected after December 31, 1989, and to all insurance premium tax returns filed beginning with the quarterly return due September 1, 1990, and all quarterly and annual returns filed after that time.

(D) Title insurers only may include the title insurers' portion of the premium in the retaliatory tax computation for this State. Since the title insurer collects the agent's portion of the premium tax, the title insurer is prohibited from including these amounts in the South Carolina column of retaliatory tax worksheets. This subsection is effective for all premiums collected after the effective date of this act."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 230

(R274, H5042)

AN ACT TO AMEND SECTION 59-20-90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATEWIDE PROGRAM IN THE EDUCATION FINANCE ACT USED TO IDENTIFY FISCAL PRACTICES AND BUDGETARY CONDITIONS THAT COMPROMISE THE FISCAL INTEGRITY OF SCHOOL DISTRICTS AND TO ADVISE THE DISTRICTS ON APPROPRIATE CORRECTIVE ACTIONS, SO AS TO REVISE AND EXPAND THE CONDITIONS WHICH PROMPT DECLARATIONS OF VARIOUS ESCALATING LEVELS OF FISCAL AND BUDGETARY CONCERN BY THE STATE SUPERINTENDENT OF EDUCATION, TO PROVIDE APPEALS PROCESSES FROM SUCH DECLARATIONS, TO APPLY THESE PROVISIONS TO INSTITUTIONS OF HIGHER EDUCATION THAT AUTHORIZE CHARTER SCHOOLS AND ANY ENTITIES THAT REGISTER TO BECOME CHARTER SCHOOL SPONSORS, TO REVISE RELATED DEFINITIONS, AND TO PROVIDE REQUIREMENTS CONCERNING SCHOOL DISTRICTS OR CHARTER SCHOOLS SPONSORS INVOLVED IN RESTRUCTURING OR TRANSFERRING SCHOOLS UNDER THEIR GOVERNANCE TO OTHER SCHOOLS OR CHARTER SPONSORS, AMONG OTHER THINGS.

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

Accountability system revised, charter schools sponsors included

SECTION 1. Section 59-20-90 of the 1976 Code is amended to read:

"Section 59-20-90. (A) The State Department of Education shall work with district superintendents and finance officers to develop and adopt a statewide program with guidelines for:

(1) identifying fiscal practices and budgetary conditions that, if uncorrected, could compromise the fiscal integrity of a school district; and

(2) advising a district identified under item (1) to take appropriate corrective actions.

(B) The program must include a series of criteria that the department shall use to establish three escalating levels of fiscal and budgetary concern, which must be 'fiscal watch', 'fiscal caution', and 'fiscal emergency'.

(C) 'Fiscal watch' is the first level and lowest level of concern.

(1)(a) The State Superintendent of Education shall declare fiscal watch if:

(i) upon review of the district's annual audit, the department determines financial practices occurring outside of acceptable accounting standards exist;

(ii) the district submits an annual audit more than sixty days after the December first deadline provided in Section 59-17-100;

(iii) there is any type of ongoing, related investigation by any state or federal law enforcement agency or any other investigatory agency of the State;

(iv) an outside, independent auditing firm declares that a school district's financial records are unauditable; or

(v) the department identifies significant deficiencies, material weaknesses, direct and material legal noncompliance, or management letter comments which, in the opinion of the department, the aggregate effect of the reported issues has, or could have, a significant effect on the financial condition of the district.

(b) If a district meets the criteria in subsection (A), the State Superintendent shall declare a fiscal watch only after prior notification with the district board chairman and district superintendent, who must begin immediate consultation with the chief financial officer of the district. The watch notification must include steps the district may take to avoid the declaration.

(2) After prior written notification with the district board chairman and superintendent, the State Superintendent of Education may declare fiscal watch if:

(a) an independent, outside auditing firm notifies the department that the district is not operating under generally accepted accounting principles; or

(b) the district does not maintain a general reserve fund of at least one month of general fund operating expenditures of the previous two completed fiscal years, or has not made progress in increasing the general reserve fund balance in accordance with department guidelines to meet at least one month of general fund operating expenditures within the previous two completed fiscal years.

(3)(a) Within sixty days after the State Superintendent of Education declares a fiscal watch for a district, the district board shall submit a financial recovery plan to the department.

(b) The State Superintendent shall evaluate and accept or reject the plan within thirty days after receipt of the financial recovery plan. If he disapproves the plan, he shall recommend modifications that would make the plan acceptable.

(c) A district shall not implement a recovery plan unless approved by the State Superintendent.

(d) The department shall provide technical assistance.

(e) The district board may amend the plan at any time with the State Superintendent's approval.

(f) The district board shall submit an updated recovery plan annually until the district is released from the fiscal watch.

(g) The State Superintendent shall accept or reject an updated plan no later than the anniversary of the date on which the first plan was approved.

(4) A district under a declaration of fiscal watch must not be released from fiscal watch in the same fiscal year in which the declaration was made, but may be released the following fiscal year if the department determines that the corrective actions have been or are being successfully implemented. The State Superintendent shall notify the local board chairman, district superintendent, and chief financial officer of the release of the district from fiscal watch.

(5) The district board of trustees may appeal a declaration of a fiscal watch to the State Board of Education within ten days after the declaration and the state board must hold a hearing on the appeal within thirty days after the filing of the appeal or at the next regularly scheduled State Board of Education meeting, whichever is later. However, the district shall continue to work with the department in the manner provided by this subsection when a fiscal watch is declared pending determination of the appeal.

(D) 'Fiscal caution' is the second level of concern, and is the intermediate level of concern.

(1)(a) After consultation with the local board chairman and superintendent, the State Superintendent may declare fiscal caution if the district was previously on fiscal watch and if:

(i) the district's audits have been reviewed and there are conditions observed that could result in a declaration of fiscal emergency; or

(ii) the outside, independent auditing firm conducting the district's audit reports to the State Superintendent that any conditions or practices exist that could result in a declaration of fiscal emergency.

(b) The written communication between the department and the school district constitutes the consultation with the local board chairman required in subitem (a).

(c) The notice must be sent to the board chairman and district superintendent who must begin immediate consultation with the district Chief Financial Officer. The notice must include, but not be limited to, an explanation of the circumstances that led to the decision and if the school district may take any steps to avoid the declaration.

(2) The State Superintendent shall declare a school district to be in a state of fiscal caution if the district previously was on fiscal watch and if:

(a) upon review of the district's annual audit or otherwise with notice from an independent, outside accounting firm, the department determines financial practices occurring that are outside of acceptable accounting standards exist;

(b) a district submits an annual audit more than sixty days after the December first deadline as provided in Section 59-17-100;

(c) the department reviews a district's annual audit and determines the district is not maintaining the mandatory minimum of one month of general fund operating expenditures in its general reserve fund or has not made progress in increasing the general reserve fund balance in accordance with department guidelines to meet at least one month of general fund operating expenditures within the previous two completed fiscal years;

(d) an outside, independent auditing firm declares that a school district's financial records are unauditable;

(e) the department identifies significant deficiencies, material weaknesses, direct and material legal noncompliance or management letter comments which, in the opinion of the department, the aggregate effect of the reported issues has a significant effect on the financial condition of the district; or

(f) there is an ongoing investigation being conducted by any federal or state agency, law enforcement or otherwise, related to the district's finances or local board of trustees.

(3) The State Superintendent shall declare a school district to be in a state of fiscal caution if the department discovers any other fiscal practices or conditions that could lead to a declaration of fiscal emergency through the examination of a school district's past two years' audits.

(4) The State Superintendent shall notify the district in writing that a declaration of fiscal caution for the district is pending, the conditions leading to the declaration, and shall request a written recovery plan for correcting the conditions that led to fiscal caution and for preventing further fiscal difficulties that could lead to fiscal caution. This notification must be given within at least ten business days, excluding district holidays that are five days or more, before the effective date of the declaration. The notice must be sent to the board chairman, district superintendent, and chief financial officer, and must include, but not be limited to, an explanation of the circumstances that led to the decision and if there are any steps the school district could take to avoid the declaration.

(5) While a district is under a declaration of fiscal caution:

(a) the department shall:

(i) visit and inspect the district;

(ii) provide technical assistance in implementing the board's recovery plan; and

(iii) make recommendations concerning the board's recovery plan;

(b) the department may order a performance audit of the district at the department's expense and later may require full reimbursement from the district, which the district shall provide within sixty days after the request is made; and

(c) the district must:

(i) be required to provide written recovery plans for discontinuing or correcting the practices and conditions that led to the declaration of fiscal caution to the department; and

(ii) be given approximately sixty days to provide a written recovery plan, which the department may extend an additional thirty days at the request of the district, provided that no additional extension may be granted under any circumstances.

(6) If the State Superintendent finds a district has not made reasonable recovery plans or taken action to correct the practices or conditions that led to the declaration, he may report to the State Board

of Education that a declaration of fiscal emergency is necessary to prevent further fiscal decline.

(7) A district under a declaration of fiscal caution must not be released from fiscal caution in the same fiscal year in which the declaration was made, but may be released the following fiscal year if the department determines that the corrective actions have been or are being successfully implemented. The State Superintendent shall notify the local board chairman, district superintendent, and chief financial officer of the release of the district from fiscal caution.

(8) The district board of trustees may appeal a declaration of a fiscal caution to the State Board of Education within ten days after the declaration, and the state board must hold a hearing on the appeal within thirty days after the filing of the appeal or at the next regularly scheduled State Board of Education meeting, whichever is later. However, the district shall continue to work with the department in the manner provided by this subsection when a fiscal caution is declared pending determination of the appeal.

(E) The third and most severe level of concern is 'fiscal emergency'. The State Superintendent of Education shall declare fiscal emergency if:

(1) a district under fiscal caution fails to submit an acceptable recovery plan within one hundred twenty days or fails to submit an updated recovery plan when required;

(2) the department finds that a district under fiscal caution is not complying with an original or updated recovery plan and determines that fiscal emergency is necessary to prevent further decline;

(3) a district is at risk of defaulting on any type of debt, to include, but not be limited to, tax anticipation notes, general obligation bonds, or lease-purchase installment agreements;

(4) a district has previously been under fiscal watch, fiscal caution, or any combination of fiscal watch and fiscal caution for a total of three fiscal years within the previous five fiscal years; or

(5) he determines that a declaration of fiscal emergency is necessary to correct the district's fiscal problems and to prevent further fiscal decline;

(6)(a) While a district is under a declaration of fiscal emergency, the department shall:

(i) visit and inspect the district;

(ii) provide technical assistance in implementing the board's recovery plans; and

(iii) make recommendations concerning the board recovery plans.

(b) In addition to the provisions of subitem (a), while a district is under a declaration of fiscal emergency, the district must:

(i) be required to provide written recovery plans for discontinuing or correcting the practices and conditions that led to the declaration of fiscal emergency to the department; and

(ii) be given approximately sixty days to provide a written recovery plan, which the department may extend for an additional thirty days at the request of the district, provided that no additional extension may be granted under any circumstances.

(7) If the State Superintendent finds a district has not made reasonable recovery plans or taken action to correct the practices or conditions that led to the declaration, the Superintendent may make a recommendation to the State Board of Education that the department take over financial operations of the district for the fiscal year in which a fiscal emergency is declared as part of the technical assistance offered to the district. Upon approval of the recommendation by the State Board of Education, the department may maintain financial operations until the district is released from a fiscal emergency.

(8) A district under a declaration of fiscal emergency must not be released from fiscal emergency in the same fiscal year in which the declaration was made, but may be released the following fiscal year if the department determines that the corrective actions have been or are being successfully implemented. The State Superintendent shall notify the local board chairman, district superintendent, and chief financial officer of the release of the district from fiscal emergency.

(9) The district board of trustees may appeal a declaration of a fiscal emergency to the State Board of Education within ten days after the declaration, and the state board shall hold a hearing on the appeal within thirty days after the filing of the appeal or at the next regularly scheduled state board meeting, whichever is later. However, the district shall continue to work with the department in the manner provided by this subsection when a fiscal emergency is declared pending determination of the appeal.

(F) The provisions of this section are supplemental to other provisions of law, but to the extent the provisions of this section conflict with another provision of law, the provisions of this section must prevail.

(G) The provisions of this section also apply to the statewide charter school district, any institution of higher education that authorizes charter schools, or any entity that registers to become a charter school sponsor.

(H) The requirements to place a district on fiscal watch, caution, or emergency must be suspended for the two fiscal years following any state-implemented midyear budget cut, if:

(1) the district fails to maintain a general reserve fund of at least one month of general fund operating expenditures;

(2) the State continues to fund at the current base student cost;

(3) the State reduces the base student cost below the appropriation provided in the previous fiscal year; or

(4) the State increases the base student cost appropriation provided in the previous fiscal year but the increase is less than the previous fiscal year's appropriation as adjusted by the Consumer Price Index.

(I) A school district or charter sponsor involved in restructuring or the transfer of a school under its governance to another district or charter sponsor shall:

(1) deliver complete replicas of the student information system to the State Department of Education no later than June thirtieth of the year of transfer; and

(2) maintain updated assessment records and deliver these updated assessments records to the department, or the district or charter sponsor where students are currently assigned, no later than July thirtieth of the year of transfer."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 231

(R275, H5063)

AN ACT TO AMEND SECTION 44-1-143, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING IN PART TO THE RIGHT OF HOME-BASED FOOD PRODUCTION OPERATIONS TO APPLY FOR REGULATORY EXEMPTIONS FROM THE SOUTH CAROLINA DEPARTMENT OF AGRICULTURE, SO AS TO REFLECT THAT THE DEPARTMENT OF AGRICULTURE DOES NOT HAVE

REGULATORY AUTHORITY OVER HOME-BASED FOOD PRODUCTION OPERATIONS.

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

Home-based food production operation requirements

SECTION 1. Section 44-1-143(H) of the 1976 Code is deleted.

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 232

(R276, H5152)

AN ACT TO AMEND SECTION 39-22-110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO IDENTIFICATION TAGS PLACED ON COTTON BALES STORED IN A WAREHOUSE OPERATED UNDER THE STATE WAREHOUSE SYSTEM, SO AS TO PROVIDE ADDITIONAL TYPES OF IDENTIFICATION NUMBERS, TAGS, AND STICKERS THAT THE WAREHOUSE MAY UTILIZE.

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

Permanent bale identification number

SECTION 1. Section 39-22-110 of the 1976 Code is amended to read:

"Section 39-22-110. Each bale of cotton accepted for storage in a warehouse operated under the state warehouse system must be identified by a numbered tag affixed to the bale. The tag must be designed so that the brand 'South Carolina' may be unmistakably visible. The palmetto tree, with a bale of cotton lying at the roots, and the shield of the State

must be printed on the tag. The county of origin may appear on the tag. The warehouse may utilize the Permanent Bale Identification (PBI) number and tag of another gin if that tag meets these requirements. If the PBI tag does not meet these requirements, the warehouseman may affix a sticker to the PBI tag or bale of cotton adjacent to the PBI tag that meets these requirements."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 233

(R277, H5153)

AN ACT TO AMEND SECTION 42-17-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CERTAIN WORKERS' COMPENSATION COMMISSION HEARINGS CONCERNING COMPENSATION PAYABLE, SO AS TO PROVIDE THESE HEARINGS MUST BE HELD IN THE DISTRICTS IN WHICH THE INJURIES OCCURRED INSTEAD OF THE CITIES OR COUNTIES IN WHICH THE INJURIES OCCURRED, BUT NO GREATER THAN SEVENTY-FIVE MILES FROM THE COUNTY SEAT OF THE COUNTY IN WHICH THE INJURY OCCURRED, AND TO DEFINE COUNTY SEAT AND DISTRICTS FOR THIS PURPOSE.

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

Location of hearings

SECTION 1. Section 42-17-20 of the 1976 Code is amended to read:

"Section 42-17-20. If the employer and the injured employee or his dependents fail to reach an agreement in regard to compensation under this title within fourteen days after the employer has knowledge of the

injury or after a death or if they have reached such an agreement which has been signed and filed with the commission and compensation has been paid or is due in accordance therewith and the parties thereto then disagree as to the continuance of any weekly payment under such agreement, either party may make application to the commission for a hearing in regard to the matters at issue and for a ruling thereon. Immediately after such application has been received the commission shall set a date for a hearing, which shall be held as soon as practicable, and shall notify the parties at issue of the time and place of such hearing. The hearing shall be held in the district in which the injury occurred, but no greater than seventy-five miles from the county seat of the county in which the injury occurred, unless otherwise agreed to by the parties and authorized by the commission. For purposes of this section, the 'county seat' is the county courthouse. These districts are defined as those districts designated by the commission and in effect as of January 1, 2018."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 234

(R203, S345)

AN ACT TO AMEND SECTION 40-33-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN THE NURSE PRACTICE ACT, SO AS TO REVISE THESE DEFINITIONS; TO AMEND SECTION 40-33-34, RELATING TO REQUIREMENTS FOR THE PERFORMANCE OF MEDICAL ACTS, QUALIFICATIONS FOR LICENSURE, AND SCOPE AND STANDARDS OF PRACTICE CONCERNING ADVANCED PRACTICE REGISTERED NURSES, SO AS TO REVISE THESE REQUIREMENTS, TO ALLOW THE PERFORMANCE OF CERTAIN ADDITIONAL MEDICAL ACTS, TO REVISE THE PRESCRIPTIVE AUTHORITY OF CERTAIN ADVANCED

PRACTICE REGISTERED NURSES WITH RESPECT TO CONTROLLED SUBSTANCES AND NARCOTICS, AND TO DEFINE NECESSARY TERMS, AMONG OTHER THINGS; TO AMEND SECTION 40-33-110, RELATING TO GROUNDS FOR DISCIPLINE UNDER THE NURSE PRACTICE ACT, SO AS TO INCLUDE ENGAGING IN PRACTICE AS A NURSE PRACTITIONER, CLINICAL NURSE SPECIALIST, OR CERTIFIED NURSE-MIDWIFE WITHOUT A COMPLIANT PRACTICE AGREEMENT, FAILING TO COMPLY WITH SUCH A PRACTICE AGREEMENT, AND KNOWINGLY HOLDING ONESELF TO BE MISREPRESENTED AS A PHYSICIAN; TO AMEND SECTION 40-47-20, RELATING TO DEFINITIONS CONCERNING THE BOARD OF MEDICAL EXAMINERS, SO AS TO REVISE SEVERAL DEFINITIONS AFFECTING THE SCOPE OF PRACTICE OF CERTAIN LICENSEES OF THE NURSING BOARD; TO AMEND SECTION 40-47-110, RELATING TO GROUNDS FOR DISCIPLINE CONCERNING LICENSEES OF THE BOARD OF MEDICAL EXAMINERS, SO AS TO INCLUDE ENGAGING IN PRACTICE WITH A NURSE PRACTITIONER, CLINICAL NURSE SPECIALIST, OR CERTIFIED NURSE-MIDWIFE WITHOUT A COMPLIANT PRACTICE AGREEMENT OR FAILING TO COMPLY WITH SUCH A PRACTICE AGREEMENT; TO AMEND SECTION 40-47-195, RELATING TO PHYSICIANS SUPERVISING MEDICAL ACTS, SO AS TO PROVIDE LICENSURE QUALIFICATIONS AND PRACTICE AGREEMENT REQUIREMENTS FOR PHYSICIANS AND MEDICAL STAFF WHO ENGAGE IN PRACTICE WITH NURSE PRACTITIONERS, CERTIFIED NURSE-MIDWIVES, OR CLINICAL NURSE SPECIALISTS, AND TO PROVIDE THE BOARD OF MEDICAL EXAMINERS IS AUTHORIZED TO CONDUCT RANDOM AUDITS OF PRACTICE AGREEMENTS; TO AMEND SECTION 40-47-935, RELATING TO ACTS AND DUTIES THAT PHYSICIAN ASSISTANTS ARE AUTHORIZED TO PERFORM, SO AS TO INCLUDE TELEMEDICINE SUBJECT TO CERTAIN REQUIREMENTS; AND TO AMEND SECTION 40-47-955, RELATING TO THE SCOPE OF PRACTICE OF PHYSICIAN ASSISTANTS, SO AS TO INCLUDE THE PERFORMANCE OF TELEMEDICINE; AND TO PROVIDE THE PROVISIONS OF THIS ACT TAKE EFFECT JULY 1, 2018.

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

Nurse Practice Act, definitions

SECTION 1. Section 40-33-20 of the 1976 Code is amended to read:

"Section 40-33-20. In addition to the definitions provided in Section 40-1-20, for purposes of this chapter:

(1) 'Accreditation' means official authorization or status granted by an agency other than a state board of nursing.

(2) 'Active license' means the status of a license that has been renewed for the current period and authorizes the licensee to practice nursing in this State.

(3) 'Additional acts' means activities performed by a nurse that expand the scope of practice, as established in law. The following must be submitted in writing to the board for approval before a nurse implements additional acts:

(a) additional activity being requested;

(b) statement with rationale as to how the activity will improve client outcomes;

(c) documentation based on the literature review to support the nurse's performing the additional activity;

(d) qualification requirements, including educational background and experience needed;

(e) special training required, including theory and clinical practice. A nurse must successfully complete a course of 'special education and training' acceptable to the board to perform additional acts; and

(f) evaluation and follow-up procedures.

Additional acts that constitute medical acts must be agreed to jointly by both the Board of Nursing and the Board of Medical Examiners.

(4) 'Administration of medications' means the acts of preparing and giving drugs in accordance with the orders of a licensed, authorized nurse practitioner, certified nurse-midwife, clinical nurse specialist, or a physician, dentist, or other authorized licensed provider as to drug, dosage, route, and frequency; observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy; intervening when emergency care is required as a result of drug therapy; appropriately instructing the patient regarding the medication; recognizing accepted prescribing limits and reporting deviations to the prescribing nurse practitioner, certified nurse-midwife, or clinical nurse specialist, physician, dentist, or other authorized licensed provider.

(5) 'Advanced Practice Registered Nurse' or 'APRN' means a registered nurse who is prepared for an advanced practice registered nursing role by virtue of additional knowledge and skills gained through an advanced formal education program of nursing in a specialty area that is approved by the board. The categories of APRN are nurse practitioner, certified nurse-midwife, clinical nurse specialist, and certified registered nurse anesthetist. An advanced practice registered nurse shall hold a doctorate, a post-nursing master's certificate, or a minimum of a master's degree that includes advanced education composed of didactic and supervised clinical practice in a specific area of advanced practice registered nursing. APRNs must achieve national certification within two years post-graduation. An APRN may perform those activities considered to be the practice of registered nursing or advanced practice consisting of nonmedical acts, such as population health management; quality improvement or research projects within a health care system; and analysis of data and corresponding system recommendations, revisions, developments, or informatics. An APRN also may perform specified medical acts pursuant to a practice agreement as defined in item (45).

(6) 'Agreed to jointly' means the agreement by the Board of Nursing and Board of Medical Examiners on medical acts that nurses perform and that must be defined in a practice agreement pursuant to item (45).

(7) 'Ancillary services' means services associated with the basic services provided to an individual in need of in-home care who needs one or more of the basic services and includes:

(a) homemaker-type services, including shopping, laundry, cleaning, and seasonal chores;

(b) companion-type services, including transportation, letter writing, reading mail, and escorting; and

(c) assistance with cognitive tasks, including managing finances, planning activities, and making decisions.

(8) 'Approval' means the process by which the board evaluates nursing education programs, which must meet established uniform and reasonable standards.

(9) 'Approved written guidelines' means specific statements developed by a certified registered nurse anesthetist and a supervising licensed physician or dentist or by the medical staff within the facility where practice privileges have been granted.

(10) 'Attendant care services' means those basic and ancillary services that enable an individual in need of in-home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self-care, and mobility.

(11) 'Authorized licensed provider' means a provider of health care services who is authorized to practice by a licensing board in this State where the scope of practice includes authority to order and prescribe drugs in treating patients.

(12) 'Basic services' includes:

(a) getting in and out of a bed, wheelchair, motor vehicle, or other device;

(b) assistance with routine bodily functions including health maintenance activities, bathing and personal hygiene, dressing and grooming, and feeding, including preparation and cleanup.

(13) 'Board' means the State Board of Nursing for South Carolina.

(14) 'Board-approved credentialing organization' means an organization that offers a certification examination in a specialty area of nursing practice, establishes scope and standards of practice statements, and provides a mechanism for evaluating continuing competency in a specialized area of nursing practice which has been approved by the board.

(15) 'Business days' means every day except Saturdays, Sundays, and legal holidays.

(16) 'Cancellation' means the withdrawal or invalidation of an authorization to practice that was issued to an ineligible person either in error or based upon a false, fraudulent, or deceptive representation in the application process.

(17) 'Certification' of a registered nurse means approval by an established body, other than the board, but recognized by the board, that recognizes the unique, minimal requirements of specialized areas of nursing practice. Certification requires completion of a recognized formal program of study and specialty board examination, if the specialty board exists, and certification of competence in nursing practice by the certifying agency.

(18) 'Certified Nurse-Midwife' or 'CNM' means an advanced practice registered nurse who holds a master's degree in the specialty area, maintains an American Midwifery Certification Board certificate, and is trained to provide management of women's health care from adolescence beyond menopause, focusing on gynecologic and family planning services, preconception care, pregnancy, childbirth, postpartum, care of the normal newborn during the first twenty-eight days of life, and the notification and treatment of partners for sexually transmitted infections.

(19) 'Certified Registered Nurse Anesthetist' or 'CRNA' means an advanced practice registered nurse who:

(a) has successfully completed an advanced, organized formal CRNA education program at the master's level accredited by the national accrediting organization of this specialty area and that is recognized by the board;

(b) is certified by a board-approved national certifying organization; and

(c) demonstrates advanced knowledge and skill in the delivery of anesthesia services.

A CRNA must practice in accordance with approved written guidelines developed under supervision of a licensed physician or dentist or approved by the medical staff within the facility where practice privileges have been granted.

(20) 'Clinical Nurse Specialist' or 'CNS' means an advanced practice registered nurse who is a clinician with a high degree of knowledge, skill, and competence in a practice discipline of nursing. This nurse shall hold a master's degree in nursing, with an emphasis in clinical nursing. These nurses are directly available to the public through the provision of nursing care to clients and indirectly available through guidance and planning of care with other nursing personnel. A CNS who performs medical acts is required to have physician support and to practice pursuant to a practice agreement as defined in item (45). A CNS who does not perform medical acts is not required to have physician support or to practice pursuant to a practice agreement as provided in Section 40-33-34.

(21) 'Competence' means the ability of a licensed nurse to perform safely, skillfully, and proficiently the functions within the role of the licensee. The role encompasses the possession and interrelation of essential knowledge, judgment, attitudes, values, skills, and abilities, which are varied and range in complexity. Competence is a dynamic concept, changing as the licensed nurse achieves a higher stage of development, responsibility, and accountability within the role.

(22) 'Delivering' means the act of handing over to a patient medications as ordered by an authorized licensed provider and prepared by an authorized licensed provider.

(23) 'Dentist' means a dentist licensed by the South Carolina Board of Dentistry.

(24) 'Entity' means a sole proprietorship, partnership, limited liability partnership, limited liability corporation, association, joint venture, cooperative, company, corporation, or other public or private legal entity authorized by law.

(25) 'Expanded role' of a registered nurse means a process of diffusion and implies multi-directional change. Expansion, as a process

of role change, is undertaken to fill perceived needs in the health care system, and also to project new components or systems of health care. The authority base for practice from which the expanded role emanates is the body of knowledge that constitutes a nurse's preparation for practice. The expanded role of a registered nurse requires specialized knowledge, judgment, and skill, but does not require or permit medical diagnosis or medical prescription of therapeutic or corrective measures. The expanded role of a licensed practical nurse with special education and training includes performing delegated professional nursing activities, as authorized by the board under the direction and supervision of a registered nurse, but does not authorize violation of state law pertaining to medical or pharmacy practice.

(26) 'Graduate Registered Nurse Anesthetist' or 'GRNA' means a new graduate of an advanced organized formal education program for nurse anesthetists accredited by the national accrediting organization who must achieve certification within one year of graduation of program completion.

(27) 'Graduate Registered Nurse-Midwife' or 'GRNM' means a new graduate of an advanced organized formal education program for nurse-midwives accredited by the national accrediting organization. A GRNM is required to become certified within one year of graduation or program completion.

(28) 'Health maintenance activities' include, but are not limited to, catheter irrigation, administration of medications, enemas and suppositories, and wound care, if these activities could be performed by an individual if the individual were physically and mentally capable.

(29) 'Inactive license' means the official temporary retirement of a person's authorization to practice nursing upon the person's notice to the board that the person does not plan to practice nursing or the status of a license that does not currently authorize a licensee to practice nursing in this State.

(30) 'Incompetence' means the failure of a nurse to demonstrate and apply the knowledge, skill, and care that is ordinarily possessed and exercised by other nurses of the same licensure status and required by the generally accepted standards of the profession. Charges of incompetence may be based upon a single act of incompetence or upon a course of conduct or series of acts or omissions that extend over a period of time and that, taken as a whole, demonstrate incompetence. It is not necessary to show that actual harm resulted from the act or omission or series of acts or omissions if the conduct is such that harm could have resulted to the patient or to the public from the act or omission or series of acts or omissions.

(31) 'Individual in need of in-home care' means a functionally disabled individual in need of attendant care services because of impairment who requires assistance to complete functions of daily living, self-care, and mobility, including attendant care services.

(32) 'Lapsed license' means the termination of a person's authorization to practice nursing due to the person's failure to renew his or her nursing license within the renewal period.

(33) 'Letter of caution' means a written caution or warning about past or future conduct issued when it is determined that no misconduct has been committed or that only minor misconduct not warranting the imposition of a sanction has been committed. The issuance of a letter of caution is not a form of discipline and does not constitute a finding of misconduct unless the letter of caution specifically states that misconduct has been committed. The fact that a letter of caution has been issued must not be considered in a subsequent disciplinary proceeding against a person authorized to practice unless the caution or warning contained in the letter of caution is relevant to the misconduct alleged in the proceedings.

(34) 'License' means a current document issued by the board authorizing a person to practice as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse.

(35) 'Licensed Practical Nurse' or 'LPN' means a person to whom the board has issued an authorization to practice as a licensed practical nurse.

(36) 'Medical staff' means licensed physicians who are approved and credentialed to provide health care to patients in a hospital system or a facility that provides health care.

(37) 'Misconduct' means:

(a) a violation of any of the provisions of this chapter or regulations promulgated by the board pursuant to this chapter; or

(b) a violation of any of the principles of nursing ethics as adopted by the board or incompetence or unprofessional conduct.

(38) 'NCLEX' means the National Council Licensure Examination for Registered Nurses or Licensed Practical Nurses.

(39) 'Nurse' means a person licensed as an advanced practice registered nurse, registered nurse, or licensed practical nurse pursuant to this chapter.

(40) 'Nurse Practitioner' or 'NP' means a registered nurse who has completed an advanced formal education program at the master's level or doctoral level acceptable to the board, and who demonstrates advanced knowledge and skill in assessment and management of physical and psychosocial health, illness status of persons, families, and

groups. Nurse practitioners who perform medical acts must do so pursuant to a practice agreement as defined in item (45).

(41) 'Nursing diagnosis' means a clinical judgment about a person, family, or community that is derived through a nursing assessment and the standard nursing taxonomy.

(42) 'Orientation' means any introductory instruction into a new practice environment or employment situation where being a nurse is a requirement of employment or where the individual uses any title or abbreviation indicating that the individual is a nurse. Orientation is considered the practice of nursing in this State.

(43) 'Person' means a natural person, male or female.

(44) 'Physician' means a physician licensed by the South Carolina Board of Medical Examiners who possesses an active, unrestricted, permanent license to practice medicine in this State and who actively is practicing within the geographic boundaries of this State.

(45) 'Practice agreement' means a written agreement developed by an NP, CNM, or CNS and a physician or medical staff who agrees to work with and to support the NP, CNM, or CNS. The practice agreement must establish the medical aspects of care to be provided by the NP, CNM, or CNS, including the prescribing of medications. The practice agreement must contain mechanisms that allow the physician to ensure that quality of clinical care and patient safety is maintained in accordance with state and federal laws, as well as all applicable Board of Nursing and Board of Medical Examiners rules and regulations. The practice agreement must comply with Section 40-33-34. A CNM also may practice pursuant to written policies and procedures for practice developed and agreed to with a physician who is board certified or board eligible by the American College of Obstetricians and Gynecologists. Written policies and procedures constitute a practice agreement for purposes of compliance with Section 40-33-34 and must address medical aspects of care including prescriptive authority and must contain transfer policies and details of the on-call agreement with the physician with whom the policies and procedures were developed and agreed. The on-call physician has the authority to designate another qualified physician to be the on-call physician if necessary. The on-call physician must be available to the CNM to provide medical assistance in person, by telecommunications, or by other electronic means.

(46) 'Practice of nursing' means the provision of services for compensation, except as provided in this chapter, that assists persons and groups to obtain or promote optimal health. Nursing practice requires the use of nursing judgment. Nursing judgment is the logical and systematic cognitive process of identifying pertinent information and evaluating

data in the clinical context in order to produce informed decisions, which guide nursing actions. Nursing practice is provided by advanced practice registered nurses, registered nurses, and licensed practical nurses. The scope of nursing practice varies and is commensurate with the educational preparation and demonstrated competencies of the person who is accountable to the public for the quality of nursing care. Nursing practice occurs in the state in which the recipient of nursing services is located at the time nursing services are provided.

(47) 'Practice of practical nursing' means the performance of health care acts that require knowledge, judgment, and skill and must be performed under the supervision of an advanced practice registered nurse, registered nurse, licensed physician, licensed dentist, or other practitioner authorized by law to supervise LPN practice. The practice of practical nursing includes, but is not limited to:

(a) collecting health care data to assist in planning care of persons;

(b) administering and delivering medications and treatments as prescribed by an authorized licensed provider;

(c) implementing nursing interventions and tasks;

(d) providing basic teaching for health promotion and maintenance;

(e) assisting in the evaluation of responses to interventions;

(f) providing for the maintenance of safe and effective nursing care rendered directly or indirectly;

(g) participating with other health care providers in the planning and delivering of health care;

(h) delegating nursing tasks to qualified others;

(i) performing additional acts that require special education and training and that are approved by the board including, but not limited to, intravenous therapy and other specific nursing acts and functioning as a charge nurse.

(48) 'Practice of registered nursing' means the performance of health care acts in the nursing process that involve assessment, analysis, intervention, and evaluation. This practice requires specialized independent judgment and skill and is based on knowledge and application of the principles of biophysical and social sciences. The practice of registered nursing includes, but is not limited to:

(a) assessing the health status of persons and groups;

(b) analyzing the health status of persons and groups;

(c) establishing outcomes to meet identified health care needs of persons and groups;

(d) prescribing nursing interventions to achieve outcomes;

(e) implementing nursing interventions to achieve outcomes;

(f) administering and delivering medications and treatments prescribed by an authorized licensed provider;

(g) delegating nursing interventions to qualified others;

(h) providing for the maintenance of safe and effective nursing care rendered directly or indirectly;

(i) providing counseling and teaching for the promotion and maintenance of health;

(j) evaluating and revising responses to interventions, as appropriate;

(k) teaching and evaluating the practice of nursing;

(l) managing and supervising the practice of nursing;

(m) collaborating with other health care professionals in the management of health care;

(n) participating in or conducting research, or both, to enhance the body of nursing knowledge;

(o) consulting to improve the practice of nursing; and

(p) performing additional acts that require special education and training and that are approved by the board.

(49) 'Private reprimand' means a statement by the board that a violation was committed by a person authorized to practice which has been declared confidential and which is not subject to disclosure as a public document.

(50) 'Probation' means the issuance of an authorization to practice with terms and conditions imposed by the board. The holder of the authorization to practice on probation may petition the board for reinstatement to full, unrestricted practice upon compliance with all terms and conditions imposed by the board.

(51) 'Public reprimand' means a publicly available statement of the board that a violation was committed by a person authorized to practice.

(52) 'Readily available' means the physician or medical staff who enters into a practice agreement with an NP, CNM, or CNS must be able to be contacted either in person or by telecommunications or other electronic means to provide consultation and advice to the NP, CNM, or CNS performing medical acts.

(53) 'Registered Nurse' means a person to whom the board has issued an authorization to practice as a registered nurse.

(54) 'Restriction' means a limitation on the activities in which a licensee may engage under an authorization to practice, including revocation, suspension, or probation.

(55) 'Revocation' means the cancellation or withdrawal of a license or other authorization issued by the board either permanently or for a period specified by the board before the person is eligible to reapply. A

person whose license or other authorization has been permanently revoked by the board is permanently ineligible for a license or other authorization of any kind from the board.

(56) 'Special education and training' means an organized advanced course of study acceptable to the board, required to expand a nurse's scope of practice. This educational training must be completed after graduation from one's basic nursing education program and includes both theory and clinical practice.

(57) 'Supervision' means the process of critically observing, directing, and evaluating another's performance.

(58) 'Suspension' means the temporary withdrawal of authorization to practice for either a definite or indefinite period of time ordered by the board. The holder of a suspended authorization to practice may petition the board for reinstatement to practice upon compliance with all terms and conditions imposed by the board.

(59) 'State or jurisdiction in this country' means a state of the United States or the District of Columbia and does not include a territory or dependency of the United States.

(60) 'Temporary permit' means a current time-limited document that authorizes the practice of nursing at the level for which one is seeking licensure.

(61) 'Underserved or rural area' means an area determined by a federal or state agency authorized to determine such a designation.

(62) 'Underserved population' means a population residing in a rural or urban area, which includes, but is not limited to:

(a) persons receiving Medicaid, Medicare, Department of Health and Environmental Health care, or free clinic care;

(b) those residing in long-term care settings or receiving care from a licensed hospice;

(c) those in institutions including, but not limited to, incarceration institutions and mental health institutions; and

(d) persons including, but not limited to, the homeless, HIV patients, children, women, the economically disadvantaged, the uninsured, the underinsured, the developmentally disabled, the medically fragile, the mentally ill, migrants, military persons and their dependents, and veterans and their dependents.

(63) 'Unlicensed assistive personnel' or 'UAP' are persons not currently licensed by the board as nurses who perform routine nursing tasks that do not require a specialized knowledge base or the judgment and skill of a licensed nurse. Nursing tasks performed by a UAP must be performed under the supervision of an advanced practice registered nurse, registered nurse, or selected licensed practical nurse.

(64) 'Unprofessional conduct' means acts or behavior that fail to meet the minimally acceptable standard expected of similarly situated professionals including, but not limited to, conduct that may be harmful to the health, safety, and welfare of the public, conduct that may reflect negatively on one's fitness to practice nursing, or conduct that may violate any provision of the code of ethics adopted by the board or a specialty.

(65) 'Voluntary surrender' means the invalidation of a nursing license at the time of its surrender and thereafter. A person whose license is voluntarily surrendered may not practice nursing or represent oneself to be a nurse until the board takes action.

(66) 'Volunteer license' means authorization of a retired nurse to provide nursing services to others through an identified charitable organization without remuneration."

Nurse Practice Act, APRN qualifications, authorized and prohibited acts, definitions

SECTION 2. Section 40-33-34 of the 1976 Code is amended to read:

"Section 40-33-34. (A) An advanced practice registered nurse applicant shall furnish evidence satisfactory to the board that the applicant:

(1) has met all qualifications for licensure as a registered nurse; and

(2) holds current specialty certification by a board-approved credentialing organization. New graduates shall provide evidence of certification within one year of program completion; however, psychiatric clinical nurse specialists shall provide evidence of certification within two years of program completion; and

(3) has earned a minimum of a master's degree from an accredited college or university, except for those applicants who:

(a) provide documentation as requested by the board that the applicant was graduated from an advanced, organized formal education program appropriate to the practice and acceptable to the board before December 31, 1994; or

(b) graduated before December 31, 2003, from an advanced, organized formal education program for nurse anesthetists accredited by the national accrediting organization of that specialty. CRNAs who graduate after December 31, 2003, must graduate with a master's degree from a formal CRNA education program for nurse anesthetists accredited by the national accreditation organization of the CRNA

specialty. An advanced practice registered nurse must achieve and maintain national certification, as recognized by the board, in an advanced practice registered nursing specialty;

(4) has paid the board all applicable fees; and

(5) has declared specialty area of nursing practice and the specialty title to be used must be the title which is granted by the board-approved credentialing organization or the title of the specialty area of nursing practice in which the nurse has received advanced educational preparation.

(B) An APRN is subject, at all times, to the scope and standards of practice established by the board-approved credentialing organization representing the specialty area of practice and shall function within the scope of practice of this chapter and must not be in violation of Chapter 47.

(C) A licensed nurse practitioner, certified nurse-midwife, or clinical nurse specialist must provide evidence of a practice agreement, as provided in this section. A licensed NP, CNM, or CNS must spend a portion of his time practicing in an underserved or rural area or serving an underserved population as defined in Section 40-33-20. A licensed NP, CNM, or CNS performing medical acts must do so pursuant to a practice agreement with a physician who must be readily available for consultation.

(D)(1) Medical acts performed by a nurse practitioner or clinical nurse specialist must be performed pursuant to a practice agreement between the nurse and the physician or medical staff. The practice agreement must include, but is not limited to:

(a) the following general information:

(i) name, address, and South Carolina license number of the nurse;

(ii) name, address, and South Carolina license number of the physician;

(iii) nature of practice and practice locations of the nurse and physician;

(iv) date the practice agreement was entered into and dates the practice agreement was reviewed and amended; and

(v) description of how consultation with the physician is provided and provision for backup consultation if the physician is unavailable; and

(b) the following information for medical acts:

(i) medical conditions for which therapies may be initiated, continued, or modified;

(ii) treatments that may be initiated, continued, or modified;

(iii) drug therapies that may be prescribed; and

(iv) situations that require direct evaluation by or referral to the physician.

(2) Notwithstanding any provisions of state law other than this chapter and Chapter 47, and to the extent permitted by federal law, an APRN may perform the following medical acts unless otherwise provided in the practice agreement:

(a) provide noncontrolled prescription drugs at an entity that provides free medical care for indigent patients;

(b) certify that a student is unable to attend school but may benefit from receiving instruction given in his home or hospital;

(c) refer a patient to physical therapy for treatment;

(d) pronounce death and sign death certificates;

(e) issue an order for a patient to receive appropriate services from a licensed hospice as defined in Chapter 71, Title 44; and

(f) certify that an individual is handicapped and declare that the handicap is temporary or permanent for purposes of the individual's application for a placard.

(3) The original practice agreement and any amendments to it must be reviewed at least annually, dated and signed by the nurse and physician, and made available to the board for review within seventy-two hours of request. Failure to produce a practice agreement upon request of the board is considered misconduct and subjects the licensee to disciplinary action. A random audit of a practice agreement must be conducted by the board at least biennially.

(4) Licensees who change practice settings or physicians shall notify the board of the change within fifteen business days and provide verification of a practice agreement. NPs, CNMs, and CNSs who discontinue their practice shall notify the board within fifteen business days.

(E)(1) An NP, CNM, or CNS who applies for prescriptive authority:

(a) must be licensed by the board as a nurse practitioner, certified nurse-midwife, or clinical nurse specialist;

(b) shall submit a completed application on a form provided by the board;

(c) shall submit the required fee;

(d) shall provide evidence of completion of forty-five contact hours of education in pharmacotherapeutics acceptable to the board, within two years before application or during the time of the organized educational program shall provide evidence of prescriptive authority in another state meeting twenty hours in pharmacotherapeutics acceptable to the board, within two years before application;

(e) shall provide at least fifteen hours of education in controlled substances acceptable to the board as part of the twenty hours required for prescriptive authority if the NP, CNM, or CNS has equivalent controlled substance prescribing authority in another state;

(f) shall provide at least fifteen hours of education in controlled substances acceptable to the board as part of the forty-five contact hours required for prescriptive authority if the NP, CNM, or CNS initially is applying to prescribe in Schedules II through V controlled substances.

(2) The board shall issue an identification number to the NP, CNM, or CNS authorized to prescribe medications. Authorization for prescriptive authority is valid for two years unless terminated by the board for cause. Initial authorization expires concurrent with the expiration of the Advanced Practice Registered Nurse license.

(3) Authorization for prescriptive authority must be renewed after the applicant meets requirements for renewal and provides documentation of twenty hours acceptable to the board of continuing education contact hours every two years in pharmacotherapeutics. For a NP, CNM, or CNS with controlled substance prescriptive authority, two of the twenty hours must be related to prescribing controlled substances.

(F)(1) Authorized prescriptions by a nurse practitioner, certified nurse-midwife, or clinical nurse specialist with prescriptive authority:

(a) must comply with all applicable state and federal laws and executive orders;

(b) is limited to drugs and devices utilized to treat medical problems within the specialty field of the nurse practitioner or clinical nurse specialist as prescribed in the practice agreement;

(c) may include Schedules III through V controlled substances if listed in the practice agreement and as authorized by Section 44-53-300;

(d) may include Schedule II nonnarcotic substances if listed in the practice agreement and as authorized by Section 44-53-300, provided, however, that each such prescription must not exceed a thirty-day supply;

(e) may include Schedule II narcotic substances if listed in the practice agreement and as authorized by Section 44-53-300, provided, however, that the prescription must not exceed a five-day supply and another prescription must not be written without the written agreement of the physician with whom the nurse practitioner, certified nurse-midwife, or clinical nurse specialist has entered into a practice agreement, unless the prescription is written for patients in hospice or palliative care;

(f) may include Schedule II narcotic substances for patients in hospice or palliative care if listed in the practice agreement as authorized by Section 44-53-300, provided, however, that each such prescription must not exceed a thirty-day supply;

(g) must be signed or electronically submitted by the NP, CNM, or CNS with the prescriber's identification number assigned by the board and all prescribing numbers required by law. Written prescription forms must include the name, address, and phone number of the NP, CNM, or CNS and physician. Electronic prescription forms must include the name, address, and phone number of the NP, CNM, or CNS and, if possible, the physician through the electronic system. All prescriptions must comply with the provisions of Section 39-24-40. A prescription must designate a specific number of refills and may not include a nonspecific refill indication;

(h) must be documented in the patient record of the practice and must be available for review and audit purposes.

(2) An NP, CNM, or CNS who holds prescriptive authority may request, receive, and sign for professional samples and may distribute professional samples to patients as listed in the practice agreement, subject to federal and state regulations.

(G) Prescriptive authorization may be terminated by the board if an NP, CNM, or CNS with prescriptive authority has:

(1) not maintained certification in the specialty field;

(2) failed to meet the education requirements for pharmacotherapeutics;

(3) prescribed outside the scope of the practice agreement;

(4) violated a provision of Section 40-33-110; or

(5) violated any state or federal law or regulations applicable to prescriptions.

(H)(1) Nothing in this section may be construed to require a CRNA to obtain prescriptive authority to deliver anesthesia care.

(2) A CRNA shall practice pursuant to approved written guidelines developed with the supervising licensed physician or dentist or by the medical staff within the facility where practice privileges have been granted and must include, but are not limited to:

(a) the following general information:

(i) name, address, and South Carolina license number of the registered nurse;

(ii) name, address, and South Carolina license number of the supervising physician, dentist, or the physician director of anesthesia services or the medical director of the facility;

(iii) dates the guidelines were developed, and dates the guidelines were reviewed and amended;

(iv) physical address of the primary practice and any additional practice sites;

(b) these requirements for providing anesthesia services:

(i) documentation of clinical privileges in the institutions where anesthesia services are provided, if applicable;

(ii) copy of job description;

(iii) policies and procedures that outline the pre-anesthesia evaluation, induction, intra-operative maintenance, and emergence from anesthesia.

(iv) evidence of outcome evaluation for anesthesia services.

(3) The original and any amendments to the approved written guidelines must be reviewed at least annually, dated and signed by the CRNA and physician or dentist, and must be made available to the board for review within seventy-two hours of request. Failure to produce the guidelines is considered misconduct and subjects the licensee to disciplinary action. A random audit of approved written guidelines must be conducted by the board at least biennially.

(4) A person who changes primary practice settings or physician or dentist shall notify the board of this change within fifteen business days and provide verification of approved written guidelines. A CRNA who discontinues his or her practice shall notify the board within fifteen business days.

(5) The physician or dentist responsible for the supervision of a CRNA must be identified on the anesthesia record before administration of anesthesia.

(I)(1) For purposes of this subsection:

(a) 'Telemedicine' has the same meaning as provided in Section 40-47-20(52).

(b) 'Unprofessional conduct' has the same meaning as provided in Section 40-33-20(64).

(2) An APRN may perform medical acts via telemedicine pursuant to a practice agreement as defined in Section 40-33-20(45).

(3) An APRN who establishes a nurse-patient relationship solely by means of telemedicine shall adhere to the same standard of care as a licensee employing more traditional in-person medical care. Failure to conform to the appropriate standard of care is considered unprofessional conduct and may be subject to enforcement by the board.

(4) An APRN may not establish a nurse-patient relationship by means of telemedicine for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis.

(5) An APRN who establishes a nurse-patient relationship solely by means of telemedicine only may prescribe within a practice setting fully in compliance with this chapter and during an encounter in which threshold information necessary to make an accurate diagnosis is obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II through V prescriptions are only permitted pursuant to a practice agreement as defined in Section 40-33-20(45) and nothing in this item may be construed to authorize the prescribing of medications via telemedicine that otherwise are restricted by the limitations in Section 40-47-37(C)(6) unless approved by a joint committee of the Board of Medical Examiners and the Board of Nursing.

(6) An APRN who establishes a nurse-patient relationship solely by means of telemedicine shall generate and maintain medical records for each patient using those telemedicine services in compliance with any applicable state and federal laws, rules, and regulations, including the provisions of this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). These records must be accessible to other practitioners and to the patient in a timely fashion when lawfully requested by the patient or his lawfully designated representative.

(7) The provisions of this subsection may not be construed to allow an APRN to perform services beyond the scope of what is authorized by Chapter 33, Title 40 and Chapter 47, Title 40."

Nurse Practice Act, grounds for discipline

SECTION 3. Section 40-33-110(A) of the 1976 Code is amended by adding appropriately numbered new items to read:

"(27) engaged in practice as an NP, CNS, or CNM without a compliant practice agreement as defined in Section 40-33-20(45);

(28) failed to follow or comply with the practice agreement as defined by Section 40-33-20(45); or

(29) knowingly allowed himself to be misrepresented as a physician."

Board of Medical Examiners, definitions

SECTION 4. Section 40-47-20 of the 1976 Code is amended to read:

"Section 40-47-20. In addition to the definitions provided in Section 40-1-20, as used in this chapter unless the context indicates otherwise:

(1) 'Active license' means the status of an authorization to practice that has been renewed for the current period and authorizes the licensee to practice in this State.

(2) 'Administrative hearing officer' means a physician designated by the board or director.

(3) 'Adverse disciplinary action' means a final decision by a United States or foreign licensing jurisdiction, a peer review group, a health care institution, a professional or medical society or association, or a court, which action was not resolved completely in the licensee's favor.

(4) 'Agreed to jointly' means the agreement by the Board of Nursing and Board of Medical Examiners on medical acts that nurses perform and that must be defined in a practice agreement pursuant to item (35).

(5) 'Approved written scope of practice guidelines' means specific statements developed by a physician or the medical staff and a physician assistant that establish physician delegation for medical aspects of care, including the prescription of medications.

(6) 'Board' means the State Board of Medical Examiners for South Carolina.

(7) 'Board-approved credentialing organization' means an organization that offers a certification examination in a specialty area of practice, establishes scope and standards of practice statements, and provides a mechanism approved by the board for evaluating continuing competency in a specialized area of practice.

(8) 'Business days' means every day except Saturdays, Sundays, and legal holidays.

(9) 'Cancellation' means the withdrawal or invalidation of an authorization to practice that was issued to an ineligible person either in error or based upon a false, fraudulent, or deceptive representation in the application process.

(10) 'Certification' means approval by an established body, other than the board, but recognized by the board, that recognizes the unique, minimal requirements of specialized areas of practice. Certification requires completion of a recognized formal program of study and specialty board examination, if the specialty board exists, and certification of competence in practice by the certifying agency.

(11) 'Criminal history' means a federal, state, or local criminal history of conviction or a pending charge or indictment of a crime, whether a misdemeanor or a felony, that bears upon a person's fitness or suitability for an authorization to practice with responsibility for the safety and well-being of others.

(12) 'Delegated medical acts' means additional acts delegated by a physician or dentist to a physician assistant, respiratory care practitioner, anesthesiologist's assistant, or other practitioner authorized by law under approved written scope of practice guidelines or approved written protocols as provided by law in accordance with the applicable scope of professional practice. Delegated medical acts must be performed under the supervision of a physician or dentist who must be readily or immediately available for consultation in accordance with the applicable scope of professional practice. APRNs performing medical acts must practice pursuant to a practice agreement as defined in item (35).

(13) 'Dentist' means a dentist licensed by the South Carolina Board of Dentistry.

(14) 'Disciplinary action' means a final decision and sanction imposed at the conclusion of a disciplinary proceeding.

(15) 'Entity' means a sole proprietorship, partnership, limited liability partnership, limited liability corporation, association, joint venture, cooperative, company, corporation, or other public or private legal entity authorized by law.

(16) 'Final decision' means an order of the board that concludes a license application proceeding or formal disciplinary proceeding.

(17) 'Formal complaint' means a formal written complaint charging misconduct by a respondent in violation of this chapter, Chapter 1 , Title 40, or any other provision of law.

(18) 'Immediately available' for the purpose of supervising unlicensed personnel means being located within the office and ready for immediate utilization when needed.

(19) 'Inactive license' means the official temporary retirement of a person's authorization to practice upon the person's notice to the board that the person does not wish to practice.

(20) 'Incompetence' means the failure of a licensee to demonstrate and apply the knowledge, skill, and care that is ordinarily possessed and exercised by other practitioners of the same licensure status and required by the generally accepted standards of the profession. Charges of incompetence may be based upon a single act of incompetence or upon a course of conduct or series of acts or omissions that extend over a period of time and that, taken as a whole, demonstrate incompetence. It is not necessary to show that actual harm resulted from the act or omission or series of acts or omissions if the conduct is such that harm could have resulted to the patient or to the public from the act or omission or series of acts or omissions.

(21) 'Independent credentials verification organization' means an entity approved by the board to provide primary source verification of

an applicant's identity, medical education, postgraduate training, examination history, disciplinary history, and other core information required for licensure in this State.

(22) 'Initial complaint' means a brief statement that alleges misconduct on the part of a licensee.

(23) 'Initial licensure' means the first authorization to practice issued to a person by a licensing authority in this State or any other state.

(24) 'Lapsed license' means an authorization to practice that no longer authorizes practice in this State due to the person's failure to renew the authorization within the renewal period.

(25) 'Letter of caution or concern' means a written caution or warning about past or future conduct issued when it is determined that no misconduct has been committed. The issuance of a letter of caution or concern is not a form of discipline and does not constitute a finding of misconduct. The fact that a letter of caution or concern has been issued must not be considered in a subsequent disciplinary proceeding against a person authorized to practice unless the caution or warning contained in the letter of caution or concern is relevant to the misconduct alleged in the proceedings.

(26) 'License' means a current document authorizing a person to practice.

(27) 'Licensed in good standing' means that one's authorization to practice has not been revoked and there are no restrictions or limitations currently in effect. Public reprimands issued less than five years from the date an application is received by the board are considered restrictions upon practice.

(28) 'Limited license' means a current time-limited and practice-limited document that authorizes practice at the level for which one is seeking licensure.

(29) 'Medical staff' means licensed physicians who are approved and credentialed to provide health care to patients in a hospital system or a facility that provides health care.

(30) 'Misconduct' means violation of any of the provisions of this chapter or regulations promulgated by the board pursuant to this chapter or violation of any of the principles of ethics as adopted by the board or incompetence or unprofessional conduct.

(31) 'Osteopathic medicine' means a complete school of medicine and surgery utilizing all methods of diagnosis and treatment in health and disease and placing special emphasis on the interrelationship of the musculo-skeletal system to all other body systems.

(32) 'Pending disciplinary action' means an action or proceeding initiated by a formal complaint.

(33) 'Person' means a natural person, male or female.

(34) 'Physician' means a doctor of medicine or doctor of osteopathic medicine licensed by the South Carolina Board of Medical Examiners.

(35) 'Practice agreement' means a written agreement developed by an NP, CNM, or CNS and a physician or medical staff who agrees to work with and to support the NP, CNM, or CNS. The practice agreement must establish the medical aspects of care to be provided by the NP, CNM, or CNS, including the prescribing of medications. The practice agreement must contain mechanisms that allow the physician to ensure that quality of clinical care and patient safety is maintained in accordance with state and federal laws, as well as all applicable Board of Nursing and Board of Medical Examiners rules and regulations. The practice agreement must comply with Section 40-33-34. A CNM also may practice pursuant to written policies and procedures for practice developed and agreed to with a physician who is board certified or board eligible by the American College of Obstetricians and Gynecologists. Written policies and procedures constitute a practice agreement for purposes of compliance with Section 40-33-34 and must address medical aspects of care including prescriptive authority and must contain transfer policies and details of the on-call agreement with the physician with whom the policies and procedures were developed and agreed. The on-call physician has the authority to designate another qualified physician to be the on-call physician if necessary. The on-call physician must be available to the CNM to provide medical assistance in person, by telecommunications, or by other electronic means.

(36) 'Practice of Medicine' means:

(a) advertising, holding out to the public or representing in any manner that one is authorized to practice medicine in this State;

(b) offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of any other person;

(c) offering or undertaking to prevent or to diagnose, correct or treat in any manner, or by any means, methods, or devices, disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of a person, including the management of pregnancy and parturition;

(d) offering or undertaking to perform any surgical operation upon a person;

(e) rendering a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient or the actual rendering of treatment to a patient within this State by a physician located outside the State as a result of transmission of individual patient data by

electronic or other means from within a state to such physician or his or her agent;

(f) rendering a determination of medical necessity or a decision affecting the diagnosis and/or treatment of a patient is the practice of medicine subject to all of the powers provided to the Board of Medical Examiners, except as provided in Section 38-59-25;

(g) using the designation Doctor, Doctor of Medicine, Doctor of Osteopathic Medicine, Physician, Surgeon, Physician and Surgeon, Dr., M.D., D.O., or any combination of these in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition unless such a designation additionally contains the description of another branch of the healing arts for which one holds a valid license in this State that is applicable to the clinical setting; and

(h) testifying as a physician in an administrative, civil, or criminal proceeding in this State by expressing an expert medical opinion.

(37) 'Practitioner' means a person who has been issued an authorization to practice in this State. The term does not include persons who have not been issued a license, registration, certification, or other authorization to practice in this State, except as provided by law for persons licensed in another state or jurisdiction.

(38) 'Presiding officer' means the chairman of the hearing panel or a designee. When no chair of the hearing panel has been designated, the term includes the chairman or vice chairman of the board or a designee. A person designated to act on behalf of the chairman of the board or a hearing panel may not have been involved with the investigation or prosecution of the particular matter.

(39) 'Private reprimand' means a statement by the board that misconduct was committed by a person authorized to practice which has been declared confidential and which is not subject to disclosure as a public document.

(40) 'Probation' means the issuance of an authorization to practice conditioned upon compliance with terms and conditions imposed by a licensing board in this State or another state. The holder of the authorization to practice on probation may petition the board for reinstatement to full, unrestricted practice upon compliance with all terms and conditions imposed by the board.

(41) 'Public reprimand' means a publicly available statement of the board that misconduct was committed by a person authorized to practice.

(42) 'Reactivation' means the restoration to active status of an authorization from inactive status.

(43) 'Readily available' means the physician or medical staff who enters into a practice agreement with an NP, CNM, or CNS must be able to be contacted either in person or by telecommunications or other electronic means to provide consultation and advice to the NP, CNM, or CNS performing medical acts.

(44) 'Reinstatement' means an action of the board in a disciplinary matter that authorizes the resumption of practice upon any terms or conditions ordered or agreed to by the board.

(45) 'Relinquish' means to permanently cancel or invalidate an authorization instead of disciplinary proceedings or final decision by the board. A person whose authorization to practice has been relinquished to the board is permanently ineligible for a license or other authorization of any kind from the board. Relinquishment is irrevocable, an admission of any or all of the allegations of misconduct, and reported and treated as a permanent revocation.

(46) 'Respondent' means a person charged with responding in a disciplinary or other administrative action.

(47) 'Revocation' means the permanent cancellation or withdrawal of an authorization issued by the board. A person whose authorization has been permanently revoked by the board is permanently ineligible for an authorization of any kind from the board.

(48) 'Significant disciplinary action' means a public decision in a disciplinary matter that involves substantial issues of professional or ethical competence or qualification to practice. The board may consider any actions taken by the original board or conduct considered relevant to the applicant's fitness for licensure to practice in this State.

(49) 'State identification bureau' means an authorized governmental agency responsible for receiving and screening the results of criminal history records checks in this State or another state.

(50) 'Supervision' means the process of critically observing, directing, and evaluating another person's performance, unless otherwise provided by law.

(51) 'Suspension' means the temporary withdrawal of authorization to practice for either a definite or indefinite period of time ordered by the board. The holder of a suspended authorization to practice may petition the board for reinstatement to practice upon compliance with all terms and conditions imposed by the board.

(52) 'Telemedicine' means the practice of medicine using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening practitioner.

(53) 'Temporary license' means a current, time-limited document that authorizes practice at the level for which one is seeking licensure.

(54) 'Unprofessional conduct' means acts or behavior that fail to meet the minimally acceptable standard expected of similarly situated professionals including, but not limited to, conduct that may be harmful to the health, safety, and welfare of the public, conduct that may reflect negatively on one's fitness to practice, or conduct that may violate any provision of the code of ethics adopted by the board or a specialty.

(55) 'Voluntary surrender' means forgoing the authorization to practice by the subject of an initial or formal complaint pending further order of the board. It anticipates other formal action by the board and allows any suspension subsequently imposed to include this time.

(56) 'Volunteer license' means authorization of a retired practitioner to provide medical services to others through an identified charitable organization without remuneration."

Board of Medical Examiners, grounds for discipline

SECTION 5. Section 40-47-110(B) of the 1976 Code is amended by adding appropriately numbered new items to read:

"(26) engaged in a practice with an NP, CNM, or CNS without a practice agreement as defined in Section 40-47-20(35) in place at the time that practice was initiated and during its continuation; or

(27) failed to follow or comply with the practice agreement as defined in Section 40-47-20(35) while engaged in a practice with an NP, CNM, or CNS."

Physician and medical staff practice agreements with certain APRNs

SECTION 6. Section 40-47-195 of the 1976 Code is amended to read:

"Section 40-47-195. (A) A licensee who supervises another practitioner shall hold a permanent, active, unrestricted authorization to practice in this State and be currently engaged in the active practice of their respective profession or shall hold an active unrestricted academic license to practice medicine in this State.

(B) Pursuant to this chapter, only licensed physicians may supervise another practitioner who performs delegated medical acts in accordance with the practitioner's applicable scope of professional practice authorized by state law. It is the supervising physician's responsibility

to ensure that delegated medical acts to other practitioners are performed under approved written scope of practice guidelines or approved written protocol in accordance with the applicable scope of professional practice authorized by state law. A copy of approved written scope of practice guidelines or approved written protocol, dated and signed by the supervising physician and the practitioner, must be provided to the board by the supervising physician within seventy-two hours of request by a representative of the department or board.

(C) In evaluating a written guideline or protocol, the board and supervising physician or medical staff shall consider the:

(1) training and experience of the supervising physician;

(2) nature and complexity of the delegated medical acts being performed;

(3) geographic proximity of the supervising physician to the supervised practitioner; when the supervising physician is not located at the same site as the supervised practitioner, special consideration must be given to the manner in which the physician intends to monitor the practitioner, and prior board approval must be received for this practice; and

(4) number of other practitioners the physician or medical staff supervises. Reference must be given to the number of supervised practitioners, as prescribed by law. When the supervising physician assumes responsibility for more than the number of practitioners prescribed by law, special consideration must be given to the manner in which the physician intends to monitor, and prior board approval must be received for this practice.

(D)(1) A physician or medical staff who is engaged in practice with an NP, CNM, or CNS must:

(a)(i) hold permanent, active, and unrestricted authorization to practice medicine in this State and be actively practicing medicine within the geographic boundaries of this State; or

(ii) hold an active, unrestricted academic license to practice medicine in this State and be actively practicing medicine within the geographic boundaries of this State;

(b) have in place prior to beginning practice and during its continuation a practice agreement as defined in Section 40-47-20(35), a copy of which the physician must make available to the board within seventy-two hours of a request;

(c) not enter into practice agreements with more than the equivalent of six full-time NPs, CNMs, or CNSs and must not practice in a situation in which the number of NPs, CNMs, or CNSs providing clinical services with whom the physician is working, combined with the

number of physician assistants providing clinical services whom the physician is supervising, is greater than six individuals at any one time, provided, however, that the board may approve an exception to these requirements upon application by the physician, if the board determines that an exception is warranted and that quality of care and patient safety will be maintained;

(d) not enter into a practice agreement with an NP, CNM, or CNS performing a medical act, task, or function that is outside the usual practice of that physician or outside of the physician's training or experience, provided, however, that the board may approve an exception to this requirement upon application by the physician, if the board determines that an exception is warranted and that quality of care and patient safety will be maintained; and

(e) maintain responsibility in the practice agreement for the health care delivery team pursuant to rules and regulations of the Board of Medical Examiners.

(2) The board is authorized to conduct random audits of practice agreements."

Physician assistants, telemedicine authorized

SECTION 7. Section 40-47-935 of the 1976 Code is amended to read:

"Section 40-47-935. (A) Physician assistants may perform:

(1) medical acts, tasks, or functions with written scope of practice guidelines under physician supervision;

(2) those duties and responsibilities, including the prescribing and dispensing of drugs and medical devices, that are lawfully delegated by their supervising physicians; provided, however, only physician assistants holding a permanent license may prescribe drug therapy as provided in this article; and

(3) telemedicine in accordance with the requirements of Section 40-47-37 including, but not limited to, Section 40-47-37(C)(6) requiring board authorization prior to prescribing Schedule II and Schedule III prescriptions, Section 40-47-113, approved written scope of practice guidelines, and pursuant to all physician supervisory requirements imposed by this chapter.

(B) A physician assistant is an agent of his or her supervising physician in the performance of all practice related activities including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services."

Physician assistants, scope of practice to include telemedicine

SECTION 8. Section 40-47-955(B) of the 1976 Code is amended to read:

"(B) Pursuant to scope of practice guidelines, a physician assistant may:

(1) practice in a public place, a private place, or a facility where the supervising physician regularly sees patients; and

(2) may make house calls, perform hospital duties, perform telemedicine, and perform any functions performed by the supervising physician if the physician assistant is also qualified to perform those functions."

Time effective

SECTION 9. This act takes effect July 1, 2018.

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 235

(R233, H3068)

AN ACT TO AMEND CHAPTER 102, TITLE 59, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ATHLETE AGENTS AND STUDENT ATHLETES, SO AS TO ENACT THE "UNIFORM ATHLETE AGENTS ACT OF 2018", TO ADOPT PORTIONS OF THE INTERSTATE COMPACT FOR REGISTRATION OF STUDENT ATHLETE AGENTS AND MAKE NECESSARY CONFORMING CHANGES, TO REVISE VARIOUS PROVISIONS IN CONSIDERATION OF THE EXPANDED IMPACT OF SOCIAL MEDIA ON THE SOLICITATION AND RECRUITMENT OF STUDENT ATHLETES BY ATHLETE AGENTS, TO REVISE REQUIREMENTS REGARDING THE ESTABLISHMENT OF RELATIONSHIPS BETWEEN STUDENT ATHLETES AND

ATHLETE AGENTS, AND TO REVISE VARIOUS AVAILABLE REMEDIES, AMONG OTHER THINGS.

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

Athlete agents and student athletes, uniform revisions

SECTION 1. Chapter 102, Title 59 of the 1976 Code is amended to read:

"CHAPTER 102

Athlete Agents and Student Athletes

Section 59-102-10. This chapter may be cited as the 'Uniform Athlete Agents Act of 2018'.

Section 59-102-20. In this chapter:

(1) 'Agency contract' means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract or an endorsement contract.

(2) 'Athlete agent':

(a) means an individual, whether or not registered under this chapter, who:

(i) directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization;

(ii) for compensation or in anticipation of compensation related to a student athlete's participation in athletics:

(A) serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or

(B) manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; or

(iii) in anticipation of representing a student athlete for a purpose related to the athlete's participation in athletics:

(A) gives consideration to the student athlete or another person;

(B) serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or

(C) manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; but

(b) does not include an individual who:

(i) acts solely on behalf of a professional sports team or organization; or

(ii) is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:

(A) also recruits or solicits the athlete to enter into an agency contract;

(B) also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization; or

(C) receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete.

(3) 'Athletic director' means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(4) 'Contact' means a communication, direct or indirect, between an athlete agent and a student athlete to recruit or solicit the student athlete to enter into an agency contract.

(5) 'Educational institution' includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university.

(6) 'Endorsement contract' means an agreement under which a student athlete is employed or receives consideration to use on behalf of another party any value the student athlete has because of publicity, reputation, following, or fame obtained from athletic ability or performance.

(7) 'Enrolled' means registered for courses and attending athletic practice or class. 'Enrolls' has a corresponding meaning.

(8) 'Intercollegiate sport' means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association that promotes or regulates collegiate athletics.

(9) 'Interscholastic sport' means a sport played between educational institutions that are not community colleges, colleges, or universities.

(10) 'Licensed, registered, or certified professional' means an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing.

(11) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, other legal or commercial entity, or government, governmental subdivision, agency, or instrumentality.

(12) 'Professional sports services contract' means an agreement under which an individual is employed or agrees to render services as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(13) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) 'Recruit or solicit' means attempt to influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The term does not include giving advice on the selection of a particular agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent.

(15) 'Registration' means registration as an athlete agent pursuant to this chapter.

(16) 'Sign' means, with present intent to authenticate or adopt a record, to:

(a) execute or adopt a tangible symbol; or

(b) attach to or logically associate with the record an electronic symbol, sound, or process.

(17) 'State' means the State of South Carolina when referring to this State or a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States when referring to another state.

(18) 'Student athlete' means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in an

interscholastic or intercollegiate sport. If an individual is permanently ineligible to participate in a particular interscholastic or intercollegiate sport, the individual is not a student athlete for purposes of that sport.

Section 59-102-30. (A) The provisions of the Administrative Procedures Act of Chapter 23, Title 1 apply to this chapter. The Department of Consumer Affairs may promulgate regulations to effectuate the purposes of this chapter.

(B) By acting as an athlete agent in this State, a nonresident person appoints the Director of the Department of Consumer Affairs as his agent for service of process in a civil action in this State related to his acting as an athlete agent in this State.

(C) The Department of Consumer Affairs may issue subpoenas for material relevant to the administration of this chapter.

(D) All funds collected by the department pursuant to this chapter may be retained by the department and used to implement the provisions of this chapter.

Section 59-102-40. (A) Except as otherwise provided in subsection (B), a person may not act as an athlete agent in this State without holding a certificate of registration pursuant to Section 59-102-60 or 59-102-80.

(B) Before being issued a certificate of registration, a person may act as an athlete agent in this State for all purposes except signing an agency contract if:

(1) a student athlete or one acting on behalf of the student athlete initiates communication with the person; and

(2) within seven days after an initial act as an athlete agent, the person submits an application for registration as an athlete agent in this State.

(C) An agency contract resulting from conduct in violation of this section is void and the athlete agent shall return all consideration received pursuant to the contract.

Section 59-102-50. (A) An applicant for registration shall submit an application for registration to the Department of Consumer Affairs in a form prescribed by the department. An application filed pursuant to this section is a public record. The application must be in the name of a person and, except as otherwise provided in subsection (B), signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:

(1) the name, date of birth, and place of birth of the applicant and:

(a) the address of his principal place of business;

(b) his work and mobile telephone numbers; and

(c) any means of communicating with him electronically, including:

(i) facsimile number;

(ii) electronic mail address; and

(iii) personal, business, or employer websites;

(2) the name of the applicant's business or employer, if applicable, including for each business or employer its mailing address, telephone number, organizational form, and the nature of the business;

(3) each social media account with which the applicant, his business, or his employer is affiliated;

(4) any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

(5) a description of the applicant's:

(a) formal training as an athlete agent;

(b) practical experience as an athlete agent; and

(c) educational background relating to his activities as an athlete agent;

(6) the names and addresses of three individuals not related to the applicant who are willing to serve as references;

(7) the name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five years next preceding the date of submission of the application, or, if the individual is a minor, the name of his parent or guardian;

(8) the names and addresses of all persons who are:

(a) with respect to the athlete agent's business, if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business who hold an equity interest of five percent or greater in that business; and

(b) with respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent or greater;

(9) whether the applicant or a person named pursuant to item (8) has been convicted of a crime that would be a crime involving moral turpitude or a felony if committed in this State, and identification of the:

(a) crime;

(b) law enforcement agency involved; and

(c) if applicable, the date of conviction and the fine or penalty imposed;

(10) whether, within fifteen years before the date of application, the applicant or a person named under item (8) has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence and, if so, the date and a full explanation of each proceeding;

(11) whether the applicant or a person named under item (8) has an unsatisfied judgment or a judgment of continuing effect, including alimony or a family court order for child support, which is not current at the date of the application;

(12) whether, within ten years before the date of application, the applicant or a person named under item (8) was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

(13) whether there has been any administrative or judicial determination that the applicant or a person named pursuant to item (8) has made a false, misleading, deceptive, or fraudulent representation;

(14) an instance in which the conduct of the applicant or a person named pursuant to item (8) resulted in the imposition against a student athlete or educational institution of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event;

(15) a sanction, suspension, or disciplinary action taken against the applicant or a person named pursuant to item (8) arising out of occupational or professional conduct;

(16) whether there has been a denial of an application for, suspension or revocation of, or refusal to renew the registration or licensure of the applicant or a person named pursuant to item (8) as an athlete agent in any state;

(17) each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;

(18) if the applicant is certified or registered by a professional league or players association:

(a) the name of the league or association;

(b) the date of certification or registration, and the date of expiration of the certification or registration, if any; and

(c) if applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and

(19) any additional information required by the department.

(B) Instead of submitting an application in the form prescribed pursuant to subsection (A), an applicant for registration in this State, who

has applied for and holds a certificate, registration, or licensure as an athlete agent in another state, may submit:

(1) a copy of the application for registration in the other state;

(2) a statement that:

(a) identifies any material change in the information on the application described in item (1), cosigned under penalty of perjury; or

(b) verifies there is no such material change provided in subitem (a), signed under penalty of perjury; and

(3) a copy of the certificate of registration from the other state.

(C) The Department of Consumer Affairs shall accept the application and the certificate from the other state as an application for registration in this State and issue a certificate of registration to the applicant if the application to the other state:

(1) was submitted in the other state within six months next preceding the submission of the application in this State and the applicant certifies that the information contained in the application is current;

(2) contains information substantially similar to or more comprehensive than that required in an application submitted in this State;

(3) was signed by the applicant under penalty of perjury; and

(4) the registration has not been revoked or suspended and no action involving the person's conduct as an athlete agent is pending against the person or his registration in any state.

(D) For purposes of implementing the provisions of subsection (C), the department shall:

(1) cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this chapter; and

(2) exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.

Section 59-102-60. (A) Except as otherwise provided in subsection (B), the Department of Consumer Affairs shall issue a certificate of registration to a person who complies with Section 59-102-50(A) or whose application has been accepted pursuant to Section 59-102-50(B).

(B) The department may refuse to issue a certificate of registration if he determines the applicant has engaged in conduct that has a significantly adverse effect on the applicant's fitness to act as an athlete

agent. In making the determination, the department may consider whether the applicant has:

(1) pleaded guilty or no contest to, has been convicted of, or has charges pending for a crime that would be a crime involving moral turpitude or a felony if committed in this State;

(2) made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(3) engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(4) engaged in conduct prohibited by Section 59-102-140;

(5) had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state;

(6) engaged in conduct resulting in the imposition against a student athlete or educational institution of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event; or

(7) engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(C) In making a determination pursuant to subsection (B), the department shall consider:

(1) how recently the conduct occurred;

(2) the nature of the conduct and the context in which it occurred; and

(3) other relevant conduct of the applicant.

(D) An athlete agent registered under subsection (A) may apply to renew a registration by submitting an application for renewal in a form prescribed by the department. An application filed pursuant to this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

(E) An athlete agent registered pursuant to Section 59-102-50(C) may renew the registration by proceeding under Section 59-102-50(D) or, if registration in the other state has been renewed, by submitting to the department copies of the application for renewal in the other state and the renewed registration from the other state. The department shall renew the registration if it determines:

(1) registration requirements of the other state are substantially similar to or more restrictive than this chapter; and

(2) the renewed registration has not been suspended or revoked and no action involving the person's conduct as an athlete agent is pending against him or his registration in any state.

(F) A certificate of registration or a renewal of a registration is valid for two years.

Section 59-102-70. (A) The Department of Consumer Affairs may limit, suspend, revoke, or refuse to renew a registration of a person registered pursuant to Section 59-102-60(A) for conduct that would have justified denial of registration pursuant to Section 59-102-60(B).

(B) The department may suspend or revoke the registration of a person registered pursuant to Section 59-102-50(C) or renewed pursuant to Section 59-102-60(E) for any reason for which the department could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration pursuant to Section 59-102-60(B).

Section 59-102-80. The Department of Consumer Affairs may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

Section 59-102-90. An application for registration or renewal of registration must be accompanied by a fee of:

(1) five hundred dollars for an initial application for registration;

(2) five hundred dollars for registration based on a certificate of registration issued by another state;

(3) three hundred dollars for an application for renewal of registration; or

(4) three hundred dollars for renewal of registration based on a renewal of registration in another state.

Section 59-102-100. (A) An agency contract must be in a record that is signed or otherwise authenticated by the parties.

(B) An agency contract must include:

(1) in a statement that the athlete agent is registered as an athlete agent in this State and a list of other states in which he is registered as an athlete agent;

(2) the amount and method of calculating the consideration to be paid by the student athlete for services provided by the athlete agent under the contract and other consideration the athlete agent receives from another source for entering into the contract or for providing the services;

(3) the name of a person not listed in the application for registration or renewal of registration to be compensated because the student athlete signed the agency contract;

(4) a description of expenses the student athlete agrees to reimburse;

(5) a description of the services to be provided to the student athlete;

(6) the duration of the contract; and

(7) the date of execution.

(C) Subject to the provisions of subsection (G), an agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface type in capital letters stating:

'WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN SEVENTY-TWO HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.'

(D) An agency contract must be accompanied by a separate record signed by the student athlete or, if the athlete is a minor, the parent or guardian of the athlete acknowledging that signing the contract may result in the loss of the athlete's eligibility to participate in the athlete's sport.

(E) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may void an agency contract that does not conform to this section. If the contract is voided, any consideration received from the athlete agent under the contract to induce entering into the contract is not required to be returned.

(F) At the time an agency contract is executed, the athlete agent shall give the student athlete or, if the athlete is a minor, the parent or guardian of the athlete a copy in a record of the contract and the separate acknowledgement required by subsection (D).

(G) If a student athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by subsection (C) must be revised accordingly.

Section 59-102-110. (A) In this section, 'communicating or attempting to communicate' means contacting or attempting to contact by an in-person meeting, a record, or another method that conveys or attempts to convey a message.

(B) Not later than seventy-two hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll.

(C) Not later than seventy-two hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete shall inform the athletic director of the educational institution at which the athlete is enrolled that the athlete has entered into an agency contract and the name and contact information of the athlete agent.

(D) If an athlete agent enters into an agency contract with a student athlete and the athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than seventy-two hours after the agent knew or should have known the athlete enrolled.

(E) If an athlete agent has a relationship with a student athlete before the athlete enrolls in an educational institution and receives an athletic scholarship from the institution, the agent shall notify the institution of the relationship not later than ten days after the enrollment if the agent knows or should have known of the enrollment and:

(1) the relationship was motivated in whole or part by the intention of the agent to recruit or solicit the athlete to enter an agency contract in the future; or

(2) the agent directly or indirectly recruited or solicited the athlete to enter an agency contract before the enrollment.

(F) An athlete agent shall give notice in a record to the athletic director of an educational institution at which a student athlete is enrolled before the agent communicates or attempts to communicate with:

(1) the athlete or, if the athlete is a minor, a parent or guardian of the athlete to influence the athlete or parent or guardian to enter into an agency contract; or

(2) another person to have that person influence the athlete or, if the athlete is a minor, the parent or guardian of the athlete to enter into an agency contract.

(G) If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another person on behalf of the athlete, the agent shall notify in a record the athletic director of any educational institution at which the athlete is enrolled. The notification must be made not later than ten days after the communication or attempt.

(H) An educational institution that becomes aware of a violation of this chapter by an athlete agent shall notify the Department of Consumer Affairs and a professional league or players' association with which the institution is aware the agent is licensed or registered of the violation.

Section 59-102-120. (A) A student athlete, or if the athlete is a minor, his parent or guardian may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen days after the contract is signed.

(B) The right to cancel an agency contract provided in subsection (A) may not be waived.

(C) If a student athlete, parent, or guardian cancels an agency contract, the student athlete, parent, or guardian is not required to pay consideration under the contract or to return consideration received from the athlete agent to induce the athlete to enter into the contract.

Section 59-102-130. (A) An athlete agent shall retain the following records for a period of five years:

(1) the name and address of each person represented by the athlete agent;

(2) an agency contract entered into by the athlete agent; and

(3) direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete to enter into an agency contract.

(B) Records retained pursuant to subsection (A) are open to inspection by the Department of Consumer Affairs during normal business hours.

Section 59-102-140. (A) An athlete agent, with the intent to induce a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete to enter into an agency contract, may not take any of the following actions or encourage another person to take or assist another person in taking any of the following actions on behalf of the athlete agent:

(1) give materially false or misleading information or make a materially false promise or representation;

(2) furnish anything of value to a student athlete before the student athlete enters into the agency contract; or

(3) furnish anything of value to an individual other than the student athlete or another registered athlete agent.

(B) An athlete agent may not intentionally do any of the following or encourage another person to do any of the following on behalf of the athlete agent:

(1) initiate contact, directly or indirectly, with a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete to recruit the student athlete, parent, or guardian to enter an agency contract unless registered pursuant to this chapter;

(2) refuse or fail to retain or permit inspection of records pursuant to Section 59-102-130;

(3) fail to register as required by Section 59-102-40;

(4) provide materially false or misleading information in an application for registration or renewal of registration;

(5) predate or postdate an agency contract; or

(6) fail to notify a student athlete or, if the student athlete is a minor, a parent or guardian of the athlete before the student athlete, parent, or guardian signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student athlete ineligible to participate as a student athlete in that sport.

Section 59-102-150. An athlete agent who violates Section 59-102-140 is guilty of a misdemeanor and, upon conviction, may be fined not more than ten thousand dollars or imprisoned for not more than three years, or both.

Section 59-102-160. (A) An educational institution or student athlete may bring an action for damages against an athlete agent if the institution or athlete is adversely affected by an act or omission of the agent in violation of this chapter. An educational institution or student athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or a person who was a student athlete at the time of the act or omission and enrolled in the institution:

(1) is suspended or disqualified from participation in an interscholastic or intercollegiate athletic event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(2) suffers financial damage.

(B) A plaintiff that prevails in an action under this section may recover actual damages, punitive damages, costs, and reasonable attorney's fees. An athlete agent found liable under this section forfeits

any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the agent by or on behalf of the athlete.

(C) A violation of this chapter is an unfair trade practice for purposes of the South Carolina Unfair Trade Practices Act.

Section 59-102-170. Upon a finding that an athlete agent has violated a provision of this chapter, as determined from admissions of the athlete agent freely and voluntarily made or as the result of a contested case hearing, the administrative law judge may assess a fine against an athlete agent not to exceed one hundred thousand dollars for a violation of this chapter.

Section 59-102-180. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 59-102-190. The provisions of this chapter modify, limit, or supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but do not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).”

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.

Code Commissioner directives

SECTION 3. After enactment of the provisions of this act, the Code Commissioner is authorized to insert the Official Comments, as amended, available from the Uniform Law Commission into the

annotated versions of the provisions of this act, as contained in the South Carolina Code of Laws, after the appropriate provision and before the South Carolina Reporter's Comments, to the extent that the South Carolina Reporter's Comments follow a provision. The Official Comments, prepared by the Uniform Law Commission with the intent of aiding the user in understanding the provisions to the Uniform Commercial Code, are not considered part of this act and do not indicate legislative intent.

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 236

(R234, H3139)

AN ACT TO AMEND SECTIONS 61-4-515 AND 61-6-2016, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERMITS TO PURCHASE AND SELL BEER AND WINE AND ALCOHOLIC LIQUORS, RESPECTIVELY, FOR ON-PREMISES CONSUMPTION AND A BIENNIAL LICENSE TO PURCHASE ALCOHOLIC LIQUORS BY THE DRINK AT CERTAIN COMPLEXES, SO AS TO INCLUDE A SOCCER COMPLEX IN THE PURVIEW OF THE STATUTES, AND TO PROVIDE A DEFINITION FOR "SOCCER COMPLEX".

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

Beer and wine, licenses, soccer complexes

SECTION 1. Section 61-4-515 of the 1976 Code is amended to read:

"Section 61-4-515. (A) In addition to the permits authorized pursuant to the provisions of this article, the department also may issue a biennial permit to the owner, or his designee, of a motorsports entertainment

complex, tennis specific complex, soccer complex, or baseball complex located in this State, which authorizes the purchase and sale for on-premises consumption of beer and wine at any occasion held on the grounds of the complex year round on any day of the week. The nonrefundable filing fee and the fees for the motorsports, tennis complex, soccer complex, or baseball complex biennial permit are the same as for other biennial permits for on-premises consumption of beer and wine, with the revenue therefrom used for the purposes provided in Section 61-4-510. Notwithstanding another provision of this article, the issuance of this permit authorizes the permit holder to purchase beer and wine from licensed wholesalers in the same manner that a person with appropriate licenses issued pursuant to this title purchases beer and wine from licensed wholesalers. The department in its discretion may specify the terms and conditions of the permit, pursuant to the provisions of Chapter 4, Title 61, and other applicable provisions under Title 61.

(B) The department may require such proof of qualifications for the issuance of these permits as it considers necessary, pursuant to the provisions of Chapter 4, Title 61, and these permits may be issued whether or not the motorsports entertainment complex, tennis specific complex, soccer complex, or baseball complex is located in a county or municipality which pursuant to Section 61-6-2010 successfully has held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty-four hours.

(C) The owner or designee of the motorsports entertainment complex, the tennis specific complex, the soccer complex, or the baseball complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume beer and wine provided at their own expense or at the expense of the sponsor of the private function.

(D) For purposes of this section:

(1) 'Motorsports entertainment complex' has the same meaning as provided in Section 12-21-2425.

(2) 'Tennis specific complex' means a tennis facility, and its ancillary grounds and facilities, which satisfies all of the following:

(a) has at least ten thousand fixed seats for tennis patrons;

(b) hosted one Women's Tennis Association Premier tournament in 2013 and continues to host at least one Women's Tennis Association Premier tournament in each year, or any successor Women's Tennis Association tournament; and

(c) engages in tourism promotion.

(3) 'Baseball complex' means a baseball stadium, and its ancillary grounds and facilities, that hosts a professional league baseball team.

(4) 'Soccer complex' means a soccer facility, along with its ancillary grounds and facilities, that hosts a professional league soccer team."

Alcoholic liquor, licenses, soccer complexes

SECTION 2. Section 61-6-2016 of the 1976 Code is amended to read:

"Section 61-6-2016. (A) In addition to the other provisions of this chapter, the owner, or his designee, of a motorsports entertainment complex, tennis specific complex, soccer complex, or baseball complex that is located in this State may be issued, upon application, a biennial license that authorizes the purchase and sale for on-premises consumption of alcoholic liquors by the drink at any occasion held on the grounds of the complex under the same terms and conditions provided in Section 61-4-515, and the nonrefundable filing fee and license fee are the same as for other biennial licenses issued by the department for on-premises consumption of alcoholic liquors by the drink. In the event that the owner or his designee applies for both a permit to purchase and sell for on-premises consumption beer and wine and a license to purchase and sell for on-premises consumption alcoholic liquors by the drink, only one fee is required, which is the same as the fee for the fifty-two week local option permit under Section 61-6-2010 with the revenue therefrom used for the same purposes as provided in Section 61-6-2010.

(B) The department may require such proof of qualifications for the issuance of these licenses as it considers necessary, pursuant to the provisions of Chapter 6, Title 61, and these licenses may be issued whether or not the motorsports entertainment complex, tennis specific complex, soccer complex, or baseball complex is located in a county or municipality, which pursuant to Section 61-6-2010 has successfully held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty-four hours.

(C) The owner or designee of the motorsports entertainment complex, the tennis specific complex, the soccer complex, or the baseball complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or

not a charge for attendance is made, may possess and consume alcoholic liquors by the drink provided at their own expense or at the expense of the sponsor of the private function.

(D) For purposes of this section:

(1) 'Motorsports entertainment complex' has the same meaning as provided in Section 12-21-2425.

(2) 'Tennis specific complex' means a tennis facility, and its ancillary grounds and facilities, that satisfies all of the following:

(a) has at least ten thousand fixed seats for tennis patrons;

(b) hosted one Women's Tennis Association Premier tournament in 2013 and continues to host at least one Women's Tennis Association Premier tournament in each year, or any successor Women's Tennis Association tournament; and

(c) engages in tourism promotion.

(3) 'Baseball complex' means a baseball stadium, and its ancillary grounds and facilities, that hosts a professional league baseball team.

(4) 'Soccer complex' means a soccer facility, along with its ancillary grounds and facilities, that hosts a professional league soccer team."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 237

(R236, H3195)

AN ACT TO AMEND SECTION 53-3-85, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF THE NINETEENTH DAY OF JUNE OF EACH YEAR AS "JUNETEENTH CELEBRATION OF FREEDOM DAY", SO AS TO PROVIDE THAT IT ALSO IS RECOGNIZED AS "SICKLE CELL DAY IN SOUTH CAROLINA" IN COMMEMORATION OF "WORLD SICKLE CELL DAY".

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

Sickle Cell Day, June nineteenth

SECTION 1. Section 53-3-85 of the 1976 Code is amended to read:

"Section 53-3-85. (A) The nineteenth day of June of each year is designated as 'Juneteenth Celebration of Freedom Day' to commemorate and reflect on the freedom of African Americans and their contributions to this State and nation.

(B) In addition to the provisions of subsection (A), the nineteenth day of June of each year also is recognized as 'Sickle Cell Day in South Carolina' in commemoration of 'World Sickle Cell Day' as created by the United Nations by resolution. The African Union (2005), the UNESCO (2005), the WHO (2006), and the United Nations (2008) recognize sickle cell disease as a public health priority with an estimated five hundred thousand persons born each year with the disease. The nineteenth day of June has been chosen to raise awareness of the genetic disease and support and encourage research, treatment, and management of sickle cell disease."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 238

(R238, H3329)

AN ACT TO AMEND SECTION 16-3-2010, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR THE ARTICLE ON TRAFFICKING IN PERSONS, SO AS TO DELETE THE DEFINITION OF "TRAFFICKING IN PERSONS"; AND TO AMEND SECTION 16-3-2020, RELATING TO THE OFFENSE OF TRAFFICKING IN PERSONS, PENALTIES, AND DEFENSES, SO AS TO RESTRUCTURE THE

OFFENSE AND PROVIDE A PENALTY WHEN THE VICTIM IS A MINOR UNDER THE AGE OF EIGHTEEN AND TO FURTHER ENSURE THE PROTECTION OF MINOR VICTIMS, AMONG OTHER THINGS.

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

Trafficking in persons, definitions

SECTION 1. Section 16-3-2010 of the 1976 Code is amended to read:

"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 performing the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by any 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) producing, directing, or promoting sexual performance by a child pursuant to Section 16-3-820;

(h) sexual battery pursuant to Section 16-3-651;

(i) sexual conduct pursuant to Section 16-3-800; or

(j) 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) 'Victim of trafficking in persons' or 'victim' means a person who has been subjected to the crime of trafficking in persons."

Trafficking in persons, offenses restructured, minor victims

SECTION 2. Section 16-3-2020 of the 1976 Code is amended to read:

"Section 16-3-2020. (A) A person is guilty of trafficking in persons if he:

(1) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to, or 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 this subsection, is guilty of trafficking in persons;

(2) aids, abets, or conspires with another person to violate the criminal provisions of this section; or

(3) knowingly gives, agrees to give, or offers to give anything of value so that any person may engage in commercial sexual activity with another person when he knows that the other person is a victim of trafficking in persons.

(B) A person convicted of a violation of subsection (A) is guilty of a felony and, upon conviction:

(1) for a first offense, must be imprisoned not more than fifteen years;

(2) for a second offense, must be imprisoned not more than thirty years;

(3) for a third or subsequent offense, must be imprisoned not more than forty-five years.

(C) If the victim of an offense contained in this section is under the age of eighteen, the person convicted under this section is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years. For a second or subsequent offense, if the victim is under the age of eighteen, the person convicted under this section is guilty of a felony and, upon conviction, must be imprisoned not more than forty-five years.

(D) 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.

(E) 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.

(F) 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. A victim of trafficking in persons convicted of a violation of this article or prostitution may motion the court to vacate the conviction and expunge the record of the conviction. The court may grant the motion on a finding that the person's participation in the offense was a direct result of being a victim.

(G) If the victim was a minor at the time of the offense, the victim of trafficking in persons may not be prosecuted in court pursuant to this article or a prostitution offense, if it is determined after investigation that the victim committed the offense as a direct result of, or incidental or related to, trafficking.

(H) The human trafficking specialized service providers must be certified by the Attorney General through criteria established by the Human Trafficking Task Force. The Attorney General, through the task force, must also establish necessary criteria for Human Trafficking Acute Crisis Care and Resource Centers to be established in the communities of South Carolina. Once the service providers are certified and the assessment centers are open, the information must be disseminated to the family court bench and bar as well as law enforcement to be utilized in carrying out the mandates of this statute. The court must determine the most appropriate way to provide

specialized services to the juveniles to address the concerns relating to human trafficking.

(I) 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.

(J) 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."

Savings clause

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 239

(R239, H3440)

AN ACT TO AMEND SECTION 43-25-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA COMMISSION FOR THE BLIND, SO AS TO REQUIRE THREE MEMBERS OF THE COMMISSION TO MEET THE LEGAL DEFINITION OF BLINDNESS; TO AMEND SECTION 43-25-30, RELATING TO THE POWERS AND DUTIES OF THE COMMISSION, SO AS TO MAKE TECHNICAL CORRECTIONS; AND TO AMEND SECTION 43-25-60, RELATING TO TEACHERS OF STUDENTS WITH CERTAIN VISUAL IMPAIRMENTS, SO AS TO PROVIDE USE OF ITINERANT COUNSELORS TO ASSIST THOSE TEACHERS.

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

South Carolina Commission for the Blind, members

SECTION 1. Section 43-25-10 of the 1976 Code is amended to read:

"Section 43-25-10. There is created the South Carolina Commission for the Blind. The commission shall consist of seven members, one from each of the seven Congressional Districts, of whom three shall meet the legal definition of blindness as defined in Section 43-25-20. The Governor shall, with the advice and consent of the Senate, appoint the members of the commission for terms of four years and until their successors are appointed and qualify. All vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. The members of the commission shall elect one of its members as chairman for a term of two years or until his successor has been elected. The chairman shall preside at the regular meetings of the commission to be held at least once each month. The chairman may call a meeting when he considers it necessary to be held at a time to be determined by the

commission. The commission shall appoint a commissioner and other officers as the commission considers necessary, none of whom may be a member of the commission, and shall fix the compensation and prescribe the duties of these appointees. The members of the commission shall receive no salary but must be allowed the usual mileage, subsistence, and per diem as authorized by law for commissions, committees, and boards."

South Carolina Commission for the Blind, powers and duties

SECTION 2. Section 43-25-30(12) of the 1976 Code is amended to read:

"(12) Assist in the furtherance of the purposes of Section 44-7-10."

South Carolina Commission for the Blind, itinerant counselor teaching assistants

SECTION 3. Section 43-25-60 of the 1976 Code is amended to read:

"Section 43-25-60. The commission may employ qualified itinerant counselors to assist teachers in public or private schools who are responsible for the teaching of visually handicapped students. The itinerant counselor shall assist the public or private school teacher by providing methods and materials for teaching such student. The State Department of Education shall report to the commission the schools having visually handicapped students. All principals or heads of private schools shall report to the commission the names of visually handicapped students in attendance."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 240

(R240, H3622)

AN ACT TO AMEND THE CODE OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-51-67 SO AS TO ESTABLISH THE JOINT PODIATRIC SURGERY ADVISORY COMMITTEE, TO PROVIDE FOR THE PURPOSE, COMPOSITION, TENURE, MANNER OF FILLING VACANCIES, AND DUTIES OF THE COMMITTEE; BY ADDING SECTION 40-51-210 SO AS TO PROVIDE CERTAIN PODIATRIC SURGERY MUST BE PERFORMED IN CERTAIN FACILITIES, TO PROVIDE A PODIATRIST WHO PERFORMS THESE PROCEDURES MUST MEET CERTAIN CRITERIA, TO PROVIDE FOR THE EXTENSION OF PROFESSIONAL PRIVILEGES TO THESE PODIATRISTS BY CERTAIN HEALTH FACILITIES, TO REQUIRE HEALTH FACILITIES IN THIS STATE PROVIDE THE RIGHT TO PURSUE AND PRACTICE FULL CLINICAL AND SURGICAL PRIVILEGES TO PODIATRISTS WHO MEET CERTAIN CRITERIA, TO PROVIDE AN ABILITY TO LIMIT THESE PRIVILEGES IN CERTAIN CIRCUMSTANCES, TO PROVIDE THIS SECTION DOES NOT REQUIRE A HEALTH FACILITY IN THIS STATE TO OFFER A SPECIFIC HEALTH SERVICE NOT OTHERWISE OFFERED, AND TO PROVIDE THAT IF THE FACILITY DOES OFFER A HEALTH SERVICE, IT MAY NOT DISCRIMINATE AMONG CERTAIN HEALTH PROFESSIONALS AUTHORIZED BY LAW TO PROVIDE THESE SERVICES; AND TO AMEND SECTION 40-51-20, RELATING TO DEFINITIONS, SO AS TO REVISE AND ADD CERTAIN DEFINITIONS.

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

Joint Podiatric Surgery Advisory Committee

SECTION 1. Chapter 51, Title 40 of the 1976 Code is amended by adding:

"Section 40-51-67. (A) There is established the Joint Podiatric Surgery Advisory Committee as a committee of the Board of Podiatry Examiners. The purpose of the advisory committee is to assist the board

in matters pertaining to podiatrists who perform surgical procedures of the ankle and related soft tissue structures.

(B) The advisory committee is to be composed of five members as follows:

(1) two orthopedic surgeons appointed by the Board of Medical Examiners, at least one of whom must be a foot and ankle specialist;

(2) two podiatrists appointed by the Board of Podiatry Examiners, both of whom must be RRA certified or qualified;

(3) one lay person appointed by the Governor.

(C) The orthopedic surgeons and podiatrists serving on the advisory committee must be licensed in good standing in this State and must be actively practicing within the geographic boundaries of this State.

(D) Members of the advisory committee are appointed for terms of four years and until their successors are appointed and qualify.

(E) Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term. The Board of Podiatry Examiners, after notice and opportunity for hearing, may remove any member of the advisory committee, except for the lay person appointed by the Governor, for negligence, neglect of duty, incompetence, revocation or suspension of license, or other dishonorable conduct. No member may serve more than two full four-year terms consecutively but may be eligible for reappointment four years from the date the last full four-year term expired.

(F) The advisory committee must meet at least two times yearly and at other times as may be necessary. The advisory committee must provide notice of its meeting pursuant to the Administrative Procedures Act.

(G) The advisory committee must adopt rules for its proceedings and elect officers. The advisory committee must keep records and minutes of its meetings as necessary to carry out its functions and must report on its activities at least annually to the Board of Podiatry Examiners and the Board of Medical Examiners and upon request of either board.

(H) The advisory committee shall have the following duties and responsibilities pertaining to podiatrists who perform surgical procedures of the ankle and related soft tissue structures:

(1) recommend policies or regulations to the Board of Podiatry Examiners regarding professional certification and standards of practice;

(2) recommend continuing education requirements to the Board of Podiatry Examiners;

(3) provide expert information and advice to the Board of Podiatry Examiners on issues related to patient safety and standard of care;

(4) assist the Department and the Board of Podiatry Examiners in processing complaints and issues by providing expert analysis and review of such complaints and issues after the department investigation is completed. The advisory committee must provide a comprehensive analysis of whether the standard of care was met and must make recommendations to the Board of Podiatry Examiners regarding appropriate sanctions if the advisory committee concludes that a violation of this act has occurred; and

(5) perform any other duties or responsibilities assigned by the Board of Podiatry."

Podiatric surgeries, facilities

SECTION 2. Chapter 51, Title 40 of the 1976 Code is amended by adding:

"Section 40-51-210. (A) Surgery of the ankle and soft tissue structures governing the ankle must be performed in an accredited hospital or ambulatory surgical center. A podiatrist who performs osseous (boney) surgical procedures of the ankle and related soft tissue structures governing the ankle must be board-certified or board-qualified by the American Board of Foot and Ankle Surgery, must have graduated from a three-year residency program in podiatric medicine and reconstructive rear foot and ankle (RRA) surgery accredited by the Council on Podiatric Medical Education or its successor organization at the time of graduation, and shall satisfy all requirements for credentials as outlined by the facility. In addition to granting or denying privileges, the governing body of each hospital or ambulatory surgical center may suspend, revoke, or modify these privileges. An applicant or individual who has privileges shall comply with applicable medical staff bylaws, rules, and regulations, including the policies and procedures governing the qualifications of applicants and the scope and delineation of privileges.

(B) With respect to the practice of podiatry in health facilities throughout this State, medical staff governing documents shall include and provide for the right to pursue and practice full clinical and surgical privileges for holders of a Doctor of Podiatric Medicine (DPM) degree within the scope of his licensure. These rights and privileges only may be limited or restricted on the basis of the demonstrated competence of an individual practitioner. This competence must be determined by health facility rules, regulations, and procedures that are necessary and

are applied in good faith, equally and in a nondiscriminatory manner, to all practitioners regardless of their professional degree.

(C) Nothing in this section may be construed to require a health facility to offer a specific health service not otherwise offered by it. If a health service is offered, the facility shall not discriminate among people holding Doctor of Medicine, Doctor of Osteopathy, or Doctor of Podiatric Medicine degrees who are authorized by law to provide these health services."

Definitions

SECTION 3. Section 40-51-20 of the 1976 Code is amended to read:

"Section 40-51-20. For the purposes of this chapter:

(1) 'Ankle' means the distal metaphysis and epiphysis of the tibia and fibula, the articular cartilage of the distal tibia and distal fibula, the ligaments that connect the distal metaphysis and epiphysis of the tibia and fibula and the talus, and the portions of skin, subcutaneous tissue, fascia, muscles, tendons and nerves at or below the level of the myotendinous junction of the triceps surae.

(2) 'Diagnosis' means to ascertain a disease or ailment by symptoms and findings and does not confer the right to use X-ray other than for diagnosis.

(3) 'Medical treatment' means the application or prescribing of any therapeutic agent or remedy for the relief of foot or ankle ailments, except the medical treatment of any systemic disease causing manifestations in the foot or ankle.

(4) 'Podiatric ankle surgery' or 'surgical treatment of the ankle' means surgical treatment of the ankle, including the surgical treatment of the anatomical structures of the ankle, as well as the administration and prescription of drugs incidental to the ankle, and the surgical treatment of manifestations of systemic diseases as they appear on the ankle, excluding:

(a) amputation of the leg or foot above the level of the transmetatarsal;

(b) surgical fixation of tibial shaft fractures;

(c) midshaft tibial osteotomy;

(d) total ankle replacement; and

(e) placement of external fixator pins proximal or above the myotendinous junction. Any external fixator pins inserted above the ankle but below the myotendinous junction may only be performed under protocols established between a podiatrist and an institution that

has the capability to treat tibia fractures and other complications that may arise from placement of the pin.

(5) 'Podiatrist' means:

(a) For podiatrists who are RRA qualified or certified, the diagnosis, surgical, medical, and mechanical treatment of all conditions of the human foot and ankle.

(b) For podiatrists who are not RRA qualified or certified, the diagnosis, surgical, medical, and mechanical treatment of all conditions of the human foot and soft tissue structures.

(c) The practice of podiatry (both RRA certified or qualified and non-RRA certified or qualified) includes the administration of local anesthesia, defined as localized infiltration only, and in conjunction with the practice of podiatry. Excluded from the definition of podiatry is the amputation of the entire foot and the administration of an anesthetic other than local.

(6) 'Podiatry' means, depending on qualifications or certifications as provided in item (5), the diagnosis, surgical, medical, and mechanical treatment of all conditions of the human foot and ankle. The practice of podiatry includes the administration of local anesthesia, defined as localized infiltration only, and in conjunction with the practice of podiatry. Excluded from the definition of podiatry is the amputation of the entire foot and the administration of an anesthetic other than local.

(7) 'Surgical treatment' means the use of a cutting or invasive instrument to treat a disease, ailment, deformity, or condition of the foot or ankle, but does not confer the right to amputate the entire foot."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 241

(R241, H3775)

AN ACT TO AMEND SECTION 44-63-140, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING IN PART TO ORIGINAL

BIRTH CERTIFICATES OF ADOPTED PERSONS, SO AS TO ALLOW AN ADULT ADOPTEE EIGHTEEN YEARS OF AGE OR OLDER TO OBTAIN A COPY OF THE ADOPTEE'S OWN ORIGINAL BIRTH CERTIFICATE IN CERTAIN CIRCUMSTANCES, TO ALLOW A BIOLOGICAL PARENT TO EXECUTE A CONTACT PREFERENCE FORM AND A MEDICAL HISTORY FORM TO BE PROVIDED TO THE ADULT ADOPTEE UPON REQUEST, AND FOR OTHER PURPOSES.

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

Adult adoptee access to original birth certificate and other information

SECTION 1. Section 44-63-140(1) of the 1976 Code is amended to read:

"(1)(a) For a person born in this State, the state registrar shall prepare a supplementary Certificate of Birth in the name of the adoptee, free of any reference to or indication of the fact that the child was adopted and showing the adoptive parents as the parents, except that an adoption of an adult must display the words 'By Adoption' on the face of the amended certificate.

(b) The original birth certificate and the evidence of adoption are not subject to inspection, except upon order of a court of competent jurisdiction. However, a person eighteen years of age or older who was born in the State of South Carolina and who has had his original certificate of birth sealed due to an adoption may, upon written request to the state registrar, receive a copy of his original birth certificate and any evidence of the adoption held with the original record if the biological parent has completed a form consenting to the release of the original birth certificate. The form also must allow for the biological parent to indicate contact preference and to consent to release of medical history pursuant to item (1)(c). The copy of the original birth certificate must be in a form that clearly indicates it is not a certified copy and that it may not be used for legal purposes. All procedures, fees, and waiting periods applicable to nonadopted citizens born in the State of South Carolina seeking copies of certificates of birth apply.

(c) The department shall develop a contact preference form and a medical history form to provide to a biological parent upon request to be completed at his option. Upon completion, a contact preference form and

a medical history form must be filed with the state registrar and accompany an original sealed birth certificate issued to an adoptee pursuant to subitem (b).

(d) The contact preference form must allow the biological parent to indicate whether he has completed or updated a medical history form and must allow the biological parent to choose one of the following contact options and provide contact information as appropriate:

(1) I would like to be contacted.

(2) I would prefer to be contacted only through an intermediary.

(3) I prefer not to be contacted at this time. If I decide later that I would like to be contacted, I will submit an updated contact preference form to the state registrar.

Only department staff authorized to process applications made pursuant to subitem (b) may process contact preference and medical history forms.

(e) The medical history form and contact preference form are confidential communications from the biological parent to the person named on the sealed birth certificate and must be placed in a sealed file upon receipt from the biological parent in the file containing the sealed original birth certificate. The sealed file containing the contact preference form and medical history form must be released to an adoptee requesting the adoptee's own original birth certificate pursuant to subitem (b). The contact preference form and medical history form are private communications from the biological parent to the adoptee named on the sealed birth certificate, and the state registrar shall retain a copy of the forms upon release to the adoptee."

Time effective

SECTION 2. This act takes effect July 1, 2019, and applies only to adoptions finalized after that date.

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 242

(R242, H3819)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44-53-363 SO AS TO ESTABLISH REQUIREMENTS RELATED TO PRESCRIBING OPIOID ANALGESICS TO MINORS.

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

Prerequisite to issuing opioid analgesics to minors

SECTION 1. Article 3, Chapter 53, Title 44 of the 1976 Code is amended by adding:

"Section 44-53-363. (A) Except as provided in subsection (C), before issuing, for a minor, the first prescription in a single course of treatment for an opioid analgesic, regardless of whether the dosage is modified during that course of treatment, a prescriber shall:

(1) as part of the prescriber's examination of the minor, assess whether the minor has ever suffered from or is currently suffering from a mental health or substance abuse disorder and whether the minor has taken or is currently taking prescription drugs for treatment of a mental health or substance abuse disorder;

(2) discuss with the minor and the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment all of the following:

(a) the risks of addiction and overdose associated with opioid analgesics;

(b) the increased risk of addiction to controlled substances of individuals suffering from both mental health and substance abuse disorders;

(c) the dangers of taking opioid analgesics with benzodiazepines, alcohol, or other central nervous system depressants;

(d) any other information in the patient counseling information section of the labeling for the opioid analgesic required pursuant to 21 C.F.R. 201.57(c)(18); and

(3) obtain written consent for the prescription from the minor's parent, guardian, or, subject to subsection (E), another adult authorized to consent to the minor's medical treatment.

(B) The prescriber shall record the consent required pursuant to subsection (A)(3) on a 'Start Talking!' consent form developed by the State Board of Medical Examiners. The form must be separate from any other document the prescriber uses to obtain informed consent for other treatment provided to the minor and must contain:

(1) the name and quantity of the opioid analgesic being prescribed and the amount of the initial dose;

(2) a statement indicating that a controlled substance is a drug or other substance that the United States Drug Enforcement Administration has identified as having a potential for abuse;

(3) a statement certifying that the prescriber discussed with the minor and the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment the matters described in subsection (A)(2);

(4) the number of refills, if any, authorized by the prescription; and

(5) the signature of the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment and the date of signing.

(C)(1) The requirements set forth in subsection (A) do not apply if the minor's treatment with an opioid analgesic:

(a) is associated with or incident to a medical emergency;

(b) is associated with or incident to surgery, regardless of whether the surgery is performed on an inpatient or outpatient basis;

(c) is associated with pain management treatment for palliative care, cancer care, or hematological disorders including, but not limited to, sickle cell disease;

(d) is associated with the treatment of neonatal abstinence syndrome;

(e) in the prescriber's professional judgment, fulfilling the requirements of subsection (A) would be a detriment to the minor's health or safety;

(f) except as provided in subsection (D), the treatment is rendered in a hospital, emergency facility, ambulatory surgical facility, nursing home, pediatric respite care program, residential care facility, freestanding rehabilitation facility, or similar institutional facility;

(g) is ordered by a practitioner issuing a prescription for a Schedule II controlled substance to treat a hospice-certified patient;

(h) is ordered by a practitioner issuing a prescription for a Schedule II controlled substance that does not exceed a five-day supply for a patient; or

(i) is ordered by a practitioner prescribing a Schedule II controlled substance for a patient with whom the practitioner has an established relationship for the treatment of a chronic condition; however, the practitioner must review the patient's controlled substance history maintained in the prescription drug monitoring program at least every three months.

(2) The requirements of subsection (A) do not apply to a prescription for an opioid analgesic that a prescriber issues to a minor at the time of discharge from a facility or other location described in item (1)(f).

(D) The exemption provided pursuant to subsection (C)(1)(f) does not apply to treatment rendered in a prescriber's office that is located on the premises of or adjacent to a facility or other location described in that subsection.

(E) If the individual who signs the consent form required pursuant to subsection (A)(3) is another adult authorized to consent to the minor's medical treatment, the prescriber shall prescribe not more than a single, seventy-two hour supply and indicate on the prescription the quantity that is to be dispensed pursuant to the prescription.

(F) A signed 'Start Talking!' consent form obtained pursuant to this section must be maintained in the minor's medical record.

(G)(1) As used in this section:

(a) 'Another adult authorized to consent to the minor's medical treatment' means an adult to whom a minor's parent or guardian has given written authorization to consent to the minor's medical treatment.

(b) 'Medical emergency' means a situation that in a prescriber's good faith medical judgment creates an immediate threat of serious risk to the life or physical health of a minor.

(c) 'Minor' means an individual under eighteen years of age who is not emancipated.

(2) For purposes of this section, an individual under eighteen years of age is emancipated only if the individual has married, has entered the armed services of the United States, has become employed and self-sustaining, or otherwise has become independent from the care and control of the individual's parent, guardian, or custodian."

Time effective

SECTION 2. This act takes effect six months after approval by the Governor.

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 243

(R243, H3826)

AN ACT TO AMEND SECTION 44-53-360, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PRESCRIPTIONS, SO AS TO REQUIRE WRITTEN PRESCRIPTIONS FOR CONTROLLED SUBSTANCES TO BE WRITTEN ON TAMPER-RESISTANT PRESCRIPTION PADS, WITH EXCEPTIONS; AND FOR OTHER PURPOSES.

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

Tamper-resistant prescription pads

SECTION 1. Section 44-53-360 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

"( )(1) A written prescription for any Schedule II, III, IV, and V controlled substance must be written on tamper-resistant prescription pads which contain one or more industry-recognized features designed to prevent all of the following:

(A) unauthorized copying of a completed or blank prescription form;

(B) erasure or modification of information written on the prescription by the prescriber; and

(C) use of counterfeit prescription forms.

(2) Prescription orders transmitted by facsimile, orally, or electronically are exempt from the tamper-resistant prescription pad requirements of this section.

(3) The tamper-resistant prescription pad requirements do not apply to refill prescriptions of an original written prescription that was presented to a pharmacy before the effective date of this act.

(4) The exceptions set forth in Section 1927(k)(3) of the Social Security Act, 42 U.S.C. Section 1396r-8(k)(3), concerning nursing facilities, hospitals, and other institutional and clinical settings, are

exempt from the tamper-resistant prescription pad requirements of this section.

(5) If a written prescription is not submitted on a tamper-resistant prescription form meeting the requirements of this section, a pharmacy may fill the prescription in full as written on an emergency basis as long as the pharmacy receives a verbal, facsimile, electronic, or compliant written prescription from the prescriber within seventy-two hours after the date on which the prescription was filled."

Time effective

SECTION 2. This act takes effect sixty days after approval by the Governor.

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 244

(R244, H3865)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "SOUTH CAROLINA PREGNANCY ACCOMMODATIONS ACT"; TO AMEND SECTION 1-13-30, RELATING TO DEFINITIONS UNDER THE SOUTH CAROLINA HUMAN AFFAIRS LAW, SO AS TO REVISE THE TERMS "BECAUSE OF SEX" OR "ON THE BASIS OF SEX" USED IN THE CONTEXT OF EQUAL TREATMENT FOR WOMEN AFFECTED BY PREGNANCY, CHILDBIRTH, OR RELATED MEDICAL CONDITIONS, AND TO REVISE THE TERM "REASONABLE ACCOMMODATION" PERTAINING TO WHAT THIS TERM MAY INCLUDE; TO AMEND SECTION 1-13-80, AS AMENDED, RELATING TO UNLAWFUL EMPLOYMENT PRACTICES OF AN EMPLOYER, SO AS TO ADD CERTAIN OTHER UNLAWFUL EMPLOYMENT PRACTICES IN REGARD TO AN APPLICANT FOR EMPLOYMENT OR AN EMPLOYEE WITH LIMITATIONS BECAUSE OF PREGNANCY, CHILDBIRTH, OR RELATED MEDICAL CONDITIONS, TO PROVIDE FOR NOTICE AND

APPLICABILITY TO NEW AND CURRENT EMPLOYEES TO WHOM SPECIFIC PROVISIONS APPLY, AND TO PROVIDE FOR CERTAIN PUBLIC EDUCATION EFFORTS BY THE HUMAN AFFAIRS COMMISSION; AND TO PROVIDE THAT THE HUMAN AFFAIRS COMMISSION WITH STATED LIMITATIONS MAY PROMULGATE REGULATIONS TO CARRY OUT THIS ACT.

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

Citation

SECTION 1. This act is known and may be cited as the "South Carolina Pregnancy Accommodations Act".

Intent

SECTION 2. It is the intent of the General Assembly by this act to combat pregnancy discrimination, promote public health, and ensure full and equal participation for women in the labor force by requiring employers to provide reasonable accommodations to employees for medical needs arising from pregnancy, childbirth, or related medical conditions. Current workplace laws are inadequate to protect pregnant women from being forced out or fired when they need a simple, reasonable accommodation in order to stay on the job. Many pregnant women are single mothers or the primary breadwinners for their families; if they lose their jobs then the whole family will suffer. This is not an outcome that families can afford in today's difficult economy.

Definitions revised

SECTION 3.A. Section 1-13-30(l) of the 1976 Code is amended to read:

"(l) The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions, including, but not limited to, lactation, and women affected by pregnancy, childbirth, or related medical conditions must be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in item (3) of subsection (h) of Section 1-13-80 must be interpreted to

permit otherwise. This subsection shall not require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term, or except where medical complications have arisen from an abortion. However, nothing in this subsection shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion. This subsection shall not apply to any fringe benefit fund or insurance program which was in effect on October 31, 1978, until April 30, 1979. Until after October 31, 1979 or, if there was an applicable collective bargaining agreement in effect on October 31, 1978, until the termination of that agreement, no person who, on October 31, 1978, was providing either by direct payment or by making contributions to a fringe benefit fund or insurance program, benefits in violation of the provisions of this chapter relating to sex discrimination in employment shall, in order to come into compliance with such provisions, reduce the benefits or the compensation provided any employee on October 31, 1978, either directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance program, except that where the costs of such benefits on October 31, 1978 are apportioned between employers and employees, the payments or contributions required to comply with the provisions of this chapter relating to sex discrimination in employment may be made by employers and employees in the same proportion. Nothing in this section shall prevent the readjustment of benefits or compensation for reasons unrelated to compliance with the provisions of this chapter relating to sex discrimination in employment."

B.Section 1-13-30(T) of the 1976 Code, is amended to read:

"(T) 'Reasonable accommodation' may include:

(1) making existing facilities used by employees readily accessible to and usable by individuals with disabilities and individuals with medical needs arising from pregnancy, childbirth, or related medical conditions provided the employer shall not be required to construct a permanent, dedicated space for expressing milk; however, nothing in this section exempts an employer from providing other reasonable accommodations; and

(2)(a) for individuals with disabilities: job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations; or

(b) for individuals with medical needs arising from pregnancy, childbirth, or related medical conditions providing more frequent or longer break periods; providing more frequent bathroom breaks; providing a private place, other than a bathroom stall for the purpose of expressing milk; modifying food or drink policy; providing seating or allowing the employee to sit more frequently if the job requires the employee to stand; providing assistance with manual labor and limits on lifting; temporarily transferring the employee to a less strenuous or hazardous vacant position, if qualified; providing job restructuring or light duty, if available; acquiring or modifying equipment or devices necessary for performing essential job functions; modifying work schedules; however, the employer is not required to do the following, unless the employer does or would do so for other employees or classes of employees that need a reasonable accommodation:

(i) hire new employees that the employer would not have otherwise hired;

(ii) discharge an employee, transfer another employee with more seniority, or promote another employee who is not qualified to perform the new job;

(iii) create a new position, including a light duty position for the employee, unless a light duty position would be provided for another equivalent employee; or

(iv) compensate an employee for more frequent or longer break periods, unless the employee uses a break period which would otherwise be compensated."

Unlawful employment practices added, notice and public education required

SECTION 4. Section 1-13-80(A) of the 1976 Code is amended to read:

"(A) It is an unlawful employment practice for an employer:

(1) to fail or refuse to hire, bar, discharge from employment, or otherwise discriminate against an individual with respect to the individual's compensation or terms, conditions, or privileges of employment because of the individual's race, religion, color, sex, age, national origin, or disability;

(2) to limit, segregate, or classify employees or applicants for employment in a way which would deprive or tend to deprive an individual of employment opportunities, or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, national origin, or disability;

(3) to reduce the wage rate of an employee in order to comply with the provisions of this chapter relating to age;

(4)(a) to fail or refuse to make reasonable accommodations for medical needs arising from pregnancy, childbirth, or related medical conditions of an applicant for employment or an employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer;

(b) to deny employment opportunities to a job applicant or employee, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations for medical needs arising from pregnancy, childbirth, or related medical conditions of an applicant for employment or an employee;

(c) to require an applicant for employment or an employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation that the applicant or employee chooses not to accept, if the applicant or employee does not have a known limitation related to pregnancy, or if the accommodation is unnecessary for the applicant or employee to perform the essential duties of her job;

(d) to require an employee to take leave under any leave law or policy of the employer if another reasonable accommodation can be provided to the known limitations for medical needs arising from pregnancy, childbirth, or related medical conditions; or

(e) to take adverse action against an employee in the terms, conditions, or privileges of employment for requesting or using a reasonable accommodation to the known limitations for medical needs arising from pregnancy, childbirth, or related medical conditions.

For the purposes of this item:

(i) An employer shall provide written notice of the right to be free from discrimination for medical needs arising from pregnancy, childbirth, or related medical conditions, pursuant to this item to new employees at the commencement of employment, and existing employees within one hundred twenty days after the effective date of this item.

(ii) The notice required by subsubitem (i) also must be conspicuously posted at an employer's place of business in an area accessible to employees.

The commission shall develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employees, employment agencies, and applicants for employment about their rights and responsibilities under this item."

Regulations authorized

SECTION 5. The South Carolina Human Affairs Commission may promulgate regulations to carry out this act, provided the regulations do not exceed the definition of "reasonable accommodation" requirements for employers under federal or state law. These regulations may identify some reasonable accommodations addressing medical needs arising from pregnancy, childbirth, or related medical conditions that must be provided to a job applicant or employee affected by these known limitations, unless the employer can demonstrate that doing so would impose an undue hardship.

Construction of act

SECTION 6. Nothing in this act shall be construed to preempt, limit, diminish or otherwise affect any other provision of federal, state, or local law relating to discrimination based on sex or pregnancy, or to invalidate or limit the remedies, rights, and procedures of any federal, state, or local law that provides greater or equal protection for employees affected by pregnancy, childbirth, or related conditions.

Time effective

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 245

(R245, H3886)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 30 TO TITLE 27 SO AS ENACT THE "SOUTH CAROLINA HOMEOWNERS ASSOCIATION ACT", TO PROVIDE NECESSARY DEFINITIONS, TO PROVIDE RECORDING REQUIREMENTS FOR THE ENFORCEABILITY OF HOMEOWNERS ASSOCIATION GOVERNING DOCUMENTS, TO PROVIDE

REQUIREMENTS CONCERNING HOMEOWNERS ASSOCIATION RULES AND REGULATIONS, TO PROVIDE HOMEOWNERS ASSOCIATIONS MUST COMPLY WITH CERTAIN NOTICE REQUIREMENTS BEFORE ADOPTING ANNUAL BUDGET INCREASES, AND TO PROVIDE MAGISTRATES COURTS HAVE JURISDICTION TO ADJUDICATE CERTAIN MONETARY DISPUTES BETWEEN HOMEOWNERS ASSOCIATIONS AND HOMEOWNERS; AND TO ENACT THE "DEPARTMENT OF CONSUMER AFFAIRS SERVICES FOR HOMEOWNERS AND HOMEOWNERS ASSOCIATIONS ACT", TO PROVIDE RELATED DEFINITIONS, TO PROVIDE REQUIREMENTS OF THE DEPARTMENT OF CONSUMER AFFAIRS CONCERNING THE RECEIPT AND PROCESSING OF COMPLAINTS INVOLVING HOMEOWNERS ASSOCIATIONS, TO AUTHORIZE THE DEPARTMENT TO INCLUDE CERTAIN RELATED INFORMATION AND EDUCATIONAL MATERIALS ON ITS INTERNET WEBSITE, TO PROVIDE THE DEPARTMENT SHALL COMPILE AND ANNUALLY REPORT CERTAIN RELATED DATA TO THE GOVERNOR AND THE GENERAL ASSEMBLY, TO PROVIDE THE DEPARTMENT SHALL POST THESE REPORTS ON ITS INTERNET WEBSITE, TO PROHIBIT THE DEPARTMENT FROM PROMULGATING CERTAIN RELATED REGULATIONS OR ISSUING CERTAIN RELATED GUIDELINES, AND TO PROHIBIT THE DEPARTMENT FROM ARBITRATING DISPUTES BETWEEN HOMEOWNERS AND HOMEOWNERS ASSOCIATIONS; AND TO AMEND SECTION 27-50-40, RELATING TO RESIDENTIAL PROPERTY CONDITION DISCLOSURE STATEMENTS, SO AS TO REQUIRE THESE STATEMENTS INCLUDE WHETHER PROPERTY IS SUBJECT TO GOVERNANCE OF A HOMEOWNERS ASSOCIATION WHICH CARRIES CERTAIN RIGHTS AND OBLIGATIONS THAT MAY LIMIT USE OF THE PROPERTY AND INVOLVE FINANCIAL OBLIGATIONS.

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

Homeowners Associations, Consumer Affairs services

SECTION 1. Title 27 of the 1976 Code is amended by adding:

"CHAPTER 30

Homeowners Associations

Article 1

South Carolina Homeowners Association Act

Section 27-30-110. This article may be cited as the 'South Carolina Homeowners Association Act'.

Section 27-30-120. As used in this article:

(1) 'Board' means the representative body, regardless of name, designated in the governing documents to act on behalf of a homeowners association and govern the association.

(2) 'Declarant' means a person or group of persons acting in concert who:

(a) as part of a common promotional plan, subdivide and offer to dispose of an interest the person or group has in a unit in real property; or

(b) reserve or succeed to a special declarant right, which means a right created under the declaration or bylaws for the person or group to retain or exercise authority in addition to regular declarant rights in a unit of real property.

(3) 'Declaration' means the recorded instruments, however denominated, that create a homeowners association, including amendments to those instruments.

(4) 'Governing documents' means declaration, master deeds, or bylaws, or any amendments to the declaration, master deeds, or bylaws.

(5) 'Homeowner' means a declarant or other person who owns a unit in a homeowners association, but does not include a person having an interest in such a unit solely as security for an obligation.

(6) 'Homeowners association' or 'association' means an entity developed to manage and maintain a planned community or horizontal property regime for which there is a declaration requiring a person, by virtue of his ownership of a separate property within the planned community or horizontal property regime, to pay assessments for a share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses related to, common elements and other real estate described in that declaration. A 'homeowners association' or 'association' does not include a vacation timesharing plan organized and subject only to the provisions of Chapter 32.

(7) 'Homeowners association management company' means a corporation, limited liability company, partnership, trust, association, sole proprietorship, or other similar organization engaging in the business of managing homeowners associations.

(8) 'Unit' means an apartment in a horizontal property regime, or a lot in a subdivision.

Section 27-30-130. (A)(1) Except as otherwise provided in this section, in order to be enforceable, a homeowners association's governing documents must be recorded in the clerk of court's, Register of Mesne Conveyance (RMC), or register of deeds office in the county where the property is located.

(2) To continue to be enforceable, any governing document not recorded prior to the effective date of this section must be recorded by January tenth of the year following the effective date of this section in the clerk of court's, Register of Mesne Conveyance (RMC), or register of deeds office in the county where the property is located.

(B)(1) Rules, regulations, and amendments to rules and regulations:

(a) are effective upon passage or adoption; and

(b) must be made accessible to a homeowners association member upon the request of that member of the homeowners association, and, at the option of the homeowners association, via electronic mail or through methods provided by the homeowners association's bylaws that ensure actual notice, unless they are:

(i) posted in a conspicuous place in a common area in the community; or

(ii) available on an Internet website maintained by the homeowners association, where they may be downloaded by the homeowner.

(2) In order to remain enforceable, a homeowners association's rules, regulations, and amendments to rules and regulations must be recorded in the clerk of court's, Register of Mesne Conveyance (RMC), or register of deeds office in the county in which the property is located by January tenth of each year following their adoption or amendment.

(C) Homeowners associations in existence on the effective date of this section must record the documents required by subsections (A)(1) and (B)(2) by January tenth following the effective date of this section.

(D) The recording of the rules, regulations, bylaws, and amendments to rules and regulations are not subject to the requirements of witnesses and acknowledgements required under Section 30-5-30.

Section 27-30-140. (1) Before a homeowners association may take action to increase an annual budget in any single year, the homeowners association must provide notice to homeowners at least forty-eight hours in advance of the meeting in which a decision to raise the annual budget is made. Notice of the meeting may be through posting notice:

(a) in a conspicuous place in a common area in the community;

(b) on an Internet website maintained by the homeowners association;

(c) by electronic mail; or

(d) through methods provided in the association's bylaws that ensure actual notice.

(2) The provisions of this section do not apply to a homeowners association that is incorporated under the South Carolina Nonprofit Corporation Act found in Chapter 31, Title 33.

Section 27-30-150. The access to documents provisions of Sections 33-31-1602, 33-31-1603, 33-31-1604, and 33-31-1605 apply to all homeowners associations not subject to the South Carolina Nonprofit Corporation Act for the purposes of allowing homeowners access to inspect and copy a homeowners association's annual budget and homeowners membership lists.

Section 27-30-160. Pursuant to Section 22-3-10, the magistrates court shall have concurrent jurisdiction to adjudicate monetary disputes arising under this article, provided the dispute meets the jurisdictional requirements of Section 22-3-10.

Section 27-30-170. No provision of this article may be construed to be in conflict with the provisions of the South Carolina Nonprofit Corporation Act.

Article 3

Department of Consumer Affairs Services for Homeowners and Homeowners Associations

Section 27-30-310. This article must be known and may be cited as the 'Department of Consumer Affairs Services for Homeowners and Homeowners Associations Act'.

Section 27-30-320. For the purposes of this article:

(1) 'Board' means the representative body, regardless of name, designated in the governing documents to act on behalf of a homeowners association and govern the association.

(2) 'Bylaws' means the document, and amendments to it, that contain the procedures for conducting the affairs of a homeowners association, regardless of the form of the association's legal entity or the name by which the document comprising the bylaws is identified.

(3) 'Declarant' means a person or group of persons acting in concert who:

(a) as part of a common promotional plan, subdivide and offer to dispose of an interest the person or group has in a unit in real property; or

(b) reserve or succeed to a special declarant right, which means a right created under the declaration or bylaws for the person or group to retain or exercise authority in addition to regular declarant rights in a unit of real property.

(4) 'Declaration' means the recorded instruments, however denominated, that create a homeowners association, including amendments to those instruments.

(5) 'Department' means the Department of Consumer Affairs.

(6) 'Homeowner' means a declarant or other person who owns a unit in a homeowners association, but does not include a person having an interest in such a unit solely as security for an obligation.

(7) 'Homeowners association' or 'association' means an entity developed to manage and maintain a planned community or horizontal property regime for which there is a declaration requiring a person, by virtue of his ownership of a separate property within the planned community or horizontal property regime, to pay assessments for a share of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses related to, common elements and other real estate described in that declaration. A 'homeowners association' or 'association' does not include a vacation timesharing plan organized and subject only to the provisions of Chapter 32.

(8) 'Homeowners association management company' means a corporation, limited liability company, partnership, trust, association, sole proprietorship, or other similar organization engaging in the business of managing homeowners associations.

(9) 'Unit' means an apartment in a horizontal property regime, or a lot in a subdivision.

Section 27-30-330. The department is authorized to include on its publicly available Internet website:

(1) information for homeowners and homeowners associations concerning how they may contact the department on its toll free number or submit complaint forms;

(2) information concerning the governance of homeowners associations as provided in this chapter and other provisions of the South Carolina Code of Laws; and

(3) educational and reference materials about homeowners associations, including general information about the roles, rights, and responsibilities of the board, declarant, homeowners, and other parties.

Section 27-30-340. (A) The department shall receive and record data from any calls or written complaints from homeowners or homeowners associations.

(B) When a call or written complaint is received, the department shall, at a minimum, include the following information to be completed on a form completed by a homeowner or homeowners association or, if received by telephone, on a form completed by a department employee who is identified on the form:

(1) homeowner's name;

(2) name of the homeowners association and their contact information, including the county and city where it is located;

(3) name of the homeowners association management company, if any, and its contact information, including telephone number, owner's name, and street and mailing addresses;

(4) whether a homeowner:

(a) was informed of the requirement of membership in a homeowners association as a condition of home ownership, including when that information was provided and by whom;

(b) received a copy of the governing documents of the homeowners association and if the copy was obtained before or after receiving title to the unit;

(c) was denied access to the governing documents and, if so, what remedies the homeowner took to obtain the governing documents;

(d) understands his rights and obligations under the governing documents;

(5) the nature of the homeowner's or homeowners association's complaint;

(6) whether the homeowner attempted to communicate his complaint to the homeowners association or homeowners association management company, if any, and whether the homeowner exhausted all of his remedies in accordance with any terms set out in the homeowners association governing documents or rules and regulations, what action,

if any, the homeowners association or homeowners association management company, if any, took concerning the complaint;

(7) whether the homeowner agrees or disagrees with the provisions of the governing documents;

(8) whether the homeowner agrees or disagrees with how the provisions were enforced, his recommendations for changing the provisions or means of enforcement, and whether the homeowner feels that more or less enforcement is needed; and

(9) any response received from a homeowners association or homeowner, relative to a specific complaint provided by the department and whether or not a response was provided by the applicable homeowners association or homeowner.

(C) Upon receiving a homeowner's or homeowners association's complaint, the department shall provide the complaint to the homeowners association or the homeowner complained against in a manner that verifies receipt of such complaint by the homeowners association or homeowner, so the homeowner, board, or homeowners association may determine if the homeowner, board, or homeowners association desires to make a response to the complaint.

(D) By January thirty-first of each year, the department shall make a report of all data collected from the full report categories collected and complaints received as provided in this section to:

(1) the Governor and the General Assembly; and

(2) the public through the department's website. The public report must include categorized, filterable, and searchable information compiled from the complaints and responses and redact any personal or private information, such as names, addresses, and telephone numbers, contained in the complaints and responses. This redaction requirement does not apply to information concerning a homeowners association and a homeowners association management company.

(3) For data to be included in the report, the form must be executed by the homeowner, homeowners association, or department employee.

(E) Under the provisions of this article, the department is prohibited from:

(1) promulgating regulations or issuing guidelines concerning homeowners association administration, governance, or governing documents; or

(2) serving as an arbiter in disputes between the homeowner and homeowners association."

Residential property condition disclosure statements

SECTION 2. Section 27-50-40(A) of the 1976 Code is amended to read:

"(A) Except for transactions exempted under Section 27-50-30, the owner of the real property shall furnish to a purchaser a written disclosure statement. The disclosure statement must contain the language and be in the form promulgated by the commission and the form may be delivered electronically through the Internet or other similar methods. The commission may charge a reasonable fee for the printed form but shall post the form for free downloading on its public website. The disclosure statement must include, but is not limited to, the following characteristics and conditions of the property:

(1) the water supply and sanitary sewage disposal system;

(2) the roof, chimneys, floors, foundation, basement, and other structural components and modifications of these structural components;

(3) the plumbing, electrical, heating, cooling, and other mechanical systems;

(4) present infestation of wood-destroying insects or organisms or past infestation, the damage from which has not been repaired;

(5) the zoning laws, restrictive covenants, building codes, and other land-use restrictions affecting the real property, any encroachment of the real property from or to adjacent real property, and notice from a governmental agency affecting this real property;

(6) presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material, buried or covered, and other environmental contamination;

(7) existence of a rental, rental management, vacation rental, or other lease contract in place on the property at the time of closing, and, if known, any outstanding charges owed by the tenant for gas, electric, water, sewerage, or garbage services provided to the property the tenant leases;

(8) existence of a meter conservation charge, as permitted by Section 58-37-50, that applies to electricity or natural gas service to the property; or

(9) whether the property is subject to governance of a homeowners association, as provided in Chapter 30 of this title, which carries certain rights and obligations that may limit the use of his property and involve financial obligations."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 17th day of May, 2018.

No. 246

(R246, H3895)

AN ACT TO AMEND ARTICLES 9 AND 11 OF CHAPTER 9, TITLE 11, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO REVENUE AND FISCAL AFFAIRS, SO AS TO REORGANIZE THE ARTICLES, TO ELIMINATE CERTAIN DIVISIONS, AND TO MAKE CONFORMING CHANGES; TO AMEND SECTIONS 2-7-71 AND 2-7-78, RELATING TO CERTAIN IMPACT STATEMENTS, SO AS TO REQUIRE THE STATEMENTS TO BE CERTIFIED BY THE EXECUTIVE DIRECTOR OF THE REVENUE AND FISCAL AFFAIRS OFFICE; TO AMEND SECTION 2-7-73, RELATING TO HEALTH COVERAGE IMPACT STATEMENTS, SO AS TO REQUIRE THE DEPARTMENT OF INSURANCE TO PROVIDE CERTAIN ANALYSIS UPON REQUEST; TO AMEND SECTION 4-10-790, RELATING TO DISTRIBUTIONS FROM A LOCAL OPTION SALES AND USE TAX, SO AS TO REQUIRE THE DEPARTMENT OF REVENUE TO FURNISH DATA TO THE STATE TREASURER, AND TO REQUIRE THE REVENUE AND FISCAL AFFAIRS OFFICE TO PROVIDE CERTAIN ASSISTANCE; TO AMEND SECTION 6-1-50, RELATING TO FINANCIAL REPORTS FROM COUNTIES AND MUNICIPALITIES, SO AS TO DELAY THE REPORTS UNTIL MARCH FIFTEENTH AND TO PROVIDE CERTAIN INFORMATION TO THE STATE TREASURER; TO AMEND SECTION 23-47-65, RELATING TO THE SOUTH CAROLINA 911 ADVISORY COMMITTEE, SO AS TO ALLOW THE EXECUTIVE DIRECTOR OF THE REVENUE AND FISCAL AFFAIRS OFFICE TO APPOINT A MEMBER; TO AMEND SECTIONS 27-2-85 AND 27-2-95, RELATING TO THE SOUTH

CAROLINA GEODETIC SURVEY, SO AS TO DELETE OBSOLETE REFERENCES; TO AMEND SECTION 44-6-170, RELATING TO THE DATA OVERSIGHT COUNCIL, SO AS TO DELETE OBSOLETE REFERENCES, AND TO REVISE THE COMPOSITION OF THE COUNCIL; TO AMEND SECTION 44-6-5, RELATING TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, SO AS TO DELETE AN OBSOLETE REFERENCE; TO REDESIGNATE CERTAIN SECTIONS OF THE CODE; AND TO REPEAL SECTIONS 1-11-360, 2-7-62, 44-6-175, AND 48-22-20 ALL RELATING TO THE DUTIES OF THE REVENUE AND FISCAL AFFAIRS OFFICE.

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

Sections redesignated

SECTION 1. The following provisions of Articles 9 and 11 of Chapter 9, Title 11 are redesignated as follows:

Section 11-9-820 is redesignated Section 11-9-1110
Section 11-9-825 is redesignated Section 11-9-870
Section 11-9-840 is redesignated Section 11-9-1120
Section 11-9-850 is redesignated Section 11-9-880
Section 11-9-860 is redesignated Section 11-9-890
Section 11-9-870 is redesignated Section 11-9-895
Section 11-9-880 is redesignated Section 11-9-1130
Section 11-9-890 is redesignated Section 11-9-1140
Section 11-9-1110 is redesignated Section 11-9-840
Section 11-9-1130 is redesignated Section 11-9-850
Section 11-9-1140 is redesignated Section 11-9-860

Revenue and Fiscal Affairs Office

SECTION 2. Articles 9 and 11 of Chapter 9, Title 11 of the 1976 Code, as redesignated pursuant to SECTION 1 of this act, are amended to read:

"Article 9

Revenue and Fiscal Affairs

Section 11-9-805. For purposes of this article:

(1) 'Executive Director' means the Executive Director of the Revenue and Fiscal Affairs Office.

(2) 'Office' means the Revenue and Fiscal Affairs Office.

Section 11-9-810. The General Assembly finds and declares that the present system of advising the Governor and the State Fiscal Accountability Authority and General Assembly on economic trends has, at times, developed in a fragmented manner, and that a unified system of dealing with the collection, analysis, interpretation, and presentation of matters relative to the economy is urgently needed for the orderly development of projections and forecasts as relates to revenues and expenditures for a specified period of time. It is the purpose of this provision to establish an organizational and procedural framework governing formulation, evaluation and continuing review of all state revenues and expenditures for all state programs; and to establish general policy governing the administration of the Board of Economic Advisors and the Revenue and Fiscal Affairs Office.

Section 11-9-820. The duties of the office are set forth in Subarticles 1 and 2.

Subarticle 1

Duties of the Office

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

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

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

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

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

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

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

Section 11-9-840. (A) There is established the Revenue and Fiscal Affairs Office to be governed by the three appointed members of the Board of Economic Advisors pursuant to Section 11-9-1110. The three appointed members of the board shall unanimously select an Executive Director of the Revenue and Fiscal Affairs Office who shall serve a four-year term. The executive director only may be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity as found by the board. The executive director shall have the authority and perform the duties prescribed by law and as may be directed by the board. The functions of the office must be performed, exercised, and discharged under the supervision and direction of the board. The board may organize its staff as it considers appropriate to carry out the various duties, responsibilities, and authorities assigned to it without the requirement of establishing separate divisions. The board may delegate to one or more officers, agents, or employees the powers and duties it determines are necessary for the effective and efficient operation of the office.

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

Section 11-9-850. The Revenue and Fiscal Affairs Office must be comprised of a Digital Cartography and Precinct Demographics section, which shall report directly to the executive director. The Digital Cartography and Precinct Demographics section shall:

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

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

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

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

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

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

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

(8) serve as a focal point for verifying official precinct information for the counties of South Carolina; and

(9) consult with and provide assistance to the General Assembly on redistricting and reapportionment matters relating to any subdivision of the State.

Section 11-9-860. The office shall assist the General Assembly with the development of the annual general appropriations act.

Section 11-9-870. The staff of the office must be supplemented by the following officials who each shall designate one professional from their individual staffs to assist the RFA staff on a regular basis: the Governor, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Finance Committee, and the State Department of Revenue director. The RFA staff shall meet monthly with these designees in order to solicit their input on BEA forecasts and monthly revenue analysis.

Section 11-9-880. Information contained in any economic report, scenario, forecast, or projection relating to the State Treasurer's office must be verified by the State Treasurer before announcement.

Section 11-9-890. Expenditure schedules used in conjunction with any economic announcements must be verified by the Comptroller General before publication.

Section 11-9-895. The State Fiscal Accountability Authority shall insure an orderly transfer of funds between offices to provide for the execution of this subarticle.

Subarticle 2

Projecting and Forecasting State Revenues and Expenditures

Section 11-9-1110. (A)(1) There is created the Board of Economic Advisors as follows:

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

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

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

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

(2) The Revenue and Fiscal Affairs Office shall provide for the staffing and administrative support of the board.

(B) The chairman of the board shall report directly to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee to establish policy governing economic trend analysis. The office shall provide for the staffing and administrative support of the board from funds appropriated by the General Assembly.

(C) The executive director shall assist the Governor, chairman of the board, Chairman of the Senate Finance Committee, and Chairman of the Ways and Means Committee of the House of Representatives in providing an effective system for compiling and maintaining current and reliable economic data. The office, upon approval by the board, may establish an advisory board to assist in carrying out its duties and responsibilities. All state agencies, departments, institutions, and divisions shall provide the information and data the advisory board requires. The board is considered a public body for purposes of the Freedom of Information Act, pursuant to Section 30-4-20(a).

(D) The Department of Commerce shall provide to the office by November tenth the public document prepared pursuant to Section

12-10-100(C) itemizing each revitalization agreement concluded during the previous calendar year. The Department of Revenue shall provide to the office by November tenth a report of the amount of each tax credit claimed in the previous tax year pursuant to Title 12. The report must list individually the amount claimed and the number of filings for each tax credit. The Department of Revenue also must provide to the office by November tenth data files containing data from all state individual and corporate income tax filings from the previous tax year, excluding confidential identifying information.

Section 11-9-1120. (A) In the organizational and procedural framework governing the formulation, evaluation, and continuing review of revenues and expenditures, any appropriate governmental entity identifying or requesting a change in the official revenue and expenditure forecast or projection, for a specified period of time, shall first notify the office of the Chairman of the Board of Economic Advisors who must bring it to the attention of the Governor before any independent adjustment in the appropriations or requests of the revenue or expenditures for a particular year. The Ways and Means Committee in the House of Representatives and the Senate Finance Committee must be the first to be notified subsequent to notifying the Governor and must be informed simultaneously.

(B) The Board of Economic Advisors shall meet on a quarterly basis and at the call of the Governor, the General Assembly, the chairman of the board, or at the request of any member of the board who believes a meeting is necessary due to existing financial circumstances.

(C) The Board of Economic Advisors is the official voice of the State in economic matters and shall speak as one voice through the guidance and direction of the chairman. Individual members shall not speak or report individually on findings and status of economic activity.

Section 11-9-1130. (A) The Board of Economic Advisors shall make an initial forecast of economic conditions in the State and state revenues for the next fiscal year no later than November tenth of each year. Adjustments to the forecast must be considered on December tenth and February fifteenth. A final forecast for the next fiscal year must be made on April tenth. However, before June thirtieth, the board may reduce forecasts for the next fiscal year as it considers necessary. Before making or adjusting any forecast, the board must consult with outside economic experts with respect to national and South Carolina economic business conditions. All forecasts and adjusted forecasts must contain:

(1) a brief description of the economic model and all assumptions and basic decisions underlying the forecasts;

(2) a projection of state revenues on a quarterly basis;

(3) separate discussions of any industry which employs more than twenty percent of the state's total nonagricultural employment and separate projections for these industries.

(B) In addition to fulfilling its economic and revenue forecasting responsibilities for future fiscal years, the board at each session shall monitor and review the flow of revenue for the current fiscal year in comparison to current year revenue estimates. If actual revenue collections represent an overall shortfall for any quarter of over one and one-half percent of projected revenue collections for that quarter, a synopsis must be prepared which shall include a detailed analysis of the factors contributing to the shortfall, the impact of the shortfall for the present fiscal year, a projection of whether the shortfall will be compensated for in the remaining quarters of the present fiscal year, and the impact of the shortfall on revenue estimates for the ensuing fiscal year. In addition, a similar detailed synopsis must be provided if a shortfall of one and one-half percent or more is experienced in any of the following individual revenue categories: sales and use taxes, individual income taxes, corporate income taxes, taxes on insurance premiums including workers' compensation insurance, and earnings on investments.

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

Section 11-9-1140. (A) In all revenue estimates made under the provisions of Section 11-9-880, the Board of Economic Advisors shall incorporate quarterly revenue estimates within the annual revenue estimate.

(B)(1) If at the end of the first, second, or third quarter of any fiscal year the Board of Economic Advisors reduces the revenue forecast for the fiscal year by three percent or less below the amount projected for the fiscal year in the forecast in effect at the time the general appropriations bill for the fiscal year is ratified, within three days of that determination, the Director of the Executive Budget Office must reduce general fund appropriations by the requisite amount in the manner prescribed by law. Upon making the reduction, the Director of the Executive Budget Office immediately must notify the State Treasurer

and the Comptroller General of the reduction, and upon notification, the appropriations are considered reduced. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the Director of the Executive Budget Office. A reduction of rate of expenditure by the Director of the Executive Budget Office, under authority of this section, must be applied as uniformly as shall be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government.

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

Certification of impact statements

SECTION 3. A. Section 2-7-71 of the 1976 Code is amended to read:

“Section 2-7-71. When a bill relating to state taxes is reported out of a standing committee of the Senate or House of Representatives for consideration, there must be attached and printed as a part of the committee report a statement of the estimated revenue impact of the bill on the finances of the State certified by the Executive Director of the Revenue and Fiscal Affairs Office, or his designee. As used in this section ‘statement of estimated revenue impact’ means the consensus of the persons executing the required statement as to the increase or decrease in the net tax revenue to the State if the bill concerned is enacted by the General Assembly. In preparing a statement, the Revenue and Fiscal Affairs Office may request technical advice of the Department of Revenue.”

B. Section 2-7-73(A) of the 1976 Code is amended to read:

"(A) Any bill or resolution which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, must have attached to it a statement of the financial impact of the coverage, according to the guidelines enumerated in subsection (B). This financial impact analysis must be conducted by the Revenue and Fiscal Affairs Office. The Department of Insurance shall provide an actuarial analysis and any additional information necessary for the determination of the fiscal impact within thirty days of a request by the Revenue and Fiscal Affairs Office. The statement required by this section must be delivered to the Senate or House committee to which any bill or resolution is referred, within thirty days, unless otherwise agreed to, of the written request of the chairman of such committee."

C. Section 2-7-78 of the 1976 Code is amended to read:

"Section 2-7-78. This section applies to the annual appropriation recommendation of the Governor and to the report of the conference committee on the annual general appropriations bill. A provision offered for inclusion in the annual general appropriations bill by amendment or otherwise, by the Governor, or which increases or decreases the most recent official projection of general fund revenues of the Board of Economic Advisors must not be included in the bill or recommendation unless the revenue impact is certified by the Executive Director of the Revenue and Fiscal Affairs Office, or his designee. Changes to the official general fund revenue estimate as a result of the provision may not exceed the amounts certified by the board. The requirements of this section are in addition to the other provisions of law regarding fiscal impact statements."

Estimation of local tax imposition

SECTION 4. Section 4-10-790 of the 1976 Code is amended to read:

"Section 4-10-790. The Department of Revenue shall furnish data to the State Treasurer and to the applicable political subdivisions receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to political subdivisions upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific

taxpayer is considered confidential and is governed by the provisions of Section 12-54-240. A person violating this section is subject to the penalties provided in Section 12-54-240. The Revenue and Fiscal Affairs Office shall provide technical assistance to the applicable political subdivisions receiving revenues for the purpose of calculating distributions and estimating revenues."

Financial report deadline

SECTION 5. Section 6-1-50 of the 1976 Code is amended to read:

"Section 6-1-50. Counties and municipalities receiving revenues from state aid, currently known as Aid to Subdivisions, shall submit annually to the Revenue and Fiscal Affairs Office a financial report detailing their sources of revenue, expenditures by category, indebtedness, and other information as the Revenue and Fiscal Affairs Office requires. The Revenue and Fiscal Affairs Office shall determine the content and format of the annual financial report. The financial report for the most recently completed fiscal year must be submitted to the Revenue and Fiscal Affairs Office by March fifteenth of each year. If an entity fails to file the financial report by March fifteenth, then the chief administrative officer of the entity shall be notified in writing that the entity has thirty days to comply with the requirements of this section. The Director of the Revenue and Fiscal Affairs Office may, for good cause, grant a local entity an extension of time to file the annual financial report. Notification by the Director of the Revenue and Fiscal Affairs Office to the Comptroller General and the State Treasurer that an entity has failed to file the annual financial report thirty days after written notification to the chief administrative officer of the entity must result in the withholding of ten percent of subsequent payments of state aid to the entity until the report is filed. The Revenue and Fiscal Affairs Office is responsible for collecting, maintaining, and compiling the financial data provided by counties and municipalities in the annual financial report required by this section."

South Carolina 911 Advisory Committee membership

SECTION 6. Section 23-47-65(A)(1) of the 1976 Code is amended to read:

"(1) The South Carolina 911 Advisory Committee is created to assist the Revenue and Fiscal Affairs Office in carrying out its responsibilities

in implementing a wireless enhanced 911 system consistent with FCC Docket Number 94-102. The committee shall consist of: an individual with technical or operational knowledge of E-911 systems who is appointed by the Executive Director of the Revenue and Fiscal Affairs Office; the Executive Director of the Revenue and Fiscal Affairs Office or his designee; two employees of CMRS providers licensed to do business in the State appointed by the Governor; two 911 system employees appointed by the Governor; and one employee of a telephone (local exchange access facility) service supplier licensed to do business in the State appointed by the Governor; and one consumer appointed by the Governor. Local governments and related organizations such as the National Emergency Number Association may recommend PSAP Committee members, and industry representatives may recommend wireline and CMRS Committee members to the Governor. There is no expense reimbursement or per diem payment from the fund created by the CMRS surcharge made to members of the committee."

Reference deleted

SECTION 7. Sections 27-2-85 and 27-2-95 of the 1976 Code are amended to read:

"Section 27-2-85. The South Carolina Geodetic Survey established within the Revenue and Fiscal Affairs Office shall establish horizontal and vertical geodetic control within the State at a density that effectively will provide land and land-related items and records to be referenced to the national horizontal and vertical coordinate system, ensure the accuracy and integrity of new geodetic data entered into the state and national reference system, maintain geodetic files for the State, and disseminate geodetic information as necessary.

Section 27-2-95. To the extent possible, the South Carolina Geodetic Survey of the Revenue and Fiscal Affairs Office shall utilize the office's responsibility of coordinating mapping activities in the State to ensure that mapping products are compatible with the South Carolina Coordinate System. As part of this activity, the office shall establish, develop, and promulgate standards for maps and map products to ensure quality, accuracy, and compatibility of mapping products, encourage the development of accurate mapping systems that are compatible with and suitable for incorporation into a standardized statewide mapping system, develop, maintain, and administer programs for funding qualified

mapping projects, and serve as the focal point for federal, state, and local mapping programs and activities in South Carolina."

Data Oversight Council membership, references deleted

SECTION 8. A. Section 44-6-170(A) and (B) of the 1976 Code is amended to read:

"(A) As used in this section:

(1) 'Office' means the Revenue and Fiscal Affairs Office.

(2) 'Council' means the Data Oversight Council.

(3) 'Committee' means the Joint Legislative Health Care Planning and Oversight Committee.

(B) There is established the Data Oversight Council comprised of:

(1) one hospital administrator;

(2) the chief executive officer or designee of the South Carolina Hospital Association;

(3) one physician;

(4) the chief executive officer or designee of the South Carolina Medical Association;

(5) one representative of major third-party health care payers;

(6) one representative of the managed health care industry;

(7) one nursing home administrator;

(8) three representatives of nonhealth care-related businesses;

(9) one representative of a nonhealth care-related business of less than one hundred employees;

(10) the executive vice president or designee of the South Carolina Chamber of Commerce;

(11) a member of the Governor's office staff;

(12) the director or his designee of the South Carolina Department of Health and Environmental Control;

(13) the executive director or his designee of the State Department of Health and Human Services

The members enumerated in items (1) through (10) must be appointed by the Governor for three-year terms and until their successors are appointed and qualify; the remaining members serve ex officio. The Governor shall appoint one of the members to serve as chairman. The office shall provide staff assistance to the council."

B. Section 44-6-170(H) of the 1976 Code is amended to read:

"(H) If a provider fails to submit the health care data as required by this section or regulations promulgated pursuant to this section, the office may assess a civil fine of up to five thousand dollars for each violation, but the total fine may not exceed ten thousand dollars."

C. Section 44-6-5(2) of the 1976 Code is amended to read:

"(2) 'Office' means the Revenue and Fiscal Affairs Office."

Repeal

SECTION 9. Sections 1-11-360, 2-7-62, 44-6-175, and 48-22-20 of the 1976 Code are repealed.

Code Commissioner directive

SECTION 10. The Code Commissioner is directed to change or correct all similar references in the 1976 Code to the "Office of Research and Statistics of the Revenue and Fiscal Affairs Office" to the "Revenue and Fiscal Affairs Office".

Time effective

SECTION 11. This act takes effect on July 1, 2018.

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 247

(R247, H4077)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-3790 SO AS TO PROVIDE DEFINITIONS, TO CREATE THE "EDUCATIONAL CREDIT FOR EXCEPTIONAL NEEDS CHILDREN'S FUND", TO PROVIDE FOR GOVERNANCE AND ADMINISTRATION OF THE FUND, TO PROVIDE FOR THE MANNER IN WHICH GRANTS ARE AWARDED, TO PROVIDE FOR ANNUAL

LIMITS ON INCOME TAX CREDITS AVAILABLE, TO SPECIFY THE MANNER IN WHICH THE CREDIT IS CLAIMED, TO PROVIDE THAT THE EDUCATION OVERSIGHT COMMITTEE IS RESPONSIBLE FOR DETERMINING WHICH SCHOOLS ARE ELIGIBLE, TO PROVIDE THAT THE EDUCATION OVERSIGHT COMMITTEE SHALL ESTABLISH AN ADVISORY COMMITTEE, TO ALLOW FOR AN INCOME TAX CREDIT FOR CONTRIBUTIONS TO THE EDUCATIONAL CREDIT FOR EXCEPTIONAL NEEDS CHILDREN'S FUND AND FOR TUITION PAYMENTS MADE TO AN ELIGIBLE SCHOOL FOR AN EXCEPTIONAL NEEDS CHILD WITHIN THE TAXPAYER'S CUSTODY OR CARE, AND TO PROVIDE THAT THE DEPARTMENT SHALL CONDUCT A STUDY OF THE EXCEPTIONAL NEEDS TAX CREDIT PROGRAM.

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

Educational Credit for Exceptional Needs Children's Fund

SECTION 1. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section 12-6-3790. (A) As used in this section:

(1) 'Eligible school' means an independent school including those religious in nature, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met, that:

(a) offers a general education to primary or secondary school students;

(b) does not discriminate on the basis of race, color, or national origin;

(c) is located in this State;

(d) has an educational curriculum that includes courses set forth in the state's diploma requirements, graduation certificate requirements for special needs children, and where the students attending are administered national achievement or state standardized tests, or both, at progressive grade levels to determine student progress;

(e) has school facilities that are subject to applicable federal, state, and local laws;

(f) is a member in good standing of the Southern Association of Colleges and Schools, the South Carolina Association of Christian

Schools, the South Carolina Independent Schools Association, or Palmetto Association of Independent Schools; and

(g) provides a specially designed program or learning resource center to provide needed accommodations based on the needs of exceptional needs students or provides onsite educational services or supports to meet the needs of exceptional needs students, or is a school specifically existing to meet the needs of only exceptional needs students with documented disabilities.

(2) 'Exceptional needs child' means a child:

(a) who has been evaluated in accordance with this state's evaluation criteria, as set forth in S.C. Code Ann. Regs. 43-243.1, and determined eligible as a child with a disability who needs special education and related services, in accordance with the requirements of Section 300.8 of the federal Individuals with Disabilities Education Act; or

(b) who has been diagnosed within the last three years by a licensed speech-language pathologist, psychiatrist, or medical, mental health, psychoeducational, or other comparable licensed health care provider as having a neurodevelopmental disorder, a substantial sensory or physical impairment such as deaf, blind, or orthopedic disability, or some other disability or acute or chronic condition that significantly impedes the student's ability to learn and succeed in school without specialized instructional and associated supports and services tailored to the child's unique needs.

(3) 'Independent school' means a school, other than a public school, at which the compulsory attendance requirements of Section 59-65-10 may be met and that does not discriminate based on the grounds of race, color, religion, or national origin.

(4) 'Parent' means the natural or adoptive parent or legal guardian of a child.

(5) 'Qualifying student' means a student who is an exceptional needs child, a South Carolina resident, and who is eligible to be enrolled in a South Carolina secondary or elementary public school at the kindergarten or later year level for the applicable school year.

(6) 'Resident public school district' means the public school district in which a student resides, or in the case of dependents of active military personnel, the public school district which the student may attend.

(7) 'Transportation' means transportation to and from school only.

(8) 'Tuition' means the total amount of money charged for the cost of a qualifying student to attend an independent school including, but not

limited to, fees for attending the school, textbook fees, and school-related transportation.

(B)(1) There is created the 'Educational Credit for Exceptional Needs Children's Fund' that is separate and distinct from the state general fund. The fund must be organized as a public charity as defined by the Internal Revenue Code under Section 509(a)(1) through (4) and consist only of contributions made to the fund. The fund may not receive an appropriation of public funds. The fund must receive and hold all contributions intended for it as well as all earnings until disbursed as provided in this section. Monies received in the fund must be used to provide scholarships to exceptional needs children attending eligible schools.

(2) The amounts on deposit in the fund do not constitute public funds and are not the property of the State. Amounts on deposit in the fund may not be commingled with public funds, and the State does not have a claim to or interest in the amounts on deposit. Agreements or contracts entered into by or on behalf of the fund do not constitute a debt or obligation of the State.

(3) The public charity disbursing contributions made to the fund is governed by five directors, two appointed by the Chairman of the House Ways and Means Committee, two appointed by the Chairman of the Senate Finance Committee, and one appointed by the Governor. The directors of the public charity, along with the director of the department, shall designate an executive director of the public charity.

(4) In concert with the public charity directors, the department shall administer the public charity including, but not limited to, the keeping of records, the management of accounts, and disbursement of the grants awarded pursuant to this section. The public charity may expend up to two percent of the fund for administration and related costs. The department and the public charity may not expend public funds to administer the program. Information contained in or produced from a tax return, document, or magnetically or electronically stored data utilized by the Department of Revenue or the public charity in the exercise of its duties as provided in this section must remain confidential and is exempt from disclosure pursuant to the Freedom of Information Act. Personally identifiable information, as described in the Family Educational Rights and Privacy Act and individual health records, or the medical or wellness needs of children applying for or receiving grants must remain confidential and is not subject to disclosure pursuant to the Freedom of Information Act.

(5) By January fifteenth of each year, the department shall report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor:

(a) the number and total amount of grants issued to eligible schools in each year;

(b) the identity of the school and the amount of the grant for each grant issued to an eligible school in each year;

(c) an itemized and detailed explanation of fees or other revenues obtained from or on behalf of an eligible school;

(d) a copy of a compilation, review, or audit of the fund's financial statements, conducted by a certified public accounting firm; and

(e) the criteria and eligibility requirements for scholarship awards.

(C)(1) Grants may be awarded in an amount not exceeding eleven thousand dollars or the total annual cost of tuition, whichever is less, to a qualifying student at an eligible school. A qualifying student receiving a grant may not be charged tuition by an eligible school in an amount greater than the student would be charged if the student was not a qualifying student.

(2) Before awarding a grant, the public charity shall receive written documentation from the qualifying student's parent or guardian documenting that the qualifying student is an exceptional needs child. Upon approving the application, the public charity shall issue a check to the eligible school in the name of the qualifying student within either thirty days upon approval of the application or thirty days of the start of the school's semester.

(3) If a qualifying student leaves or withdraws from the school for any reason before the end of the semester or school year and does not reenroll within thirty days, then the eligible school shall return a prorated amount of the grant to the public charity based on the number of days the qualifying student was enrolled in the school during the semester or school year within sixty days of the qualifying student's departure.

(4) The public charity may not award grants only for the benefit of one school.

(5) The department or the public charity may not release personally identifiable information pertaining to students or donors or use information collected about donors, students, or schools for financial gain.

(6) The public charity shall develop a process to prioritize the awarding of grants to eligible incumbent grant recipients at eligible schools.

(D)(1)(a) Tax credits authorized by subsection (H)(1) and subsection (I) annually may not exceed cumulatively a total of twelve million dollars for contributions to the Educational Credit for Exceptional Needs Children's Fund, unless an increased limit is authorized in the annual general appropriations act.

(b) Tax credits authorized pursuant to subsection (H)(2) annually may not exceed cumulatively a total of two million dollars for tuition payments made on behalf of qualifying students, unless an increased limit is authorized in the annual general appropriations act.

(c) If the department determines that the total of the credits claimed by all taxpayers exceeds either limit amount as contained in subitems (a) or (b), it shall allow credits only up to those amounts on a first come, first-served basis.

(2)(a) The department shall establish an application process to determine the amount of credit available to be claimed. The receipt of the application by the department determines priority for the credit. The credit must be claimed on the return for the tax year that the contribution is made.

(b) A taxpayer may not claim more than sixty percent of his total tax liability for the year in contribution toward the tax credit authorized by subsection (H)(1) or subsection (I). This credit is nonrefundable.

(c) If a taxpayer deducts the amount of the contribution on his federal return and claims the credit allowed by subsection (H)(1) or subsection (I), then he must add back the amount of the deduction for purposes of South Carolina income taxes.

(d) The department shall prescribe the form and manner of proof required to obtain the credit authorized by subsection (H)(1) or subsection (I). The department also shall develop a method of informing taxpayers if the credit limit is met any time during the tax year.

(e) A taxpayer only may claim a credit pursuant to subsection (H)(1) and subsection (I) for contributions made during the tax year.

(3) A corporation or entity entitled to a credit under subsection (H)(1) and subsection (I) may not convey, assign, or transfer the credit authorized by this section to another entity unless all of the assets of the entity are conveyed, assigned, or transferred in the same transaction.

(E)(1) By March first of each year, an independent school who participated in the program in the previous year and who desires to participate in the program in the current year shall reapply to the Education Oversight Committee. The independent school shall certify to the Education Oversight Committee that it continues to meet all program requirements and shall provide to the committee student test score data

from the previous school year by June thirtieth. If student test score data is not submitted by June thirtieth, then the Education Oversight Committee shall remove the school from the program. An independent school desiring to participate in the program for the first time also shall apply by March first of each year. The Education Oversight Committee shall consult with the Southern Association of Colleges and Schools, the South Carolina Association of Christian Schools, the South Carolina Independent Schools Association, the Palmetto Association of Independent Schools, or the Diocese of Charleston to verify that the school is still a member in good standing and that the school continues to serve exceptional needs children. An independent school who did not participate in the program in the previous year but desires to participate in the program in the current year shall apply to the Education Oversight Committee. The Education Oversight Committee shall develop an application to be completed by the independent schools which must contain at least:

(a) the number and total amount of grants received in the preceding school year;

(b) student test scores, by category, on national achievement or state standardized tests, or both, for all grades tested and administered by the school receiving or entitled to receive scholarship grants pursuant to this section in the previous school year. The school also shall provide individual student test scores on national achievement or state standardized tests, or both, for any student in grades one through twelve who received a grant from the program during the prior school year. The information must be used to provide program level reports to determine whether students participating in the program have experienced measurable improvement. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement;

(c) a copy of a compilation, review, or compliance audit of the organization's financial statements as relating to the grants received, conducted by a certified public accounting firm; and

(d) a certification by the independent school that it meets the definition of an eligible school as that term is defined in subsection (A)(1) and that the report is true, accurate, and complete under penalty of perjury in accordance with Section 16-9-10.

(2)(a) The Education Oversight Committee may waive the March first deadline contained in subsection (E) upon good cause shown by an independent school.

(b) The Education Oversight Committee may waive some or all of the curriculum requirements contained in subsection (A)(1)(d) following consultation with the advisory committee.

(3)(a) By March first of each year the Education Oversight Committee shall publish on its website a comprehensive list of independent schools certified as eligible institutions. The list must include for each eligible institution:

(i) the institution's name, addresses, telephone numbers, and, if available, website addresses; and

(ii) the score reports and compliance audits received by the committee pursuant to subsection (E)(1)(b) and (c).

(b) The Education Oversight Committee shall summarize or redact the score reports identified in subitem (a)(ii) if necessary to prevent the disclosure of personally identifiable information.

(4) An independent school that does not apply for certification pursuant to this subsection may not be included on the list of eligible schools and contributions to that school may not be allowed for purposes of the tax credits permitted by this section.

(5) An independent school that is denied certification pursuant to this section may seek review by filing a request for a contested case hearing with the Administrative Law Court in accordance with the court's rules of procedure.

(6) Annually, the Education Oversight Committee shall issue a report to the General Assembly documenting the impact of the Educational Credit for Exceptional Needs Children Program on student achievement. In addition, the report must include information on individual schools if at least fifty-one percent of the total enrolled students in the private school participated in the Educational Credit for Exceptional Needs Children Program in the prior school year. The report must be according to each participating private school, and for participating students, in which there are at least thirty participating students who have scores for tests administered. If the Education Oversight Committee determines that the thirty participating-student cell size may be reduced without disclosing personally identifiable information of a participating student, the Education Oversight Committee may reduce the participating-student cell size, but the cell size may not be reduced to less than ten participating students.

(F)(1) The Education Oversight Committee shall establish an advisory committee made up of not more than nine members, including parents, and representatives of independent schools and independent school associations.

(2) The advisory committee shall:

(a) consult with the Education Oversight Committee concerning requests for exemptions from curriculum requirements; and

(b) provide recommendations on other matters requested by the Education Oversight Committee.

(G) Except as otherwise provided, the Department of Education, the Education Oversight Committee, and the Department of Revenue, or any other state agency may not regulate the educational program of an independent school that accepts students receiving scholarship grants pursuant to this section.

(H)(1) A taxpayer is entitled to a tax credit against income taxes imposed pursuant to this chapter for the amount of cash and the monetary value of any publicly traded securities the taxpayer contributes to the Educational Credit for Exceptional Needs Children's Fund up to the limits contained in subsection (D)(1)(a) if:

(a) the contribution is used to provide grants for tuition to exceptional needs children enrolled in eligible schools who qualify for these grants under the provisions of this section; and

(b) the taxpayer does not designate a specific child or school as the beneficiary of the contribution.

(2)(a) A taxpayer is entitled to a refundable tax credit against income taxes imposed pursuant to this chapter for the amount of cash and the monetary value of any publicly traded securities, not exceeding eleven thousand dollars for each child, for tuition payments to an eligible school for an exceptional needs child within his custody or care who would be eligible for a grant pursuant to this section up to the limits contained in subsection (D)(1)(b).

(b) If a child within the care and custody of a taxpayer claiming a tax credit pursuant to this item also receives a grant from the Educational Credit for Exceptional Needs Children's Fund, then the taxpayer only may claim a credit equal to the difference of eleven thousand dollars or the cost of tuition, whichever is lower, and the amount of the grant.

(c) A child within the care and custody of a taxpayer claiming a tax credit pursuant to this item may not be charged tuition by an eligible school in an amount greater than the student would be charged if the student was not a qualifying student.

(I) A taxpayer is entitled to a tax credit against income taxes imposed pursuant to Chapter 11, Title 12 for the amount of cash and the monetary value of any publicly traded securities the taxpayer contributes to the Educational Credit for Exceptional Needs Children's Fund up to the limits contained in subsection (D)(1)(a) if:

(1) the contribution is used to provide grants for tuition to exceptional needs children enrolled in eligible schools who qualify for these grants under the provisions of this section; and

(2) the taxpayer does not designate a specific child or school as the beneficiary of the contribution.

(J)(1) The department shall conduct a comprehensive study of the Exceptional Needs Tax Credit program. The study must examine the following:

(a) the allocation of scholarship funds and tax credits among students, including the effect of funding limitations on the addition of new participants; the demographic and socio-economic data of the participants and their families, including the distribution of scholarship funds by income ranges, to be determined by the department, of scholarship recipients, and their legal guardians, as applicable; and the geographical distribution of the participants. In reporting the information required by this subitem, the department shall protect and may not display any personally identifiable information of scholarship recipients, their families or legal guardians, or taxpayers;

(b) the distribution of scholarship funds among all eligible schools; and

(c) any other aspect of the program that the department determines would be relevant and useful in making future policy decisions in regard to the program and its continued existence or expansion.

(2) The department shall submit a report of its study to the General Assembly no later than January fifteenth of each year."

Time effective

SECTION 2. This act takes effect upon approval of the Governor and applies to income tax years beginning after 2017. All tax credits earned as a result of a contribution made to the Educational Credit for the Exceptional Needs Children's Fund in 2018 apply to the cumulative total of twelve million dollars regardless of when in 2018 the contribution is made. All tax credits earned as a result of a tuition payment made by a taxpayer to an eligible school for an exceptional needs child within his custody or care in 2018 apply to the cumulative total of two million dollars regardless of when in 2018 the payment is made. All necessary reports and forms must be submitted as soon as practicable upon the enactment of this act.

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 248

(R254, H4486)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 7 TO CHAPTER 61, TITLE 44 SO AS TO ENTITLE THE ARTICLE "RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE INTERSTATE COMPACT ACT"; TO AUTHORIZE THE STATE OF SOUTH CAROLINA TO JOIN THE RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE INTERSTATE COMPACT IN ORDER TO FACILITATE THE DAY-TO-DAY MOVEMENT OF EMERGENCY MEDICAL SERVICES (EMS) PERSONNEL ACROSS STATE BOUNDARIES IN THE PERFORMANCE OF THEIR ASSIGNED EMS DUTIES AND TO AFFORD IMMEDIATE LEGAL RECOGNITION TO EMS PERSONNEL IN A MEMBER STATE; TO ESTABLISH CERTAIN EMS LICENSURE REQUIREMENTS UNDER THE COMPACT; TO PROVIDE FOR THE PRIVILEGE OF EMS PERSONNEL TO PRACTICE IN ANOTHER MEMBER STATE AND IN REMOTE STATES, WITH EXCEPTIONS; TO ESTABLISH CERTAIN LIMITATIONS ON THE APPLICATION OF THE COMPACT DURING A STATE OF EMERGENCY; TO PROVIDE CERTAIN LIMITATIONS ON THE PRIVILEGE TO PRACTICE UNDER THE COMPACT WHEN AN INDIVIDUAL'S LICENSE IS SUSPENDED OR OTHERWISE RESTRICTED AND TO ENABLE A MEMBER STATE TO TAKE ADVERSE ACTIONS AGAINST AN INDIVIDUAL'S LICENSE IN CERTAIN CIRCUMSTANCES; TO GRANT CERTAIN POWERS TO THE STATE'S EMS AUTHORITY; TO ESTABLISH THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE AND TO PROVIDE FOR ITS MEMBERSHIP, DUTIES, AND AUTHORITY; TO PROVIDE FOR ENFORCEMENT OF THE COMPACT BY MEMBER STATES AND FOR DISPUTE RESOLUTION; AND FOR OTHER

PURPOSES; AND TO AMEND SECTION 44-61-20, RELATING TO TERMS DEFINED IN THE "EMERGENCY MEDICAL SERVICES ACT OF SOUTH CAROLINA", SO AS TO CHANGE THE DEFINITION OF "INVESTIGATIVE REVIEW COMMITTEE".

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

Recognition of Emergency Medical Services Personnel Licensure Interstate Compact

SECTION 1. Chapter 61, Title 44 of the 1976 Code is amended by adding:

"Article 7

Recognition of Emergency Medical Services Personnel Licensure Interstate Compact

Section 44-61-710. In order to protect the public through verification of competency and ensure accountability for patient care-related activities all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs and paramedics. This compact is intended to facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This compact is designed to achieve the following purposes and objectives:

(1) increase public access to EMS personnel;

(2) enhance the states' ability to protect the public's health and safety, especially patient safety;

(3) encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;

(4) support licensing of military members who are separating from an active duty tour and their spouses;

(5) facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action, and significant investigatory information;

(6) promote compliance with the laws governing EMS personnel practice in each member state; and

(7) invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

Section 44-61-720. For purposes of this article:

(1) 'Advanced emergency medical technician' or 'AEMT' means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

(2) 'Adverse action' means any administrative, civil, equitable, or criminal action permitted by a state's laws which may be imposed against licensed EMS personnel by a state EMS authority or state court, including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring, or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions, and state court judgments enforcing adverse actions by the state EMS authority.

(3) 'Alternative program' means a voluntary, nondisciplinary substance abuse recovery program approved by a state EMS authority.

(4) 'Certification' means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

(5) 'Commission' means the national administrative body of which all states that have enacted the compact are members.

(6) 'Emergency medical technician (EMT)' means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

(7) 'Home state' means a member state where an individual is licensed to practice emergency medical services.

(8) 'License' means the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or a level in between EMT and paramedic.

(9) 'Medical director' means a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

(10) 'Member state' means a state that has enacted this compact.

(11) 'Paramedic' means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

(12) 'Privilege to practice' means an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

(13) 'Remote state' means a member state in which an individual is not licensed.

(14) 'Restricted' means the outcome of an adverse action that limits a license or the privilege to practice.

(15) 'Rule' means a written statement by the interstate Commission promulgated pursuant to Section 44-61-820 that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

(16) 'Scope of practice' means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, scope of practice tends to represent the limits of services an individual may perform.

(17) 'Significant investigatory information' means:

(a) investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

(b) investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

(18) 'State' means any state, commonwealth, district, or territory of the United States.

(19) 'State EMS Authority' means the board, office, or other agency with the legislative mandate to license EMS personnel.

Section 44-61-730. (A) Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

(B) Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

(C) A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

(1) currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

(2) has a mechanism in place for receiving and investigating complaints about individuals;

(3) notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

(4) no later than five years after activation of the compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. Section 731.202 and submit documentation of such as promulgated in the rules of the Commission; and

(5) complies with the rules of the Commission.

Section 44-61-740. (A) Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with Section 44-61-730.

(B) To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

(1) be at least eighteen years of age;

(2) possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state-recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

(3) practice under the supervision of a medical director.

(C) An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the Commission.

(D) Except as provided in subsection (C), an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws,

restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the Commission.

(E) If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(F) If an individual's privilege to practice in any remote state is restricted, suspended, or revoked the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

Section 44-61-750. An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the Commission, and under the following circumstances:

(1) the individual originates a patient transport in a home state and transports the patient to a remote state;

(2) the individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

(3) the individual enters a remote state to provide patient care and/or transport within that remote state;

(4) the individual enters a remote state to pick up a patient and provide care and transport to a third-member state; or

(5) other conditions as determined by rules promulgated by the Commission.

Section 44-61-760. Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact (EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this compact conflicts with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

Section 44-61-770. (A) Member states shall consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above

the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

(B) Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses.

(C) All individuals functioning with a privilege to practice under this section remain subject to the Adverse Actions provisions of Section 44-61-780.

Section 44-61-780. (A) A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

(B)(1) If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(2) All home state adverse-action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

(3) An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

(C) A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the Commission in accordance with the rules of the Commission.

(D) A remote state may take adverse action on an individual's privilege to practice within that state.

(E) Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

(F) A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

(G) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

Section 44-61-790. A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

(1) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, and/or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

(2) issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

Section 44-61-800. (A)(1) The compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

(2) The Commission is a body politic and an instrumentality of the compact states.

(3) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(4) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(B)(1) Each member state shall have and be limited to one delegate. The responsible official of the state EMS authority or his or her designee shall be the delegate to this compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the

Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the Governor of the state will determine which entity will be responsible for assigning the delegate.

(2) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(3) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 44-61-820.

(5) The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:

(a) noncompliance of a member state with its obligations under the compact;

(b) the employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees, or other matters related to the Commission's internal personnel practices and procedures;

(c) current, threatened, or reasonably anticipated litigation;

(d) negotiation of contracts for the purchase or sale of goods, services, or real estate;

(e) accusing any person of a crime or formally censuring any person;

(f) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) disclosure of investigatory records compiled for law enforcement purposes;

(i) disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(j) matters specifically exempted from disclosure by federal or member state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

(C)(1) The Commission shall by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including, but not limited to:

(a) establishing the fiscal year of the Commission;

(b) providing reasonable standards and procedures:

(i) for the establishment and meetings of other committees; and

(ii) governing any general or specific delegation of any authority or function of the Commission;

(c) providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;

(d) establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the Commission;

(e) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;

(f) promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees; and

(g) providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations.

(2) The Commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any.

(3) The Commission shall maintain its financial records in accordance with the bylaws.

(4) The Commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(D) The Commission shall have the following powers:

(1) the authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

(2) to bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;

(3) to purchase and maintain insurance and bonds;

(4) to borrow, accept, or contract for services of personnel including, but not limited to, employees of a member state;

(5) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(6) to accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

(7) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

(8) to sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(9) to establish a budget and make expenditures;

(10) to borrow money;

(11) to appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(12) to provide and receive information from, and to cooperate with, law enforcement agencies;

(13) to adopt and use an official seal; and

(14) to perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of EMS personnel licensure and practice.

(E)(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

(4) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

(F)(1) The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission

employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or wilful or wanton misconduct of that person.

(2) The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or wilful or wanton misconduct.

(3) The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or wilful or wanton misconduct of that person.

Section 44-61-810. (A) The Commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

(B) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the Commission, including:

(1) identifying information;

(2) licensure data;

(3) significant investigatory information;

(4) adverse actions against an individual's license;

(5) an indicator that an individual's privilege to practice is restricted, suspended, or revoked;

(6) nonconfidential information related to alternative program participation;

(7) any denial of application for licensure, and the reason(s) for such denial; and

(8) other information that may facilitate the administration of this compact, as determined by the rules of the Commission.

(C) The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

(D) Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

(E) Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

Section 44-61-820. (A) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(B) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any member state.

(C) Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

(D) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

(1) on the website of the Commission; and

(2) on the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

(E) The Notice of Proposed Rulemaking shall include:

(1) the proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

(F) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(G) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) at least twenty-five persons;

(2) a governmental subdivision or agency; or

(3) an association having at least twenty-five members.

(H)(1) If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

(2) All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(3) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(4) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

(5) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

(I) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

(J) The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(K) If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

(L) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no

event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) meet an imminent threat to public health, safety, or welfare;

(2) prevent a loss of Commission or member state funds;

(3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) protect public health and safety.

(M) The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Section 44-61-830. (A)(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Commission.

(3) The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this compact, or promulgated rules.

(B)(1) If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the Commission shall:

(a) provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

(b) provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(4) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the Commission and the defaulting state.

(6) The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(C)(1) Upon request by a member state, the Commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(2) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(D)(1) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

Section 44-61-840. (A) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth-member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(B) Any state that joins the compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the compact becomes law in that state.

(C)(1) Any member state may withdraw from this compact by:

(a) enacting a statute repealing the same; or

(b) by action of the Governor.

(2) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute or withdrawal by the Governor.

(3) Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse-action reporting requirements of this act prior to the effective date of withdrawal.

(D) Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(E) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

Section 44-61-850. This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any member state thereto, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies."

Emergency Medical Services Act, definitions

SECTION 2. Section 44-61-20(16) of the 1976 Code is amended to read:

"(16) 'Investigative Review Committee' means a professional peer review committee that may be convened by the department in its discretion when the findings of an official investigation against an entity or an individual regulated by the department may warrant suspension or revocation of a license or certification. This committee consists of the State Medical Control Physician, three regional EMS office representatives, at least one paramedic, and at least one emergency room physician who is also a medical control physician. Appointment is made to this committee by the Chief of the Bureau of EMS and Trauma."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 249

(R256, H4601)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-75-225 SO AS TO PROVIDE CRITERIA FOR LICENSURE AS AN ADDICTION COUNSELOR; TO AMEND SECTION 40-75-5, RELATING TO CERTAIN PROVISIONS GENERALLY APPLICABLE TO BOARD REGULATION OF PROFESSIONS AND OCCUPATIONS, SO AS TO INCLUDE ADDICTION COUNSELORS; TO AMEND SECTION 40-75-10, RELATING TO THE BOARD OF EXAMINERS FOR LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND PSYCHO-EDUCATIONAL SPECIALISTS, SO AS TO INCLUDE ADDICTION COUNSELORS; TO AMEND SECTION 40-75-20, RELATING TO DEFINITIONS, SO AS TO MAKE REVISIONS; TO AMEND SECTION 40-75-30, RELATING TO THE REQUIREMENT OF LICENSURE BY THE BOARD TO PRACTICE CERTAIN PROFESSIONS, SO AS TO INCLUDE ADDICTION COUNSELORS; TO AMEND SECTION

40-75-50, RELATING TO THE BOARD, SO AS TO REMOVE DUTIES CONCERNING THE ESTABLISHMENT AND FUNCTION OF STANDARDS COMMITTEES; TO AMEND SECTION 40-75-110, RELATING TO DISCIPLINARY PROCEEDINGS CONCERNING BOARD LICENSEES, SO AS TO INCLUDE ADDICTION COUNSELORS; TO AMEND SECTION 40-75-190, RELATING TO CONFIDENTIALITY OF CLIENT COMMUNICATIONS BY LICENSEES, SO AS TO INCLUDE ADDICTION COUNSELORS AND TO REVISE EXCEPTIONS; TO AMEND SECTION 40-75-220, RELATING TO REQUIREMENTS FOR PROFESSIONAL COUNSELOR LICENSURE AND FAMILY AND MARRIAGE THERAPIST LICENSURE, SO AS TO REVISE THOSE REQUIREMENTS AND PROVIDE ADDITIONAL REQUIREMENTS FOR ADDICTION COUNSELOR LICENSURE; TO AMEND SECTION 40-75-230, RELATING TO REQUIREMENTS FOR PROFESSIONAL COUNSELOR SUPERVISOR LICENSURE AND FAMILY AND MARRIAGE THERAPIST SUPERVISOR LICENSURE, SO AS TO MAKE THOSE REQUIREMENTS APPLICABLE TO ADDICTION COUNSELOR SUPERVISOR LICENSURE; TO AMEND SECTION 40-75-240, RELATING TO INTERN LICENSES, SO AS TO REPLACE THE TERM "INTERN" WITH "ASSOCIATE" AND TO INCLUDE ADDICTION COUNSELOR ASSOCIATES; TO AMEND SECTION 40-75-250, RELATING TO THE ISSUANCE OF DISPLAY OF LICENSES ISSUED BY THE BOARD, SO AS TO INCLUDE ADDICTION COUNSELOR LICENSES AND ADDICTION COUNSELOR ASSOCIATE LICENSES; TO AMEND SECTION 40-75-260, RELATING TO RECIPROCITY AGREEMENTS WITH OTHER STATES, SO AS TO INCLUDE ADDICTION COUNSELOR CREDENTIALS; TO AMEND SECTION 40-75-285, RELATING TO THE APPLICABILITY OF ARTICLE 1, CHAPTER 75, TITLE 40, SO AS TO INCLUDE ADDICTION COUNSELORS; AND TO AMEND SECTION 40-75-290, RELATING TO PERSONS NOT APPLICABLE TO ARTICLE 1, CHAPTER 75, TITLE 40, SO AS TO REMOVE PROVISIONS CONCERNING CERTAIN ADDICTION COUNSELORS; TO REDESIGNATE CHAPTER 75, TITLE 40 AS "PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, ADDICTION COUNSELORS, AND PSYCHO-EDUCATIONAL SPECIALISTS", AND TO REDESIGNATE ARTICLE 1, CHAPTER 75, TITLE 40 AS

"PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND ADDICTION COUNSELORS"; AND TO REPEAL SECTION 40-75-300 RELATING TO LICENSURE FOR DRUG AND ALCOHOL COUNSELORS.

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

Addiction counselor licensure

SECTION 1. Article 1, Chapter 75, Title 40 of the 1976 Code is amended by adding:

"Section 40-75-225. (A) An applicant for licensure as an addiction counselor before October 1, 2018 must:

(1)(a) complete a human services field program of study and field experiences from an accredited educational institution, culminating in a master's degree, and hold a current certification as a Certified Addiction Counselor II (CACII) or Certified Clinical Supervisor (CCS) through the South Carolina Association of Alcohol and Drug Abuse Counselors, a current certification as a Masters Addiction Counselor (MAC) or National Certified Addiction Counselor II (NCACII) through the National Association of Alcohol and Drug Abuse Counselors, or a current certification as an Alcohol and Drug Counselor (ADC) or Advanced Alcohol and Drug Counselor (AADC) from the International Certification and Reciprocity Consortium; and

(b) demonstrate at least two years full-time or four thousand hours of experience within the last five years working primarily with the substance use-disordered population, which may be experience in direct service providing or in a supervisory/consulting environment;

(2)(a) be currently licensed in this State as a Professional Counselor, Professional Counselor Supervisor, or Marriage and Family Therapist; and

(b) demonstrate at least two years full-time or four thousand hours of experience within the last five years working primarily with the substance use-disordered population, which may be experience in direct service providing or in a supervisory/consulting environment; or

(3)(a) complete a human services field program of study and field experiences from an accredited educational institution, culminating in a bachelor's degree, hold a current certification as a Certified Addiction Counselor II (CACII) through the South Carolina Association of Alcohol and Drug Abuse Counselors, a current certification as a National Certified Addiction Counselor II (NCACII) through the National

Association of Alcohol and Drug Abuse Counselors, or a current Certification as an Advanced Alcohol and Drug Counselor (AADC) from the International Certification and Reciprocity Consortium; and

(b) demonstrate at least five years full-time or ten thousand hours of experience within the last eight years working primarily with the substance use-disordered population, which may be experience in direct service providing or in a supervisory/consulting environment.

(B) An applicant for licensure as an addiction counselor after October 1, 2018, must meet the standards provided in Section 40-75-220."

Regulation of professions and occupations applicable to addiction counselors

SECTION 2. Section 40-75-5 of the 1976 Code is amended to read:

"Section 40-75-5. Unless otherwise provided for in this chapter, Article 1, Chapter 1, Title 40 applies to licensed professional counselors, marriage and family therapists, addiction counselors, and psycho-educational specialists regulated by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1, Title 40, the provisions of this chapter control."

Governing board name and composition

SECTION 3. 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, Addiction Counselors, and Psycho-Educational Specialists composed of eleven members appointed by the Governor. Of the eleven members, nine must be professional members, with representation from each congressional district in the State. Of the professional members, three must be licensed professional counselors, two must be licensed addiction counselors, 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, addiction counseling, or psycho-educational services.

(B) The membership must be representative of race, ethnicity, and gender. The eight 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, addiction counselors, or psycho-educational specialists for at least five years prior to appointment. Members may be licensed as a licensed professional counselor, marriage and family therapist, addiction counselor, or psycho-educational specialist. 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."

Definitions

SECTION 4. Section 40-75-20 of the 1976 Code is amended to read:

"Section 40-75-20. As used in this article:

(1) 'Addiction counselor' means a professional who practices individual, family, and group addiction counseling.

(2) 'Alcohol and drug counseling services' means those services offered for a fee as part of the treatment and rehabilitation of persons with a substance abuse disorder, at risk of developing a substance abuse disorder, or is negatively affected by someone with a substance abuse disorder. The purpose of alcohol and drug counseling services is to help individuals, families, and groups to address and resolve problems caused by substance abuse.

(3) 'Approved supervisor' means a licensee who has met the requirements for approval as a professional counselor supervisor, marriage and family therapy supervisor, or addiction counselor supervisor as provided in regulation.

(4) 'Assessment' in the practice of counseling and therapy means selecting, administering, scoring, and interpreting evaluative or standardized instruments; assessing, diagnosing, and treating, using standard diagnostic nomenclature, a client's attitudes, abilities, achievements, interests, personal characteristics, disabilities, and mental, emotional, and behavioral problems that are typical of the developmental life cycle; and the use of methods and techniques for understanding human behavior in relation to, coping with, adapting to, or changing life situations. A counselor may assess more serious problems as categorized in standard diagnostic nomenclature but only if

the counselor has been specifically trained to assess and treat that particular problem. If a client presents with a problem which is beyond the counselor's training and competence, the counselor must refer that problem to a licensed professional who has been specifically trained to diagnose and treat the presenting problem. In all cases, ethical guidelines as established by the board must be followed.

(5) 'Associate' means an individual who has met the requirements for licensure as a professional counselor associate, marriage and family therapy associate, or addiction counselor associate under the provisions of this article and has been issued a license by the board.

(6) 'Board' means the South Carolina Board of Licensed Professional Counselors, Marriage and Family Therapists, Addictions Counselors, and Psycho-Educational Specialists.

(7) 'Client' means a person or patient, whether an individual or a member of a group, a group, an agency or an organization, who receives in an office setting any treatment or service that falls within the scope of practice of a Licensed Professional Counselor, Marriage and Family Therapist, Addiction Counselor, or Psycho-Educational Specialist.

(8) 'Consulting' means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the client may have in relation to a third party, individuals, groups, and organizations.

(9) 'Director' means the Director of the Department of Labor, Licensing and Regulation.

(10) 'Federally assisted program' means a program directly funded by the federal government, operated by the federal government, certified for Medicaid reimbursement, receiving federal block grant funds through a state or local government, licensed by the federal government, or exempt from paying taxes under a provision of the federal Internal Revenue Code.

(11) 'License' means an authorization to practice counseling, marriage and family therapy, issued by the board pursuant to this article and includes an authorization to practice as a professional counselor associate, marriage and family therapy associate, or addiction counselor associate.

(12) 'Licensee' means an individual who has met the requirements for licensure under this article and has been issued a license to practice as a professional counselor or professional counselor associate, marriage and family therapist or marriage and family therapy associate, or addiction counselor associate.

(13) 'Licensed professional counselor' means an individual who practices professional counseling.

(14) 'Marriage and family therapy' means the assessment and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of marriage and family systems. Marriage and family therapy involves the application of psycho-therapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating diagnosed emotional, mental, behavioral, or addictive disorders.

(15) 'Person' means an individual, organization, or corporation, except that only individuals can be licensed under this article.

(16) 'Practice of marriage and family therapy' means the rendering of marriage and family therapy services to individuals, couples, and families, singly or in groups, whether these services are offered directly to the general public or through organizations, either public or private.

(17) 'Practice of professional counseling' means functioning as a psycho-therapist and may include, but is not limited to, providing individual therapy, family counseling, group therapy, marital counseling, play therapy, couples counseling, substance abuse counseling, vocational counseling, school counseling, rehabilitation counseling, intervention, human growth and development counseling, behavioral modification counseling, and hypnotherapy. The practice of professional counseling may include assessment, crisis intervention, guidance and counseling to facilitate normal growth and development, including educational and career development; utilization of functional assessment and counseling for persons requesting assistance in adjustment to a disability or handicapping condition; and consultation and research. The use of specific methods, techniques, or modalities within the practice of licensed professional counseling is restricted to professional counselors appropriately trained in the use of these methods, techniques, or modalities.

(18) 'Practice of addiction counseling' means providing professional services that are delivered by a licensed addiction professional, designed to change substance use or addictive behavior, and involve specialized knowledge and skill related to addictions and addictive behaviors, including understanding addiction, knowledge of the treatment process, application to practice and professional readiness. The term includes:

(a) gathering information through structured interview screens using routine protocols;

(b) reviewing assessment findings to assist in the development of a plan individualized for treatment services and to coordinate services;

(c) referring for further assessment, diagnosis, evaluation and mental health therapy;

(d) providing client and family education related to addictions;

(e) providing information on social networks and community systems for referrals and discharge planning;

(f) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals;

(g) counseling, through individual and group counseling, as well as group and family education, to treat addiction and substance use disorders in a variety of settings; and

(h) maintaining the highest level of professionalism and ethical responsibility.

(19) 'Referral' means evaluating and identifying needs of a client to determine the advisability of referral to other specialists, informing the client of this determination, and communicating as requested or considered appropriate with these referral sources.

(20) 'Supervision' means the supervision of clinical services in accordance with standards established by the board under the supervision of an approved supervisor."

Unlawful practice

SECTION 5. Section 40-75-30 of the 1976 Code is amended to read:

"Section 40-75-30. (A) It is unlawful for a person to practice as a professional counselor, a marriage and family therapist, or an addiction counselor in this State without being licensed in accordance with this article. A professional counselor associate may practice only under the direct supervision of a licensed professional counselor supervisor. A marriage and family therapy associate may practice only under the direct supervision of a licensed marriage and family therapist supervisor, as approved by the board. An addiction counselor associate only may work under a licensed addiction counselor supervisor or other approved board-licensed clinician as provided in regulation.

(B) A person is guilty of practicing without a license if the person represents himself or herself to be a marriage and family therapist by the use of any title or description of services which incorporates the words 'licensed marital and family therapist', 'licensed marriage and family therapist', 'marital and family therapist', 'marriage and family therapist', or 'marriage and family counselor' to describe a function or service performed without being licensed by the board. However, members of other professions licensed in this State including, but not

limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their profession are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(C) A person is guilty of practicing without a license if the person represents himself or herself to be a professional counselor by the use of any title or description of services which incorporates the words 'licensed professional counselor', 'professional counselor', or 'licensed counselor' without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(D) A person is guilty of practicing without a license if the person represents himself to be an addiction counselor by the use of any title or description of services which incorporates the words 'licensed addiction counselor' or 'addiction counselor' without being licensed by the board. However, members of other professions licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their professions are not considered to be practicing without a license if they do not represent themselves as being licensed pursuant to this article.

(E) A licensed professional counselor, a licensed marital and family therapist, or a licensed addiction counselor may not use the title of 'psycho-therapist'."

Board powers and duties, standards committees eliminated

SECTION 6. Section 40-75-50 of the 1976 Code is amended to read:

"Section 40-75-50. In addition to the powers and duties enumerated in Section 40-1-50, the board shall, at the first board meeting in each calendar year elect from the professional membership a president, a vice president, and any other officer it considers necessary. Regular meetings must be held upon the call of the president or any two members of the board. A majority of the members of the board constitutes a quorum."

Disciplinary actions

SECTION 7. Section 40-75-110 of the 1976 Code is amended to read:

"Section 40-75-110. (A) The board may revoke, suspend, publicly or privately reprimand, or restrict a licensee or otherwise discipline a licensee when it is established to the satisfaction of the board that a licensee has:

(1) uttered a false or fraudulent statement or forged a statement or document or committed or practiced a fraudulent, deceitful, or dishonest act in connection with license requirements;

(2) been convicted of a felony or other crime involving moral turpitude. Forfeiture of a bond or a plea of nolo contendere is the equivalent of a conviction;

(3) violated a regulation, directive, or order of the board;

(4) knowingly performed an act which substantially assists a person to practice counseling, marriage and family therapy, or addiction counseling illegally;

(5) caused to be published or circulated directly or indirectly fraudulent, false, or misleading statements as to the skills or methods or practice of a license holder when malice is shown;

(6) failed to provide and maintain reasonable sanitary facilities;

(7) sustained physical or mental impairment or disability which renders practice dangerous to the public;

(8) violated the code of ethics adopted by the board in regulations;

(9) obtained fees or assisted in obtaining fees under deceptive, false, or fraudulent circumstances;

(10) used an intentionally false or fraudulent statement in a document connected with the practice of professional counseling, marriage and family therapy, or addiction counseling;

(11) been found by the board to lack the professional competence to practice;

(12) practiced during the time his license has lapsed or been suspended or revoked;

(13) practiced the profession or occupation while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice his profession or occupation.

(B) In addition to other remedies and actions incorporated in this chapter, the license of a licensee adjudged mentally incompetent by a court of competent jurisdiction must be suspended automatically by the board until the licensee is adjudged competent by a court of competent jurisdiction."

Confidentiality of communications

SECTION 8. Section 40-75-190 of the 1976 Code is amended to read:

"Section 40-75-190. (A) No person licensed under this chapter, and no person's employees or associates, shall disclose any information which he or she may have acquired during the course of treatment, except as required or permitted by applicable state law, federal law, or both, including, but not limited to, compliance with Sections 19-11-95, 43-35-25, 44-29-70, and 63-7-310.

(B) All communications between clients and their licensed professional counselor, marriage and family therapist, or addiction counselor are considered privileged as provided in Section 19-11-95, protecting confidences between patients of mental illness or emotional condition and licensees under this chapter, and as provided in Section 19-11-100, providing limited protection for persons engaged in the gathering of information for journalistic or literary purposes. Additionally, a licensed professional counselor, a licensed marital and family therapist, or addiction counselor must maintain privileged communications and patient confidentiality as required of psycho-therapists. All records of treatments maintained by a licensed professional counselor, marriage and family therapist, or an addiction counselor are confidential and must not be disclosed except under the circumstances provided for in this subsection.

(C) A person licensed under this chapter must comply with all applicable state and federal confidentiality laws related to alcohol or drug treatment records."

Licensure process, qualifications

SECTION 9. Section 40-75-220 of the 1976 Code is amended to read:

"Section 40-75-220. To be licensed by the board as a professional counselor, marriage and family therapist, or addiction counselor, an individual must:

(1) pay the appropriate fees and pass an examination approved by the board;

(2) complete forms prescribed by the board; and

(3) complete the following educational requirements:

(a) for licensed professional counselor or marriage and family therapist, successfully complete a minimum of a master's degree or

higher degree program and have been awarded a graduate degree as provided in regulation, provided all course work, including any additional core coursework, must be taken at a college or university accredited by a national educational accrediting body, or one that follows similar educational standards and by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a post-degree program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, or a regionally accredited institution of higher learning subsequent to receiving the graduate degree; or

(b) for licensed addiction counselor, successfully complete a minimum of a master's degree or higher degree program and have been awarded a graduate degree as provided in regulation, provided all course work, including any additional core coursework, must be taken at a college or university accredited by a national educational accrediting body, or one that follows similar standards and the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, the National Addiction Studies Accreditation Commission, other board-approved educational institution, or a regionally accredited institution of higher learning."

Supervisor qualifications

SECTION 10. Section 40-75-230 of the 1976 Code is amended to read:

"Section 40-75-230. To be licensed as a professional counselor supervisor, marriage and family therapist supervisor, or addiction counselor, an individual must:

(1) be licensed in South Carolina in the discipline for which the supervisor license is sought;

(2) have been in the practice of counseling, marriage and family therapy, or addiction counseling for at least five years; and

(3) have met the additional requirements prescribed by the board in regulation."

License issuance

SECTION 11. Section 40-75-240 of the 1976 Code is amended to read:

"Section 40-75-240. A professional counselor associate license, marriage and family therapy associate license, or addiction counselor associate license must be issued to an applicant who has satisfied the educational requirements, as specified by the board in regulation, for licensure but who has not yet completed the supervision or experience requirements and has passed the examination required for licensure. An associate who has not completed the requirements for licensure within two years may apply to the board for an extension."

License, evidence of rights and privileges

SECTION 12. Section 40-75-250(A) of the 1976 Code is amended to read:

"(A) If an applicant satisfies all licensure requirements as provided for in this article, the board may issue a license to the applicant. A license is a personal right and not transferable, and the issuance of a license is evidence that the person is entitled to all rights and privileges of a licensed professional counselor, marriage and family therapist, an addiction counselor, or of an associate, while the license remains current and unrestricted. However, the license is the property of the State and upon suspension or revocation immediately must be returned to the board."

Reciprocal agreements

SECTION 13. Section 40-75-260 of the 1976 Code is amended to read:

"Section 40-75-260. (A) The board may enter into a reciprocal agreement with a state that credentials professional counselors, marriage and family therapists, or addiction counselors if the board finds that the state has substantially the same or higher licensure requirements.

(B)(1) The board may license an individual who is currently credentialed or meets the requirements of a licensed professional counselor, licensed marriage and family therapist, or addiction counselor in another jurisdiction of the United States if the individual has met the standards defined in regulation.

(2) The board shall delineate in regulation procedures for verifying an applicant's credentials from another jurisdiction.

(3) The board may not license an applicant who is under investigation in this or another jurisdiction for an act that would constitute a violation of this chapter until the investigation is complete. When deciding a case, the board shall determine what, if any, rules or discipline apply.

(C) The board may grant a license to practice professional counseling, marriage and family therapy, or addiction counseling to an applicant who has completed an educational program in a college or university in a foreign country if the applicant:

(1) meets all requirements of this article; and

(2) demonstrates to the satisfaction of the board that the applicant's experience, command of the English language, and completed academic program meet the standards of a relevant academic program of an accredited educational institution within the United States. If the requirements of this item are met, the applicant must be considered to have received the education from an accredited educational institution as required by this article."

Exemptions, conforming change

SECTION 14. Section 40-75-285 of the 1976 Code is amended to read:

"Section 40-75-285. This article is for the regulation of the practice of licensed professional counselors, marriage and family therapists, and addiction counselors only and does not prevent human resource professionals, business consultants, and other persons from providing advice and counseling in their organizations or affiliated groups or to their companies and employees of their companies or from engaging in activities performed in the course of their employment."

Exemptions, conforming change

SECTION 15. Section 40-75-290 of the 1976 Code is amended to read:

"Section 40-75-290. This article does not apply to:

(1) salaried employees performing duties for which they were trained and hired solely within a federal, state, county, or local:

(a) governmental agency;

(b) licensed mental health or alcohol or drug abuse facility;

(c) accredited academic institutions;

(d) licensed, formally accredited nonprofit agencies; or

(e) research institutions.

(2) persons pursuing a course of study in a regionally accredited educational or training facility as a formal part of a process to obtain a license associated with this article, if the services constitute a part of a supervised course of study;

(3) nonresidents, appropriately licensed or credentialed in their home state, who offer services within this State, if these services are performed for no more than five days a month, and no more than thirty days in any calendar year;

(4) volunteers accountable to a sponsoring agency;

(5) qualified members of other professionals licensed in this State including, but not limited to, attorneys, physicians, psychologists, registered nurses, or social workers performing duties consistent with the laws of this State, their training, and any code of ethics of their profession if they do not represent themselves as being licensed pursuant to this article;

(6) a minister, priest, rabbi, or clergy person of any religious denomination or sect, when the activities are within the scope of performance of his or her regular or specialized ministerial duties, and no fee is received by him or her; or when these activities are performed, with or without compensation, by a person under the auspices or sponsorship of an established church, denomination, or sect and when the person rendering services remains accountable to the established authority and does not hold himself or herself out to the public as possessing a license issued pursuant to this article; or

(7) members of peer groups or self-help groups when engaging in or offering self-help assistance as part of peer support groups or self-help organizations including, but not limited to, Alcoholics Anonymous (AA) or Narcotics Anonymous (NA), AA or NA sponsorship, or other uncompensated alcohol or other drug abuse or dependent services."

Chapter redesignated, article redesignated

SECTION 16.A. Chapter 75, Title 40 of the 1976 Code is redesignated "Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists".

B. Article 1, Chapter 75, Title 40 of the 1976 Code is redesignated "Professional Counselors, Marriage and Family Therapists, and Addiction Counselors".

Repeal

SECTION 17. Section 40-75-300 of the 1976 Code is repealed.

Time effective

SECTION 18. This act takes effect upon approval of the Governor.

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 250

(R261, H4673)

AN ACT TO AMEND SECTION 62-2-507, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REVOCATION OF CERTAIN BENEFICIARY DESIGNATIONS BY DIVORCE, ANNULMENT, OR AN ORDER TERMINATING MARITAL PROPERTY RIGHTS, SO AS TO EXCLUDE FROM THE DEFINITION OF THE TERM "GOVERNING INSTRUMENT" A BENEFICIARY DESIGNATION MADE IN CONNECTION WITH A GOVERNMENTAL EMPLOYEE BENEFIT PLAN ESTABLISHED OR MAINTAINED FOR EMPLOYEES OF THE GOVERNMENT OF THE STATE OR A POLITICAL SUBDIVISION THEREOF, OR BY ONE OF THEIR COMPONENT AGENCIES OR INSTRUMENTALITIES; AND TO AMEND SECTION 30-5-30, RELATING TO PREREQUISITES TO RECORDING, SO AS TO SPECIFY CERTAIN METHODS OF PROOF OR ACKNOWLEDGMENT NECESSARY FOR RECORDING DEEDS OR OTHER WRITTEN INSTRUMENTS.

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

Definition of governing instrument

SECTION 1. Section 62-2-507(a)(4) of the 1976 Code is amended to read:

"(4) 'Governing instrument' means an instrument executed by the divorced individual before the divorce or annulment of the individual's marriage to the individual's former spouse including, but not limited to wills, revocable inter vivos trusts, powers of attorney, life insurance beneficiary designations, annuity beneficiary designations, retirement plan beneficiary designations and transfer on death accounts. 'Governing instrument' does not include a beneficiary designation made in connection with a governmental employee benefit plan established or maintained for employees of the government of the State or a political subdivision thereof, or by an agency or instrumentality of any of the foregoing."

Prerequisites to recording

SECTION 2. The first undesignated paragraph, before subsection (A), of Section 30-5-30 of the 1976 Code is amended to read:

"Except as otherwise provided by statute, before any deed or other instrument in writing can be recorded in this State, it must be acknowledged or proved by the method described in subsection (A)(1), (A)(2), or (B)."

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 251

(R262, H4675)

AN ACT TO AMEND ARTICLE 1, CHAPTER 90, TITLE 38, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CAPTIVE INSURANCE COMPANIES, SO AS TO REMOVE REFERENCES TO CAPTIVE REINSURANCE COMPANIES, TO REQUIRE A CAPTIVE INSURANCE COMPANY TO

POSSESS AND MAINTAIN FREE AND UNIMPAIRED PAID-IN CAPITAL, SURPLUS, OR A COMBINATION THEREOF AND ESTABLISH REQUIREMENTS, TO DELETE CERTAIN SURPLUS REFERENCES AND INCORPORATION REQUIREMENTS, TO PROVIDE THE PROVISIONS OF CHAPTER 90 APPLY TO CAPTIVE INSURANCE COMPANIES FORMED AS A MUTUAL INSURER, TO ESTABLISH REPORTING REQUIREMENTS FOR CAPTIVE INSURANCE COMPANIES AND REMOVE CERTAIN PROVISIONS, TO ALLOW A CAPTIVE INSURANCE COMPANY TO DISCOUNT ITS LOSS AND LOSS ADJUSTMENT WITH APPROVAL BY THE DIRECTOR, TO ESTABLISH OVERSIGHT REQUIREMENTS FOR RISK RETENTION GROUPS AND CAPTIVE INSURANCE COMPANIES, TO ALLOW FOR CERTAIN CAPTIVE INSURANCE COMPANIES TO MAKE LOANS TO ITS PARENT COMPANY AND AFFILIATES WITH APPROVAL BY THE DIRECTOR, TO ESTABLISH STANDARDS FOR AGGREGATE TAXES FOR PROTECTED CELLS, TO ALLOW THE DIRECTOR TO REDUCE CAPITAL REQUIREMENTS FOR AN INACTIVE CAPTIVE INSURANCE COMPANY, TO REMOVE CERTAIN ASSET REQUIREMENTS, AND TO ALTER PARTICIPANT REQUIREMENTS FOR A SPONSORED CAPTIVE INSURANCE COMPANY; AND TO REPEAL ARTICLE 5, CHAPTER 90, TITLE 38 RELATING TO THE COASTAL CAPTIVE INSURANCE COMPANY ACT.

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

Captive Reinsurance Company capital and surplus requirements

SECTION 1. Article 1, Chapter 90, Title 38 of the 1976 Code is amended to read:

"Article 1
Captive Insurance Companies

Section 38-90-10. As used in this chapter, unless the context requires otherwise:

(1) 'Alien captive insurance company' means an insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction which imposes

statutory or regulatory standards in a form acceptable to the director on companies transacting the business of insurance in such jurisdiction.

(2) 'Affiliate of' or 'affiliated with' means a specific person who directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person specified.

(3) 'Association' means a legal association of individuals, corporations, limited liability companies, partnerships, political subdivisions, or associations:

(a) the member organizations of which collectively, or which does itself:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer or organized as a limited liability company; or

(ii) have complete voting control over an association captive insurance company organized as a mutual insurer; or

(b) the member organizations of which collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

(4) 'Association captive insurance company' means a company that insures risks of the member organizations of the association and their affiliated companies.

(5) 'Branch business' means any insurance business transacted by a branch captive insurance company in this State.

(6) 'Branch captive insurance company' means an alien captive insurance company licensed by the director to transact the business of insurance in this State through a business unit with a principal place of business in this State.

(7) 'Branch operations' means any business operations of a branch captive insurance company in this State.

(8) 'Captive insurance company' means a pure captive insurance company, association captive insurance company, sponsored captive insurance company, special purpose captive insurance company, risk retention group, or industrial insured captive insurance company formed or licensed under this chapter. For purposes of this chapter, a branch captive insurance company must be a pure captive insurance company with respect to operations in this State, unless otherwise permitted by the director.

(9) 'Consolidated GAAP net worth' means the consolidated owners' equity determined in accordance with GAAP for reporting to the United States Securities and Exchange Commission.

(10) 'Control', including the terms 'controlling,' 'controlled by', and 'under common control with', means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Section 38-21-220 that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support his determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(11) 'Controlled unaffiliated business' means a person that:

(a) is not an affiliate of a parent company; and

(b) has an existing contractual relationship pursuant to which a parent or affiliated company exercises control of the risk management function of the person.

(12) 'Director' means the Director of the South Carolina Department of Insurance or the director's designee.

(13) 'Department' means the South Carolina Department of Insurance.

(14) 'GAAP' means generally accepted accounting principles.

(15) 'General account' means the assets and liabilities of a sponsored captive insurance company other than protected cell assets and protected cell liabilities.

(16) 'Industrial insured' means an insured as defined in Section 38-25-150(8).

(17) 'Industrial insured captive insurance company' means a company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.

(18) 'Industrial insured group' means a group that meets either of the following criteria:

(a) a group of industrial insureds that collectively:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer or limited liability company; or

(ii) have complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer; or

(b) a risk retention group.

(19) 'Member organization' means any individual, corporation, limited liability company, partnership, or association that belongs to an association.

(20) 'Parent' means any corporation, limited liability company, partnership, or individual that directly or indirectly owns, controls, or holds with power to vote more than fifty percent of the outstanding voting interests of a captive insurance company.

(21) 'Participant' means an entity as defined in Section 38-90-240, and any affiliates of that entity, that are insured by a sponsored captive insurance company, where the losses of the participant are limited through a participant contract to the assets of a protected cell.

(22) 'Participant contract' means a contract by which a sponsored captive insurance company insures the risks of a participant and limits the losses of the participant to the assets of a protected cell.

(23) 'Person' means an individual, corporation, partnership, association, joint stock company, trust, unincorporated organization, or any similar entity or combination thereof.

(24) 'Principal place of business' means the physical location in the State of South Carolina where the complete books and records of the captive company are available for examination by the director.

(25) 'Protected cell' means an identified pool of assets and liabilities of a sponsored captive insurance company for one or more participants that is segregated and insulated from the remainder of the sponsored captive insurance company's assets and liabilities as set forth in this chapter. A protected cell may be unincorporated or incorporated.

(26) 'Protected cell account' means a specifically identified bank or custodial account established by a sponsored captive insurance company for the purpose of segregating the protected cell assets of one protected cell from the protected cell assets of other protected cells and from the assets of the sponsored captive insurance company's general account.

(27) 'Protected cell assets' means all assets, contract rights, and general intangibles, identified with and attributable to a specific protected cell of a sponsored captive insurance company.

(28) 'Protected cell liabilities' means all liabilities and other obligations identified with and attributable to a specific protected cell of a sponsored captive insurance company.

(29) 'Pure captive insurance company' means a company that insures risks of its parent, affiliated companies, controlled unaffiliated business, or a combination thereof or cedes or assumes business from a risk pool for the purpose of risk sharing.

(30) 'Risk retention group' means a captive insurance company formed under the Liability Risk Retention Act of 1986, 15 U.S.C. Section 3901, et seq., as amended.

(31) 'Special purpose captive insurance company' means a captive insurance company that is formed or licensed under this chapter that does not meet the definition of any other type of captive insurance company defined in this section.

(32) 'Sponsor' means an entity that is approved by the director to provide all or part of the capital and surplus required by applicable law and to organize and operate a sponsored captive insurance company.

(33) 'Sponsored captive insurance company' means a captive insurance company:

(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(b) that is formed or licensed under this chapter;

(c) that segregates liability through one or more protected cells; and

(d) that insures the risks of participants through participant contracts.

Section 38-90-20. (A) A captive insurance company, when permitted by its articles of incorporation, articles of organization, operating agreement, or charter, may apply to the director for a license to provide any and all insurance, except workers' compensation insurance written on a direct basis, authorized by this title; however:

(1) a pure captive insurance company may not insure any risks other than those of its parent, affiliated companies, controlled unaffiliated business, risks assumed from a risk pool for the purpose of risk sharing, or a combination of them;

(2) an association captive insurance company may not insure any risks other than those of the member organizations of its association and their affiliated companies;

(3) an industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(4) a special purpose captive insurance company may provide insurance or reinsurance, or both, for risks as approved by the director;

(5) a captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage written on a direct basis;

(6) a captive insurance company may not accept or cede reinsurance except as provided in Section 38-90-110.

(B) To conduct insurance business in this State a captive insurance company shall:

(1) obtain from the director a license authorizing it to conduct insurance business in this State;

(2) beginning the year immediately following the issuance of its license, annually hold at least one board of director's meeting, or in the case of a reciprocal insurer, a subscriber's advisory committee meeting, or in the case of a limited liability company a meeting of the managing board, at which a majority of the directors are physically present in this State;

(3) maintain its principal place of business in this State, or in the case of a branch captive insurance company, maintain the principal place of business for its branch operations in this State; and

(4) appoint a resident registered agent to accept service of process and to otherwise act on its behalf in this State. In the case of a captive insurance company:

(a) formed as a corporation, a nonprofit corporation, or a limited liability company, whenever the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the director must be an agent of the captive insurance company upon whom any process, notice, or demand may be served;

(b) formed as a reciprocal insurer, whenever the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the director must be an agent of the captive insurance company upon whom any process, notice, or demand may be served.

(C)(1) Before receiving a license, a captive insurance company:

(a) formed as a corporation or a nonprofit corporation, shall file with the director a certified copy of its articles of incorporation and bylaws, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the director;

(b) formed as a limited liability company, shall file with the director a certified copy of its articles of organization and operating agreement, a statement under oath by its managers showing its financial condition, and any other statements or documents required by the director;

(c) formed as a reciprocal shall:

(i) file with the director a certified copy of the power of attorney of its attorney-in-fact, a certified copy of its subscribers' agreement, a statement under oath of its attorney-in-fact showing its

financial condition, and any other statements or documents required by the director; and

(ii) submit to the director for approval a description of the coverages, deductibles, coverage limits, and rates and any other information the director may reasonably require. If there is a subsequent material change in an item in the description, the reciprocal captive insurance company shall submit to the director for approval an appropriate revision and may not offer any additional kinds of insurance until a revision of the description is approved by the director. The reciprocal captive insurance company shall inform the director of any material change in rates within thirty days of the adoption of the change.

(2) In addition to the information required by item (1), an applicant captive insurance company shall file with the director evidence of:

(a) the amount and liquidity of its assets relative to the risks to be assumed;

(b) the adequacy of the expertise, experience, and character of the person or persons who will manage it;

(c) the overall soundness of its plan of operation;

(d) the adequacy of the loss prevention programs of its parent, member organizations, or industrial insureds as applicable; and

(e) such other factors considered relevant by the director in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) In addition to the information required by items (1) and (2) an applicant sponsored captive insurance company shall file with the director:

(a) a business plan demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the director, and how it will report the experience to the director;

(b) all contracts or sample contracts between the sponsored captive insurance company and any participants; and

(c) a statement that expenses will be allocated to each protected cell in an equitable manner.

(4) Information submitted pursuant to this section is confidential as provided in Section 38-90-35 except that information is discoverable by a party in a civil action or contested case to which the captive insurance company that submitted the information is a party, upon a specific finding by the court that:

(a) the captive is a necessary party to the action and not joined only for the purposes of evading the confidentiality provisions of this chapter;

(b) the information sought is relevant, material to, and necessary for the prosecution or defense of the claim asserted in litigation; and

(c) the information sought is not available through another source.

(D)(1) A captive insurance company shall pay to the department a nonrefundable fee of two hundred dollars for processing its application for license. In addition, the director may retain legal, financial, and examination services from outside the department to examine and investigate the application, the reasonable cost of which may be charged against the applicant in an amount that is determined to be appropriate by the director given the nature, scale, and complexity of the application being investigated.

(2) Section 38-13-60 applies to examinations, investigations, and processing conducted pursuant to the authority of this section.

(3) In addition, a captive insurance company shall pay a license fee for the year of registration of three hundred dollars and an annual renewal fee of five hundred dollars.

(4) The department may charge a fifteen-dollar fee for any document requiring certification of authenticity or the signature of the director.

(E) If the director is satisfied that the documents and statements filed by the captive insurance company comply with the provisions of this chapter, the director may grant a license authorizing the company to do insurance business in this State until March first at which time the license may be renewed.

(F) A foreign or alien captive insurance company, upon approval of the director, may become a domestic captive insurance company by complying with all of the requirements of law relative to the organization and licensing of a domestic captive insurance company of the same or equivalent type in this State and by filing with the Secretary of State its articles of association, charter, or other organizational document, together with appropriate amendments to them adopted in accordance with the laws of this State bringing those articles of association, charter, or other organizational document into compliance with the laws of this State. After this is accomplished, the captive insurance company is entitled to the necessary or appropriate certificates and licenses to continue transacting business in this State and is subject to the authority and jurisdiction of this State. In connection with this redomestication,

the director may waive any requirements for public hearings. It is not necessary for a company redomesticating into this State to merge, consolidate, transfer assets, or otherwise engage in any other reorganization, other than as specified in this section.

Section 38-90-25. Reserved.

Section 38-90-30. A captive insurance company may not adopt a name that is the same as, deceptively similar to, or likely to be confused with or mistaken for any other existing business name registered in this State.

Section 38-90-35. (A) Information submitted pursuant to the provisions of this chapter is confidential and may not be made public by the director or an agent or employee of the director without the written consent of the company, except that information may be discoverable by a party in a civil action or contested case to which the submitting captive insurance company is a party, upon a showing by the party seeking to discover the information that:

(1) the information sought is relevant to and necessary for the furtherance of the action or case and the information sought is unavailable from other nonconfidential sources; or

(2) a subpoena applicable to the information is issued by a judicial or administrative law officer of competent jurisdiction has been submitted to the director.

(B) The director may disclose the information to the public officer having jurisdiction over the regulation of insurance in another state if:

(1) the public official agrees in writing to maintain the confidentiality of the information; and

(2) the laws of the state in which the public official serves require the information to be confidential.

Section 38-90-40. (A)(1) The director may not issue a license to a captive insurance company unless the company possesses and maintains free and unimpaired paid-in capital, surplus, or unrestricted net assets for a nonprofit corporation, or a combination thereof of:

(a) in the case of a pure captive insurance company, not less than two hundred and fifty thousand dollars;

(b) in the case of an association captive insurance company incorporated as a stock insurer, mutual insurer, or organized as a limited liability company, not less than seven hundred and fifty thousand dollars;

(c) in the case of an industrial insured captive insurance company or risk retention group, not less than five hundred thousand dollars;

(d) in the case of a sponsored captive insurance company, not less than two hundred fifty thousand dollars;

(e) in the case of a special purpose captive insurance company that is not a risk retention group, an amount determined by the director after giving due consideration to the company's business plan, feasibility study, and pro formas, including the nature, scale, and complexity of the risks to be insured.

(2) The director may prescribe additional capital and surplus requirements based upon the type, volume, and nature of insurance business to be transacted.

(3) The free and unimpaired paid-in capital, surplus, or combination thereof required by this section must be in the form of cash, securities approved by the director, a clean irrevocable letter of credit issued by a bank approved by the director, or other form approved by the director.

(B) For purposes of subsection (A), the director may issue a license expressly conditioned upon the captive insurance company providing to the director satisfactory evidence of possession of the minimum required free and unimpaired paid-in capital, surplus, or combination thereof. Until this evidence is provided, the captive insurance company may not issue any policy, assume any liability, or otherwise provide coverage. The director summarily may revoke the conditional license without legal recourse by the company if satisfactory evidence of the required capital, surplus, or combination thereof is not provided within a maximum period of time, not to exceed one year, to be established by the director at the time the conditional license is issued.

(C) In the case of a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, the director shall require that a trust account, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and United States ceding insurers under insurance policies issued or reinsurance contracts issued or assumed, by the branch captive insurance company through its branch operations. The amount of the security may be no less than the reserves on these insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through branch operations; however, the director may permit a branch captive insurance company that is required to post

security for loss reserves on branch business by its reinsurer or front company to reduce the funds in the trust account required by this section by the same amount so long as the security remains posted with the reinsurer or front company. If the form of security selected is a letter of credit, the letter of credit must be established by, or issued or confirmed by, a bank chartered in this State or a member bank of the Federal Reserve System.

(D) A captive insurance company may not pay a dividend out of, or other distribution with respect to, capital or surplus, in excess of the limitations set forth in Section 38-21-250 through Section 38-21-270, without the approval of the director. Approval of an ongoing plan for the payment of dividends or other distributions must be conditioned upon the retention, at the time of each payment, of capital or surplus in excess of amounts specified by, or determined in accordance with formulas approved by, the director.

(E) An irrevocable letter of credit, which is issued by a financial institution other than a bank chartered by this State or a member bank of the Federal Reserve System, must be in a form as prescribed by the director.

Section 38-90-45. Reserved.

Section 38-90-50. Reserved.

Section 38-90-55. Reserved.

Section 38-90-60. (A) A captive insurance company may be:

(1) incorporated as a stock insurer;

(2) incorporated as a nonprofit corporation;

(3) organized as a limited liability company;

(4) incorporated as a mutual insurer without capital stock, the governing body of which is elected by the members of the insurer; or

(5) organized as a reciprocal insurer pursuant to Chapter 17.

(B) No captive insurance company shall do any business in this State unless it first obtains from the director a certificate of authority authorizing it to do business in this State. In determining whether to issue a certificate of authority to a captive insurance company, the director may consider:

(1) the character, reputation, financial responsibility, insurance experience, and business qualifications of the incorporators, officers, and directors or managers;

(2) the nature, scale, and complexity of the risks to be insured; and

(3) other aspects the director considers advisable.

(C) In the case of a captive insurance company licensed as a branch captive insurance company, the alien captive insurance company must register to do business in this State after the certificate of authority has been issued.

(D) The articles of incorporation, articles of organization, or the application of a branch captive insurance company to qualify to do business in South Carolina, and the organization fees required by Section 33-1-220, 33-31-122, or 33-44-1204, as applicable, must be transmitted to the Secretary of State, who shall record the articles of incorporation, articles of organization, or application to qualify to do business in South Carolina.

(E) A captive insurance company formed as a corporation, a nonprofit corporation, or a limited liability company, pursuant to the provisions of this chapter has the privileges and is subject to the provisions of the general corporation law, including the South Carolina Nonprofit Corporation Act of 1994 for nonprofit corporations and the South Carolina Uniform Limited Liability Company Act of 1996 for limited liability companies, as applicable, as well as the applicable provisions contained in this chapter. If a conflict occurs between a provision of the general corporation law, including the South Carolina Nonprofit Corporation Act of 1994 for nonprofit corporations and the South Carolina Uniform Limited Liability Company Act of 1996 for limited liability companies, as applicable, and a provision of this chapter, the latter controls.

(F) A captive insurance company formed as a reciprocal insurer pursuant to the provisions of this chapter has the privileges and is subject to Chapter 17 in addition to the applicable provisions of this chapter. If a conflict occurs between the provisions of Chapter 17 and the provisions of this chapter, the latter controls. To the extent a reciprocal insurer is made subject to other provisions of this title pursuant to Chapter 17, the provisions are not applicable unless they are expressly made applicable to a captive insurance company pursuant to the provisions of this chapter.

(G) A captive insurance company formed as a mutual insurer pursuant to the provisions of this chapter has the privileges and is subject to the provisions of Chapter 19 in addition to the applicable provisions of this chapter. If a conflict occurs between the provisions of Chapter 19 and this chapter, the latter controls. To the extent a mutual insurer is made subject to other provisions of this title, those provisions are not applicable unless they are expressly made applicable to a captive insurance company pursuant to this chapter.

(H) In the case of a captive insurance company formed as a corporation, a mutual insurer, or a nonprofit corporation, at least one of the members of the board of directors of a captive insurance company incorporated in this State must be a resident of this State.

(I) In the case of a captive insurance company formed as a limited liability company, at least one of the managers of the captive insurance company must be a resident of this State.

(J) In the case of a captive insurance company formed as a reciprocal insurer, at least one of the members of the subscribers' advisory committee must be a resident of this State.

(K) The articles of incorporation or bylaws of a captive insurance company may authorize a quorum of a board of directors to consist of no fewer than one-third of the fixed or prescribed number of directors as provided for in Section 33-8-240(b). In the case of a limited liability company, the articles of organization or operating agreement of a captive insurance company may authorize a quorum to consist of no fewer than one-third of the managers required by the articles of organization or the operating agreement.

Section 38-90-70. (A) A captive insurance company may not be required to make an annual report except as provided in this chapter. The director has the authority to waive or grant an extension to the requirements of this section.

(B)(1) A captive insurance company shall submit annually to the director a report of its financial condition, verified by oath of two of its executive officers. The report must be submitted no later than March first for risk retention groups and no later than July first for all other captive insurance companies.

(2) A captive insurance company, other than a risk retention group, may make a written application to file the annual report on a fiscal year end that is consistent with the parent company's fiscal year end. If an alternative date is granted, the:

(a) income statement and premium schedule of the annual report must be filed before March first of each year for each calendar year-end, verified by oath of two of its executive officers; and

(b) entire annual report must be filed no more than sixty days after the fiscal year end, except as otherwise approved by the director.

(C) In addition to the annual report, a branch captive insurance company shall file with the director a copy of all reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath of two of its executive officers. The reports and statements of the alien captive

insurance company must be submitted within sixty days after the fiscal year end of the alien captive insurance company except as otherwise approved by the director. If the director finds that the reports and statements filed by the alien captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the alien captive insurance company to satisfy the laws of this State, the director may waive the requirement for completion of the Captive Annual Report for business written in the alien jurisdiction.

(D) Except as provided in Section 38-90-40, a captive insurance company shall report using generally accepted accounting principles, unless the director approves the use of statutory accounting principles, with useful or necessary modifications or adaptations required or approved or accepted by the director for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the director. Except as otherwise provided, an association captive insurance company, an industrial insured group, and a risk retention group shall file its report in the form and manner required by Section 38-13-80, and each industrial insured group and each risk retention group shall comply with the requirements provided for in Section 38-13-85. The director by regulation shall prescribe the forms in which pure captive insurance companies and industrial insured captive insurance companies shall report. Information submitted pursuant to this section is confidential as provided in Section 38-90-35, except for reports submitted by a risk retention group.

Section 38-90-75. (A) A captive insurance company shall file annually an actuarial opinion on loss and loss adjustment expense reserves provided by an independent actuary. The actuary may not be an employee of the captive company or its affiliates.

(B) A captive insurance company may discount its loss and loss adjustment expense reserves with prior written approval by the director.

(C) The director may disallow the discounting of loss and loss adjustment expense reserves if a captive insurance company violates a provision of this title.

Section 38-90-80. (A)(1) At least once every five years, and whenever the director determines it to be prudent, the director personally, or by a competent person appointed by the director, shall thoroughly inspect and examine each risk retention group or industrial insured insurance company to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with this chapter.

The director, at his discretion, may physically visit the risk retention group or industrial insured insurance company. The expenses and charges of the examination must be paid to the State by the company or companies examined and the department shall issue its warrants for the proper charges incurred in all examinations.

(2) A captive insurance company that is not a risk retention group or industrial insured captive insurance company must be examined three years following the date of licensure and at the discretion of the director thereafter.

(B) All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies of documents produced by, obtained by, or disclosed to the director or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and may not be made public by the director or an employee or agent of the director without the prior written consent of the company, except to the extent provided in this subsection.

(1) Nothing in this subsection prevents the director from using this information in furtherance of the director's regulatory authority under this title.

(2) The director may grant access to this information to public officers having jurisdiction over the regulation of insurance in any other state or country, or to law enforcement officers of this State or any other state or country or agency of the federal government at any time, so long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(3) The confidentiality provisions of this subsection do not extend to final reports produced by the director in inspecting or examining a risk retention group. In addition, nothing contained in this subsection limits the authority of the director to use and, if appropriate, make public a preliminary examination report, examiner or insurer work papers or other documents, or other information discovered or developed during the course of an examination in the furtherance of a legal or regulatory action which the director considers appropriate.

(C) This section applies to all business written by a captive insurance company; however, the examination for a branch captive insurance company must be of branch business and branch operations only, as long as the alien captive insurance company provides annually to the director, a certificate of compliance, or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the alien captive insurance company is formed and demonstrates to the director's

satisfaction that it is operating in sound financial condition in accordance with all applicable laws and regulations of that jurisdiction.

(D) To the extent that the provisions of Chapter 13 do not contradict the provisions of this section, Chapter 13 applies to captive insurance companies licensed under this chapter.

Section 38-90-90. (A) The license of a captive insurance company to conduct an insurance business in this State may be suspended or revoked by the director for:

(1) insolvency or impairment of capital or surplus;

(2) failure to meet the requirements of Section 38-90-40;

(3) refusal or failure to submit an annual report, as required by Section 38-90-70, or any other report or statement required by law or by lawful order of the director;

(4) failure to comply with its own charter, bylaws, or other organizational document;

(5) failure to submit to examination or any legal obligation relative to an examination, as required by Section 38-90-80;

(6) refusal or failure to pay the cost of examination as required by Section 38-90-80;

(7) use of methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or to its policyholders; or

(8) failure otherwise to comply with laws of this State.

(B) If the director finds, upon examination, hearing, or other evidence, that a captive insurance company has committed any of the acts specified in subsection (A) of this section, the director may suspend or revoke such license if the director considers it in the best interest of the public and the policy holders of the captive insurance company, notwithstanding any other provision of this title.

(C) In lieu of suspending or revoking the license of a captive insurance company, the director may impose fines as provided for in Section 38-2-10.

Section 38-90-100. (A) An association captive insurance company, an industrial insured captive insurance company, and a risk retention group shall comply with the investment requirements contained in this title. Notwithstanding any other provision of this title, the director may approve the use of alternative reliable methods of valuation and rating.

(B) A pure captive insurance company, a special purpose captive insurance company, other than a risk retention group formed as a special purpose captive insurance company, and a sponsored captive insurance

company are not subject to any restrictions on allowable investments contained in this title; however, the director may request a written investment plan and may prohibit or limit an investment that threatens the solvency or liquidity of the company.

Section 38-90-105. Upon approval by the director, only a pure captive insurance company, a special purpose captive insurance company, or a sponsored captive insurance company may make loans to its parent company or affiliates evidenced by a note in a form acceptable to and approved by the director. Loans of minimum capital or surplus funds or a combination thereof required by Section 38-90-40 are prohibited.

Section 38-90-110. (A) A captive insurance company may provide reinsurance, as authorized in this title, on risks ceded by any other insurer.

(B)(1) A captive insurance company may take credit for reserves on risks or portions of risks ceded to reinsurers complying with the provisions of Sections 38-9-200, 38-9-210, and 38-9-220.

(2) An industrial insured captive insurance company or a captive insurance company formed as a risk retention group may not take credit for reserves on risks or portions of risks ceded to a reinsurer if the reinsurer is not in compliance with Sections 38-9-200, 38-9-210, and 38-9-220.

(3) All other captive insurance companies may not take credit for reserves on risks or portions of risks ceded to a reinsurer if the reinsurer is not in compliance with Sections 38-9-200, 38-9-210, and 38-9-220, unless specific approval has been granted for this credit or the reinsurer by approval of the director, or the captive insurance company is participating in a risk pool for the purpose of risk sharing, as approved by the director.

Section 38-90-120. A captive insurance company may not be required to join a rating organization.

Section 38-90-130. A captive insurance company, including a captive insurance company organized as a reciprocal insurer under this chapter, may not join or contribute financially to a plan, pool, association, or guaranty or insolvency fund in this State, and a captive insurance company, or its insured or its parent or any affiliated company or any member organization of its association, or in the case of a captive insurance company organized as a reciprocal insurer, a subscriber of the

company, may not receive a benefit from a plan, pool, association, or guaranty or insolvency fund for claims arising out of the operations of such captive insurance company. Subject to the approval of the director, participation by a captive insurance company, including a pure captive insurance company, in a pool for the purpose of risk sharing is not prohibited under this section.

Section 38-90-140. (A) A captive insurance company shall pay to the department by March first of each year, a tax at the rate of four-tenths of one percent on the first twenty million dollars and three-tenths of one percent on each dollar after that, up to a maximum tax of one hundred thousand dollars. Taxes are based on the direct premiums written or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December thirty-first next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums which must include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(B) A captive insurance company shall pay to the department by March first of each year, a tax at the rate of two hundred and twenty-five thousandths of one percent on the first twenty million dollars of assumed reinsurance premium, and one hundred fifty thousandths of one percent on the next twenty million dollars and fifty thousandths of one percent on the next twenty million dollars and twenty-five thousandths of one percent of each dollar of assumed reinsurance premium after that up to a maximum tax of one hundred thousand dollars. However, reinsurance tax does not apply to premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection (A). A premium tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer or other funding mechanism under common ownership and control if the transaction is part of a plan to discontinue the operations related to the loss reserves and other liabilities being assumed of the other insurer or funding mechanism and if the intent of the parties to the transaction is to renew or maintain business with the captive insurance company.

(C)(1) If the aggregate taxes to be paid by a captive insurance company calculated under subsections (A) and (B) amount to less than five thousand dollars in any year, the captive insurance company shall pay a minimum tax of five thousand dollars for that year. However, in the calendar year in which a captive is first licensed, the minimum tax must be prorated on a quarterly basis.

(2) For captives licensed in the:

(a) first quarter, the prorated minimum tax is five thousand dollars;

(b) second quarter, the prorated minimum tax is three thousand seven hundred fifty dollars;

(c) third quarter, the prorated minimum tax is two thousand five hundred dollars; and

(d) fourth quarter, the prorated minimum tax is one thousand two hundred fifty dollars.

(3) In the calendar year in which a captive is first licensed, if the aggregate taxes to be paid by a captive insurance company calculated under subsections (A) and (B) amount to less than the minimum tax prorated on a quarterly basis, the captive insurance company shall pay the prorated minimum tax for that calendar year.

(4) If the aggregate taxes to be paid by a captive insurance company calculated under subsections (A) and (B) amount to more than one hundred thousand dollars in any year, the captive insurance company shall pay a maximum tax of one hundred thousand dollars for that year.

(D) A captive insurance company failing to make returns or to pay all taxes required by this section, is subject to the relevant sanctions of this title.

(E) Two or more captive insurance companies under common ownership and control must be taxed, as separate captive insurance companies.

(F) For the purposes of this section, 'common ownership and control' means:

(1) in the case of stock corporations or limited liability companies, the direct or indirect ownership of eighty percent or more of the outstanding voting stock or membership interests of two or more corporations or limited liability companies by the same person or entity;

(2) in the case of nonprofit corporations, the direct or indirect ownership of eighty percent or more of the voting power of two or more nonprofit corporations by the same member or members; and

(3) in the case of mutual corporations, the direct or indirect ownership of eighty percent or more of the capitalization and the voting power of two or more corporations by the same member or members.

(G) In the case of a branch captive insurance company, the tax provided for in this section applies only to the branch business of the company.

(H) In the case of a sponsored captive insurance company, with respect to any:

(1) unincorporated protected cells, the aggregate taxes to be paid as calculated under subsections (A) and (B) must be calculated and paid on a consolidated basis;

(2) incorporated protected cells that are affiliates of the sponsor, the aggregate taxes to be paid as calculated under subsections (A) and (B) must be calculated and paid on a consolidated basis; and

(3) incorporated protected cells that are not affiliates of the sponsor, the aggregate taxes to be paid as calculated under subsections (A) and (B) shall apply to each incorporated protected cell.

(I) The tax provided for in this section constitutes all taxes collectible under the laws of this State from a captive insurance company, and no other occupation tax or other taxes may be levied or collected from a captive insurance company by the State or a county, city, or municipality within this State, except ad valorem taxes on real and personal property used in the production of income.

Section 38-90-145. Reserved.

Section 38-90-150. The director may promulgate and, from time to time, amend rules and regulations and issue orders or written approvals relating to captive insurance companies as are necessary to enable the director to carry out the provisions of this chapter.

Section 38-90-160. (A) No provisions of this title or regulations, other than those contained in this chapter or contained in specific references contained in this chapter and regulations applicable to them, apply to captive insurance companies.

(B) The director may exempt, by rule, regulation, or written approval, special purpose captive insurance companies, other than a risk retention group formed as a special purpose captive insurance company, on a case by case basis, from provisions of this chapter that he determines to be inappropriate given the nature, scale, and complexity of the risks to be insured.

(C) The provisions of Sections 38-5-120(A)(5), 38-5-120(B), 38-5-120(D)(1), 38-5-120(D)(2), 38-9-225, 38-9-230, 38-21-10, 38-21-30, 38-21-60, 38-21-70, 38-21-80, 38-21-90, 38-21-95, 38-21-100, 38-21-110, 38-21-120, 38-21-130, 38-21-140, 38-21-150, 38-21-160, 38-21-170, 38-21-220, 38-21-225, 38-21-230, 38-21-250, 38-21-270, 38-21-280, 38-21-285, 38-21-290, 38-21-310, 38-21-320, 38-21-330, 38-21-360, 38-55-75 and Chapters 44 and 46, Title 38 and applicable regulations apply in full to a risk retention group and, if a conflict occurs between those code sections and chapters referenced in

this subsection and this chapter (Chapter 90, Title 38), then the code sections and chapters referenced in this subsection control.

(D) Except as provided elsewhere in this chapter, the provisions of Chapter 87, Title 38 apply to a risk retention group.

(E)(1) Except for Section 38-9-330(F) and Section 38-9-440, the provisions of Article 3 and Article 5, Chapter 9, Title 38 apply in full to a risk retention group, and if a conflict occurs between those provisions and this chapter, the provisions of this subsection control.

(2) The director may elect not to take regulatory action as otherwise required by Sections 38-9-330, 38-9-340, 38-9-350, and 38-9-360 if any of the following conditions exist:

(a) the director establishes that the risk retention group's members, sponsoring organizations, or both, are well-capitalized entities whose financial condition and support for the risk retention group is adequately documented. In making this determination, the director shall, at a minimum, require the filing of at least three years of historical, audited financial statements of the members, sponsor, or both, to assess the financial ability of the members', sponsor's, or both, support of the risk retention group. In addition, one year of projected financial information must be reviewed if available. The members, sponsor, or both, shall have:

(i) an investment grade rating from a nationally recognized statistical rating organization or A.M. Best rating of A- or better; or

(ii) equity equal to or greater than one hundred million dollars or equity equal to or greater than ten times the risk retention group's largest net retained per occurrence limit;

(b) each policyholder qualifies as an industrial insured in their state or this State, depending on which has the greater requirements, provided that if the policyholder's home state does not have an industrial insured exemption or equivalent, the policyholder must qualify under the industrial insured requirement of this State; or

(c) the risk retention group's certificate of authority date of issue was before January 1, 2011, and, based on a minimum five-year history of successful operations, is specifically exempted, in writing, from the requirements for mandatory risk-based capital action by the director.

Section 38-90-165. (A) The director may declare inactive by order a captive insurance company other than a risk retention group or association captive if such captive insurance company has no outstanding insurance liabilities and agrees to cease providing insurance coverage.

(B) During the period the captive insurance company is inactive, the director may by written approval:

(1) reduce the minimum free and unimpaired paid-in capital or surplus, or combination thereof, to no less than twenty-five thousand dollars;

(2) modify the minimum premium tax applicable to the captive insurance company to an amount no less than two thousand dollars and the captive insurance company shall pay no other premium taxes; and

(3) exempt the captive insurance company from the requirement to file such reports as set forth in the order.

Section 38-90-175. (A) There is created a fund to be known as the 'Captive Insurance Regulatory and Supervision Fund' for the purpose of providing the financial means for the director to administer Chapter 87 and Chapter 90 of this title and for reasonable expenses incurred in promoting the captive insurance industry in the State. The transfer of twenty percent of the taxes collected by the department pursuant to Chapter 90 of this title, and all fees and assessments received by the department pursuant to the administration of this chapter must be credited to this fund. All fees received by the department from reinsurers who assume risk only from captive insurance companies, must be deposited into the Captive Insurance Regulatory and Supervision Fund. All fines and administrative penalties must be deposited directly into the general fund.

(B) All payments from the Captive Insurance Regulatory and Supervision Fund for the maintenance of staff and associated expenses including contractual services as necessary, shall be disbursed from the state treasury only upon warrants issued by the director, after receipt of proper documentation regarding services rendered and expenses incurred.

Section 38-90-180. (A) Except as otherwise provided in this section, the terms and conditions set forth in Chapters 26 and 27 of this title pertaining to insurance reorganizations, receiverships, and injunctions apply in full to captive insurance companies formed or licensed under this chapter.

(B) In the case of a sponsored captive insurance company:

(1) the assets of the protected cell may not be used to pay expenses or claims other than those attributable to the protected cell; and

(2) its capital and surplus at all times must be available to pay expenses of or claims against the sponsored captive insurance company

and may not be used to pay expenses or claims attributable to a protected cell.

(3) Notwithstanding another provision of law or regulation, upon an order of conservation, rehabilitation, or liquidation of a sponsored captive insurance company, the receiver shall deal with the sponsored captive insurance company's assets and liabilities, including protected cell assets and protected cell liabilities, pursuant to the requirements of this chapter.

Section 38-90-185. Reserved.

Section 38-90-190. Reserved.

Section 38-90-200. (A) An association captive insurance company or industrial insured group formed as a stock or mutual corporation, or a limited liability company may be converted to or merged with and into a reciprocal insurer in accordance with a plan and the provisions of this section.

(B) A plan for this conversion or merger:

(1) must be fair and equitable to the:

(a) shareholders, in the case of a stock insurer;

(b) members, in the case of a limited liability company; or

(c) policyholders, in the case of a mutual insurer; and

(2) must provide for the purchase of the shares of any nonconsenting shareholder of a stock insurer, of the member interest of any nonconsenting member of a limited liability company, of the policyholder interest of any nonconsenting policyholder of a mutual insurer in substantially the same manner and subject to the same rights and conditions as are accorded a dissenting shareholder, dissenting member, or a dissenting policyholder pursuant to the provisions of Chapter 13 or Chapter 44, Title 33. Provided, however, that the merger of a limited liability company requires the consent of all members unless this requirement has been waived in an operating agreement signed by all of the members of the limited liability company.

(C) In the case of a conversion authorized pursuant to the provisions of subsection (A):

(1) the conversion must be accomplished under a reasonable plan and procedure as may be approved by the director; however, the director may not approve the plan of conversion unless the plan:

(a) satisfies the provisions of subsection (B);

(b) provides for a hearing, of which notice has been given to the insurer, its directors, officers, and stockholders, in the case of a stock

insurer; members and managers, in the case of a limited liability company; or policyholders, in the case of a mutual insurer, all of whom have the right to appear at the hearing, except that the director may waive or modify the requirements for the hearing; however, if a notice of hearing is required, but no hearing is requested, the director may cancel the hearing;

(c) provides for the conversion of existing stockholder, member, or policyholder interests into subscriber interests in the resulting reciprocal insurer, proportionate to stockholder, member, or policyholder interests in the stock or mutual insurer or limited liability company; and

(d) is approved:

(i) in the case of a stock insurer or limited liability company, by a majority of the shares or interests entitled to vote represented in person or by proxy at a duly called regular or special meeting at which a quorum is present;

(ii) in the case of a mutual insurer, by a majority of the voting interests of policyholders represented in person or by proxy at a duly called regular or special meeting at which a quorum is present;

(2) the director shall approve the plan of conversion if the director finds that the conversion will promote the general good of the State in conformity with those standards provided in Section 38-90-60;

(3) if the director approves the plan, the director shall amend the converting insurer's certificate of authority to reflect conversion to a reciprocal insurer and issue the amended certificate of authority to the company's attorney-in-fact;

(4) upon issuance of an amended certificate of authority of a reciprocal insurer by the director, the conversion is effective; and

(5) upon the effectiveness of the conversion, the corporate existence of the converting insurer shall cease and the resulting reciprocal insurer shall notify the Secretary of State of the conversion.

(D) A merger authorized pursuant to the provisions of subsection (A) must be accomplished substantially in accordance with the procedures provided in this title except that, only for purposes of the merger:

(1) the plan or merger must satisfy subsection (B);

(2) the subscribers' advisory committee of a reciprocal insurer must be equivalent to the board of directors of a stock or mutual insurance company or the managers of a limited liability company;

(3) the subscribers of a reciprocal insurer must be the equivalent of the policyholders of a mutual insurance company;

(4) if a subscribers' advisory committee does not have a president or secretary, the officers of the committee having substantially

equivalent duties are considered the president and secretary of the committee;

(5) the director shall approve the articles of merger if the director finds that the merger will promote the general good of the State in conformity with those standards provided in Section 38-90-60. If the director approves the articles of merger, the director shall endorse his or her approval on the articles and the surviving insurer shall present the name to the Secretary of State at the Secretary of State's office;

(6) notwithstanding Section 38-90-40, the director may permit the formation, without surplus, capitalization, or a combination thereof, of a captive insurance company organized as a reciprocal insurer, into which an existing captive insurance company may be merged for the purpose of facilitating a transaction provided for in this section; however, there may be no more than one authorized insurance company surviving the merger;

(7) an alien insurer may be a party to a merger authorized pursuant to the provisions of subsection (A) if the requirements for the merger between a domestic and a foreign insurer pursuant to the provisions of Chapter 21 apply to a merger between a domestic and an alien insurer provided by this subsection. The alien insurer must be treated as a foreign insurer pursuant to the provisions of Chapter 21 and other jurisdictions must be the equivalent of a state for purposes of Chapter 21.

(E) A conversion or merger pursuant to the provisions of this section has all the effects set forth in Chapter 21, to the extent these effects are not inconsistent with this chapter.

Section 38-90-210. (A) One or more sponsors may form a sponsored captive insurance company under this chapter.

(B) A sponsored captive insurance company formed or licensed under this chapter may establish and maintain one or more protected cells to insure risks of one or more participants, subject to the following conditions:

(1) the shareholders of a sponsored captive insurance company must be limited to its participants and sponsors;

(2) each protected cell must be accounted for separately on the books and records of the sponsored captive insurance company to reflect the participants of the protected cell, the financial condition and results of operations of the protected cell, net income or loss, dividends or other distributions to participants, and other factors may be provided in the participant contract or required by the director;

(3) the assets of a protected cell must not be chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct;

(4) no sale, exchange, or other transfer of assets may be made by the sponsored captive insurance company between or among any of its protected cells without the consent of the protected cells;

(5) no sale, exchange, transfer of assets, dividend, or distribution may be made from a protected cell to a sponsor or participant without the director's approval and in no event may the approval be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to a protected cell;

(6) a sponsored captive insurance company annually shall file with the director financial reports the director requires, which shall include, but are not limited to, accounting statements detailing the financial experience of each protected cell;

(7) a sponsored captive insurance company shall notify the director in writing within ten business days of a protected cell that is insolvent or otherwise unable to meet its claim or expense obligations;

(8) no participant contract shall take effect without the director's approval, and the addition of each new protected cell and withdrawal of any participant of any existing protected cell constitutes a change in the business plan requiring the director's approval.

(C) The name of a sponsored captive insurance company shall include the words 'Sponsored Captive' or the abbreviation 'SC'. Any captive insurance company or protected cell formed prior to July 31, 2013, may not be required to change its name to comply with the provisions of this subsection.

(D) A sponsored captive insurance company may establish one or more protected cells with the prior approval of the director of a plan of operation or amendments submitted by the sponsored captive insurance company with respect to each protected cell. Upon the approval of the director of the plan of operation, which shall include, but is not limited to, the specific business objectives and investment guidelines of the protected cell, the sponsored captive insurance company, in accordance with the approved plan of operation, may attribute to the protected cell insurance obligations with respect to its insurance business and assets to fund the obligations. The sponsored captive insurance company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell. Protected cell assets must be held in the protected cell accounts for the purpose of satisfying the obligations of that protected cell.

(E) All attributions of assets and liabilities between a protected cell and the general account must be in accordance with the plan of operation approved by the director. No other attribution of assets or liabilities may be made by a sponsored captive insurance company between the sponsored captive insurance company's general account and its protected cells.

(F) A sponsored captive insurance company shall establish administrative and accounting procedures necessary to properly identify the one or more protected cells of the sponsored captive insurance company and the protected cell assets and protected cell liabilities attributable to the protected cells. The directors of a sponsored captive insurance company shall keep protected cell assets and protected cell liabilities:

(1) separate and separately identifiable from the assets and liabilities of the sponsored captive insurance company's general account; and

(2) attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

(G) When establishing a protected cell, the sponsored captive insurance company shall attribute to the protected cell assets with a value at least equal to the reserves and other insurance liabilities attributed to that protected cell.

Section 38-90-215. (A) A protected cell may be either unincorporated or incorporated.

(B) With regard to unincorporated protected cells:

(1) The unincorporated protected cell shall have its own distinct name or designation, which shall include the words 'Protected Cell' or the abbreviation 'PC'. Any captive insurance company or protected cell formed prior to the effective date of this section may not be required to change its name to comply with the provisions of this paragraph.

(2) An unincorporated protected cell must meet the free and unimpaired paid-in capital and surplus requirements applicable to a special purpose captive insurance company and either:

(a) establish loss and loss expense reserves for business written through the unincorporated protected cell; or

(b) the business written through the unincorporated protected cell must be:

(i) fronted by an insurance company licensed pursuant to the laws of:

(A) any state; or

(B) any jurisdiction if the insurance company is a wholly owned subsidiary of an insurance company licensed pursuant to the laws of any state;

(ii) reinsured by a reinsurer authorized or approved by this State; or

(iii) secured by a trust fund in the United States for the benefit of policyholders and claimants funded by an irrevocable letter of credit or other asset acceptable to the director. The amount of security provided by the trust fund may not be less than the reserves associated with those liabilities, including reserves for losses, allocated loss adjustment expenses, incurred but unreported losses, and unearned premiums for business written through the participant's protected cell. The director may require the sponsored captive to increase the funding of a trust established pursuant to this item. If the form of security in the trust is a letter of credit, the letter of credit must be established, issued, or confirmed by a bank chartered in this State, a member of the federal reserve system, or a bank chartered by another state if that state-chartered bank is acceptable to the director. A trust and trust instrument maintained pursuant to this item must be in a form and upon terms approved by the director.

(3) The creation of an unincorporated protected cell does not create, with respect to that protected cell, a legal person separate from the sponsored captive insurance company. Amounts attributed to a protected cell, including assets transferred to a protected cell account, are owned by the sponsored captive insurance company of which the protected cell is a part, and the sponsored captive insurance company may not be, or may not hold itself out to be, a trustee with respect to those protected cell assets of that protected cell account. Notwithstanding the provisions of this subsection, the sponsored captive insurance company may allow for a security interest to attach to protected cell assets or a protected cell account when in favor of a creditor of the protected cell and otherwise allowed under applicable law.

(4) This subsection may not be construed to prohibit the sponsored captive insurance company from:

(a) entering into contracts of insurance on behalf of the protected cell; or

(b) contracting with or arranging for third-party managers or advisors to manage the protected cell to manage the assets of a protected cell, if all remuneration, expenses, and other compensation of the third-party manager or advisor is payable from the protected cell assets of that protected cell and not from the protected cell assets of other

protected cells or the assets of the sponsored captive insurance company's general account.

(C) Incorporated protected cells shall be subject to all of the following:

(1) An incorporated protected cell may be organized and operated in any form of business organization set forth in Section 38-90-60(A).

(2) Except as specifically set forth in this chapter, each incorporated protected cell of a sponsored captive insurance company shall be licensed and treated as a special purpose captive insurance company.

(3) A participant in an incorporated protected cell need not be a shareholder of the protected cell or of the sponsored captive insurance company or any affiliate thereof.

(D) The name of an incorporated protected cell must include the words 'Incorporated Cell' or the abbreviation 'IC'.

(E) Any captive insurance company or protected cell formed prior to July 31, 2013, shall not be required to change its name to comply with the provisions of subsection (D).

Section 38-90-220. (A) The sponsored captive insurance company shall attribute all insurance obligations, assets, and liabilities relating to a participant's risks to the participant's protected cell.

(B) The protected cell assets of a protected cell may not be charged with liabilities arising out of any other business the sponsored captive insurance company may conduct. All contracts or other documentation reflecting protected cell liabilities shall clearly indicate that only the protected cell assets are available for the satisfaction of those protected cell liabilities. Under no circumstances may a protected cell be authorized to issue insurance or reinsurance contracts directly to policyholders or reinsureds or have any obligation to the policyholders or reinsureds of the sponsored captive insurance company's general account.

(C) The income, gains and losses, realized or unrealized, from protected cell assets and protected cell liabilities must be credited to or charged against the protected cell without regard to other income, gains or losses of the sponsored captive insurance company, including income, gains or losses of other protected cells. Investments must be handled pursuant to Section 38-90-100(B).

(D) In all sponsored captive insurance company transactions, the contracts or other documentation effecting the transaction shall contain provisions identifying the protected cell to which the transaction will be attributed. In addition, the contracts or other documentation must clearly

disclose that the assets of that protected cell, and only those assets are available to pay the obligations of that protected cell. Notwithstanding the provisions of this subsection and subject to the provisions of this chapter and any other applicable law or regulation, the failure to include such language in the contracts or other documentation may not be used as the sole basis by creditors, reinsurers, or other claimants to circumvent the provisions of this chapter.

(E) Assets attributed to a protected cell must be valued at their market value on the date of valuation or if there is no readily available market, as provided in the contract or the rules or other written documentation applicable to the protected cell.

(F) At the cessation of business of a protected cell in accordance with the plan approved by the director, the sponsored captive insurance company voluntarily shall close out the protected cell account.

Section 38-90-225. (A) The following may be participants in a sponsored captive insurance company formed or licensed pursuant to this chapter:

(1) an association, corporation, limited liability company, partnership, trust, or other business entity; and

(2) a sponsor.

(B) A participant does not need to be a shareholder of the sponsored captive insurance company or an affiliate of the company.

(C) A participant shall insure only its own risks through a sponsored captive insurance company unless otherwise approved by the director.

(D) A risk retention group may not be a sponsor or participant in a sponsored captive insurance company.

Section 38-90-230. (A) Protected cell assets are only available to the creditors of the sponsored captive insurance company that are creditors with respect to that protected cell and are therefore entitled, in conformity with this chapter, to have recourse to the protected cell assets attributable to that protected cell. Protected cell assets are absolutely protected from the creditors of the sponsored captive insurance company that are not creditors with respect to that protected cell and who, therefore, are not entitled to have recourse to the protected cell assets attributable to that protected cell. Creditors with respect to a protected cell are not entitled to have recourse against the protected cell assets of other protected cells or the assets or the sponsored captive insurance company's general account. Protected cell assets only are available to creditors of a sponsored captive insurance company after all protected

cell liabilities have been extinguished or otherwise provided for in accordance with the plan of operation relating to that protected cell.

(B) When an obligation of a sponsored captive insurance company to a person arises from a transaction, or is otherwise imposed, with respect to a protected cell:

(1) that obligation of the sponsored captive insurance company extends only to the protected cell assets attributable to that protected cell, and the person, with respect to that obligation, is entitled to have recourse only to the protected cell assets attributable to that protected cell; and

(2) that obligation of the sponsored captive insurance company does not extend to the protected cell assets of any other protected cell or the assets of the sponsored captive insurance company's general account, and that person, with respect to that obligation, is not entitled to have recourse to the protected cell assets of any other protected cell or the assets of the sponsored captive insurance company's general account.

(C) When an obligation of a sponsored captive insurance company relates solely to the general account, the obligation of the sponsored captive insurance company extends only to the sponsored captive insurance company, and that person, with respect to that obligation, is entitled to have recourse only to the assets of the sponsored captive insurance company's general account.

(D) The establishment of one or more protected cells alone does not constitute, and may not be deemed to be, a fraudulent conveyance, an intent by the sponsored captive insurance company to defraud creditors, or the carrying out of business by the sponsored captive insurance company for any other fraudulent purpose.

Section 38-90-240. Reserved.

Section 38-90-250. A licensed captive insurance company that meets the necessary requirements of this title imposed upon an insurer must be considered for issuance of a certificate of authority to act as an insurer in this State."

South Carolina Coastal Captive Insurance Company Act repealed

SECTION 2. Article 5, Chapter 90, Title 38 of the 1976 Code is repealed.

Time effective

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

Ratified the 14th day of May, 2018.

Approved the 18th day of May, 2018.

No. 252

(R282, H3549)

AN ACT TO AMEND SECTION 61-6-120, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A PERMIT ISSUED FOR ON-PREMISES CONSUMPTION OF ALCOHOLIC LIQUOR IN PROXIMITY TO A CHURCH, SCHOOL, OR PLAYGROUND, SO AS TO PROVIDE THAT A LICENSE MAY BE ISSUED IF THE DECISION-MAKING BODY OF THE CHURCH, SCHOOL, OR PLAYGROUND AFFIRMATIVELY STATES THAT IT DOES NOT OBJECT TO THE ISSUANCE OF A LICENSE AND TO ALLOW THE DECISION-MAKING BODY OF A SCHOOL TO WITHDRAW ITS STATEMENT DURING THE RENEWAL PERIOD FOR THE LICENSE.

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

School defined

SECTION 1. Section 61-6-120(A)(2) of the 1976 Code is amended to read:

"(2) 'school', an establishment, other than a private dwelling, where the usual processes of education are usually conducted; and"

Alcohol license proximity ban exception

SECTION 2. Section 61-6-120(C) of the 1976 Code is amended to read:

"(C)(1) Notwithstanding the provisions of subsection (A), the department may issue a license so long as any church, school, or playground located within the parameters affirmatively states that it does not object to the issuance of a license. This subsection only applies to a permit for on-premises consumption of alcoholic liquor.

(2)(a) Any applicant seeking to utilize the provisions of this subsection must provide a statement declaring the church, playground, or school does not object to the issuance of the specific license sought, as follows:

(i) if a church, from the decision-making body of the local church;

(ii) if a playground, from the decision-making body of the owner of the playground;

(iii) if a school, from the local school district board of trustees of the local public school, governing board of the charter school, or governing authority of the private school.

(b) If more than one church, school, or playground is located within the parameters set forth in subsection (A), the applicant must provide the statement from all churches, schools, or playgrounds.

(c) At the time of any renewal period for the specific license, a school, from the local school district board of trustees of the local public school, governing board of the charter school, or governing authority of the private school, may withdraw its statement declaring it does not object to the issuance of the specific license sought by notifying the department of its withdrawal.

(3) The department may promulgate regulations necessary to implement the provisions of this subsection."

Time effective

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

Ratified the 23rd day of May, 2018.

Approved the 25th day of May, 2018.

No. 253

(R283, H4875)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 4 TO TITLE 50 SO AS TO ENACT THE "SOUTH CAROLINA SOLAR HABITAT ACT" TO ESTABLISH VOLUNTARY SOLAR BEST-MANAGEMENT PRACTICES FOR COMMERCIAL SOLAR ENERGY GENERATION SITES, TO ESTABLISH A NATIVE VEGETATION HABITAT AND POLLINATOR MANAGEMENT PLAN TO BE USED AS TECHNICAL GUIDANCE FOR THE PURPOSES OF THIS ACT, AND TO PROVIDE THAT CERTIFICATES OF COMPLIANCE MAY BE ISSUED TO ENTITIES THAT MEET SOLAR SITE GUIDELINES ESTABLISHED PURSUANT TO THIS ACT.

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

South Carolina Solar Habitat Act

SECTION 1. Title 50 of the 1976 Code is amended by adding:

"CHAPTER 4

South Carolina Solar Habitat Act

Section 50-4-10. This chapter may be cited as the 'South Carolina Solar Habitat Act'.

Section 50-4-20. An owner of a ground-mounted commercial solar energy generation site is encouraged to follow voluntary site management practices that:

(1) provide native perennial vegetation and foraging habitats beneficial to gamebirds, songbirds, and pollinators; and

(2) reduce storm water runoff and erosion at the solar generation site.

Section 50-4-30. The South Carolina Department of Natural Resources, working in conjunction with other state agencies and nonprofit conservation organizations, shall establish a native vegetation

habitat and pollinator management plan to be used as technical guidance for the purposes of this act.

An owner of a solar energy generation site implementing solar site management practices under this section may claim that the site increases the habitat value by providing benefits to gamebirds, songbirds, pollinators, and small mammals only if the site adheres to guidance set forth by the wildlife habitat and pollinator plan provided by the department or any other gamebird, songbird, or pollinator foraging-friendly vegetation standard established by the department. An owner wishing to make a beneficial habitat claim must make the site's vegetation management plan available to the public and provide a copy of the plan to the department for review.

The department or another entity may issue a certificate of compliance to the owner of a solar site meeting the plan guidelines that the owner may use to promote its participation in the program."

Time effective

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

Ratified the 23rd day of May, 2018.

Approved the 25th day of May, 2018.

No. 254

(R237, H3209)

AN ACT TO AMEND SECTION 17-22-910, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO APPLICATIONS FOR THE EXPUNGEMENT OF CRIMINAL RECORDS FOR CERTAIN OFFENSES, SO AS TO ADD FIRST OFFENSE SIMPLE POSSESSION OR POSSESSION WITH INTENT TO DISTRIBUTE DRUGS TO THE LIST OF OFFENSES ELIGIBLE FOR EXPUNGEMENT, AND TO PROVIDE FOR ELIGIBILITY FOR EXPUNGEMENT OF OFFENSES SUBSEQUENTLY REPEALED WHEN THE ELEMENTS OF THE OFFENSE ARE CONSISTENT WITH AN EXISTING SIMILAR OFFENSE WHICH IS SUBJECT TO EXPUNGEMENT AND TO CLARIFY THAT EXPUNGEMENT PROVISIONS APPLY

If the last act shown on the opposite page is not complete, it will be continued in the next Advance Sheet.

ASHLEY HARWELL-BEACH
Acting Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211