Advance Sheet No. 02 | June 26, 2024 | Pages 1326-1704 Acts 121-210

2024 REGULAR SESSION

Acts and Joint Resolutions

of the

GENERAL ASSEMBLY
OF THE STATE OF SOUTH CAROLINA

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, 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.

Time effective

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 7th day of March, 2024

Approved the 11th day of March, 2024

No. 121

(R129, S621)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 79 TO TITLE 39 SO AS TO CREATE THE "SOUTH CAROLINA-IRELAND TRADE COMMISSION", TO PROVIDE FOR THE MEMBERS OF THE TRADE COMMISSION, AND TO ESTABLISH THE DUTIES OF THE COMMISSION.

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

South Carolina-Ireland Trade Commission

SECTION 1. Title 39 of the S.C. Code is amended by adding:

CHAPTER 79

South Carolina-Ireland Trade Commission

Section 39-79-100. (A) There is established the "South Carolina-Ireland Trade Commission" which is created to advance bilateral trade and investment between South Carolina and Ireland. The trade commission shall consist of fifteen members to be appointed as follows:

(1) four members appointed by the Speaker of the House of Representatives, two of whom must be members of the House of Representatives;

(2) four members appointed by the President of the Senate, two of

whom must be members of the Senate; and

(3) seven members appointed by the Governor:

(a) the Secretary of the Department of Commerce or his designee;

(b) the Commissioner of Agriculture or his designee;

(c) two representatives of state institutions of higher education;

(d) two members representing Irish Americans in South Carolina or Irish-American communities; and

(e) one representative of a South Carolina business organization or a trade organization.

(B) The members of the commission must be appointed for terms of four years each and until their successors are appointed and qualify, except that the seven members appointed by the Governor shall serve initial terms of two years each, the four members appointed by the President of the Senate shall serve initial terms of three years each, and the four members appointed by the Speaker shall serve initial terms of four years each. Members may be reappointed and must include:

(1) the Secretary of the Department of Commerce or his designee;

(2) the Commissioner of Agriculture or his designee;

(3) one representative of a state institution of higher education;

(4) at least two members representing Irish Americans in South Carolina or Irish-American communities; and

(5) one representative of a South Carolina business organization or a trade organization.

(C) All appointments must be made no later than ninety days following the date of enactment of this act. A vacancy in the membership of the commission must be filled in the same manner as the original appointment was made.

(D) Members of the commission shall serve without compensation but may be reimbursed for expenses actually incurred in the performance of their duties, within the limit of funds appropriated to the commission or otherwise made available to it for its purposes.

(E) The commission shall meet and hold hearings at the places it designates throughout the State.

(F) The Governor shall designate a chairperson or co-chairpersons from among the members of the commission, who shall serve in that capacity at the pleasure of the Governor. The chairperson or co-chairpersons, as appropriate may appoint from among the commission members subcommittees or subcommittee chairpersons at their discretion. A majority of the members of the commission shall constitute a quorum for the transaction of the business of the commission.

(G)(1) The purpose of the South Carolina-Ireland Trade Commission

is to:

(a) advance bilateral trade and investment between South Carolina and Ireland;

(b) initiate joint action on policy issues of mutual interest to South Carolina and Ireland;

(c) promote business and academic exchanges between South Carolina and Ireland;

(d) encourage mutual economic support between South Carolina and Ireland;

(e) encourage mutual investment in the infrastructure of South Carolina and Ireland; and

(f) address such other issues as determined by the commission.

(2) The commission shall report its findings, results, and recommendations to the Governor, and the General Assembly pursuant to this chapter, within one year of its initial organizational meeting and by February first of each succeeding year for the activities of the preceding calendar year. The report must be in writing and include recommendations as is considered appropriate by the commission to effectuate its purpose, as provided by this section.

(3) The South Carolina-Ireland Trade Commission is authorized to raise funds, through direct solicitation or other fundraising events, alone or with other groups, and accept gifts, grants, and bequests from individuals, corporations, foundations, governmental agencies, and public and private organizations and institutions, to defray the commission's administrative expenses and to carry out its purposes as set forth in this chapter. The funds, gifts, grants, or bequests received pursuant to this section must be deposited in an account with the State Treasurer and allocated and annually appropriated to the Department of Commerce to defray the commission's administrative expenses and carry out its purposes. The Department of Commerce may use funds appropriated for Foreign Operations to fund the administrative expenses and carry out the purposes of the commission to the extent that sufficient nonappropriated funds are not available. Foreign Operations appropriations may also be used for any nonadministrative expenses of the commission with approval of the Secretary of Commerce. Expenditures made for the purposes of administering the commission and fulfilling its purposes shall be exempt from the provisions of Title 11, Chapter 35 of the Code.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 122

(R130, S845)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 62-3-108, RELATING TO PROBATE, TESTACY, APPOINTMENT PROCEEDINGS, AND ULTIMATE TIME LIMIT, SO AS TO ALLOW APPROPRIATE APPOINTMENT PROCEEDINGS IN RELATION TO AN INDIVIDUAL'S ESTATE, REGARDLESS OF THE INDIVIDUAL'S DATE OF DEATH, FOR THE SOLE PURPOSE OF ALLOWING A CLAIM TO BE MADE PURSUANT TO THE "SERGEANT FIRST CLASS HEATH ROBINSON HONORING OUR PROMISE TO ADDRESS COMPREHENSIVE TOXICS ACT OF 2022".

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

Probate proceedings and ultimate time limit

SECTION 1. Section 62-3-108 of the S.C. Code is amended to read:

Section 62-3-108. (A)(1) No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than ten years after the decedent's death.

(2) Notwithstanding any other provision of this section:

(a) if a previous proceeding was dismissed because of doubt

about the fact of the decedent's death, appropriate probate, appointment, or testacy proceedings may be maintained at any time upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding and if that previous proceeding was commenced within the time limits of this section;

(b) appropriate probate, appointment, or testacy proceedings may be maintained in relation to the estate of an absent, disappeared, or missing person for whose estate a conservator has been appointed, at any time within three years after the conservator becomes able to establish the death of the protected person;

(c) a proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful may be commenced within eight months from informal probate or one year from the decedent's death, whichever is later; and

(d) appropriate appointment proceedings may be maintained in relation to the estate of an individual for the sole purpose of allowing a claim to be made pursuant to Section 804 of the "Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022". United States Public Law 117-168, as amended, regardless of the date of that individual's death.

(B) If no informal probate and no formal testacy proceedings are commenced within ten years after the decedent's death, and no proceedings under subsection (A)(2) are commenced within the applicable period of time, it is incontestable that the decedent left no will and that the decedent's estate passes by intestate succession. These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate. In proceedings commenced under subsection (A)(2)(a) or (A)(2)(b), the date on which a testacy or appointment proceeding is properly commenced is deemed to be the date of the decedent's death for purposes of other limitations provisions of this code which relate to the date of death.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 123

(R132, S971)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-100, RELATING TO DESIGNATION OF VOTING PRECINCTS IN BARNWELL COUNTY, SO AS TO IDENTIFY THE VOTING PLACE FOR CERTAIN PRECINCTS.

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

Barnwell County voting precincts

SECTION 1. Section 7-7-100 of the S.C. Code is amended to read:

Section 7-7-100. (A) In Barnwell County there shall be voting precincts as follows: Barnwell No. 1; Barnwell No. 2; Barnwell No. 3; Barnwell No. 4; Blackville No. 1; Blackville No. 2; Elko; Friendship; Kline; Healing Springs; Hilda; Snelling; Williston No. 1; Williston No. 2; and Williston No. 3.

(B) The precinct lines defining the precincts provided in subsection (A) are as shown on the official map on file with the Revenue and Fiscal Affairs Office designated as P-11-04 and as shown on copies of the official map provided to the Board of Voter Registration and Elections of Barnwell County.

(C) Except as otherwise provided below, the polling places for the precincts listed in subsection (A) must be determined by the Board of Voter Registration and Elections of Barnwell County with the approval of a majority of the Barnwell County Legislative Delegation:

(1) The voting place for Barnwell No. 1, Barnwell No. 2, Barnwell No. 3, and Barnwell No. 4 shall be the Barnwell National Guard Armory.

(2) The voting place for Blackville No. 1, Blackville No. 2, and Healing Springs shall be the Blackville Community Center.

(3) The voting place for Williston No. 1, Williston No. 2, and Williston No. 3 shall be the Williston Town Hall.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 124

(R135, S1047)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-53-610, RELATING TO DENMARK TECHNICAL COLLEGE AREA COMMISSION MEMBERS, SO AS TO PROVIDE THAT THE MANNER BY WHICH COMMISSIONERS ARE APPOINTED SHALL BE BY APPOINTMENT OF THE GOVERNOR UPON THE RECOMMENDATION OF A MAJORITY OF THE MEMBERS OF THE GENERAL ASSEMBLY REPRESENTING ALLENDALE, BAMBERG, AND BARNWELL COUNTIES.

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

Composition and manner of appointment changed

SECTION 1. Section 59-53-610 of the S.C. Code is amended to read:

Section 59-53-610. There is created the Denmark Technical College Area Commission which shall serve as the governing body of Denmark Technical College. The commission is a body politic and corporate and consists of eight members who must be appointed in the manner pursuant to this section. The eight commissioners must be appointed by the Governor upon the recommendation of a majority of the members of the General Assembly representing Allendale, Bamberg, and Barnwell Counties after a weighted vote by those delegation members. In addition, the member of the State Board for Technical and Comprehensive Education from the Sixth Congressional District is a

member of the commission ex officio. The members of the commission must be appointed for terms of four years each and until their successors are appointed and qualify.

A vacancy must be filled in the manner of the original appointment for the unexpired portion of the term only. As soon as possible after the initial appointments have been made, the commission shall organize by electing one of its members as chairman, one as vice chairman, and one as secretary. The terms of the appointees expire on the first of July of the appropriate year. The area commission shall meet upon the call of the chairman or a majority of its members. It shall make periodic reports of its activities and progress to the legislative delegation from the counties of Allendale, Bamberg, and Barnwell.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 125

(R139, H3121)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 12-6-3810 SO AS TO PROVIDE FOR AN INCOME TAX CREDIT TO A PROPERTY OWNER WHO ENCUMBERS HIS PROPERTY WITH A PERPETUAL RECREATIONAL TRAIL EASEMENT.

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

Recreational Trail Easement Income Tax Credit

SECTION 1. Chapter 6, Title 12 of the S.C. Code is amended by adding:

Section 12-6-3810. (A) A taxpayer who encumbers his property with a perpetual recreational trail easement and right of way is allowed a one-time income tax credit equal to ten cents for each square foot of the property that is encumbered by the recreational trail easement.

(B) The easement and right of way must be held by a municipality, county, or special purpose district within the State or by a Land Trust Alliance accredited land trust and must be recorded with the appropriate Register of Deeds. The easement must include an agreement with the municipality, county, or land trust to grant access to the general public and address improvements to the trail, which could include pavement or soft-surface trails and maintenance.

(C) To qualify for this tax credit, the trail must provide a connection between a trail within a municipality's, county's, or special purpose district's regional trail system plan in this State and a local or regional attraction or point of interest. User groups may include equestrians, pedestrians, bicyclists, and other non-motorized users. Local or regional points of interest include other trails, parks, waterways, or other recreational and open space attractions, retail centers, arts and cultural facilities, transportation facilities, residential concentrations, or similar destinations.

(D) If the credit exceeds the taxpayer's tax liability for the taxable year, the excess amount may be carried forward for credit against income taxes in the next five succeeding taxable years.

(E) To receive the credit the taxpayer shall claim the credit on his income tax or withholding return in a manner prescribed by the department. The department may require any information that it determines is necessary for the calculation of the credit provided by this section.

(F) The maximum amount of tax credits allowed to all qualifying taxpayers pursuant to this section may not exceed one million dollars for each calendar year.

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies to income tax years beginning after 2023. This act is repealed on January 1, 2029, and is no longer effective for any income tax year after 2028.

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 126

(R141, H3255)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 38-63-110 SO AS TO PROHIBIT ISSUERS OF INDIVIDUAL LIFE INSURANCE POLICIES FROM DISCRIMINATING AGAINST LIVING ORGAN DONORS; BY ADDING SECTION 38-65-130 SO AS TO PROHIBIT ISSUERS OF GROUP LIFE INSURANCE POLICIES FROM DISCRIMINATING AGAINST LIVING ORGAN DONORS; BY ADDING SECTION 38-71-105 SO AS TO PROHIBIT ISSUERS OF DISABILITY INCOME INSURANCE POLICIES FROM DISCRIMINATING AGAINST LIVING ORGAN DONORS; AND BY ADDING SECTION 38-72-110 SO AS TO PROHIBIT ISSUERS OF LONG-TERM CARE INSURANCE POLICIES FROM DISCRIMINATING AGAINST LIVING ORGAN DONORS.

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

Citation

SECTION 1. This act may be cited as the "Living Donor Protection Act".

Individual life insurance

SECTION 2. Article 1, Chapter 63, Title 38 of the S.C. Code is amended by adding:

Section 38-63-110. (A) Notwithstanding another provision of law, an individual life insurance policy issued in this State, may not:

(1) decline or limit coverage of a person under any life insurance policy solely due to the status of such person as a living organ donor;

(2) preclude an insured from donating all or part of an organ as a condition of continuing to receive a life insurance policy; or

(3) discriminate in the offering, issuance, cancellation, amount of such coverage, price, or any other condition of a life insurance policy for a person, based solely and without any additional actuarial risks upon the status of such person as a living organ donor.

(B) The Department of Insurance may take actions to enforce subsection (A) as authorized under this title.

(C) For purposes of this section:

(1) "Life insurance policy" means a contract under which an entity promises to pay a designated beneficiary a sum of money upon the death of the insured.

(2) "Living organ donor" means an individual who has donated all or part of his organ and is not deceased.

Group life insurance

SECTION 3. Article 1, Chapter 65, Title 38 of the S.C. Code is amended by adding:

Section 38-65-130. (A) Notwithstanding another provision of law, a group life insurance policy issued in this State, may not:

(1) decline or limit coverage of a person under any life insurance policy solely due to the status of such person as a living organ donor;

(2) preclude an insured from donating all or part of an organ as a condition of continuing to receive a life insurance policy; or

(3) discriminate in the offering, issuance, cancellation, amount of such coverage, price, or any other condition of a life insurance policy for a person, based solely and without any additional actuarial risks upon the status of such person as a living organ donor.

(B) The Department of Insurance may take actions to enforce subsection (A) as authorized under this title.

(C) For purposes of this section:

(1) "Life insurance policy" means a contract under which an entity promises to pay a designated beneficiary a sum of money upon the death of the insured.

(2) "Living organ donor" means an individual who has donated all or part of an organ and is not deceased.

Disability income insurance

SECTION 4. Article 1, Chapter 71, Title 38 of the S.C. Code is amended by adding:

Section 38-71-105. (A) Notwithstanding another provision of law, a disability income insurance policy issued in this State, may not:

(1) decline or limit coverage of a person under any disability income insurance policy solely due to the status of such person as a living organ donor;

(2) preclude an insured from donating all or part of an organ as a condition of continuing to receive a disability income insurance policy; or

(3) discriminate in the offering, issuance, cancellation, amount of such coverage, price, or any other condition of a disability income insurance policy for a person, based solely and without any additional actuarial risks upon the status of such person as a living organ donor.

(B) The Department of Insurance may take actions to enforce subsection (A) as authorized under this title.

(C) For purposes of this section:

(1) "Disability income insurance policy" means a contract under which an entity promises to pay an insured a sum of money in the event that an illness or injury resulting in a disability prevents the insured from working.

(2) "Living organ donor" means an individual who has donated all or part of an organ and is not deceased.

Long-term care insurance

SECTION 5. Chapter 72, Title 38 of the S.C. Code is amended by adding:

Section 38-72-110. (A) Notwithstanding another provision of law, a long-term care insurance policy issued in this State, may not:

(1) decline or limit coverage of a person under any long-term care insurance policy solely due to the status of such person as a living organ donor;

(2) preclude an insured from donating all or part of an organ as a condition of continuing to receive a long-term care insurance policy; or

(3) discriminate in the offering, issuance, cancellation, amount of such coverage, price, or any other condition of a long-term care insurance policy for a person, based solely and without any additional actuarial risks upon the status of such person as a living organ donor.

(B) The Department of Insurance may take actions to enforce subsection (A) as authorized under this title.

(C) For purposes of this section:

(1) "Long-term care insurance policy" means a contract for which

the only insurance protection provided under the contract is coverage of qualified long-term care services.

(2) "Living organ donor" means an individual who has donated all or part of an organ and is not deceased.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 127

(R142, H3295)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-1-210 SO AS TO PROVIDE NECESSARY DEFINITIONS; BY ADDING SECTION 59-39-290 SO AS TO DIRECT THE STATE BOARD OF EDUCATION TO ADOPT, ESTABLISH, AND PROMULGATE NECESSARY RULES AND REGULATIONS; BY ADDING SECTION 59-19-360 SO AS TO PROVIDE A PROCESS FOR EXEMPTING COMPETENCY-BASED SCHOOLS FROM CERTAIN APPLICABLE LAWS AND REGULATIONS, TO PROVIDE REQUIREMENTS FOR IMPLEMENTING COMPETENCY-BASED EDUCATION IN SCHOOLS, AND TO PROVIDE RELATED REQUIREMENTS FOR THE STATE DEPARTMENT OF EDUCATION AND THE COMMISSION ON HIGHER EDUCATION; BY AMENDING SECTION 59-1-425, RELATING TO THE STATUTORY ANNUAL SCHOOL CALENDAR AND INSTRUCTION TIME REQUIREMENTS, SO AS TO MAKE CONFORMING CHANGES; AND BY AMENDING SECTION 59-39-100, RELATING TO REQUIRED UNITS FOR A HIGH SCHOOL DIPLOMA, SO AS TO MAKE CONFORMING CHANGES.

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

Definitions

SECTION 1. Article 1, Chapter 1, Title 59 of the S.C. Code is amended by adding:

Section 59-1-210. For purposes of this title:

(1) "Instructional day" shall include in-person instruction, virtual instruction, self-guided learning, and experiential learning through approved off-campus educational opportunities.

(2) "Hours of instruction" requirements shall include in-person instruction, virtual instruction, self-guided learning, and experiential learning through approved off-campus educational opportunities.

Regulations

SECTION 2. Article 1, Chapter 39, Title 59 of the S.C. Code is amended by adding:

Section 59-39-290. The State Board of Education shall adopt, establish, and promulgate such rules and regulations as may be necessary to carry out the intent and purpose of this article.

Competency-based education systems

SECTION 3. Article 1, Chapter 19, Title 59 of the S.C. Code is amended by adding:

Section 59-19-360. (A)(1) If a district or school is seeking to implement competency-based education, the State Board of Education may exempt the school from state laws, policies, and regulations that hinder the implementation of certain competency-based practices. A district that wishes to obtain an exemption may submit a waiver application to the State Board of Education in a format developed by the State Department of Education. To be considered, a waiver application must:

(a) be approved by the local school district board of trustees;

(b) be aligned to the district strategic plan; and

(c) provide for the implementation of the strategies described in the waiver application for all students in the school, which may be implemented in phases over a period of five or fewer years.

(2) A district must show evidence of the meaningful steps already taken to engage parents and community stakeholders. A district also must include a continued plan to seek parental outreach and consultation using guidelines approved by the State Board of Education when submitting a waiver application for approval by its local board of trustees and the State Board of Education, or the application may not be considered.

(3) A district whose waiver application is approved may request additional exemptions and may request amendments to its current approved waiver on a rolling basis.

(B) Competency-based education is designed to improve educational outcomes for students by advancing their mastery of concepts and skills. A competency-based system in South Carolina must align with the Profile of the South Carolina Graduate and include the following core principles:

(1) Learning outcomes must emphasize competencies that include:

(a) application and creation of World Class Knowledge; and

(b) the development and application of the World Class Skills and Life and Career Characteristics identified in the Profile of the South Carolina Graduate.

(2) Competencies with explicit, measurable, and transferable student learning objectives provide transparency and guide students, with customized support from teachers, as the students pursue their own inquiries, understanding, and ownership of learning.

(3) A student shall master competencies along a personalized and flexible pathway before he may advance. A student may demonstrate his mastery of competencies through his performance of the competencies, application of the competencies, or both.

(4) Assessments must be meaningful and used to personalize learning experiences with a student.

(5) A student must receive timely and personalized support based on his individual learning needs.

(C) A local school board of trustees and the State Board of Education may not exempt a school from:

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

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

(3) state and federal assessment requirements.

(D) A school operating under a waiver pursuant to this section shall admit all children eligible to attend the school, subject to space

limitations, and may not limit or deny admission or show preference in an admission decision to an individual or group of individuals.

(E) If a school is operating under a waiver pursuant to this section, each student enrolled in the school is still considered to be a full-time equivalent student enrolled in the school for the purpose of calculating state financial support, average daily membership, and attendance, and for accountability purposes, the department may develop a process to ensure that schools and districts are not penalized for the purposes of accreditation.

(F) If a school is operating under a waiver pursuant to this section, each student must remain enrolled in the state's student information system.

(G) The State Department of Education shall establish procedures to ensure that a student who attends a school that is operating under a waiver pursuant to this section and subsequently transfers to another school within the district or to another district is not penalized by being required to repeat coursework that he successfully has mastered. The department may provide a necessary accreditation exemption to a school that launches a competency-based education program.

(H)(1) The State Department of Education shall create evaluation criteria and guidelines for schools that are operating under a waiver pursuant to this section. A participating school shall submit required data for a biennial cyclical review on a form developed by the department. The review must begin at the conclusion of the second academic year of the school's implementation of the waiver. The required data shall include, but not be limited to, indicators of student engagement, instructional practices, performance on assessments (formative, benchmark, and state), high school success, and postsecondary success. The review must begin at the conclusion of the second academic year of the school's implementation of the waiver. A report summarizing the reviews including the waivers requested and how they hindered implementation shall be distributed to the Governor and the Legislature.

(2) If upon the cyclical review the department determines that a goal or objective is not being met, the department shall notify the district and school in writing. The district and school have sixty days to respond, after which the department may recommend revocation of the flexibility provisions to the State Board of Education.

(I) The Commission on Higher Education and State Board for Technical and Comprehensive Education shall establish policies to provide fair and equitable access to institutions of higher education and technical colleges as well as scholarships and financial aid for graduates of schools implementing innovative school models and using

nontraditional diplomas and transcripts.

(J) The State Department of Education shall establish a definition for competency-based education that must be published on the website of each school district that implements this system of education.

School calendars and instruction time requirements, conforming changes

SECTION 4. Section 59-1-425(A) and (E) of the S.C. Code is amended to read:

(A) A local school district board of trustees of the State has the authority to establish an annual school calendar for teachers, staff, and students. The statutory school term is one hundred ninety days annually and must consist of a minimum of one hundred eighty instructional days covering at least nine calendar months. A local school district board of trustees may offer the required instructional days at any time during the school year, consistent with the law. Except as may be waived in this section or accompanying regulations, a local school district shall provide at least one thousand eighty instructional hours over the statutory school term. The opening date for students must not be before the third Monday in August, except for schools operating on a year-round modified school calendar. Three days must be used for collegial professional development based upon the educational standards as required by Section 59-18-300. The professional development must address, at a minimum, academic achievement standards including strengthening teachers' knowledge in their content area, teaching techniques, and assessment. No more than two days may be used for preparation of opening of schools and the remaining five days may be used for teacher planning, academic plans, and parent conferences. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the district.

(E) The instructional day calculation for secondary students shall exclude lunch. The instructional day calculation for elementary students may include lunch.

Diploma requirements, conforming changes

SECTION 5. Section 59-39-100(B) of the S.C. Code is amended to read:

(B) Beginning with students entering the ninth grade in School Year 1997-1998, the number of units required for a high school diploma was increased to twenty-four units. To support the Profile of the Graduate, for students entering the ninth grade beginning with the 2018-2019 School Year, the twenty-four units required are as prescribed in this section and in regulation by the State Board of Education.

(1) Students shall earn the units of credit through course credit, as prescribed in regulation or through competency assessment and, when applicable, be offered national industry certifications or credentials.

(2) For purposes of this section:

(a) "Unit of credit" means credit awarded for:

(i) a course taken consistent with regulations;

(ii) a course taken upon authorization by the local school board; or

(iii) demonstrated competence through assessment by approved methods; and

(b) "Demonstrated competence" means subject mastery as determined by local school board standards and review. Such review may include such methods and documentation as tests, interviews, peer evaluations, writing samples, reports, or portfolios.

(3) Coursework must be aligned with a student's personalized diploma pathway. The State Board of Education shall promulgate regulations that outline the process and procedures for approval of courses to personalize pathways based on students' postsecondary plans and include an annually updated course activity coding manual listing approved courses. The individualized graduation planning process must plan each student's personalized pathway based on his postsecondary plans.

(4) In awarding units of credit, a greater emphasis must be placed on a student's mastery of course material rather than completion of predetermined time allotments for courses.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 128

(R143, H3309)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SEIZURE SAFE SCHOOLS ACT" BY ADDING SECTION 59-10-215 SO AS TO PROVIDE EACH SCHOOL DISTRICT AND CHARTER SCHOOL SHALL ADOPT A SEIZURE TRAINING PROGRAM AND TO PROVIDE THE PURPOSES AND REQUIREMENTS OF THE PROGRAMS; AND BY AMENDING SECTION 59-63-80, RELATING TO INDIVIDUAL HEALTH CARE PLANS FOR STUDENTS WITH SPECIAL HEALTH CARE NEEDS, SO AS TO MAKE CONFORMING CHANGES.

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 "Seizure Safe Schools Act".

Mandatory seizure training programs in schools

SECTION 2. Article 2, Chapter 10, Title 59 of the S.C. Code is amended by adding:

Section 59-10-215. Each school district and charter school shall adopt a seizure training program to provide instruction in understanding the basics about epilepsy and its impact on student learning, recognizing signs and symptoms of seizures, the appropriate steps to be taken to respond to symptoms of a seizure, and the administration of seizure medications. This training must be consistent with guidelines established by a qualified nonprofit organization that supports the welfare of individuals with epilepsy and seizure disorders. The completion of this training must be documented by the school district and the training may be provided virtually, provided by school or district staff, or may be conducted by an individual trained to deliver such information.

Program requirements

SECTION 3. Section 59-63-80 of the S.C. Code is amended to read:

Section 59-63-80. (A) As used in this section:

(1) "Medication" is defined as medication prescribed by a health care provider contained in the original packaging with the appropriate pharmacy label or in a secure package containing a note from the prescribing physician or pharmacist that appropriately identifies the medicine.

(2) "Monitoring device" is defined as implements prescribed by a health care provider for monitoring a chronic health condition.

(3) "Individual health care plan" (IHP) is defined as a plan of care designed specifically for an individual student to provide for meeting the health monitoring and care of the student during the school day or at school-sponsored functions.

(4) "Emergency action plan" (EAP) is defined as a plan for handling emergency situations that may occur as a result of a student's medical diagnosis during the school day or at school-sponsored functions.

(5) "Seizure action plan" (SAP) is defined as a written, emergency action plan as a supplement to the individualized health plan provided by the parent or legal guardian of a student who is diagnosed with a seizure disorder and signed by the child's health care provider. Such a plan must acknowledge the health care needs of the student, prepare both parties to meet those needs, and apply over the course of a school year.

(B) Each school district shall adopt a policy requiring that students with special health care needs have individual health care plans. This policy must address the administration of medication needed for the student's specific health care needs, address training requirements specific to the student's health care needs for school personnel with direct student contact when appropriate as determined by the school nurse, and provide information to additional school personnel on recognizing signs and symptoms associated with specific medical conditions. Additionally, the plan must provide for the authorization of a student to self-monitor and self-administer medication as prescribed by the student's health care provider unless there is sufficient evidence that unsupervised self-monitoring or self-medicating would seriously jeopardize the safety of the student or others. The policy must include, but is not limited to:

(1) a requirement that the student's parent or legal guardian provide to the school:

(a) written authorization from the parent or legal guardian for the

administration of medications needed for the student's specific health care needs to include whether school personnel or volunteers are permitted to administer, and, if appropriate, authorization for the student to self-monitor and self-administer medication; and

(b) a written statement from the student's health care practitioner who prescribed the medication verifying that the student has a medical condition and medicine is required to treat the condition. If the student has permission to self-monitor and self-administer medication, the health care practitioner's statement must verify that the student has been instructed and demonstrates competency in self-monitoring or self-administration of medications, or both;

(2) authorization for a student to possess on his person and administer medication while:

(a) in the classroom and in any area of the school or school grounds;

(b) at a school-sponsored activity;

(c) in transit to or from school or school-sponsored activities; or

(d) during before-school or after-school activities on school-operated property.

(C) The statements required in subsection (B)(1) must be kept on file in the office of the school nurse or school administrator.

(D)(1) The State Department of Education shall develop guidelines for required components of a written student individual health care plan to include training specific to the student's health care needs for school personnel with direct student contact, and if appropriate as determined by the school nurse, provide information to additional school personnel on recognizing signs and symptoms associated with specific medical conditions. These plans must be developed with input from and with the approval of:

(a) the student's health care practitioner who prescribed the medication;

(b) the parent or legal guardian;

(c) the student, if appropriate; and

(d) the school nurse or other designated school staff member.

(2) If a student qualifies for a Federal 504 medical accommodations plan, that process must meet the requirements for the state-required individual health plan.

(3) The parent or guardian and the student, if appropriate, shall authorize the school to share the student's individual health care plan with school staff who have a legitimate need for knowledge of the information.

(4) If a student's health care practitioner deems appropriate and

written information outlining the student's health needs is provided by the parent and health care practitioner, an EAP shall accompany the IHP for distribution to school staff who have a legitimate need for knowledge of the information.

(5) If a student's health care practitioner deems appropriate and written information outlining the student's health needs is provided by the parent and health care practitioner, an SAP shall accompany the EAP for distribution to school staff who have a legitimate need for knowledge of the information.

(E) All medication authorized to be carried by the student must be maintained in a container appropriately labeled by the pharmacist who filled the prescription.

(F) A student's permission to self-monitor or self-administer medication may be revoked if the student endangers himself or others through misuse of the monitoring device or medication.

(G) The permission for self-monitoring or self-administration of medication is effective for the school year in which it is granted and must be renewed each school year upon fulfilling the requirements of this section.

(H) A parent or guardian shall sign a statement acknowledging that:

(1) the school district and its employees and agents are not liable for an injury arising from a student's self-monitoring or self-administration of medication;

(2) the parent or guardian shall indemnify and hold harmless the district and its employees and agents against a claim arising from a student's self-monitoring or self-administration of medication;

(3) the school district and its employees and agents are not liable for an injury arising from administration of medication authorized by an IHP;

(4) the parent or guardian shall indemnify and hold harmless the district and its employees and agents against a claim arising from administration of medication authorized by an IHP.

Time effective

SECTION 4. This act takes effect July 1, 2025.

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 129

(R144, H3355)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 56-5-4072 SO AS TO PROVIDE THE CIRCUMSTANCES IN WHICH VEHICLE OPERATORS UTILIZING FIFTH WHEEL ASSEMBLIES MAY TOW AN ADDITIONAL TRAILING VEHICLE.

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

Towing

SECTION 1. Article 33, Chapter 5, Title 56 of the S.C. Code is amended by adding:

Section 56-5-4072. The operator of a vehicle utilizing a fifth wheel assembly may tow one additional trailing vehicle, provided that:

(1) the operator has been issued a classified driver's license by the department;

(2) the operation is for private, recreational purposes only;

(3) the combined length of all three vehicles does not exceed sixty-five feet, inclusive of front and rear bumpers and load;

(4) the weight of the final trailer with its load does not exceed three thousand pounds;

(5) the towing truck is equipped with a functioning video system that enables the operator to monitor the final trailer as it is being towed; and

(6) in addition to the drawbar, tongue, trailer hitch, or other primary connection, the final trailer is attached by a safety chain, safety cable, or equivalent safety device. Both the primary connection and the safety device must be of sufficient strength to retain the connection between the fifth wheel assembly and the final trailer under all conditions while the final trailer is being towed.

Time effective

SECTION 2. This act takes effect sixty days after approval by the Governor.

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 130

(R145, H3518)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-1-286, RELATING TO THE SUSPENSION OF LICENSES OR PERMITS OR THE DENIAL OF ISSUANCE OF LICENSES OR PERMITS TO PERSONS UNDER THE AGE OF TWENTY-ONE WHO DRIVE MOTOR VEHICLES WITH A CERTAIN ALCOHOL CONCENTRATION, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE PERSONS, AFTER THE ISSUANCE OF NOTICES OF SUSPENSIONS, MAY ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM, TO PROVIDE THE PERIOD OF TIME THE IGNITION INTERLOCK MUST BE MAINTAINED ON TEMPORARY ALCOHOL LICENSES, TO PROVIDE THE CIRCUMSTANCES WHEN PERSONS CAN OBTAIN TEMPORARY ALCOHOL LICENSES WITHOUT INTERLOCK RESTRICTIONS, AND TO PROVIDE, IF SUSPENSIONS ARE UPHELD, THE PERSONS MUST ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM; AND BY AMENDING SECTION 56-5-2951, RELATING TO SUSPENSIONS OF LICENSES FOR THE REFUSAL TO SUBMIT TO TESTING OR FOR CERTAIN ALCOHOL CONCENTRATIONS, SO AS TO MAKE TECHNICAL CHANGES, TO PROVIDE PERSONS MAY ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM AFTER THE ISSUANCE OF THE NOTICES OF SUSPENSION, TO PROVIDE FEES ASSESSED UNDER THIS PROVISION MUST BE HELD

IN TRUST UNTIL THE FINAL DISPOSITIONS OF CONTESTED HEARINGS, TO PROVIDE IF SUSPENSIONS ARE UPHELD AT CONTESTED HEARINGS, THE PERSONS MUST ENROLL IN THE IGNITION INTERLOCK DEVICE PROGRAM, AND TO PROVIDE IF THE SUSPENSIONS ARE OVERTURNED, THE FEES MUST BE REIMBURSED TO THE PERSONS AND THEIR DRIVING PRIVILEGES MUST BE REINSTATED.

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

Driver's license suspension

SECTION 1. Section 56-1-286(L) of the S.C. Code is amended to read:

(L)(1) Within thirty days of the issuance of the notice of suspension the person may:

(a) request a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure; and, either:

(b) enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941; or

(c) obtain a temporary alcohol license from the Department of Motor Vehicles. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty-five dollars of the fee must be distributed to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy-five dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The temporary alcohol license allows the person to drive a motor vehicle pending the outcome of the contested case hearing provided for in this section or the final decision or disposition of the matter.

(2) The ignition interlock restriction must be maintained on the temporary alcohol license for three months. If the contested case hearing has not reached a final disposition by the time the ignition interlock restriction has been removed, then the person can obtain a temporary alcohol license without an ignition interlock restriction.

(3) At the contested case hearing, if:

(a) the suspension is upheld, the person shall enroll in an Alcohol and Drug Safety Action Program and the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the

remainder of the suspension periods provided for in subsections (F) and (G); and

(b) the person must enroll in the Ignition Device Program pursuant to Section 56-5-2941.

(4) If the suspension is overturned, the person's driver's license, permit, or nonresident operating privilege must be reinstated.

Driver's license suspension

SECTION 2. Section 56-5-2951(B) of the S.C. Code is amended to read:

(B)(1) Within thirty days of the issuance of the notice of suspension, the person may:

(a) request a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure; and, either:

(b) enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941; or

(c) obtain a temporary alcohol license from the Department of Motor Vehicles. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license and such fee must be held in trust by the Department of Motor Vehicles until final disposition of any contested case hearing. Should the temporary suspension provided for in this subsection be upheld during the contested case hearing, twenty-five dollars of the fee must be distributed by the Department of Motor Vehicles to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment, while the remaining seventy-five dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The temporary alcohol license allows the person to drive without any restrictive conditions pending the outcome of the contested case hearing provided for in subsection (F), this section, or the final decision or disposition of the matter. If the suspension is upheld at the contested case hearing, the temporary alcohol license remains in effect until the Office of Motor Vehicle Hearings issues the hearing officer's decision and the Department of Motor Vehicles sends notice to the person pursuant to subsection (H).

(2) At the contested case hearing, if:

(a) the suspension is upheld, the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the

suspension period provided for in subsection (I). Within thirty days of the issuance of the notice that the suspension has been upheld, the person shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 and must enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941;

(b) the suspension is overturned, the person must have the person's driver's license, permit, or nonresident operating privilege reinstated and the person must be reimbursed by the Department of Motor Vehicles in the amount of the fees provided for in subsection (B)(1)(c).

(3) If the suspension is overturned, the person's driver's license, permit, or nonresident operating privilege must be reinstated.

(4) The provisions of this subsection do not affect the trial for a violation of Section 56-5-2930, 56-5-2933, or 56-5-2945.

Time effective

SECTION 3. This act takes effect on May 19, 2024.

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 131

(R146, H3563)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-36-2120, RELATING TO SALES TAX EXEMPTIONS, SO AS TO PROVIDE FOR AN EXEMPTION FOR FEMININE HYGIENE PRODUCTS.

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

Sales tax exemption

SECTION 1. Section 12-36-2120 of the S.C. Code is amended by adding:

(84) feminine hygiene products. For purposes of this item, "feminine hygiene products" means tampons, sanitary napkins, and other similar personal care items for use in connection with the menstrual cycle.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 132

(R147, H3592)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-43-30, RELATING TO DEFINITIONS IN THE PHARMACY PRACTICE ACT, SO AS TO REMOVE CERTAIN DEFINITIONS; BY AMENDING SECTION 40-43-86, RELATING TO COMPOUNDING OF MEDICATIONS BY PHARMACIES, SO AS TO REVISE REQUIREMENTS FOR COMPOUNDING PHARMACIES; BY AMENDING SECTION 40-43-87, RELATING TO NUCLEAR/RADIOLOGIC PHARMACY PRACTICES, SO AS TO REMOVE REQUIREMENTS CONCERNING NUCLEAR PHARMACY FACILITIES; BY AMENDING SECTION 40-43-88, RELATING TO STANDARDS FOR PREPARATION, LABELING, AND DISTRIBUTION OF STERILE PRODUCTS BY PHARMACIES, SO AS TO REMOVE CERTAIN STANDARDS; BY ADDING SECTION 40-43-197 SO AS TO PROVIDE PERSONS OR ENTITIES AUTHORIZED TO DISPENSE DRUGS MAY ACQUIRE CERTAIN DRUGS COMPOUNDED OR REPACKAGED BY AN OUTSOURCING FACILITY DIRECTLY FROM THE OUTSOURCING FACILITY WITHOUT AN ORDER AND MAY DISPENSE THE DRUGS TO THE SAME EXTENT AS AUTHORIZED FOR OTHER AUTHORIZED MEANS; AND TO PROVIDE THE BOARD OF

PHARMACY MUST PROMULGATE CERTAIN RELATED REGULATIONS.

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

Definitions

SECTION 1. Section 40-43-30 of the S.C. Code is amended to read:

Section 40-43-30. For purposes of this chapter:

(1) "Administer" means the direct application of a drug or device pursuant to a lawful order of a practitioner to the body of a patient by injection, inhalation, ingestion, topical application, or any other means.

(2) "Aseptic preparation" means the technique involving procedures designed to preclude contamination of drugs, packaging, equipment, or supplies by microorganisms during processing.

(3) "Biological product" has the same meaning as defined in 42 U.S.C. Section 262.

(4) "Board" or "Board of Pharmacy" means the State Board of Pharmacy.

(5) "Brand name" means the proprietary or trade name placed upon a drug, its container, label, or wrapping at the time of packaging.

(6) "Certified pharmacy technician" means an individual who is a registered pharmacy technician and who has completed the requirements provided for in Section 40-43-82(B).

(7) "Chart order" means a lawful order from a practitioner for a drug or device for patients of a hospital or extended care facility, or such an order prepared by another person and signed by a practitioner either immediately or at another time, issued for a legitimate medical purpose within the practitioner's course of legitimate practice and including orders derived on behalf of a practitioner from a practitioner-approved drug therapy management.

(8) "Compounding" (sterile and nonsterile) means the preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or the preparation, mixing, assembling, packaging, or labeling of a drug or device as the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding also includes the preparation of drugs or devices in

anticipation of prescription drug orders based on routine, regularly observed prescribing patterns. The term "nonsterile compounding" does not include mixing, reconstituting, or other such acts that are performed in accordance with directions contained in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with that labeling. The term "sterile compounding" does not include mixing, reconstituting, or other such acts with nonhazardous agents that are performed in accordance with directions contained in approved labeling provided by the product's manufacturer for immediate use.

(9) "Compounded sterile preparation" or "CSP" means a compounded biologic, diagnostic, drug, nutrient, or radiopharmaceutical that must be sterile when administered to a patient. Among other things, CSPs include:

(a) aqueous bronchial and nasal inhalations;

(b) baths and soaks for live organs and tissues;

(c) injections, such as colloidal dispersions, emulsions, solutions, suspensions, among others;

(d) irrigations for wounds and body cavities;

(e) ophthalmic drops and ointments; and

(f) tissue implants.

(10) "Confidential information" means information maintained in a patient's records or which is communicated to a patient as part of patient counseling, which is privileged and may be released only to the patient, to those practitioners and pharmacists where, in the pharmacist's professional judgment, release is necessary to protect the patient's health and well-being, and to other persons or governmental agencies authorized by law to receive such confidential information.

(11) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration.

(12) "Designated agent" means a person employed by an authorized practitioner to transmit, either orally or electronically, a prescription drug order on behalf of the authorized practitioner to the pharmacist. The authorized practitioner accepts the responsibility for the correct transmission of the prescription drug order.

(13) "Designated pharmacist" means an individual currently licensed by the Board of Pharmacy in this State who certifies internship training.

(14) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, which is required under federal law to bear the label: "Caution: Federal law restricts this device for sale by or on

the order of a ", the blank to be filled with the word physician, dentist, veterinarian, or with the descriptive designation of any other practitioner licensed by the law of the State in which he practices to use or order the use of the device; or "Federal law prohibits dispensing without prescription"; or any products deemed to be a public health threat after notice and public hearing as designated by the board.

(15) "Dispense" means the transfer of possession of one or more doses of a drug or device by a licensed pharmacist or person permitted by law, to the ultimate consumer or his agent pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. As an element of dispensing, the dispenser shall, before the actual physical transfer, interpret and assess the prescription order for potential adverse reactions or side effects, interactions, allergies, dosage, and regimen the dispenser considers appropriate in the exercise of his professional judgment, and the dispenser shall determine that the drug or device called for by the prescription is ready for dispensing. The dispenser shall also provide counseling on proper drug usage, either orally or in writing, as provided in this chapter. The actual sales transaction and delivery of a drug or device is not considered dispensing and the administration is not considered dispensing.

(16) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(17) "Drug" or "medicine" means:

(a) articles recognized as drugs in an official compendium, or supplement to a compendium, including, but not limited to, USP/NF designated from time to time by the board for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(c) articles, other than food, or nonprescription vitamins intended to affect the structure or a function of the human body or other animals; and

(d) articles intended for use as a component of any articles specified in subitem (a), (b), or (c) of this subsection.

(18) "Drug regimen review" includes, but is not limited to, the following activities:

(a) evaluation of prescription drug orders and pharmacy patient records for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of prescription drug orders and pharmacy patient records for duplication of therapy.

(c) evaluation of prescription drug orders and pharmacy patient records for interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease, if available; and

(iv) adverse drug reactions;

(d) evaluation of prescription drug orders and pharmacy patient records for proper utilization, including over-utilization or under-utilization, and optimum therapeutic outcomes.

(19) "Drug therapy management" is that practice of pharmacy which involves the expertise of the pharmacist in a collaborative effort with the practitioner and other health care providers to ensure the highest quality health care services for patients.

(20) "Enteral" means within or by way of the intestine.

(21) "Equivalent drug product" means a drug product which has the same established name and active ingredients to meet the same compendia or other applicable standards, but which may differ in characteristics such as shape, scoring configuration, packaging, excipient (including colors, flavors, preservatives), and expiration time. Pharmacists may utilize as a basis for the determination of generic equivalency Approved Drug Products with Therapeutic Equivalence Evaluations and current supplements published by the Federal Food and Drug Administration, within the limitations stipulated in that publication.

(22) "Expiration date" means the maximum time period that a manufactured, compounded, or repackaged product may be used based on specified storage requirements.

(23) "Extern" means an individual currently enrolled in an approved college or school of pharmacy who is on required rotations for obtaining a degree in pharmacy.

(24) "Generic names" means the official compendia names or United States Adopted Names (USAN).

(25) "Hazardous drug" means a drug that has at least one of the following properties: carcinogenicity; teratogenicity or developmental toxicity; reproductive toxicity in humans; organ toxicity at low doses in humans or animals; genotoxicity; or new drugs that mimic existing hazardous drugs in structure or toxicity.

(26) "Health care provider" includes a pharmacist who provides health

care services within the pharmacist's scope of practice pursuant to state law and regulation.

(27) "Institutional facility" means an organization whose primary purpose is to provide a physical environment for patients to obtain health care services and shall not include those places where physicians, dentists, veterinarians, or other practitioners, who are duly licensed, engage in private practice.

(28) "Institutional pharmacy" means the physical portion of an institutional facility that is engaged in the compounding, dispensing, and distribution of drugs, devices, and other materials, hereinafter referred to as "drugs", used in the diagnosis and treatment of injury, illness, and disease and which is permitted by the State Board of Pharmacy.

(29) "Institutional consultant pharmacist" means a pharmacist licensed in this State who acts as a consultant for institutional facilities.

(30) "Interchangeable biological product" means a biological product that the federal Food and Drug Administration has:

(a) licensed and determined to meet the standards of "interchangeability" pursuant to 42 U.S.C. Section 262(k)(4); or

(b) determined to be therapeutically equivalent by the federal Food and Drug Administration.

(31) "Intern" means an individual who is currently registered by certificate in this State to engage in the practice of pharmacy while under the personal supervision of a pharmacist and is satisfactorily progressing toward meeting the requirements for licensure as a pharmacist.

(32) "Labeling" means the process of preparing and affixing a label which includes all information required by federal and state law to a drug container exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device.

(33) "Manufacturing" of products means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or from bulk chemicals, and includes any packaging or repackaging of the substances or labeling or relabeling of its container, if these actions are followed by the promotion and marketing of the drugs or devices for resale to pharmacies, practitioners, or other persons.

(34) "Manufacturer" means a person engaged in the manufacture of prescription drugs or devices.

(35) "Material safety data sheet" or "MSDS" means a resource that provides information concerning a chemical, including:

(a) the identity, physical and chemical characteristics, physical and

health hazards, primary routes of entry, and exposure limits of the chemical;

(b) whether the chemical is a carcinogen;

(c) precautions for safe handling and use of the chemical;

(d) control measures;

(e) emergency and first aid procedures;

(f) the latter of the date the MSDS was prepared or last modified; and

(g) the name, address, and telephone number of the manufacturer, importer, or employer who distributes the MSDS.

(36) "Medical order" means a lawful order of a practitioner which may or may not include a prescription drug order.

(37) "Nonprescription drug" means a drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws of this State and the federal government.

(38) "Nonresident pharmacy" means a pharmacy located outside this State.

(39) "Parenteral" means a sterile preparation of drugs for injection through one or more layers of the skin.

(40) "Patient counseling" means the oral or written communication by the pharmacist to a patient or caregiver providing information on the proper use of drugs and devices.

(41) "Permit consultant pharmacist" means a pharmacist licensed in this State who acts as a consultant for a permit holder other than a pharmacy or institution.

(42) "Person" means an individual, sole-proprietorship, corporation, partnership, association, or any other legal entity including government.

(43) "Pharmacy care" is the direct provision of drug therapy and other pharmacy patient care services through which pharmacists, in cooperation with the patient and other health care providers, design, implement, monitor, and manage therapeutic plans for the purpose of improving a patient's quality of life. Objectives include cure of disease, elimination or reduction of a patient's symptomatology, arresting or slowing a disease process, or prevention of a disease or symptomatology. The process includes three primary functions:

(a) identifying potential and actual drug-related problems;

(b) resolving actual drug-related problems; and

(c) preventing potential drug-related problems.

(44) "Pharmacist" means an individual health care provider licensed by this State to engage in the practice of pharmacy. A pharmacist is a learned professional authorized to provide patient care services within

the scope of his knowledge and skills.

(45) "Pharmacist-in-charge" means a pharmacist currently licensed in this State who accepts responsibility for the operation of a pharmacy in conformance with all laws pertinent to the practice of pharmacy and the distribution of drugs and who is in full and actual charge of the pharmacy and personnel.

(46) "Pharmacy" means a location for which a pharmacy permit is required and in which prescription drugs and devices are maintained, compounded, and dispensed for patients by a pharmacist. This definition includes a location where pharmacy-related services are provided by a pharmacist.

(47) "Pharmacy technician" means an individual other than an intern or extern, who assists in preparing, compounding, and dispensing medicines under the personal supervision of a licensed pharmacist and who is required to register as a pharmacy technician.

(48) "Poison" means:

(a) a drug, chemical, substance, or preparation which, according to standard works on medicine, materia medica, or toxicology, is liable to be destructive to adult human life in doses of sixty grains or less; or

(b) a substance recognized by standard authorities on medicine, materia medica, or toxicology as poisonous; or

(c) any other item enumerated in this chapter; or

(d) a drug, chemical, substance, or preparation which is labeled "Poison".

(49) "Practice of pharmacy" means the interpretation, evaluation, and dispensing of prescription drug orders in the patient's best interest; participation in drug and device selection, drug administration, prospective drug reviews, and drug or drug-related research; provision of patient counseling and the provision of those acts or services necessary to provide pharmacy care and drug therapy management; and responsibility for compounding and labeling of drugs and devices, (except labeling by a manufacturer, repackager, or distributor or nonprescription drugs and commercially packaged legend drugs and devices) proper and safe storage of drugs and devices and maintenance of proper records for them; or the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, education, management, and control of pharmacy.

(50) "Practitioner" means a physician, dentist, optometrist, podiatrist, veterinarian, or other health care provider authorized by law to diagnose and prescribe drugs and devices.

(51) "Preparation" means a drug or nutrient compounded in a licensed pharmacy or licensed health care facility.

(52) "Prescription drug" or "legend drug" means:

(a) a drug which, under federal law, is required, prior to being dispensed or delivered, to be labeled with any of the following statements:

(i) "Caution: Federal law prohibits dispensing without prescription";

(ii) "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian";

(iii) "Rx only"; or

(b) a drug which is required by any applicable federal or state law to be dispensed pursuant only to a prescription drug order or is restricted to use by practitioners only;

(c) any drug products or compounded preparations considered to be a public health threat, after notice and public hearing as designated by the board; or

(d) any prescribed compounded prescription is a prescription drug within the meaning of this act.

(53) "Prescription drug order" means a lawful order from a practitioner for a drug or device for a specific patient, issued for a legitimate medical purpose within the prescriber's course of legitimate practice and including orders derived from collaborative pharmacy practice.

(54) "Product" means a commercially manufactured drug or nutrient that has been evaluated for safety and efficacy by the FDA. A product is accompanied by FDA-approved manufacturer labeling or a product package insert.

(55) "Prospective drug use review" means a review of the patient's drug therapy and prescription drug order before dispensing the drug as part of a drug regimen review.

(56) "Pyrogen" means a substance or agent that tends to cause a rise in body temperature or fever.

(57) "Revocation" means the cancellation or withdrawal of a license, permit, or other authorization issued by the board either permanently or for a period specified by the board before the person shall be eligible to apply anew. A person whose license, permit, or other authorization has been permanently revoked by the board shall never again be eligible for a license or permit of any kind from the board.

(58) "Therapeutically equivalent" means a drug product with the same efficacy and toxicity when administered to an individual as the originally prescribed drug as provided for in Section 39-24-40.

(59) "Wholesale distributor" means a person engaged in wholesale distribution of prescription drugs or devices including, but not limited

to, manufacturers; repackagers; own-label distributors; private-label distributors; jobbers; brokers; warehouses including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions. Wholesale distributor does not include:

(a) intracompany sales, being defined as a transaction or transfer between a division, subsidiary, parent, or affiliated or related company under the common ownership and control of a corporate entity;

(b) the purchase or other acquisition by a hospital or other health care entity that is a member of a group-purchasing organization of a drug for its own use from the group-purchasing organization or from other hospitals or health care entities that are members of such organizations;

(c) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(d) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control. For purposes of this section, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, by contract, or otherwise;

(e) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this section, "emergency medical reasons" includes the transfer of legend drugs by a licensed pharmacy to another licensed pharmacy or a practitioner licensed to possess prescription drugs to alleviate a temporary shortage, except that the gross dollar value of the transfers may not exceed five percent of the total legend drug sales revenue of either the transferor or the transferee pharmacy during a consecutive twelve-month period;

(f) the sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription; or

(g) the sale, purchase, or trade of blood and blood components intended for transfusion.

Compounding pharmacy practices

SECTION 2. Section 40-43-86(CC) of the S.C. Code is amended to read:

(CC)(1) The provisions of this subsection only apply to the compounding of medication by pharmacies permitted in the State of South Carolina.

(2) The following are the minimum current good compounding practices for the preparation of medications by pharmacists licensed in the State for dispensing or administering, or both, to humans or animals:

(a) Pharmacists engaged in the compounding of drugs in facilities permitted by the Board of Pharmacy shall operate in conformance with regulations promulgated by the Board of Pharmacy, which shall be based upon a review of available compendia literature, medical or scientific literature, and/or practical experience in the art of compounding. The board shall:

(i) develop these regulations based on a review of available compendia literature, medical or scientific literature, and/or practical experience in the art of compounding; and

(ii) promulgate these regulations within eighteenth months after the effective date of this section.

(iii) Until regulations are promulgated by the Board of Pharmacy as provided in this subsubitem, compounding pharmacies shall comply with the compounding standards in the State in use on the effective date of this subsubitem as outlined in the Non-Sterile Compounding Pharmacy and Sterile Compounding Pharmacy Inspection Forms in use on the effective date of this subsubitem as published by the Board of Pharmacy, unless the pharmacy is held to a higher standard of another body such as an accrediting body.

(b) Based on the existence of a pharmacist/patient/practitioner relationship and the presentation of a valid prescription, or in anticipation of prescription medication orders based on routine, regularly observed prescribing patterns, pharmacists may compound, for an individual patient, medications for which the components are commercially available.

(c) Pharmacists shall receive, store, or use drug substances for compounding that meet official compendia requirements, or of a chemical grade in one of the following categories: chemically pure (CP), analytical reagent (AR), American Chemical Society (ACS), or, if other than this, drug substances that meet the accepted standard of the practice of pharmacy.

(d) A compounder shall first attempt to use components manufactured in an FDA-registered facility. When components cannot be obtained from an FDA-registered facility, a compounder shall use his professional judgment in selecting an acceptable and reliable source and shall establish purity and safety by reasonable means, to include

Certificate of Analysis, manufacturer reputation, and reliability of source.

(e) For components that do not have expiration dates assigned by the manufacturer or supplier, a compounder shall label the container with the date of receipt and assign a conservative expiration date, not to exceed three years after receipt of the component based on the nature of the component and its degradation mechanism, the container in which it is packaged, and the storage conditions.

(f) Pharmacists may not offer compounded medications to other pharmacies for resale; however, pharmacists may compound preparations based on an order from a practitioner for administration to a patient in institutional or office settings.

(g) The compounding of legend drugs in anticipation of receiving prescriptions without a historical basis or the distribution of compounded preparations without a patient/practitioner/pharmacist relationship is considered manufacturing.

(h) Physicians who administer compounded medications in an office or licensed ambulatory surgical facility setting shall be allowed to order and purchase those medications from the compounding pharmacy, store them in the office for future use but not for resale, and administer those medications according to their usual physician/patient/pharmacy practice relationship. A prescription for an individual patient for each administration of the drug shall not be required.

(i) Institutional pharmacies may order and store compounded preparations, both sterile and nonsterile, from compounding pharmacies in anticipation of patient orders based on the existence of a pharmacist/patient/practitioner relationship for regularly observed prescribing patterns. A chart order from a practitioner will be required for administration in an institutional facility.

(3) Pharmacy technicians may assist the pharmacist in compounding. The pharmacist is responsible for training and monitoring the pharmacy technician. The pharmacy technician's duties must be consistent with the training received. The pharmacist must perform the final check of the compounded preparation to determine if the preparation is ready to dispense.

(4)(a) The area used for the compounding of drugs must be maintained in a clean and sanitary condition. It must be free of infestation by insects, rodents, and other vermin. Trash must be held and disposed of in a timely and sanitary manner. Sewage and other refuse in and from the pharmacy and immediate medication compounding areas must be disposed of in a safe and sanitary manner.

(b) If radiopharmaceuticals are being compounded, the

pharmacist shall comply with Section 40-43-87 as applicable to the procedure.

(5) The pharmacist shall keep records of all compounded preparations for a period of time as other prescriptions as required by the Board of Pharmacy. These records must be readily available for authorized inspection during the retention period at the establishment. Additionally, statistical reports related to these prescription records may be required to be reported to the Board of Pharmacy periodically to enable the board to meet various statutory and regulatory requirements. These records are subject to duplication by photocopying or other means of reproduction as part of the inspection.

Nuclear/radiologic pharmacies

SECTION 3. Section 40-43-87 of the S.C. Code is amended to read:

Section 40-43-87. (A) Nuclear/radiologic pharmacy practice refers to a patient-oriented service that embodies the scientific knowledge and professional judgment required to improve and promote health through the assurance of the safe and efficacious use of radiopharmaceuticals and other drugs. Nuclear/radiologic pharmacies also shall adhere to the regulations established by the Nuclear Regulatory Commission as they pertain to the practice of nuclear pharmacy.

The pharmacist-in-charge of a nuclear pharmacy must be a qualified nuclear pharmacist. All personnel performing tasks in the preparation and distribution of radiopharmaceuticals and ancillary drugs must be under the direct supervision of a qualified nuclear pharmacist.

(B) Revocation of the radioactive materials license from the Department of Health and Environmental Control voids the pharmacy permit immediately and the permit must be returned to the board within ten days.

(C) Copies of all regulatory inspection reports must be made available upon request for board inspection.

(D) The nuclear pharmacist-in-charge shall notify the Board of Pharmacy by letter of the outcome of any hearings that are conducted pursuant to citations for violations of state or federal laws or regulations governing radioactive materials. Notification must be within thirty days of the date of the hearing.

(E) For purposes of this section, “qualified nuclear pharmacist” means a pharmacist who holds a current license issued by the South Carolina Board of Pharmacy, and who is either certified as a nuclear pharmacist

by the Board of Pharmaceutical Specialties, or meets minimal standards of training for status as an authorized user of radioactive material, as specified by the Nuclear Regulatory Commission.

Sterile preparations

SECTION 4. Section 40-43-88 of the S.C. Code is amended to read:

Section 40-43-88. (A) All sterile pharmaceuticals prepared for dispensing must be labeled in accordance with Section 40-43-86 and include:

(1) name, address, and telephone number of the pharmacy for outpatients and name of the facility for inpatients;

(2) dating of a nonadditive solution if the manufacturer's protective cover, if applicable, is removed before dispensing;

(3) name of prescribing physician;

(4) room number and bed of patient, if applicable; and

(5) special handling, storage requirements, or both.

(B) Bulk or unformulated drug substances and added substances or excipients must be stored in tightly closed containers under temperature, humidity, and lighting conditions that are either indicated in official monographs or approved by suppliers. The date of receipt by the compounding facility must be clearly and indelibly marked on each package of ingredients. After receipt by the compounding facility, packages of ingredients that lack a supplier's expiration date cannot be used after one year unless either appropriate inspection or testing indicates that the ingredient has retained its purity and quality for use in CSPs.

(C) When sterile pharmaceuticals are provided to home care patients, the dispensing pharmacy may supply a nurse with emergency drugs if a physician has authorized the use of these drugs by a protocol or prescription drug order for use in an emergency situation, such as anaphylactic shock.

(D) A licensed health care professional may possess noncontrolled legend drugs or devices such as water for injection, normal saline for an IV, and heparin flushes to facilitate in the administration of prescribed CSPs.

(E) There must be a system that requires an institutional or home infusion pharmacist to be available twenty-four hours a day for a patient, nursing agency, or physician to which the pharmacy is providing services.

Definition

SECTION 5. Section 40-43-30 of the S.C. Code is amended by adding:

(93) "Outsourcing facility" means a facility registered with the United States Food and Drug Administration to operate under Section 503B of the Federal Food and Cosmetic Act.

Authorized dispensation of drugs, outsourcing facilities

SECTION 6. Chapter 43, Title 40 of the S.C. Code is amended by adding:

Section 40-43-197. Any person or entity authorized to dispense drugs including, but not limited to, a pharmacy, institutional pharmacy, or practitioner, may:

(1) purchase or otherwise acquire drugs compounded or repackaged by an outsourcing facility directly from the outsourcing facility without an order from a practitioner other than, when applicable, the practitioner purchasing or acquiring the drug; and

(2) administer and dispense drugs purchased or acquired pursuant to item (1) to the same extent as drugs acquired through other authorized means.

Outsourcing facility regulations

SECTION 7. The Board of Pharmacy must promulgate regulations for outsourcing facilities as defined in Section 40-43-30. The board must:

(1) develop these regulations based on a review of available compendia literature, medical or scientific literature, and/or practical experience in the art of compounding; and

(2) promulgate these regulations within eighteen months after the effective date of this act.

Time effective

SECTION 8. This act takes effect upon approval by the Governor.

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 133

(R148, H3608)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-39-260, RELATING TO RECORDS OF SALES OR CONVEYANCES AND RESULTING CHANGES IN DUPLICATES AND ENDORSEMENT OF DEEDS BY AUDITORS, SO AS TO PROVIDE GUIDELINES FOR THE RECORDS OF COUNTY REAL PROPERTY SALES AND TO REMOVE COUNTY AUDITOR FEES; BY AMENDING SECTION 30-5-120, RELATING TO THE VALIDATION OF CERTAIN CONVEYANCES NOT ENDORSED BY A COUNTY AUDITOR, SO AS TO PROVIDE THAT ANY CONVEYANCE MEETING THE STATUTORY PREREQUISITES FOR RECORDING ARE VALID AND BINDING; BY REPEALING SECTION 30-5-80 RELATING TO THE REQUIREMENT OF THE AUDITOR'S ENDORSEMENT BEFORE THE RECORDATION OF DEEDS; AND BY REPEALING SECTION 8-21-130 RELATING TO FEES COLLECTED BY COUNTY AUDITORS FOR AN ENDORSEMENT ON A DEED.

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

Record of sales of real property

SECTION 1. Section 12-39-260(A) of the S.C. Code is amended to read:

(A) Each county auditor may keep a record of all sales or conveyances of real property made in the county, in which he shall enter, in columns, the names of the purchaser and seller, the quantity of land conveyed and the location and price of such land, and from such record he shall correct the county duplicates annually. For the purpose of carrying out this provision, provided the county auditor chooses to keep a record of all sales or conveyances of real property made in the county, the clerk of courts or register of deeds of each county may have the endorsement of the county auditor on each deed of conveyance for real property either before or after recording.

Valid and binding recordation

SECTION 2. Section 30-5-120 of the S.C. Code is amended to read:

Section 30-5-120. (A) All conveyances of real estate which were recorded by a clerk of court or register of deeds of any of the several counties between December 14, 1876, and May 1, 1882, without the endorsement of the auditor of the county, have heretofore been declared to be as valid and binding, to all intents and purposes, as if such conveyances had been endorsed by the auditor of the county, as required by law.

(B) All conveyances of real estate that were recorded by a clerk of court or register of deeds of any county that meet the prerequisite recording requirements established by Section 30-5-20, but are without the endorsement of the county auditor, are valid and binding.

Repeal

SECTION 3. Section 30-5-80 of the S.C. Code is repealed.

Repeal

SECTION 4. Section 8-21-130 of the S.C. Code is repealed.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 134

(R149, H3811)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-6-3585, RELATING TO THE INDUSTRY PARTNERSHIP FUND TAX CREDIT, SO AS TO PROVIDE FOR AN INCREASE IN THE AGGREGATE CREDIT FROM NINE MILLION TO TWELVE MILLION DOLLARS FOR TAX YEARS AFTER 2022.

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

Industry Partnership Fund Tax Credit

SECTION 1. Section 12-6-3585(A) of the S.C. Code is amended to read:

(A) For each tax year beginning after 2022, a taxpayer may claim as a credit against state income tax imposed by Chapter 6, Title 12, bank tax imposed by Chapter 11, Title 12, license fees imposed by Chapter 20, Title 12, or insurance premiums imposed by Chapter 7, Title 38, or any combination of them, one hundred percent of an amount contributed to the Industry Partnership Fund at the South Carolina Research Authority (SCRA), or an SCRA-designated affiliate, or both, pursuant to Section 13-17-88(E), up to a maximum credit of five hundred thousand dollars for a single taxpayer, not to exceed an aggregate credit of twelve million dollars for all taxpayers. If the aggregate credit of twelve million dollars for all taxpayers is not met within sixty days of the annual opening date for the application for the credit, the single taxpayer maximum credit is automatically increased to one million dollars for the remainder of that year until the maximum aggregate credit of twelve million dollars is met. For purposes of determining a taxpayer's entitlement to the credit for qualified contributions for a given tax year in which more than the applicable aggregate annual limit on the credit is contributed by taxpayers for that year, taxpayers who have made contributions that are intended to be qualified contributions earlier in the applicable tax year than other taxpayers must be given priority entitlement to the credit. The SCRA shall certify to taxpayers who express a bona fide intention of making one or more qualified contributions as to whether the taxpayer is entitled to that priority.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 135

(R150, H3880)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-21-2420, RELATING TO THE ADMISSIONS TAX, SO AS TO PROVIDE THAT NO TAX MAY BE CHARGED OR COLLECTED ON ANNUAL OR MONTHLY DUES PAID TO A GOLF CLUB.

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

Admissions tax

SECTION 1. Section 12-21-2420 of the S.C. Code is amended by adding an item to read:

(17) on annual or monthly dues paid to a golf club.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 136

(R151, H3992)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 41-31-60, RELATING TO DELINQUENT UNEMPLOYMENT COMPENSATION TAX RATES, SO AS TO PERMIT EMPLOYERS WITH INSTALLMENT PAYMENT AGREEMENTS APPROVED BY THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE TO PAY THE TAX AT A SPECIFIED ANNUAL STATUTORY RATE, AND TO PROVIDE FOR THE AUTOMATIC REVERSION OF THIS RATE UPON FAILURE TO TIMELY COMPLY WITH THE PAYMENT AGREEMENT.

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

Installment payment agreement rates, reversions

SECTION 1. Section 41-31-60(B) of the S.C. Code is amended to read:

(B) No employer is permitted to pay his unemployment compensation tax at a reduced tax rate class for any quarter when a tax execution issued in accordance with Section 41-31-390 with respect to delinquent unemployment compensation tax for a previous quarter is unpaid and outstanding against the employer. If on the computation date upon which an employer's tax rate is computed as provided in Section 41-31-40 there is an outstanding tax execution, the tax class twenty rate must be assigned to the employer until the next computation date or until such time as all outstanding tax executions have been paid. An employer who has a department-approved installment payment agreement shall be permitted to pay its unemployment compensation tax at the annual rate as determined pursuant to Section 41-31-50. However, any such employer's tax rate shall immediately revert to the tax class twenty rate if the employer fails to make any one of the succeeding deferred payments or fails to submit any succeeding wage report and payment in a timely manner as required by the department-approved installment payment agreement.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 137

(R152, H4002)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "CAPTAIN ROBERT JOHNSON ACT" BY ADDING SECTION 24-3-980 SO AS TO PROVIDE IT IS UNLAWFUL FOR INMATES UNDER THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONS TO POSSESS TELECOMMUNICATION DEVICES UNLESS AUTHORIZED BY THE DIRECTOR, TO DEFINE THE TERM "TELECOMMUNICATION DEVICE", AND TO PROVIDE PENALTIES.

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

Captain Robert Johnson Act

SECTION 1. This act may be cited as the "Captain Robert Johnson Act".

Department of Corrections

SECTION 2. Chapter 3, Title 24 of the S.C. Code is amended by adding:

Section 24-3-980. (A) It is unlawful for an inmate under the jurisdiction of the Department of Corrections to possess a telecommunication device unless authorized to do so by the director. For purposes of this section a "telecommunication device" means a device,

an apparatus associated with a device, or a component of a device that enables, or may be used to enable, communication with a person inside or outside of a place of incarceration. Such devices include, but are not limited to, portable two-way pagers, handheld radios, cellular telephones, personal digital assistants or PDAs, laptop computers, or any components of these devices. "Telecommunication device" also includes any new technology that is developed or used for similar purposes.

(B) A person violating the provisions of this section, upon conviction, for a:

(1) first offense, is guilty of a misdemeanor and must be imprisoned not more than one year;

(2) second or subsequent offense is guilty of a felony and must be imprisoned not more than five years; and

(3) situation in which the finder of fact finds beyond a reasonable doubt that the use of a telecommunication device pursuant to the provisions of this section was the proximate cause of the commission of any subsequent felony offense, is guilty of a felony and must be imprisoned not more than ten years.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 138

(R153, H4042)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 27 TO CHAPTER 1, TITLE 1 SO AS TO PROVIDE A FRAMEWORK IN WHICH ANTISEMITISM IS CONSIDERED REGARDING ALL LAWS PROHIBITING DISCRIMINATORY ACTS.

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

Antisemitism

SECTION 1. Chapter 1, Title 1 of the S.C. Code is amended by adding:

Article 27

Antisemitism

Section 1-1-1710. (A) For purposes of this section, the term "definition of antisemitism":

(1) includes the definition of antisemitism adopted on May 26, 2016, by the International Holocaust Remembrance Alliance, which has been adopted by the United States Department of State;

(2) includes contemporary examples of antisemitism identified by the International Holocaust Remembrance Alliance; and

(3) does not include criticism of Israel similar to that leveled against any other country.

(B) Nothing in this section may be construed to:

(1) diminish or infringe upon any rights protected under the First Amendment to the United States Constitution or Section 2, Article I of the South Carolina Constitution, 1895; or

(2) conflict with federal, state, or local discrimination laws.

(C) In reviewing, investigating, or deciding whether there has been a violation of any relevant policy, law, or regulation prohibiting discriminatory acts, the State shall take into consideration the definition of antisemitism set forth in law for purposes of determining whether the alleged act was discriminatory. A court or other relevant authority shall apply the same legal standard as applicable to like claims of discrimination arising under the laws of this State protecting civil rights, including Chapter 13 of this title.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 139

(R154, H4113)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 9 TO CHAPTER 6, TITLE 44 SO AS TO CREATE AN AMBULANCE ASSESSMENT FEE FOR PRIVATE AMBULANCE SERVICES; TO REQUIRE THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH AND CHARGE AMBULANCE SERVICES A UNIFORM FEE; TO ESTABLISH AN AMBULANCE FEE TRUST FUND AND TO PROVIDE FOR THE AUTHORIZED USES OF THE FUND; TO ALLOW THE DEPARTMENT TO IMPOSE PENALTIES AGAINST AMBULANCE SERVICES THAT FAIL TO PAY ASSESSED FEES; AND FOR OTHER PURPOSES.

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

Ambulance assessment

SECTION 1. Chapter 6, Title 44 of the S.C. Code is amended by adding:

Article 9

Ambulance Assessment

Section 44-6-1110. As used in this article:

(1) "Ambulance service" means any entity defined in Section 44-61-20, which is currently certified or licensed by the Department of Health and Environmental Control pursuant to Chapter 61, Title 44, but does not include a municipal fire or police department or any other county, district, municipality, or metropolitan government or agency that provides emergency medical services, entities that exclusively provide air ambulance services, and providers that are required to pay the indigent care assessment tax pursuant to the South Carolina Medically Indigent Assistance Act.

(2) "Department" means the South Carolina Department of Health and Human Services.

(3) "Fee" means the ambulance assessment fee authorized by this article.

(4) "Net revenue" means gross revenue collected by ambulance services for emergency ground transportations and, to the extent permitted for a permissible health care-related tax under Section 1903b(w) of the Social Security Act, revenue collected by ambulance services for other transports less bad debt, charity care, and payer discounts.

(5) "Total ambulance service assessment amount" means an amount not less than one quarter of one percent lower than the maximum limit for a provider assessment pursuant to 42 C.F.R. 433.68(f).

Section 44-6-1115. The department shall charge every ambulance service a uniform ambulance assessment fee. The fee must equal the product of the ratio of the ambulance service's net revenue to all ambulance services' net revenue statewide multiplied by the total ambulance services assessment amount. The department shall establish each ambulance service's fee amount using the best data available as determined by the department in consultation with the South Carolina EMS Association and shall update each ambulance service's fee amount on a periodic basis, but at least annually, as updated information becomes available. All ambulance services, regardless of payment model, shall be charged a fee including, but not limited to, ambulance services using fee-for-service and managed care arrangements. An ambulance service's liability to pay the fee shall, in the case of a transfer of ownership, be assumed by the successor-in-interest to the ambulance service.

Section 44-6-1120. There is created in the State Treasury the Ambulance Fee Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The amounts in the fund must be provided to the department solely for Medicaid payments to ambulance services as provided in Section 44-6-1130 and must not be expended for any other purpose. There shall be credited to the fund:

(1) all revenues generated from the fee collected pursuant to Section 44-6-1115;

(2) an amount equal to any federal financial participation revenues claimed and received by the State for eligible expenditures made from the fund;

(3) any revenue from appropriations or other money authorized by the South Carolina General Assembly and specifically designated to be

credited to the fund; and

(4) interest earned on any money in the fund.

Section 44-6-1125. The department shall charge the fee described in Section 44-6-1115 only if the following conditions are met:

(1) The department has received such approval from the Centers for Medicare and Medicaid Services necessary to authorize the Medicaid payments to ambulance services in accordance with Section 44-6-1130.

(2) The funds generated from the fee are separate and distinct from the general fund of the State and all other funds and the balance in the fund carries over from one fiscal year to the next, as required pursuant to Section 44-6-1120.

Section 44-6-1130. Amounts in the fund described in Section 44-6-1120 shall be expended exclusively for Medicaid payments to ambulance services and shall not be used to replace payment commitments between the ambulance services and the State. The expenditures shall be established by the department in a manner consistent with the requirements and conditions of federal financial participation under 42 U.S.C. Section 1396b(w) and 42 C.F.R. 433.68, including the prohibitions against hold harmless provisions as defined under 42 U.S.C. Section 1396b(w)(4) and 42 C.F.R. 433.68(f) and shall be made only under federally approved payment methods and consistent with federal funding requirements and all federal payment limits as determined by the Secretary of the U.S. Department of Health and Human Services. Federal financial participation shall be sought in a manner that achieves the maximum amount of federal revenue such that the assessment amount equals the state share of the qualifying Medicaid ambulance services payments under this article.

Section 44-6-1135. If the Centers for Medicare and Medicaid Services does not authorize or withdraws approval of the Medicaid payments made to ambulance services in accordance with Section 44-6-1130, all monies in the fund described in Section 44-6-1120 shall be returned to ambulance services. If the department no longer collects the fee described in Section 44-6-1115, all monies in the fund described in Section 44-6-1120 shall be returned to ambulance services.

Section 44-6-1140. The payment amounts to be established and distributed by the department pursuant to Section 44-6-1130 shall be developed in a manner that closes the gap between Medicaid rates and average commercial rates. The department shall consult with the South

Carolina EMS Association in the development and implementation of the payments.

Section 44-6-1145. The ambulance assessment program described in this article must be used to supplement, not supplant, general fund appropriations to support ambulance services reimbursements as of the effective date of this article. The department shall not reduce Medicaid rates for ambulance services below the rates in effect as of the effective date of this article so long as the fee is collected.

Section 44-6-1150. The department may impose a penalty of up to five percent of the fee for any ambulance service that fails to pay the fee within the time required by the department for each month, or fraction thereof, that such fee is overdue. If a fee has not been received by the department in accordance with department timelines, the department may withhold an amount equal to the overdue fee and any penalty imposed by the department from any payments otherwise due such ambulance service.

Section 44-6-1155. The department shall submit to the Centers for Medicare and Medicaid Services any and all Medicaid state plan amendments, waiver requests, preprints, and other documents required to implement or continue the implementation of this article no later than six months after enactment of this article.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 140

(R155, H4333)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-37-20, RELATING TO DEFINITIONS CONCERNING THE PRACTICE OF OPTOMETRY, SO AS TO PROVIDE A NECESSARY DEFINITION; AND BY AMENDING SECTION 40-37-320, RELATING TO SITE AND SERVICE LIMITATIONS ON MOBILE OPTOMETRY UNITS AND CERTAIN ASSOCIATED DISCIPLINARY ACTION LIMITATIONS, SO AS TO INCLUDE CERTAIN SITES OF ORGANIZATIONS THAT SERVE CHILDREN FROM LOW-INCOME COMMUNITIES DURING THE SUMMER.

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

Definitions

SECTION 1. Section 40-37-20 of the S.C. Code is amended by adding:

(9) "Community foundation" means an organization, lawfully organized and in good standing, that typically focuses on supporting a geographical area by addressing community needs and supporting local nonprofits.

Service sites expanded

SECTION 2. Section 40-37-320(B) of the S.C. Code is amended to read:

(B)(1) Mobile units may be used either by a licensed optometrist, optometric practice, or organization using a licensed optometrist to operate the mobile optometric unit if the operator obtains a permit for the mobile unit from the board and complies with the other provisions of this subsection. A mobile unit must be limited to visiting and providing services:

(a) to licensed health care facilities within this State; or

(b) on the site of a Title 1 public school to the students attending the school or during the summer at a site of an organization serving children from low-income communities if approved by the local community foundation serving the region, provided the services must be

rendered as part of a not-for-profit program.

(2) In order to operate a mobile unit in this State, the operator shall submit a permit application and fee in the form and manner set forth by the board.

(3)(a) A mobile unit permit only may be issued following an inspection of the mobile unit by an authorized representative of the board. Upon the completion of a satisfactory inspection, the board shall issue the applicant a mobile unit permit. The applicant must affix the permit in a prominent and conspicuous place within the mobile unit.

(b) A mobile unit permit issued under this subsection annually must be renewed upon the payment of a renewal fee and satisfactorily undergoing an annual inspection.

(c) In addition to the annual inspection, a mobile unit authorized to operate under this subsection is subject to periodic unannounced inspections by an authorized representative of the board. If the mobile unit is a not-for-profit organization operating at a Title 1 school, the periodic unannounced inspection must be conducted after school hours.

(4)(a) The mobile unit shall maintain and furnish to the board both an official business address of record, which may not be a post office box, and an official telephone number of record. A mailing address, if different than the business address and used on an official basis, also must be provided to the board.

(b) The board must be notified within thirty days of any change in the address or telephone number of record.

(c) All written or printed documents available from or issued by a mobile unit must contain an official address and telephone number of record for the mobile unit.

(d) All records must be maintained and available for inspection and copying upon request by the board, subject to HIPPA and FERPA privacy protections.

(5) The operator in charge of each mobile unit, in addition to the other requirements of this subsection, shall ensure that:

(a) all services provided in the mobile unit follow all statutes, regulations, and board policies that regulate the practice of optometry in this State;

(b) written procedures are implemented for emergency or follow-up care for patients treated in the mobile unit, including making prior arrangements, as may be appropriate, for emergency or follow-up treatment in an optometric unit located in the geographic area where services are being provided;

(c) the mobile unit complies with all applicable federal, state, and local laws, regulations, and ordinances dealing with flammability,

construction, sanitation, zoning, infectious waste management, universal precautions, occupational safety, access by persons with disabilities, and federal Centers for Disease Control guidelines;

(d) the operator possesses all applicable county and city licenses or permits, including business licenses, to operate the unit at the location where services are being provided;

(e) the mobile unit is at all times fitted with working carbon monoxide detection devices;

(f) no services are performed on minors without consent of their parent or guardian; and

(g) during or at the conclusion of each patient's visit to the mobile unit, the patient is provided with an information sheet, and if the patient or their parent or guardian has provided consent to an institutional facility to assist in the patient's health records, the institutional facility is provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long-term care facility or school, and an information sheet must include the following:

(i) pertinent contact information as provided by this subsection;

(ii) the name of the optometrist, optician, and other staff who provided services and their license numbers, if applicable;

(iii) a description of the treatment rendered;

(iv) a description of any optometric needs diagnosed during the optometrist's examination; and

(v) a recommendation that the patient see another optometrist if the mobile unit is unable to provide the follow-up treatment described in subsubitem (iv).

(6) A mobile unit that accepts a patient and provides preventive treatment, including a screening, eye examination, or prescription for corrective lenses, but does not follow up with treatment or a referral for treatment when such treatment is clearly indicated, is considered to have abandoned the patient. Appropriate arrangements must be made for treatment services within the patient's geographic area on a follow-up basis. Reasonable attempts to have follow-up treatment when a patient does not reappear for treatment or does not meet a scheduled appointment is not considered abandonment.

(7) In addition to the other requirements of this subsection, every mobile unit must have:

(a) written procedures and necessary equipment to provide services provided to disabled persons; and

(b) access to an adequate supply of potable water, including hot water either at the mobile unit or available at locations served by the

mobile unit.

(8)(a) All examinations conducted as part of the operation of a mobile unit must be performed by an optometrist who is licensed to practice optometry in this State. All glasses fitted and dispensed as part of the operation of a mobile unit must be fitted and dispensed by an optician licensed in this State.

(b) The operator of the mobile unit shall identify and advise the board in writing within thirty days of any personnel change relative to all licensed optometrists associated with the mobile unit by providing the full name, address, telephone numbers, and license numbers where applicable.

(c) The operator shall advise the board in writing within thirty days of any change in the written procedure for emergency follow-up care for patients treated in the mobile unit.

(d) An optometrist providing services in the mobile unit prominently shall display his license to practice in this State in plain view of patients.

(9)(a) An operator of a mobile unit shall maintain a confidential written or electronic record detailing each location where services are provided, including:

(i) the street address of the service location;

(ii) the dates and times of each session; and

(iii) the number of patients served.

(b) All confidential written or electronic records required to be maintained by this chapter or applicable regulations shall be made available to the board within ten days of a request by the board, subject to HIPPA and FERPA privacy protections. Costs for such records must be covered by the mobile unit operator.

(10) Optometric services provided on a mobile unit must be in the charge of an optometrist licensed to practice optometry in this State at all times.

(11)(a) Upon cessation of operation by the mobile unit, the operator shall notify the board in writing within thirty days of the last day of operations of the final disposition of patient records and charts.

(b) Upon choosing to discontinue a practice or services in a community, the operator of a mobile unit shall:

(i) notify all of the operator’s active patients in writing that the operator intends to discontinue the mobile unit’s practice in the community;

(ii) encourage the patients to seek the services of another optometrist; and

(iii) make reasonable arrangements with all active patients

for the transfer of the patient's records to the patient or a succeeding practitioner.

(c) As used in this subsection, "active patient" refers to a person who the mobile unit has examined, treated, cared for, or otherwise consulted with during the two-year period prior to discontinuation of practice, or moving from or leaving the community.

(12) The board shall adopt rules and regulations regarding the registration, administration, and operation of mobile units as may be necessary to carry out the provisions of this subsection, and may amend, modify, and repeal any rules and regulations from time to time. Failure to comply with any statutes, regulations, or board policies governing the practice of optometry and the operation of a mobile unit may subject the mobile unit and any optometrists providing services through the mobile unit to disciplinary action by the board, including suspension or revocation of the optometrist's license or revocation of the mobile unit permit. However, a licensed optometrist providing services through a mobile unit shall not be subject to disciplinary action on the sole basis that the licensed optometrist has prescribed eyeglasses without dilating the patient's eyes where the following provisions are satisfied:

(a) the operator of the mobile unit is a not-for-profit organization providing services at a Title 1 public school or during the summer at a site of an organization serving children from low-income communities if approved by the local community foundation serving the region; and

(b) the optometrist practicing in the mobile unit shall:

(i) provide an appropriate eye examination prior to diagnosing, treating, and/or prescribing eyeglasses to the patient;

(ii) when providing an appropriate eye examination pursuant to this subsection that does not necessarily require dilation of the eyes, employ technology sufficient to accurately study the health of the eye in order to prescribe eyeglasses to the patient, provided that the prescription for eyeglasses is not based solely on the refractive eye error of the human eye or is generated by a kiosk;

(iii) not prescribe eyeglasses to the patient and provide a referral to another licensed optometrist or ophthalmologist for follow-up care, if the eye examination reveals to the optometrist that a more comprehensive examination is necessary prior to prescribing eyeglasses. Any licensed optometrist performing a comprehensive eye examination of a patient referred under this subsection shall conduct a comprehensive eye exam, including dilation of the eyes; and

(iv) if a patient is referred to the optometrist or ophthalmologist with a prescription issued by another licensed optometrist or physician that has conducted a comprehensive eye

examination of the patient, provide eyeglasses to the referred patient according to the prescription issued by the referring licensed optometrist or ophthalmologist.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 141

(R156, H4349)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-53-1500, RELATING TO THE GREENVILLE TECHNICAL COLLEGE AREA COMMISSION, SO AS TO REMOVE OBSOLETE REFERENCES, TO REVISE RESIDENCY REQUIREMENTS FOR CERTAIN COMMISSION SEATS, AND TO REVISE THE ABSENCE POLICY FOR COMMISSION MEMBERS, AMONG OTHER THINGS.

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

Composition and attendance policy revised, obsolete references removed

SECTION 1. Section 59-53-1500 of the S.C. Code is amended to read:

Section 59-53-1500. (A) There is created the Greenville Technical College Area Commission which is a body politic and corporate and the governing body of Greenville Technical College. The commission consists of twelve voting members or area commissioners appointed by the Greenville County Legislative Delegation in the manner provided in this section.

(B) Except for commissioners appointed pursuant to subsection (D)(2) and (3), all members must be qualified electors of Greenville County. Each member filling a house district residency seat, as provided for in this section, at the time of their appointment and throughout their term of office, shall reside in a house district corresponding to their membership seat. A change of residency outside of Greenville County, or outside of a corresponding district for members filling house district residency seats, automatically terminates that member's appointment, although, subject to the provisions of subsection (E), the member may serve until a successor is appointed and qualifies to fill the remainder of the unexpired term.

(C) The commission shall have six members designated as occupying house district residency seats which, unless otherwise stipulated, must be filled as provided in this subsection. The members of the House of Representatives from each of the House single-member election districts in a particular house residency district, together with any member of the Senate representing any portion of these House single-member election districts in that particular house residency district, shall recommend a nominee for that seat to the full Greenville County Legislative Delegation which shall either select and appoint that nominee to the commission or reject the nominee. In this case another nominee must be recommended by the same process to the full county legislative delegation until the seat is filled. These six house district residency seats are as follows:

(1) Residency Seat No. 1: one member selected from House District 5, 17, or 19;

(2) Residency Seat No. 2: one member selected from House District 16, 21, or 35;

(3) Residency Seat No. 3: one member selected from House District 22 or 24;

(4) Residency Seat No. 4: one member selected from House District 23 or 25;

(5) Residency Seat No. 5: one member selected from House District 18 or 20; and

(6) Residency Seat No. 6: one member selected from House District 7, 10, 27, or 28.

Members of the commission residing in these specified house districts not serving as at-large members are deemed to be the house district residency seat members from those districts unless otherwise provided.

(D) The commission shall have six at-large members selected by the Greenville County Legislative Delegation as follows:

(1) four at-large members which unless otherwise stipulated, must

be nominated by the Greenville County Council. Each of these four at-large seats must be numbered as Seats 1-4, respectively;

(2) one at-large member nominated by the Greenville County School District Board of Trustees from among the Greenville County School District Board of Trustees, including the superintendent, and this individual must live or work in Greenville County; and

(3) one at-large member nominated by Greenville County Workforce Investment Board, including the president, from among the members of the board including its officers, and this individual must live or work in Greenville County.

Any public officials selected for the school board and Workforce Investment Board seats shall serve ex officio as voting members.

Members are responsible to all areas served by the Greenville Technical College regardless of residency and shall make decisions in the best interests of the Greenville Technical College and all those it serves as a whole. The commission shall elect from among its members a chairman, vice chairman, secretary, and treasurer. Members shall serve without compensation.

(E) Commission members shall serve terms of four years, which expire May thirty-first of the appropriate year, and until their successors are appointed and qualify. A member shall serve until his successor is appointed and qualifies for a period not to exceed one year after expiration of his term. If the Greenville County Legislative Delegation has not filled a seat within one year of the expiration of the term, the member serving in that seat shall cease serving and the seat is vacant until filled. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

(F) The absence of a member at three consecutive regularly scheduled commission meetings shall cause that member's seat to become immediately vacant unless the absence is excused by the chairman of the commission. Any regularly scheduled meeting which is canceled pursuant to the bylaws or does not begin for lack of a quorum must be disregarded for all purposes under this subsection. Vacancies occurring under this subsection must be filled in the manner of the original appointment for the unexpired portion of the term. If otherwise eligible, the member causing the vacancy may be reappointed to the seat.

(G) The nominating procedures for appointment of area commissioners are as follows:

(1) The legislative delegation shall publicize vacancies, and recommendations may be made to the commission from any individual, organization, or group. Notwithstanding this provision, the Greenville County Legislative Delegation may reappoint a member who completes

an unexpired portion of a prior term of less than two years without soliciting or accepting any nominations. The legislative delegation may appoint the nominee of the county council for a particular seat or may reject the nominee, in which case an additional nominee must be submitted by the county council in the manner provided by this article until the vacancy is filled.

(2) All recommendations, nominations, and appointments to the commission must be nondiscriminatory and shall take into account diversity and other pertinent qualifications as may be beneficial to constituting a commission which is mindful of the needs of all segments of the population of Greenville County and those served by Greenville Technical College.

(3) The Greenville County School District Board of Trustees and the Greenville County Workforce Investment Board shall submit a nominee to the Greenville County Legislative Delegation to fill vacancies in their respective proxy seats. The Greenville County Council shall submit a nominee to the Greenville County Legislative Delegation for all seat vacancies for which it submits a nominee.

(H) Whenever the South Carolina House of Representatives election districts are redrawn and become effective, the boundaries of the house district residency seats are automatically redrawn to match the new house districts. Redistricting does not affect the term of any commissioner appointed before the effective date of redistricting.

(I) The commission shall:

(1) establish the basic qualifications for and appoint a president for the term and under the conditions as it may fix, the commission having full powers of appointment and dismissal to the fullest extent permitted by law and applicable regulations;

(2) provide for the employment of personnel pursuant to Section 59-53-20;

(3) purchase land required for college sites and rights of way which are necessary for the proper operation of the college;

(4) apply the standards and requirements for admission and graduation of students and other standards established by the State Board for Technical and Comprehensive Education;

(5) receive and accept private donations, gifts, bequests, and the like to apply them or invest any of them and apply the proceeds for the purposes and upon the terms which the donor may prescribe and which are consistent with the provisions of law and the regulations of the State Board for Technical and Comprehensive Education;

(6) require the execution of studies and take steps as are necessary to ensure that the functions of the college are always those which are

most helpful and feasible in light of the resources available to the school;

(7) designate members or other agents or representatives to represent the college before the Greenville County Council, the State Board for Technical and Comprehensive Education, and other agencies concerned with the serving of financial support for the needs of the college for operational expenses and capital outlay;

(8) adopt and recommend current expense and capital outlay budgets;

(9) perform acts and do other things as may be necessary or proper for the exercise of the foregoing specific powers, including the adoption and enforcement of reasonable rules, regulations, and bylaws for the government and operation of the college under law and for the discipline of students;

(10) perform functions required as necessary for the proper governance of the college with regard to policy, personnel, and fiduciary matters.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 142

(R157, H4376)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTIONS 25-12-10, 25-12-30, AND 25-12-50, ALL RELATING TO THE DISPOSAL OF UNCLAIMED HUMAN REMAINS OF A DECEASED VETERAN, SO AS TO PROVIDE THAT THE PROVISIONS OF CHAPTER 12, TITLE 25 ALSO APPLY TO THE DISPOSAL OF UNCLAIMED HUMAN REMAINS OF A DECEASED VETERAN AND TO PROVIDE THAT THE PROVISIONS OF CHAPTER 12, TITLE 25 ARE MANDATORY UNDER CERTAIN

CIRCUMSTANCES; AND BY AMENDING SECTION 17-5-590, RELATING TO THE DISPOSITION OF REMAINS OF UNIDENTIFIED DEAD BODIES, SO AS TO REQUIRE CORONERS TO RELEASE CERTAIN HUMAN REMAINS THAT HAVE BEEN DETERMINED TO BE THOSE OF AN UNCLAIMED DECEASED VETERAN TO A FUNERAL HOME, FUNERAL ESTABLISHMENT, OR MORTUARY FOR DISPOSITION PURSUANT TO CHAPTER 12, TITLE 25.

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

Disposal of unclaimed or cremated human remains of a veteran

SECTION 1. Section 25-12-10 of the S.C. Code is amended to read:

Section 25-12-10. The unclaimed or cremated human remains of a veteran as defined in this chapter must be disposed of pursuant to the provisions of this chapter.

Authority of coroner or manager of funeral home, funeral establishment, or mortuary

SECTION 2. Section 25-12-30 of the S.C. Code is amended to read:

Section 25-12-30. A coroner or a manager of a funeral home, funeral establishment, or mortuary, which has held in its possession cremated remains for more than one hundred twenty days from the date of cremation, shall determine, in accordance with the provisions of this chapter, if the cremated remains are those of a veteran, and if so, shall dispose of those remains as provided in this chapter.

Disposition of remains of a veteran

SECTION 3. Section 25-12-50(A) of the S.C. Code is amended to read:

(A) If a coroner or a manager of a funeral home, funeral establishment, or mortuary ascertains the cremated remains in its possession are those of a veteran, and they have not been instructed by the person in control of the disposition of the decedent's remains to arrange for the final disposal or delivery of the cremated remains, the coroner or the manager of a funeral home, funeral establishment, or mortuary shall dispose of the cremated remains in the manner provided in this chapter or relinquish

possession of the cremated remains to a veterans' service organization.

Disposition of remains of an unclaimed veteran

SECTION 4. Section 17-5-590 of the S.C. Code is amended to read:

Section 17-5-590. (A) If the body of a dead person is unidentifiable, the remains may not be cremated for at least thirty days. The coroner or medical examiner must have the remains buried or interred in a cemetery in the county in which the remains were found.

(B) If a coroner has possession of human remains that have been identified and the deceased person has been determined to be an unclaimed veteran, then the coroner must release the remains to a funeral home, funeral establishment, or mortuary for disposition pursuant to the provisions of Chapter 12, Title 25.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 143

(R158, H4387)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-13-230, RELATING TO STRIPED BASS LIMITS, SO AS TO INCLUDE REFERENCES TO HYBRID BASS.

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

Striped bass limits

SECTION 1. Section 50-13-230 of the S.C. 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 and hybrid bass. Striped and hybrid 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 and hybrid bass. Striped and hybrid 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 or hybrid bass or a combination of those 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 or hybrid 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 or hybrid bass less than twenty-three inches or greater than twenty-five inches, provided that one striped or hybrid 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 or hybrid bass or a combination of those a day. From June first through September thirtieth, it is unlawful to take, attempt to take, or possess more than five striped bass or hybrid bass or a combination of those 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 or hybrid 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 in 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 or hybrid 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.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 144

(R159, H4612)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 55-3-110, RELATING TO HUNTING ANIMALS FROM AIRCRAFT, SO AS TO PROVIDE PERSONS POSSESSING A PERMIT ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES MAY HUNT FROM AIRCRAFT; AND BY ADDING SECTION 50-11-1190 SO AS TO PROVIDE THE DEPARTMENT OF NATURAL RESOURCES MAY ISSUE PERMITS FOR THE TAKING OF FERAL HOGS WHILE AIRBORNE IN A HELICOPTER UNDER CERTAIN CIRCUMSTANCES, AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS PROVISION.

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

Hunting from an aircraft

SECTION 1. Section 55-3-110 of the S.C. Code is amended to read:

Section 55-3-110. An airman or passenger who, while in flight within this State, shall intentionally kill or attempt to kill any birds or animals is guilty of a misdemeanor and punishable by a fine of not more than two thousand dollars, or by imprisonment for not more than thirty days, or both. However, this section shall not apply to a person acting under a permit issued by the Department of Natural Resources.

Permits for the taking of feral hogs from a helicopter

SECTION 2. Article 6, Chapter 11, Title 50 of the S.C. Code is amended by adding:

Section 50-11-1190. (A) The department may issue permits for the taking of feral hogs while airborne in a helicopter if the department finds it is necessary to protect land, water, wildlife, livestock, domesticated animals, human life, crops, or to meet wildlife management objectives. The department may not issue a permit for the purpose of sport hunting.

(B) No feral hog may be taken using a helicopter on any parcel or group of parcels consisting of less than 500 contiguous acres. An application for a permit issued under this section must identify the

specific parcel from which feral hogs are to be taken with sufficient detail to enable law enforcement to locate the property. Reference from the nearest town, mile marker, prominent intersection, or geographic positioning system coordinates should be included.

(C) The department shall prescribe the form, duration, and manner of application, issuance, and reporting requirements of permits authorized by this section.

(D) Upon issuance of a permit, the department shall notify the United States Fish and Wildlife Service Special Agent in charge for the jurisdiction in compliance with 50 C.F.R. Section 19.31.

(E) The department shall file with the Secretary of the Interior of the United States an annual report on the use of helicopters to take feral hogs containing such information as required by 16 U.S.C. Section 742j-1.

(F) A person who hunts or kills, or attempts to hunt or kill, from a helicopter, any feral hog without first obtaining and having in the person's immediate possession a permit for the taking of feral hogs using a helicopter 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 for a term not to exceed thirty days and will be ineligible for issuance of a permit under this section.

(G) A person who violates the conditions of a permit, or who hunts or kills, or attempts to hunt or kill any animal or bird, other than a feral hog, or who engages in hunting for sport or profit while airborne in a helicopter is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars or imprisoned for a term not to exceed thirty days. Any permit issued to that person is revoked. The magistrates court retains concurrent jurisdiction for offenses contained in this section.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 145

(R160, H4642)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 25-1-20, RELATING TO THE ACCEPTANCE OF ACT OF CONGRESS, SO AS TO DISALLOW CONFLICTS; BY AMENDING SECTION 25-1-40, RELATING TO THE APPLICABILITY OF THE UNIFORM CODE OF MILITARY JUSTICE, SO AS TO REMOVE PROVISIONS; BY AMENDING SECTION 25-1-2420, RELATING TO THE MILITARY CODE DEFINITIONS, SO AS TO REVISE THE DEFINITION OF "MILITARY FORCES"; BY AMENDING SECTION 25-1-2430, RELATING TO PERSONS SUBJECT TO CODE OF MILITARY JUSTICE, SO AS TO PROVIDE FOR WHAT JURISDICTION DUTY STATUS INCLUDES; BY AMENDING SECTION 25-1-2520, RELATING TO NONJUDICIAL DISCIPLINARY PUNISHMENT, SO AS TO PROVIDE THAT A CERTAIN DELEGATION MAY BE MADE; BY AMENDING SECTION 25-1-2530, RELATING TO TYPES OF COURTS-MARTIAL, SO AS TO PROVIDE FOR WHOM A SPECIAL COURT-MARTIAL CONSISTS; BY AMENDING SECTION 25-1-2550, RELATING TO THE JURISDICTION OF GENERAL COURTS-MARTIAL, SO AS TO REMOVE FORFEITURE OF PAY; BY AMENDING SECTION 25-1-2560, RELATING TO THE JURISDICTION OF SPECIAL COURTS-MARTIAL, SO AS TO REMOVE FORFEITURE OF PAY; BY AMENDING SECTION 25-1-2570, RELATING TO THE JURISDICTION OF SUMMARY COURTS-MARTIAL, SO AS TO PROVIDE FOR PUNISHMENTS; BY AMENDING SECTION 25-1-2620, RELATING TO DETAIL AND DESIGNATION OF MILITARY JUDGES, SO AS TO PROVIDE THE AUTHORITY CONVENING A SUMMARY COURT-MARTIAL; BY AMENDING SECTION 25-1-2765, RELATING TO VOTING AND RULINGS, SO AS TO REMOVE CERTAIN REFERENCES TO THE PRESIDENT OF A COURT MARTIAL; BY AMENDING SECTION 25-1-2780, RELATING TO RECORD OF TRIAL, SO AS TO INCLUDE THE ADJUTANT GENERAL; BY AMENDING SECTION 25-1-2795, RELATING TO FORFEITURE OF PAY, SO AS TO REMOVE THE SENTENCE OF FORFEITURE OF PAY; BY AMENDING SECTION 25-1-2805, RELATING TO THE REDUCTION IN PAY GRADE AND THE RESTORATION OF

BENEFITS, SO AS TO INCLUDE THE ADJUTANT GENERAL; BY AMENDING SECTION 25-1-2865, RELATING TO THE REMISSION OR SUSPENSION OF A SENTENCE, SO AS TO REPLACE FORFEITURES WITH FINES; BY AMENDING SECTION 25-1-2985, RELATING TO THE IMPROPER USE OR DISCLOSURE OF PAROLE OR COUNTERSIGN, SO AS TO INCLUDE WHEN THE USE OF MILITARY FORCE HAS BEEN AUTHORIZED BY CERTAIN INDIVIDUALS; BY AMENDING SECTION 25-1-3140, RELATING TO WRIT WHEN FINE HAS NOT BEEN PAID, SO AS TO UPDATE DATES; BY AMENDING SECTION 25-1-3145, RELATING TO WRIT OF SENTENCE OF CONFINEMENT, SO AS TO UPDATE DATES; AND BY AMENDING SECTION 25-1-3160, RELATING TO CONSTRUCTION OF CODE OF MILITARY JUSTICE, SO AS TO PROVIDE THAT THE UNIFORM CODE OF MILITARY JUSTICE IS NOT BINDING ON THE SOUTH CAROLINA CODE OF MILITARY JUSTICE.

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

Acceptance of Act of Congress

SECTION 1. Section 25-1-20 of the S.C. Code is amended to read:

Section 25-1-20. The act of Congress approved June 3, 1916, entitled "An Act Making Further and More Effectual Provisions for the National Defense and for Other Purposes" and all acts presently amendatory thereto, the future amendatory acts thereof being subject to the approval of the State legislature, is hereby accepted by this State and the provisions of said act and amendments thereto are made a part of the military code so far as applicable and not in conflict with a rule or regulation established in or pursuant to this code. (Ref: Titles 32 & 10, United States Code).

Removal of Applicability of Uniform Code of Military Justice

SECTION 2. Section 25-1-40 of the S.C. Code is amended to read:

Section 25-1-40. Reserved.

Military forces definition

SECTION 3. Section 25-1-2420 9. of the S.C. Code is amended to read:

9. “Military forces” means the National Guard of the State, as defined in Section 25-1-10, persons attached or assigned to state units, the state guard, and any other person ordered to serve or train as a member of the state’s militia under the laws of this State;

Jurisdiction duty status

SECTION 4. Section 25-1-2430 of the S.C. Code is amended to read:

Section 25-1-2430. The Code of Military Justice applies to all members of the military forces whether located within or without the territorial boundaries of the State of South Carolina while in an authorized duty status or during a period of time in which he was under lawful orders to be in a duty status, including such time as he was traveling to and from such duty. For purposes of military justice, jurisdiction duty status includes the entire day including any portion of which the individual is under lawful orders or in a duty status or when performing, or failing to perform, any act required pursuant to his membership in the state’s military forces. All members of the military forces are subject to this code while physically located on state or federal property even though not on authorized duty status.

Forfeiture of pay

SECTION 5. Section 25-1-2520 of the S.C. Code is amended to read:

Section 25-1-2520. 1. Under regulations that the Adjutant General may prescribe, limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of general officers or commanders authorized to exercise those powers, the applicability of this section to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon a demand. However, punishment may not be imposed upon a member of the military forces under this section if the member has, before the imposition of punishment, demanded trial by court-martial in lieu of punishment. Under similar regulations, rules may be prescribed with respect to the suspension of punishments authorized pursuant to this section. A colonel or general officer may delegate his

nonjudicial punishment authority to an individual within his authority, who is no more than two grades inferior in rank, so long as the adjudged sentence is not executed until the delegating commander has approved the procedure and sentence.

2. Subject to subsection 1 of this section, any commander may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(A) upon officers of his command:

(1) restriction to certain specified limits, with or without suspension from duty, for not more than fifteen days;

(2) if imposed by the Governor, the Adjutant General, or an officer of a general rank in command:

(a) arrest in quarters for not more than fifteen days;

(b) a fine of not more than the equivalent of seven days' pay;

(B) upon other military personnel of his command:

(1) a fine of not more than the equivalent of two days' pay;

(2) reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(3) extra duties, including fatigue or other duties, for not more than fourteen days;

(4) restriction to certain specified limits, with or without suspension from duty, for not more than fourteen days;

(5) if imposed by an officer of the grade of major, or above:

(a) a fine of not more than the equivalent of four days' pay;

(b) reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;

(c) the punishment authorized under subitem (3) of item (B) of subsection 2 of this section;

(d) the punishment authorized under subitem (4) of item (B) of subsection 2 of this section.

No two or more of the punishments of arrest in quarters, extra duties, and restriction may be combined to run consecutively in the maximum amount possible for each. Whenever any of those punishments are combined to run consecutively, there must be an apportionment.

3. An officer in charge may impose upon enlisted members assigned to the unit of which he is in charge such of the punishments authorized

under subitems (1) through (3) of item (B) of subsection 2 of this section as the Governor may specifically prescribe by regulation.

4. The officer who imposes the punishment authorized in subsection 2 of this section, or his successors in command, may at any time, suspend probationally a reduction in grade or a fine imposed under subsection 2 of this section, whether or not executed. In addition, he may at any time remit or mitigate any part or amount of the unexecuted punishment and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights, privileges, and property affected. He may also mitigate reduction in grade to a fine. When mitigating:

(a) arrest in quarters to restriction;

(b) extra duties to restriction;

the mitigated punishment may not be for a greater period than the punishment mitigated. When mitigating reduction in grade to a fine, the amount of the fine may not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

5. A person punished under this section who considers his punishment unjust or disproportionate to the offense may, through proper channel, appeal to the next superior authority. The appeal must be promptly forwarded and decided, and in the meantime the punishment adjudged must be suspended. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection 4 of this section by the officer who imposed the punishment. The authority who is to act on the appeal shall refer the case to the state judge advocate or a judge advocate or legal officer within his command for consideration and advice. The decision of the superior authority

is final.

6. The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

7. The Adjutant General may, by regulation, prescribe the form of records to be kept of proceedings under this section and may also prescribe that certain categories of those proceedings shall be in writing.

Special court-martial

SECTION 6. Section 25-1-2530 of the S.C. Code is amended to read:

Section 25-1-2530. There may be three types of courts-martial in the state military forces:

1. general court-martial, consisting of:

(a) a military judge and not less than five members; or

(b) only a military judge if, before the court is assembled, the accused, knowing the identity of the military judge, and after consultation with defense counsel, requests in writing a court composed only of a military judge, and the military judge approves;

2. special court-martial, consisting of:

(a) a military judge and not less than three members; or

(b) only a military judge, if one has been detailed to the court, and the accused under the same conditions as prescribed in item (b) of subsection 1 of this section so requests; and

3. summary court-martial, consisting of one officer, the state military judge, a judge advocate detailed to the court as the hearing officer, or a panel of three officers.

General court-martial

SECTION 7. Section 25-1-2550 of the S.C. Code is amended to read:

Section 25-1-2550. Subject to Section 25-1-2540, general courts-martial have jurisdiction to try persons subject to this code for an offense made punishable by the code. Under limitations the Governor may prescribe, or further limitations the Adjutant General may prescribe, a general court-martial may order any of the following:

(1) dismissal, or dishonorable or bad-conduct discharge;

(2) confinement of not more than ten years;

(3) a fine of not more than forty days' pay;

(4) reduction of enlisted personnel to the lowest pay grade;

(5) a reprimand;

(6) any combination of these punishments.

Punishments

SECTION 8. Section 25-1-2560 of the S.C. Code is amended to read:

Section 25-1-2560. 1. Subject to Section 25-1-2540, special

courts-martial have jurisdiction to try persons subject to this code for an offense made punishable by the code. Under limitations the Governor may prescribe, or further limitations the Adjutant General may prescribe, a special court-martial may order any of the following punishments:

(1) bad-conduct discharge;

(2) confinement of not more than five years;

(3) a fine of not more than twenty days' pay;

(4) reduction of enlisted personnel to the lowest pay grade;

(5) a reprimand;

(6) any combination of these punishments.

2. A sentence which imposes a bad-conduct discharge or confinement may not be adjudged unless:

(a) a complete summary of the proceedings and testimony has been made by the military judge or the president of the court;

(b) counsel, having the qualifications prescribed under subsection 2 of Section 25-1-2630, was detailed to represent the accused;

(c) a military judge was detailed to the trial.

Summary court-martial

SECTION 9. Section 25-1-2570 of the S.C. Code is amended to read:

Section 25-1-2570. 1. Subject to Section 25-1-2540, summary courts-martial have jurisdiction to try persons subject to the code for an offense made punishable by the code. Under limitations the Governor or Adjutant General may prescribe, a summary court-martial consisting of a military judge, judge advocate, or an officer detailed as the hearing officer may order any of the following punishments:

(1) reduction of enlisted personnel by one pay grade, provided the grade of the accused is within the promotion authority of the convening authority;

(2) a fine of not more than five days' pay;

(3) imprisonment not to exceed fifteen days;

(4) any combination of these punishments.

A person to whom summary courts-martial have jurisdiction may not be brought to trial before a military judge, judge advocate, or an officer-only summary court-martial if he objects. If objection to trial by a military judge, judge advocate, or an officer-only summary court-martial is made by an accused, trial must be ordered to proceed by panel summary court-martial as provided in subsection 2.

2. Subject to Section 25-1-2540, summary courts-martial have jurisdiction to try persons subject to the code, for an offense made

punishable by the code. Under limitations the Governor or Adjutant General may prescribe, a summary court-martial consisting of a panel of three officers may order any of the following punishments:

(1) reduction of enlisted personnel by one pay grade, provided the grade of the accused is within the promotion authority of the convening authority;

(2) a fine of not more than ten days' pay;

(3) imprisonment not to exceed thirty days; or

(4) any combination of these punishments.

The senior officer presiding over the summary courts-martial has the exclusive authority to determine and order the punishments under this section, subject to the review of the convening authority.

No person subject to the Code of Military Justice has the right to decline a panel summary courts-martial under this code and demand trial by either a special or general court-martial.

3. A summary court-martial conviction is not considered a criminal conviction.

4. A summary court-martial conviction may be used as the basis for a future administrative separation, a bar to reenlistment, or other administrative actions.

Authority convening a summary court-martial

SECTION 10. Section 25-1-2620(1) of the S.C. Code is amended to read:

(1) The authority convening a general court-martial or a special court-martial shall detail a military judge to the court-martial. A military judge shall preside over each open session of the court-martial to which he has been detailed. The authority convening a summary court-martial may detail either a military judge, a judge advocate, or an officer to serve as the hearing officer or a panel of three officers.

Voting

SECTION 11. Section 25-1-2765 of the S.C. Code is amended to read:

Section 25-1-2765. Voting by members of a general or special court-martial on the findings and on the sentence must be by secret written ballot. The junior member of the court shall count the votes. The count must be checked by the president, who shall forthwith announce the result of the ballot to the members of the court and then the military

judge.

The military judge shall rule upon all questions of law and all interlocutory questions, arising during the proceedings. Any ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused upon any question of law other than a motion for a finding of not guilty is final and constitutes the ruling of the court. However, the military judge may change his ruling at any time during the trial.

Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them:

(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

(3) that if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt;

(4) that the burden of proof of establishing the guilt of the accused beyond reasonable doubt is upon the State.

This section does not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings, and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition on request find the facts specially. If an opinion or memorandum of decision is filed, it is sufficient if the findings of fact appear in it.

Record of proceedings

SECTION 12. Section 25-1-2780 of the S.C. Code is amended to read:

Section 25-1-2780. Each general court-martial shall keep a separate record of the proceedings in each case brought before it, and the record must be authenticated by the signature of the military judge. If the record may not be authenticated by the military judge by reason of his death, disability, or absence, it must be authenticated by the signature of the trial counsel or by that of a member if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. In a court-martial consisting of only a military judge the record must be

authenticated by the court reporter under the same conditions which would impose such a duty on a member under this paragraph. If the proceedings have resulted in an acquittal of all charges and specifications or, if not affecting a general or flag officer, in a sentence not including discharge or confinement and not in excess of that which may otherwise be adjudged by a special court-martial, the record shall contain such matters as may be prescribed by regulations of the Governor or the Adjutant General.

A copy of the record of the proceedings of each general and special court-martial must be given to the accused as soon as it is authenticated.

Summary court-martial proceedings must use documents promulgated by regulations of the Adjutant General.

Sentence of a court-martial

SECTION 13. Section 25-1-2795 of the S.C. Code is amended to read:

Section 25-1-2795. Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended must be excluded in computing the service of the term of confinement.

All other sentences of courts-martial are effective on the date ordered executed.

On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under his jurisdiction, the person exercising court-martial jurisdiction, may in his sole discretion defer service of the sentence to confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the officer who granted it or, if the accused is no longer under his jurisdiction, by the person exercising court-martial jurisdiction.

Adjutant General

SECTION 14. Section 25-1-2805 of the S.C. Code is amended to read:

Section 25-1-2805. Unless otherwise provided in regulations to be prescribed by the Governor or the Adjutant General, a special or general court-martial sentence of an enlisted member in a pay grade above E-2, as approved by the convening authority, that includes:

(1) a dishonorable or bad-conduct discharge; or

(2) confinement; reduces that member to pay grade E-2, effective on the date of that approval.

If the sentence of a member who is reduced in pay grade under this section is disapproved or reversed, the rights and privileges of which he was deprived because of that reduction must be restored to him and he is entitled to the pay and allowances to which he would have been entitled, for the period the reduction was in effect, had he not been so reduced.

Remittance or suspension of sentence

SECTION 15. Section 25-1-2865 of the S.C. Code is amended to read:

Section 25-1-2865. The Governor or a convening authority may remit or suspend any part of amount of the unexecuted part of any sentence, including all uncollected fines.

The Adjutant General may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

Punishment

SECTION 16. Section 25-1-2985 of the S.C. Code is amended to read:

Section 25-1-2985. Any person subject to this code, who in time of war, or when the use of military force has been authorized by the President, Governor, or Congress, discloses the parole or countersign to any person not entitled to receive it, or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give, may be punished as a court-martial may direct.

Issuance of writ

SECTION 17. Section 25-1-3140 of the S.C. Code is amended to read:

Section 25-1-3140. When a fine has been assessed by a court-martial against a member of the National Guard of South Carolina and the proceedings of the court have been passed upon by the reviewing authority, and such fine is unpaid, the President, in the case of a general or special court-martial, or the summary court officer, in the case of a summary court-martial, shall issue a writ in substantially the following

form.

STATE OF SOUTH CAROLINA
COUNTY OF _____

To any sheriff or constable in the State, Greetings:

Whereas, _____ of _____ in the county of _____, a member of the National Guard of South Carolina, was on the ____ day of _____, A. D., 20____, tried and found guilty of _____ in violation of _____ and was by court-martial sentenced to pay a fine of $_____ or serve ____ days in jail.

Whereas, such fine has not been paid.

Now, Therefore, by authority of the State of South Carolina, you are hereby commanded to take the
body of the said _____ and commit it to the keeper of the jail in the county of _____ within such jail, who is hereby commanded to receive the body of said _____ and keep him safely until he pays the sum above mentioned, or serves ____ days provided said fine due shall be reduced proportionately with the number of days served.

Fail not but service and return make within thirty days from this date.

Dated at _____ in the county of _____ this ____ day of _____, 20____.

Name_____ Rank_____ Organization_____

President of _____ Court
National Guard of South Carolina

Issuance of writ

SECTION 18. Section 25-1-3145 of the S.C. Code is amended to read:

Section 25-1-3145. When a sentence of confinement has been imposed by a court-martial against a member of the National Guard of South Carolina and the sentence of the court has been passed upon by the reviewing authority, the president, in case of a general or special court-martial, or the summary court officer, in the case of a summary court-martial, shall issue a writ in substantially the following form:

STATE OF SOUTH CAROLINA
COUNTY OF _____

To any sheriff in the State, Greetings:

Whereas, _____ of _____ in the county of _____, a member of the National Guard of South Carolina, was on the ____ day of _____, A.D., 20____, tried and found guilty of _____ in violation of _____ and was by court-martial sentenced to _____.

Now, Therefore, by authority of the State of South Carolina, you are hereby commanded to take the body of said _____ and commit it to the keeper of the jail in the county of _____ within such jail, who is hereby commanded to receive the body of said _____, and keep him safely until he serves said sentence.

Fail not but service and return make within thirty days from this date.

Dated at _____ in the county of _____ this ____ day of _____, 20_ .

US _____

Name _____ Rank _____ Organization _____

President of _____ Court
National Guard of South Carolina

South Carolina Code of Military Justice

SECTION 19. Section 25-1-3160 of the S.C. Code is amended to read:

Section 25-1-3160. The Code of Military Justice must be so construed as to effectuate its general purpose to make it uniform so far as practical with the Uniform Code of Military Justice, Chapter 47, Title 10, United States Code, and the Manual for Courts-Martial. However, the Uniform Code of Military Justice and any implementing regulations are not binding on the South Carolina Code of Military Justice. The Uniform Code of Military Justice and any implementing regulations only may be cited as persuasive authority when not in conflict with the South Carolina Code of Military Justice or any implementing state regulations. Moreover, the Adjutant General may establish procedures to conform state military judicial proceedings with those used in circuit courts of this State.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 146

(R161, H4673)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-1-50, RELATING TO BEGINNERS' PERMITS, HOURS, AND CONDITIONS OF VEHICLE OPERATION, RENEWAL AND FEES, DRIVERS' TRAINING COURSES, AND ELIGIBILITY FOR FULL LICENSURE, SO AS TO MAKE TECHNICAL CHANGES, EXEMPT ADDITIONAL PERSONS FROM OBTAINING BEGINNERS' PERMITS BEFORE OPERATING CERTAIN MOTOR VEHICLES, TO PROVIDE CERTAIN PERSONS AT LEAST FIFTEEN YEARS OF AGE MUST HOLD A BEGINNER'S PERMIT BEFORE BEING ELIGIBLE FOR FULL LICENSURE, AND TO PROVIDE PERSONS AT LEAST EIGHTEEN YEARS OLD MAY TAKE THE DRIVING TEST AFTER MAINTAINING A BEGINNER'S PERMIT FOR AT LEAST THIRTY DAYS TO OPERATE CERTAIN MOTOR VEHICLES.

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

Beginners' permits

SECTION 1. Section 56-1-50 of the S.C. Code is amended to read:

Section 56-1-50. (A) A person who is at least fifteen years of age may apply to the department for a beginner's permit. After the applicant has passed successfully the knowledge examination, the department may issue to the applicant a beginner's permit. A beginner's permit entitles the permittee having the permit in his immediate possession to drive a motor vehicle on public highways under the conditions contained in this section for not more than twelve months.

(B) The permit is valid only in the operation of:

(1) vehicles after six o'clock a.m. and not later than midnight. Except as provided in subsection (E), while driving, the permittee must be accompanied by a licensed driver twenty-one years of age or older who has had at least one year of driving experience. A permittee may not drive between midnight and six o'clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7);

(2) motorcycles.

While driving a motorcycle during nighttime hours, the permittee must be accompanied by a motorcycle-licensed driver twenty-one years of age or older who has had at least one year of driving experience.

(C) The accompanying driver must:

(1) occupy a seat beside the permittee when the permittee is operating a motor vehicle; or

(2) be within a safe viewing distance of the permittee when the permittee is operating a motorcycle or a moped.

(D) A beginner's permit may be renewed or a new permit issued for additional periods of twelve months. However, the department may refuse to renew or issue a new permit where the examining officer has reason to believe the applicant has not made a bona fide effort to pass the required driver's road test or does not appear to the examining officer to have the aptitude to pass the road test. The fee for every beginner's or renewal permit is two dollars and fifty cents, and the permit must bear the full name, date of birth, and residence address and a brief description and unobstructed photograph of the permittee and a facsimile of the signature of the permittee or a space upon which the permittee shall write his usual signature with pen and ink immediately upon receipt of the permit. A permit is not valid until it has been signed by the permittee.

(E) The following persons are not required to obtain a beginner's permit to operate a motor vehicle:

(1) a student at least fifteen years of age regularly enrolled in a high school of this State which conducts a driver's training course while the student is participating in the course and when accompanied by a qualified instructor of the course;

(2) a person fifteen years of age or older enrolled in a driver training course conducted by a driver training school licensed under Chapter 23 of this title. However, this person at all times must be accompanied by an instructor of the school and may drive only an automobile owned or leased by the school which is covered by liability insurance in an amount not less than the minimum required by law; and

(3) a person who has satisfied the beginner's permit requirements set forth in law or with sufficient previous driving experience that exempts the person from the beginner's permit requirements when performing the driving test with a department employee.

(F) A person who is at least fifteen years of age who has never held a form of license evidencing previous driving experience first must be issued a beginner's permit and must hold the beginner's permit for at least one hundred eighty days before being eligible for full licensure as set forth in this title. A person obtaining solely a moped operator's license pursuant to Section 56-1-1720 is not required to hold a beginner's

permit before operating a moped.

(G) A person who is eighteen years old or older may attempt the driving test to obtain a regular motor vehicle driver's license after maintaining a beginner's permit for at least thirty days. This does not apply to motorcycle permits or permits for vehicles with a gross vehicle weight of 26,001 pounds or more.

(H) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

(I) A person who holds a motorcycle beginner's permit who fails the motorcycle driver's license test three or more times must successfully complete a South Carolina technical college motorcycle safety course, or its equivalent, in lieu of passing the motorcycle driver's license test, in order to obtain a motorcycle license. All courses must be at least eight hours in length and be taught by an instructor accredited through a training program in which the procedures for accreditation are equivalent to those set forth in "Manual of Rules and Procedures" published by the National Safety Council. All courses must include successful completion of an examination equivalent to the Department of Motor Vehicles motorcycle skills test. These programs are subject to Section 56-1-15.

Severability

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 3. This act takes effect six months after approval by the Governor.

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 147

(R163, H4819)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-3-1960, RELATING IN PART TO PARKING PLACARDS FOR HANDICAPPED PERSONS, SO AS TO ALLOW APPLICANTS FOR HANDICAPPED PARKING PLACARDS TO PROVIDE A PHOTOGRAPH FOR THE PLACARD SUBJECT TO THE DEPARTMENT OF MOTOR VEHICLE'S APPROVAL.

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

Parking placards

SECTION 1. Section 56-3-1960(D) of the S.C. Code is amended to read:

(D) Blue and red placards shall contain the qualified user's photograph. The photograph must be taken from the qualified user's driver's license or identification card on file with the department or any other photograph approved by the department. However, a photograph is not required for a placard issued to an agency, organization, or facility.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 148

(R164, H4871)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 47-9-420 SO AS TO PROHIBIT THE INTERFERENCE OR INTERACTION WITH FARM ANIMALS BEING TRANSPORTED BY A MOTOR VEHICLE WITHOUT PERMISSION.

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

Prohibition of the interference or interaction with farm animals being transported by a motor vehicle

SECTION 1. Article 1, Chapter 9, Title 47 of the S.C. Code is amended by adding:

Section 47-9-420. (A) No person may interfere with a motor vehicle transporting farm animals. For purposes of this subsection, "interfere" shall be defined as intentional, knowing, or reckless acts that disrupt or otherwise impede the transportation of farm animals without prior consent of the driver of the motor vehicle.

(B) No person may harass a farm animal while being transported by a motor vehicle without the prior consent of the driver of the motor vehicle. For purposes of this subsection, "harass" shall be defined as intentional, knowing, or reckless acts having the effect of causing apparent emotional distress or fear.

(C) Prior consent of the driver of a motor vehicle transporting farm animals may not be inferred by a person seeking to interfere or interact with a farm animal being transported solely because the driver has not specifically prohibited the person from doing so.

(D) Consent to interfering or interacting with a farm animal is invalid if it is obtained from the driver of the motor vehicle transporting the farm animal using duress or under false pretenses.

(E) The prohibitions of this section do not apply to:

(1) a law enforcement officer if the person is acting within the scope of his duties;

(2) a firefighter, paramedic, or other emergency personnel if the person is acting within the scope of his duties; or

(3) any other person permitted by law, if the person is acting within the scope of his duties.

(F) Any person convicted under the provisions of this section is subject to a penalty of one hundred dollars or to imprisonment for a term not exceeding thirty days, or both, in the discretion of the court. In case such offender repeats the same or commits a like offense, upon conviction is subject to a penalty of two hundred dollars or to imprisonment for a term not exceeding one year, or both, in the discretion of the court.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 149

(R165, H4875)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-11-1910, RELATING TO THE SALE OF DEER OR DEER PARTS, SO AS TO ALLOW A PROCESSOR TO PROCESS A LEGALLY TAKEN DOE DONATED BY A HUNTER AND RECOVER THE FEES OF PROCESSING FROM SOMEONE OTHER THAN THE HUNTER WHO DONATED THE DOE, AND TO INCREASE PENALTIES.

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

Sale of deer or deer parts

SECTION 1. Section 50-11-1910 of the S.C. Code is amended to read:

Section 50-11-1910. (A) It is unlawful to buy or sell, offer for sale, barter, or have in possession for sale the following: any live deer (family cervidae), the venison of any deer except as provided in subsection (B) or in Section 50-11-1920, any whitetail deer gametes or antler velvet, or

any whitetail deer antlers attached to the pedicel.

(B) The department may promulgate regulations to permit deer processors to process legally taken female (doe) deer donated by a hunter or crop depredation permittee or designee and recover the fee of processing the deer from a person other than the individual who donated the deer.

(C) For a violation of this section, upon conviction, the guilty party for a first offense must be fined not less than three hundred dollars nor more than five hundred dollars or be imprisoned for not more than thirty days; for a second offense within three years of the date of conviction for a first offense, the person must be fined not less than five hundred dollars nor more than one thousand dollars or be imprisoned for not more than thirty days; for a third or subsequent offense within three years of the date of conviction for a first offense, the person must be fined one thousand dollars or be imprisoned for not more than sixty days.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 150

(R166, H4909)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-350, RELATING TO DESIGNATION OF VOTING PRECINCTS IN LANCASTER COUNTY, SO AS TO REMOVE ONE PRECINCT AND REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS ARE DELINEATED.

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

Lancaster County voting precincts

SECTION 1. Section 7-7-350 of the S.C. Code is amended to read:

Section 7-7-350. (A) In Lancaster County there are the following voting precincts:

521 North
Antioch
Black Horse Run
Buford
Camp Creek
Chesterfield Avenue
College Park
Douglas
Elgin
Erwin Farm
Flat Creek
Gold Hill
Harrisburg
Heath Springs
Hyde Park
Jim Wilson
Kershaw North
Kershaw South
Lake House
Lancaster East
McIlwain
Osceola
Pleasant Hill
Pleasant Valley
Possum Hollow
Rich Hill
River Road
Riverside
Six Mile Creek
Springdale
The Lodge
Tradesville
Unity
University
Van Wyck

(B) The precinct lines defining the above precincts are as shown on

maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Revenue and Fiscal Affairs Office designated as document P-57-24.

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

Time effective

SECTION 2. This act takes effect on January 1, 2025.

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 151

(R167, H4928)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 25-21-10, RELATING TO THE ESTABLISHMENT OF THE VETERANS' TRUST FUND, SO AS TO PROVIDE FOR FUNDRAISING; AND BY AMENDING SECTION 25-21-30, RELATING TO THE DUTIES AND FUNCTIONS OF THE VETERANS' TRUST FUND BOARD OF TRUSTEES, SO AS TO PROVIDE FOR THE ABILITY TO FUNDRAISE.

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

Veterans' Trust Fund

SECTION 1. Section 25-21-10 of the S.C. Code is amended to read:

Section 25-21-10. There is established the Veterans' Trust Fund of South Carolina, an eleemosynary corporation, the resources of which must be dedicated to serving the needs of South Carolina's veterans by

supporting programs, both public and private, for veterans. The Veterans' Trust Fund may support veteran service programs by direct funding or through donation of property or services. The Veterans' Trust Fund may supplement and augment, but shall not take the place of, services provided by state agencies.

The board of trustees for the Veterans' Trust Fund shall carry out activities necessary to administer the fund including, but not limited to, assessing service needs and gaps, soliciting proposals to address identified needs, fundraising and related expenses, and establishing criteria for awarding of grants.

Fundraising

SECTION 2. Section 25-21-30 of the S.C. Code is amended by adding:

(11) fundraise, to include making disbursements from the fund in support of fundraising activities. The disbursements may not exceed the lesser of one percent of the assets of the fund or fifty percent of the amount allowed to be disbursed pursuant to Section 25-21-40 per calendar year based on the closing balance of the fund and the end of the preceding calendar year.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 152

(R168, H4937)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-450, RELATING TO DESIGNATION OF VOTING PRECINCTS IN PICKENS COUNTY, SO AS TO AUTHORIZE THE PICKENS COUNTY

BOARD OF VOTER REGISTRATION AND ELECTIONS, WITH APPROVAL FROM A MAJORITY OF THE PICKENS COUNTY LEGISLATIVE DELEGATION, TO LOCATE A POLLING PLACE WITHIN FIVE MILES OF A PRECINCT'S BOUNDARIES IF NO SUITABLE LOCATION EXISTS WITHIN THE PRECINCT.

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

Pickens County voting precincts

SECTION 1. Section 7-7-450(C) of the S.C. Code is amended to read:

(C)(1) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Pickens County subject to the approval of the majority of the Pickens County Legislative Delegation.

(2) Notwithstanding the provisions of Section 7-7-920, if the board determines that a precinct contains no suitable location for a polling place, the board, upon approval by a majority of the county's legislative delegation, may locate the polling place inside the county and within five miles of the precinct's boundaries.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 153

(R169, H4953)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 25-11-80, RELATING TO STATE VETERANS' CEMETERIES, SO AS TO REMOVE A

RESIDENCY REQUIREMENT.

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

State veterans' cemeteries

SECTION 1. Section 25-11-80(F) of the S.C. Code is amended to read:

(F)(1) To qualify for a plot in a state veterans' cemetery, the applicant must be a veteran or a member of the immediate family of a veteran who meets the requirements of this subsection.

(2) The veteran must have an honorable discharge from the Armed Forces.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 154

(R170, H5007)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-13-230, RELATING TO STRIPED BASS LIMITS, SO AS TO RESTRICT PERMITTED HOOK SIZE IN THE LOWER SALUDA RIVER.

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

Striped bass limits

SECTION 1. Section 50-13-230(B) of the S.C. Code is amended to read:

(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. When fishing with live or dead bait fish or bait fish parts in the Lower Saluda River between June sixteenth and September thirtieth, hook gap, the distance from hook to point to shank, must not exceed three eighths of an inch (nominally #6 hook) for all hook types except inline, nonstainless steel circle hooks. All sizes of inline, nonoffset, nonstainless steel circle hooks are allowed.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 155

(R171, H5079)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-110, RELATING TO DESIGNATION OF VOTING PRECINCTS IN BEAUFORT COUNTY, SO AS TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS ARE DELINEATED.

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

Beaufort County precincts

SECTION 1. Section 7-7-110(B) of the S.C. Code is amended to read:

(B) The precinct lines defining the above precincts are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-13-24 and as shown on copies provided to the Board of Voter Registration and Elections of Beaufort

County by the Revenue and Fiscal Affairs Office.

Time effective

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

Ratified the 8th day of May, 2024

Approved the 13th day of May, 2024

No. 156

(R178, S125)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-149-15, RELATING TO ADDITIONAL LIFE SCHOLARSHIP STIPENDS FOR SCIENCE AND MATHEMATICS MAJORS, SO AS TO EXTEND STIPEND AVAILABILITY TO EDUCATION MAJORS, TO DEFINE EDUCATION MAJORS AND REDEFINE SCIENCE AND MATHEMATICS MAJORS TO MAKE CONFORMING CHANGES AND OTHER REVISIONS, TO PROVIDE EDUCATION MAJOR STIPEND RECIPIENTS MUST CONTRACTUALLY AGREE TO TEACH IN SOUTH CAROLINA PUBLIC SCHOOLS FOR CERTAIN PERIODS OF TIME, AND TO PROVIDE GRANDFATHER PROVISIONS FOR CERTAIN EXISTING STIPEND RECIPIENTS, AMONG OTHER THINGS; BY AMENDING SECTION 59-104-25, RELATING TO ADDITIONAL PALMETTO FELLOWS SCHOLARSHIP STIPENDS FOR SCIENCE AND MATHEMATICS MAJORS, SO AS TO EXTEND STIPEND AVAILABILITY TO EDUCATION MAJORS, TO DEFINE EDUCATION MAJORS AND REDEFINE SCIENCE AND MATHEMATICS MAJORS TO MAKE CONFORMING CHANGES AND OTHER REVISIONS, TO PROVIDE EDUCATION MAJOR STIPEND RECIPIENTS MUST CONTRACTUALLY AGREE TO TEACH IN SOUTH CAROLINA PUBLIC SCHOOLS FOR CERTAIN PERIODS OF TIME, AND TO PROVIDE GRANDFATHER PROVISIONS FOR

CERTAIN EXISTING STIPEND RECIPIENTS, AMONG OTHER THINGS; BY AMENDING SECTION 59-149-50, RELATING TO LIFE SCHOLARSHIP ELIGIBILITY, SO AS TO INCLUDE THE ACT TEST AS AN OPTION FOR ELIGIBILITY, TO PROVIDE THE COMMISSION ON HIGHER EDUCATION SHALL DETERMINE THE MINIMUM QUALIFYING ACT SCORE, TO PROVIDE THIS MINIMUM QUALIFYING SCORE MUST BE THE EQUIVALENT OF THE MINIMUM QUALIFYING SAT SCORE, TO PROVIDE THE COMMISSION PERIODICALLY SHALL ADJUST THESE MINIMUM QUALIFYING SCORES COMMENSURATE WITH SCORING SCALE ADJUSTMENTS MADE BY THE TESTING PROVIDER, AND TO PROVIDE COLLEGE AND UNIVERSITIES MUST CONSIDER THE MINIMUM SCORING REQUIREMENT IN EFFECT AT THE TIME A TEST IS TAKEN WHEN DETERMINING WHETHER AN INDIVIDUAL SATISFIES THE MINIMUM SCORING REQUIREMENT; AND BY AMENDING SECTION 59-104-20, RELATING TO THE DURATION OF PALMETTO FELLOWS SCHOLARSHIPS, SO AS TO PROVIDE STUDENTS WHO USE PALMETTO FELLOWS SCHOLARSHIPS TO ATTEND ELIGIBLE TWO-YEAR INSTITUTIONS OF HIGHER LEARNING SHALL RECEIVE A MAXIMUM OF FOUR CONTINUOUS SEMESTERS AND MAY CONTINUE TO USE SCHOLARSHIPS TO ATTEND AN ELIGIBLE FOUR-YEAR INSTITUTION, SUBJECT TO THE MAXIMUM NUMBER OF SEMESTERS OF ELIGIBILITY FOR THE SCHOLARSHIP.

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

LIFE Scholarship stipend recipients, education majors added

SECTION 1. Section 59-149-15(A) and (B) of the S.C. Code is amended to read:

(A) A resident student who is at least a sophomore attending a four-year public or private institution of higher learning in this State, who is majoring in education, science, or mathematics as defined below, and who is receiving a LIFE Scholarship for the current year, shall receive an additional LIFE Scholarship stipend equal to the cost of attendance after applying all other scholarships or grants, not to exceed two thousand five hundred dollars each year for no more than three additional years of instruction, including his sophomore year, if enrolled

in a four-year degree program, or for not more than four additional years of instruction, including his sophomore year, if enrolled in a five-year degree program or a 3 plus 2 program. In addition, during his freshman year, the student majoring in science or mathematics must have successfully completed a total of at least fourteen credit hours of instruction in mathematics courses, or life and physical science courses, or a combination of both. A year is defined as thirty credit hours of instruction or its equivalent each year. To receive the additional LIFE Scholarship stipend each year, the student must receive the underlying LIFE Scholarship for that year and must be making acceptable progress each year toward receiving a degree in his education, science, or mathematics major. For purposes of meeting the required minimum level of instruction in mathematics and life and physical science courses during a student's freshman year, advanced placement courses in mathematics and life and physical sciences taken in high school on which the student scored high enough on the advanced placement test to receive credit at his institution and for which he received credit, count toward the fulfillment of this minimum requirement.

(B) The Commission on Higher Education by regulation shall define what constitutes a science or mathematics major, applicable beginning with the 2024-2025 School Year to persons who did not receive a LIFE Scholarship stipend before the 2024-2025 School Year. This definition of a science or mathematics major must include, at a minimum, majors in science or mathematics disciplines, computer science or informational technology, engineering, accounting, and health care and related disciplines including medicine and dentistry; provided, that nothing herein prevents a student from changing majors within acceptable science or mathematics disciplines.

(C) The Commission on Higher Education shall by regulation define what constitutes an education major for purposes of this section, applicable beginning with the 2024-2025 School Year to persons who did not receive a LIFE Scholarship stipend before the 2024-2025 School Year. This definition of an education major must include, in addition to other subjects considered appropriate by the commission, (1) mathematics education majors, (2) science education majors, and (3) students who major in mathematics, science, or another subject and obtain teacher certification in a subject area related to their major prior to completion of their undergraduate degree. Additionally, the commission shall set forth eligibility criteria that the student shall meet to receive a LIFE Scholarship stipend, which must include a contractual requirement, including a default provision, that the stipend recipient shall upon graduation work in a South Carolina public school for at least

one school year for every year the stipend is received.

(D) A person who qualified for the LIFE Scholarship stipend before the 2024-2025 School Year:

(1) shall remain so qualified and eligible for the LIFE Scholarship stipend on that basis, notwithstanding revisions in eligibility criteria applicable beginning with the 2024-2025 School Year; and

(2) is exempt from the contractual work requirement of education majors in subsection (C).

(E) The Commission on Higher Education annually shall communicate with high school guidance counselors regarding the list of qualifying majors in this section.

Palmetto Fellows Scholarship stipend recipients, education majors added

SECTION 2. Section 59-104-25(A) and (B) of the S.C. Code is amended to read:

(A) A resident student who is at least a sophomore attending a four-year public or private institution of higher learning in this State, who is majoring in education, science, or mathematics as defined below, and who is receiving a Palmetto Fellows Scholarship for the current year, shall receive an additional Palmetto Fellows Scholarship stipend equal to the cost of attendance after applying all other scholarships or grants, not to exceed three thousand three hundred dollars each year for no more than three additional years of instruction, including his sophomore year, if the student enrolled in a four-year degree program, or for not more than four additional years of instruction, including his sophomore year, if enrolled in a five-year degree program or a 3 plus 2 program. A year is defined as thirty credit hours of instruction or its equivalent each year. To receive the additional Palmetto Fellows Scholarship stipend each year, the student must receive the underlying Palmetto Fellows Scholarship for that year and must be making acceptable progress each year toward receiving a degree in his education, science, or mathematics major. In addition, during his freshman year, the student majoring in science or mathematics must have successfully completed a total of at least fourteen credit hours of instruction in mathematics courses, or life and physical science courses, or a combination of both. For purposes of meeting the required minimum level of instruction in mathematics and life and physical science courses during a student’s freshman year, advanced placement courses in mathematics and life and physical sciences taken in high school on which the student scored high enough

on the advanced placement test to receive credit at his institution and for which he received credit, count toward the fulfillment of this minimum requirement.

(B) The Commission on Higher Education by regulation shall define what constitutes a science or mathematics major, applicable beginning with the 2024-2025 School Year to persons who did not receive a Palmetto Fellows Scholarship stipend before the 2024-2025 School Year. This definition of a science or mathematics major must include, at a minimum, majors in science or mathematics disciplines, computer science or informational technology, engineering, accounting, and health care and related disciplines including medicine and dentistry; provided, that nothing herein prevents a student from changing majors within acceptable science or mathematics disciplines.

(C) The Commission on Higher Education shall by regulation define what constitutes an education major for purposes of this section, applicable beginning with the 2024-2025 School Year to persons who did not receive a Palmetto Fellows Scholarship stipend before the 2024-2025 School Year. This definition of an education major must include, in addition to other subjects considered appropriate by the commission, (1) mathematics education majors, (2) science education majors, and (3) students who major in mathematics, science, or another subject and obtain teacher certification in a subject area related to their major prior to completion of their undergraduate degree. Additionally, the commission shall set forth eligibility criteria that the student shall meet to receive a Palmetto Fellows Scholarship stipend, which must include a contractual requirement, including a default provision, that the stipend recipient shall upon graduation work in a South Carolina public school for at least one school year for every year the stipend is received.

(D) A person who qualified for the Palmetto Fellows Scholarship stipend before the 2024-2025 School Year:

(1) shall remain so qualified and eligible for the Palmetto Fellows Scholarship stipend on that basis, notwithstanding revisions in eligibility criteria applicable beginning with the 2024-2025 School Year; and

(2) is exempt from the contractual work requirement of education majors in subsection (C).

(E) The Commission on Higher Education annually shall communicate with high school guidance counselors regarding the list of qualifying majors in this section.

LIFE Scholarship eligibility, ACT scores, future minimum score adjustments

SECTION 3. Section 59-149-50(A) of the S.C. Code is amended to read:

(A)(1) To be eligible for a LIFE Scholarship, a student must be either a student who has graduated from a high school located in this State, a student who has completed at least three of the final four years of high school within this State, a home school student who has successfully completed a high school home school program in this State in the manner required by law, a student who has graduated from a preparatory high school outside this State, while a dependent of a parent or guardian who is a legal resident of this State and has custody of the dependent, or a student whose parent or guardian has served in or has retired from one of the United States Armed Forces within the last four years, paid income taxes in this State for a majority of the years of service, and is a resident of this State. These students also must meet the requirements of subsection (B) and be eligible for in-state tuition and fees as determined pursuant to Chapter 112, Title 59 and applicable regulations. In addition, the student must have graduated from high school with a minimum of a 3.0 cumulative grade average on a 4.0 scale and, subject to modification as provided in item (2), have scored 1100 or better on the Scholastic Aptitude Test (SAT) or have the equivalent ACT score as determined by the Commission on Higher Education; provided that, if the student is to attend such a public or independent two-year college or university in this State, including a technical college, the SAT/ACT requirement does not apply. If a student chooses to attend such a public or independent institution of this State and does not make the required SAT/ACT score or the required high school grade point average, as applicable, the student may earn a LIFE Scholarship after his freshman year if he meets the grade point average and semester credit hour requirements of subsection (B). For the purpose of meeting the rank criteria pursuant to this section, the existing high school rank of a South Carolina resident attending an out-of-state high school may be used provided it is calculated pursuant to a state-approved, standardized grading scale at the respective out-of-state high school. If the Commission on Higher Education determines that a state-approved standardized grading scale substantially deviates from the South Carolina Uniform Grading Scale, the state-approved standardized grading scale shall not be used to meet the eligibility requirements for the LIFE Scholarship.

(2) After the 2024-2025 School Year, if the scoring scale range of

the SAT is changed, the Commission on Higher Education shall adjust the minimum SAT/ACT score required in item (1) in order to maintain a minimum scoring requirement that is the functional equivalent of the 2024-2025 standards. In determining whether the SAT/ACT score of an applicant meets the minimum requirements of this section after such an adjustment is made, a college or university shall apply the minimum scoring requirement in effect on the date that the test was taken.

Palmetto Fellows Scholarships, use at two-year and four-year institutions

SECTION 4. Section 59-104-20(H) of the S.C. Code is amended to read:

(H) Notwithstanding another provision of law, a student who met the initial eligibility requirements to receive a Palmetto Fellows Scholarship Award as a senior in high school and has met the continuing eligibility requirements shall receive the award. A student who received a Palmetto Fellows Scholarship Award as a senior in high school but declined the award is eligible to reapply for the annual scholarship, providing he meets all of the initial and continuing academic eligibility requirements of the Palmetto Fellows program, if he transfers to a qualifying South Carolina institution of higher learning. The number of semesters or academic years a student attended an out-of-state institution are to be deducted from the number of semesters or academic years a student is eligible for the scholarship. All funding provided for Palmetto Fellows Scholarships regardless of its source or allocation must be used to implement the provisions of this subsection. A student who uses a Palmetto Fellows Scholarship to attend an eligible two-year institution shall receive a maximum of four continuous semesters, and may continue to use the scholarship to attend an eligible four-year institution, subject to the maximum number of semesters for which the student may be eligible for the scholarship.

Time effective

SECTION 5. This act takes effect July 1, 2024.

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 157

(R179, S207)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 22 TO CHAPTER 23, TITLE 57 SO AS TO CREATE THE PIEDMONT GATEWAY SCENIC BYWAY AND TO IDENTIFY THE THREE SEGMENTS THAT COMPRISE THE BYWAY.

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

Piedmont Gateway Scenic Byway

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

Article 22

Piedmont Gateway Scenic Byway

Section 57-23-1160. (A) The Piedmont Gateway Scenic Byway is hereby created and is comprised of three segments. Segment 1 begins at the intersection of S.C. 34 and Coleman Highway near the Ridgeway town limits and proceeds along Dogwood Street, turns east on Ruff Street and then north on Palmer Street (U.S. 21), ending at the intersection of Palmer Street and Thomas Street (S.C. 34). Segment 2 begins at the intersection of Palmer Street and Thomas Street (S.C. 34) and continues 15 miles north on U.S. 21, ending at the intersection with Camp Welfare Road (S-20-20). Segment 3 is a 10-mile section that begins at the intersection of Camp Welfare Road (S-20-20) and U.S. 21 and travels west across I-77 and S.C. 200, where it becomes Mobley Highway (S-20-20). In White Oak, the segment intersects a 1-mile section of Bull Run Road (S-20-44), stretching from the intersection of Bull Run Road and Patrick Road to the intersection of Bull Run Road and U.S. 321 at the western terminus.

(B) The Department of Transportation shall install appropriate markers or signs to implement these designations.

(C) The Piedmont Gateway is subject to the regulations promulgated

by the South Carolina Department of Transportation and the South Carolina Scenic Highways Committee.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 158

(R181, S408)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-75-250, RELATING TO THE LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND LICENSED PSYCHO-EDUCATIONAL SPECIALISTS, SO AS TO REQUIRE CONTINUING EDUCATION IN SUICIDE ASSESSMENT, TREATMENT, AND MANAGEMENT; BY AMENDING SECTION 40-75-540, RELATING TO REGULATIONS FOR CONTINUING EDUCATION REQUIREMENTS FOR PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND LICENSED PSYCHO-EDUCATIONAL SPECIALISTS, SO AS TO REQUIRE CONTINUING EDUCATION IN SUICIDE ASSESSMENT, TREATMENT, AND MANAGEMENT; AND BY AMENDING SECTION 40-63-250, RELATING TO THE LICENSURE OF SOCIAL WORKERS, SO AS TO REQUIRE CONTINUING EDUCATION IN SUICIDE ASSESSMENT, TREATMENT, AND MANAGEMENT.

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

Professional counselors and related licensees, continuing education requirement

SECTION 1. Section 40-75-250 of the S.C. Code is amended to read:

Section 40-75-250. (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.

(B) A person licensed under this chapter must display the license in a prominent and conspicuous place in the primary place of practice.

(C) Licenses issued under this chapter must be renewed every two years upon the payment of a renewal fee and upon the fulfillment of continuing education as determined by the board in regulation.

(D) A person licensed under this chapter must receive at least one hour of continuing education in suicide assessment, treatment, and management treatment, which may be completed virtually, as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

(E) A licensee who allows the license to lapse by failing to renew the license as provided in this section may be reinstated by the board upon payment of a reinstatement fee and the current renewal fee. The board, by regulation, may impose additional requirements for reinstatement.

Professional counselors and related licensees, continuing education regulations

SECTION 2. Section 40-75-540 of the S.C. Code is amended to read:

Section 40-75-540. (A) The board shall promulgate regulations in accordance with Chapter 23, Title 1 (Administrative Procedures Act) establishing requirements for continuing education which must be met by a person licensed as a licensed psycho-educational specialist. An applicant for license renewal shall present evidence satisfactory to the board that continuing education requirements have been met.

(B) A person licensed under this chapter must receive at least one hour of continuing education in suicide assessment, treatment, and

management treatment, which may be completed virtually, as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

Social workers, continuing education requirement

SECTION 3. Section 40-63-250 of the S.C. Code is amended to read:

Section 40-63-250. (A) If an applicant satisfies all licensure requirements required in this chapter, 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 social worker 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.

(B) A licensee under this chapter must display the license in a prominent and conspicuous place in the primary place of practice.

(C) A licensee under this chapter must indicate his or her category of licensure following his or her name or signature on all professional documents.

(D) Licenses issued under this chapter must be renewed every two years upon the payment of a renewal fee and upon the fulfillment of continuing education as determined by the board in regulation.

(E) A person licensed under this chapter must receive at least one contact hour of continuing education in suicide assessment, treatment, and management treatment, which may be completed virtually, as a portion of the total continuing education requirement for license renewal as determined by the board in regulation.

(F) Any licensee who allows his license to lapse by failing to renew the license as provided in this section may be reinstated by the board upon satisfactory explanation by the licensee of his failure to renew his license and upon payment of a reinstatement fee and the current renewal fee to be determined by the board. If a license has lapsed for more than one year, the board may impose further educational requirements for reinstatement. If a license has lapsed for more than two years, the person must reapply for licensure. Any person practicing as a social worker during the time that his license has lapsed has engaged in unlicensed practice and is subject to penalties provided for in Section 40-63-30.

Time effective

SECTION 4. This act takes effect upon approval by the Governor. However, SECTIONS 1, 2, and 3 apply to license renewal cycles ending after 2025.

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 159

(R182, S434)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTIONS 38-78-55 AND 37-6-120 BOTH SO AS TO PROVIDE THAT NO AUTOMATIC RENEWAL PROVISION IN A SERVICE CONTRACT IS ENFORCEABLE UNLESS CERTAIN CONDITIONS ARE MET; AND BY AMENDING SECTIONS 38-78-20 AND 37-1-301, BOTH RELATING TO DEFINITIONS, SO AS TO DEFINE TERMS.

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

Automatic renewal provisions unenforceable unless certain conditions are met

SECTION 1. Chapter 78, Title 38 of the S.C. Code is amended by adding:

Section 38-78-55. No automatic renewal provision in a service contract shall be enforceable against the contract holder unless the contract holder was presented written or electronic notification of that automatic renewal provision not less than thirty days nor more than sixty days before the cancellation deadline required by the automatic renewal provision. This notification shall conspicuously disclose:

(A) that unless the service contract holder cancels the contract, the contract will automatically renew;

(B) the amount that will be charged upon renewal; and

(C) methods by which the service contract holder may obtain details of the automatic renewal provision and cancellation procedure, which shall include a toll-free telephone number, electronic email address, a postal address if the seller directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation.

Automatic renewal provisions unenforceable unless certain conditions are met

SECTION 2. Chapter 6, Title 37 of the S.C. Code is amended by adding:

Section 37-6-120. No automatic renewal provision in a service contract shall be enforceable against the contract holder unless the contract holder was presented written or electronic notification of that automatic renewal provision not less than thirty days nor more than sixty days before the cancellation deadline required by the automatic renewal provision. This notification shall conspicuously disclose:

(A) that unless the service contract holder cancels the contract, the contract will automatically renew;

(B) the amount that will be charged upon renewal; and

(C) methods by which the service contract holder may obtain details of the automatic renewal provision and cancellation procedure, which shall include a toll-free telephone number, electronic email address, a postal address if the seller directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation.

Definitions

SECTION 3. Section 38-78-20 of the S.C. Code is amended by adding:

(18) “Automatic renewal provision” means a provision under which a service contract is renewed for a specified period of more than one month if the renewal causes the service contract to be in effect more than six months after the day of the initiation of the service contract. Such renewal is effective unless the consumer gives notice to the seller of the consumer’s intention to terminate the service contract. This term does not include a contract renewal for services provided by a telecommunications carrier or its affiliate when either the carrier or the affiliate is regulated by the South Carolina Public Service Commission or the Federal Communications Commission.

Definitions

SECTION 4. Section 37-1-301 of the S.C. Code is amended by adding:

(31) "Automatic renewal provision" means a provision under which a service contract is renewed for a specified period of more than one month if the renewal causes the service contract to be in effect more than six months after the day of the initiation of the service contract. Such renewal is effective unless the consumer gives notice to the seller of the consumer's intention to terminate the service contract. This term does not include a contract renewal for services provided by a telecommunications carrier or its affiliate when either the carrier or the affiliate is regulated by the South Carolina Public Service Commission or the Federal Communications Commission. This term also does not include a contract renewal for services provided by any broadband entity covered by Act 175 of 2020, known as the Broadband Accessibility Act.

(32) "Service contract" means a written contract for the performance of services over a fixed period of time or for a specified duration. This term does not include service contracts sold or offered for sale to persons other than a natural person or an individual for personal, family, or household purposes and does not include contracts for services provided by an entity incorporated under Chapter 49, Title 33.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 160

(R183, S445)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 2 TO CHAPTER 49, TITLE 44 SO AS TO REQUIRE THE DEPARTMENT OF ALCOHOL AND

OTHER DRUG ABUSE SERVICES TO APPROVE A CREDENTIALING ENTITY TO DEVELOP AND ADMINISTER A VOLUNTARY CERTIFICATION PROGRAM FOR RECOVERY HOUSING; TO REQUIRE THE APPROVED CREDENTIALING ENTITY TO ESTABLISH RECOVERY HOUSING CERTIFICATION REQUIREMENTS AND PROCEDURES BASED UPON NATIONALLY RECOGNIZED QUALITY STANDARDS; AND TO DESIGNATE THE EXISTING SECTIONS OF CHAPTER 49 AS ARTICLE 1, ENTITLED "GENERAL PROVISIONS".

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

Certification of recovery housing

SECTION 1. Chapter 49, Title 44 of the S.C. Code is amended by adding:

Article 2

Certification of Recovery Housing

Section 44-49-310. The General Assembly finds that a person suffering from an alcohol or substance use disorder has a higher success rate of achieving long-term recovery when given the opportunity to build a stronger foundation by living in recovery housing that meets nationally recognized quality standards. The General Assembly finds further that this State and its subdivisions have a legitimate state interest in protecting these persons, who represent a vulnerable consumer population in need of adequate housing. It is the intent of the General Assembly to protect persons who reside in recovery housing by creating a voluntary certification program for such recovery housing.

Section 44-49-320. For purposes of this article:

(1) "Credentialing entity" means an organization approved pursuant to this article to certify recovery housing.

(2) "Department" means the Department of Alcohol and Other Drug Abuse Services.

(3) "Recovery housing" means recovery residences, recovery homes, sober-living homes, work-rehab homes, three-quarter houses, and other similar dwellings that provide individuals recovering from alcohol and substance use disorders with a living environment free from alcohol and

illicit substance use and centered on peer support and connection to services that promote sustained recovery, including continued sobriety, improved individual health, residential stability, and positive community involvement. Recovery housing does not include treatment facilities as defined in Section 44-52-10.

Section 44-49-330. (A) The department shall approve one credentialing entity within six months of the effective date of this article, for the purpose of developing and administering a voluntary certification program for organizations operating recovery housing and administrators of recovery housing. The department is authorized to suspend or revoke the approval of a credentialing entity if the department determines, in its sole discretion, that the credentialing entity has not followed the requirements of this article or protocols and guidance established by the department. In such circumstances, the department shall approve a successor credentialing entity on either an interim or permanent basis.

(B) The department shall establish protocols and guidance requiring that the credentialing entity establish recovery housing certification requirements consistent with nationally recognized quality standards, such as the standards established by the National Alliance for Recovery Residences (NARR) or Oxford House. The department is authorized to amend such protocols and guidance from time to time as the department deems necessary.

(C) The credentialing entity shall determine standards for recovery housing in consultation with the department. Different standards for different classifications or categories of recovery housing are permissible; however, at a minimum, standards for all classifications or categories must require recovery housing to:

(1) have a clear mission and vision, with forthright legal and ethical codes, including the requirement to be financially honest with prospective residents;

(2) be recovery-oriented and prohibit the use of alcohol or illicit drugs;

(3) have a role for peers to staff and govern the housing;

(4) permit and provide for access to all evidence-based recovery treatments including, but not limited to, medication assisted treatment;

(5) have safeguards in place to uphold residents' rights;

(6) assist residents in finding suitable employment; and

(7) assist residents who desire to relocate upon completion of the recovery program with relocation assistance services.

(D) The department shall publish a registry of the names of all

certified recovery housing on its website. The registry must be updated at least every sixty days.

Section 44-49-340. A state agency, an employee or agent of a state agency, or a vendor with a state contract that provides services for prevention and treatment of alcohol and substance use disorders, may not refer a person to recovery housing unless the recovery housing is certified pursuant to this article.

Section 44-49-350. Unless the recovery housing is certified pursuant to this article, residency in such recovery housing may not:

(1) be made part of any criminal sentence or made a condition of probation by a court having criminal jurisdiction in this State;

(2) be made a condition of any bond set by a court having criminal jurisdiction in this State; or

(3) be made a condition of reentry, supervision, probation, or parole by the Department of Probation, Parole and Pardon Services.

Section 44-49-360. Nothing in this article prohibits recovery housing that has not received certification from operating or advertising as recovery housing or from offering residence to persons recovering from substance use disorders.

Section 44-49-370. It is unlawful for an owner or operator of recovery housing that is not certified pursuant to this article to advertise or otherwise represent that such recovery housing is certified pursuant to this article. An owner or operator of recovery housing who violates this section is subject to a civil penalty of not less than one hundred dollars nor more than five hundred dollars per occurrence.

Designation of code provisions

SECTION 2. Sections 44-49-10 through 44-49-80 are designated as Article 1, entitled “General Provisions”.

Time effective

SECTION 3. This act takes effect upon approval by the Governor, except Sections 44-49-340 and 44-49-350, which take effect eighteen months after approval by the Governor.

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 161

(R184, S455)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-29-230, RELATING TO TESTING REQUIRED WHEN A HEALTH CARE WORKER IS EXPOSED TO BLOODBORNE DISEASE, SO AS TO REPLACE REFERENCES TO PHYSICIAN WITH HEALTH CARE PROFESSIONALS, TO INCLUDE DENTISTS IN THE DEFINITION OF HEALTH CARE PROFESSIONALS, AND TO ADD HEPATITIS C TO THE LIST OF BLOODBORNE DISEASES.

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

Testing for bloodborne diseases

SECTION 1. Section 44-29-230 of the S.C. Code is amended to read:

Section 44-29-230. (A) While working with a person or a person's blood or body fluids, if a health care worker or emergency response employee is involved in an incident resulting in possible exposure to bloodborne diseases, and a health care professional based on reasonable medical judgment has cause to believe that the incident may pose a significant risk to the health care worker or emergency response employee, the health care professional may require the person, the health care worker, or the emergency response employee to be tested without his consent.

(B) The test results must be given to the health care professional who shall report the results and assure the provision of post-test counseling to the health care worker or emergency response employee, and the person who is tested. The test results also shall be reported to the Department of Health and Environmental Control in a manner prescribed

by law.

(C) No physician, hospital, or other health care provider may be held liable for conducting the test or the reporting of test results under this section.

(D) For purposes of this section:

(1) "Person" means a patient at a health care facility or health care professional's office, an inmate at a state or local correctional facility, an individual under arrest, or an individual in the custody of or being treated by a health care worker or an emergency response employee.

(2) "Emergency response employee" means firefighters, law enforcement officers, paramedics, emergency medical technicians, medical residents, medical trainees, trainees of an emergency response employee as defined herein, and other persons, including employees of legally organized and recognized volunteer organizations without regard to whether these employees receive compensation, who in the course of their professional duties respond to emergencies.

(3) "Bloodborne diseases" means Hepatitis B, Hepatitis C, or Human Immunodeficiency Virus infection, including Acquired Immunodeficiency Syndrome.

(4) "Significant risk" means a finding of facts relating to a human exposure to an etiologic agent for a particular disease, based on reasonable medical judgments given the state of medical knowledge, about the:

(a) nature of the risk;

(b) duration of the risk;

(c) severity of the risk;

(d) probabilities the disease will be transmitted and will cause varying degrees of harm.

(5) "Health care professional" means a physician, a dentist, an epidemiologist, or infection control practitioner.

(6) "Health care worker" means a person licensed as a health care provider under Title 40, a person registered under the laws of this State to provide health care services, an employee of a health care facility as defined in Section 44-7-130(10), or an employee in a health care professional's office.

(E) The cost of any test conducted under this section must be paid by the:

(1) person being tested;

(2) State in the case of indigents; or

(3) public or private entity employing the health care worker or emergency response employee if the cost is not paid pursuant to subitems (1) and (2) above.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 162

(R186, S558)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 44-31-40 SO AS TO PROVIDE THE PROCEDURE FOR THE TUBERCULOSIS TESTING OF APPLICANT RESIDENTS AND NEWLY ADMITTED RESIDENTS OF NURSING HOMES AND COMMUNITY RESIDENTIAL CARE FACILITIES IN THIS STATE.

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

Tuberculosis testing, congregate care facilities

SECTION 1. Article 1, Chapter 31, Title 44 of the S.C. Code is amended by adding:

Section 44-31-40. (A) A nursing home or community residential care facility as defined in Section 44-7-130 shall:

(1) prior to the admission of a new resident, request and receive a written declaration from an authorized health care provider that, based upon medical examination of the applicant resident, the applicant resident has no signs or symptoms of active tuberculosis;

(2) within three days of a resident's admission to the nursing home or community residential care facility from a hospital, as defined in Section 44-7-130, administer the first step of the two-step tuberculin skin test to the resident; and

(3) within fourteen days of that resident's admission, administer the second step of the tuberculin skin test to the resident.

(B)(1) The nursing home or community residential care facility may substitute a single blood assay for mycobacterium tuberculosis for a two-step tuberculin skin test; or

(2) administer a single tuberculin skin test or single blood assay for mycobacterium tuberculosis within fourteen days of the resident's admission from a hospital if the nursing home or community residential care facility has documentation that within the twelve-month period prior to admission, the resident obtained a negative tuberculin skin test or a negative single blood assay for mycobacterium tuberculosis.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 163

(R189, S728)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 23-9-197, RELATING TO THE "FIREFIGHTER CANCER HEALTH CARE BENEFIT PLAN", SO AS TO PROVIDE THAT THE DEFINITION OF "FIREFIGHTER" SHALL INCLUDE NONRESIDENTS OF SOUTH CAROLINA WHO WORK IN THE STATE, AND TO PROVIDE THAT THE PLAN PROVIDES A SUPPLEMENTAL INSURANCE POLICY UPON A FIREFIGHTER BEING DIAGNOSED WITH CANCER ON OR AFTER JULY 1, 2021.

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

Definitions

SECTION 1. Section 23-9-197(A)(3) of the S.C. Code is amended to read:

(3) "Firefighter" means any person, paid or unpaid, who engages in rescue, fire suppression, or related activities, under the supervision of a fire chief or fire department in this State or who is employed by the State Commission of Forestry, South Carolina State Fire, or a forestry district for the purpose of fire protection.

Firefighter Cancer Health Care Benefit Plan

SECTION 2. Section 23-9-197(B) of the S.C. Code is amended to read:

(B) There is established the "Firefighter Cancer Health Care Benefit Plan" to provide a supplemental insurance policy upon a firefighter being diagnosed with cancer on or after July 1, 2021. The plan shall provide benefits to a firefighter only if the firefighter has served in a South Carolina fire department for at least five continuous years and been in active service within ten years of the diagnosis.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 164

(R190, S858)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-7-130, RELATING TO HEALTH CARE FACILITY LICENSURE DEFINITIONS, SO AS TO ADD A DEFINITION FOR "ACUTE HOSPITAL CARE AT HOME"; BY AMENDING SECTION 44-7-170, RELATING TO CERTIFICATE OF NEED PROGRAM EXEMPTIONS, SO AS TO EXEMPT ACUTE HOSPITAL CARE AT-HOME PROGRAMS AND SERVICES; BY ADDING SECTION 44-7-267 SO AS TO REQUIRE THE DEPARTMENT OF HEALTH AND

ENVIRONMENTAL CONTROL TO PROMULGATE REGULATIONS FOR LICENSING ACUTE HOSPITAL CARE AT HOME PROGRAMS AND SERVICES; AND BY AMENDING SECTION 44-69-75, RELATING TO HOME HEALTH AGENCIES, SO AS TO MAKE TECHNICAL CHANGES.

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

Definitions

SECTION 1. Section 44-7-130 of the S.C. Code is amended by adding:

(25) "Acute hospital care at home" means acute-level hospital care to treat a subset of diagnoses that respond safely and effectively to home-based acute care, utilizing technology to provide continuous remote patient monitoring and connectivity to the patient and developing in-home services to ensure the same level of care in the home as in a traditional hospital stay as well as patient safety. Acute hospital care at home must be provided by a hospital licensed in this State pursuant to this article to eligible patients who have provided consent to such care, utilizing a multidisciplinary team to deliver the care.

Certificate of need exemptions

SECTION 2. Section 44-7-170(A) of the S.C. Code is amended to read:

(A) The following are exempt from Certificate of Need review:

(1) the relocation of a licensed hospital in the same county in which the hospital is currently located, as long as:

(a) any Certificate of Need issued to the hospital for a project to be located at the hospital's existing location has been fulfilled, withdrawn, or has expired in accordance with Section 44-7-230 and the department's implementing regulations; and

(b) the proposed site of relocation is utilized in a manner that furthers health care delivery and innovation for the citizens of the State of South Carolina;

(2) the purchase, merger, or otherwise the acquisition of an existing hospital by another person or health care facility;

(3) crisis stabilization unit facilities. Notwithstanding subsection (C), crisis stabilization unit facilities will not require a written exemption from the department;

(4) acute hospital care at-home programs and services delivered by

a licensed acute care hospital. The delivery of acute hospital care at-home programs and services by a licensed acute care hospital does not require a written exemption from the department. Additionally, patients enrolled in the hospital care at-home program shall not be considered within the licensed bed capacity of the hospital participating in the program.

Regulations

SECTION 3. Article 3, Chapter 7, Title 44 of the S.C. Code is amended by adding:

Section 44-7-267. The department shall promulgate regulations for licensing an acute care hospital's acute hospital care at-home programs and services. At a minimum, the regulations must address:

(1) diagnoses that respond safely and effectively to home-based acute care;

(2) patient eligibility criteria and screening requirements, including patient consent;

(3) multidisciplinary team requirements, including roles and responsibilities of team members;

(4) standards for continuous remote patient monitoring and connectivity with the patient;

(5) standards for the development of in-home services to ensure same level of care in the home as in a traditional hospital stay; and

(6) standards for patient safety.

Home health agencies

SECTION 4. Section 44-69-75 of the S.C. Code is amended to read:

Section 44-69-75. (A) A home health agency shall obtain a Certificate of Need before licensure. Procedures for applying for a certificate must be in accordance with the "State Certification of Need and Health Facility Licensure Act". No certificate is required for home health agencies providing home health services before July 1, 1980.

(B)(1) A continuing care retirement community licensed pursuant to Title 37, Chapter 11, may provide home health services and is exempt from subsection (A) if:

(a) the continuing care retirement community furnishes or offers to furnish home health services only to residents who reside in living units provided by the continuing care retirement community pursuant to

a continuing care contract;

(b) the continuing care retirement community maintains a current license and meets applicable home health agency licensing standards;

(c) residents of the continuing care retirement community may choose to obtain home health services from other licensed home health agencies.

(2) Staff from other areas of the continuing care retirement community may deliver the home health services, but at no time may staffing levels in any area of the continuing care retirement community fall below minimum licensing standards or impair the services provided.

(3) If the continuing care retirement community includes charges for home health services in its base contract, it is prohibited from billing additional fees for those services. Continuing care retirement communities certified for Medicare or Medicaid, or both, must comply with governmental reimbursement requirements concerning charges for home health services.

(4) For purposes of this subsection "resident", "living unit", and "continuing care contract" have the same meanings as provided in Section 37-11-20.

(C) Subsection (B) applies only to multi-level continuing care retirement communities which incorporate a skilled nursing facility.

(D) The continuing care retirement community shall not bill in excess of its costs. These costs will be determined on nonfacility-based Medicare and/or Medicaid standards.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 165

(R191, S881)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 28 TO TITLE 27 SO AS TO ENACT THE "PROHIBITION OF UNFAIR REAL ESTATE SERVICE AGREEMENTS ACT"; AND TO MAKE THE PROHIBITIONS EFFECTIVE FOR ANY UNFAIR REAL ESTATE SERVICE AGREEMENTS THAT ARE RECORDED ON THE EFFECTIVE DATE OF THIS ACT OR THAT ARE EXECUTED, MODIFIED, EXTENDED, OR AMENDED ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.

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

Prohibition of unfair real estate service agreements

SECTION 1. Title 27 of the S.C. Code is amended by adding:

CHAPTER 28

Prohibition of Unfair Real Estate Service Agreements

Section 27-28-10. This chapter may be cited as the "Prohibition of Unfair Real Estate Service Agreements Act".

Section 27-28-20. (A) This chapter is intended to prohibit the use of real estate service agreements that are unfair to an owner of residential real estate or to other persons who may become owners of that real estate in the future. This chapter also prohibits the recording of such residential real estate service agreements so that the public records will not be clouded by them and provides remedies for owners who are inconvenienced or damaged by the recording of such agreements.

(B) As used in this chapter:

(1) "Person" means any individual, partnership, corporation, company, or association.

(2) "Real estate service agreement" means a written contract between a service provider and the owner or potential buyer of residential real estate to provide services, current or future, in connection with the maintenance, purchase, or sale of residential real estate.

(3) "Residential real estate" means real property located in this State

which is used primarily for personal, family, or household purposes.

(4) "Service provider" means a person who provides a service related to residential real estate, including a real estate broker.

(5) "Unfair real estate service agreement" means a real estate service agreement that violates Section 27-28-30 or Section 27-28-40.

Section 27-28-30. (A) A real estate service agreement is unfair, void, and in violation of this chapter if the agreement is to be in effect for more than one year and either expressly or implicitly aims to do any of the following:

(1) run with the land or bind future owners of residential real estate identified in the real estate service agreement;

(2) allow for the assignment of the right to provide services without notice or consent of the owner or buyer; or

(3) create a lien, encumbrance, or other real property security interest.

(B) A service provider has no right to a refund of the consideration paid to the owner or buyer in connection with an unfair real estate service agreement.

(C) This chapter does not apply to the following types of agreements:

(1) a home warranty or other type of similar product that covers the cost of maintenance of a major housing system, such as plumbing or electrical wiring, for a set period of time from the date a house is sold;

(2) an insurance contract;

(3) an option to purchase contract executed with a lease agreement or a contract for a deed;

(4) a declaration created pursuant to Chapters 30 (Homeowner Association Act), 31 (Horizontal Property Act), and 32 (Vacation Time Share Plan) of this title or created pursuant to Chapter 31 of Title 33 (Nonprofit Corporation Act);

(5) a maintenance or repair agreement entered into by a homeowners association in a common interest community;

(6) a security agreement under Title 36 (the Uniform Commercial Code) relating to the sale or rental of personal property or fixtures;

(7) the provision of water, sewer, electrical, telephone, cable, natural gas, propane, fuel oil, or other regulated utility service;

(8) a property management contract; or

(9) any actions regarding mechanics', laborers', or materialmen's liens or commercial real estate broker liens.

Section 27-28-40. (A) Any recorded unfair real estate service agreement or notice or memorandum of an unfair real estate service agreement is void.

(B) All the following shall apply to a recording that is void under subsection (A):

(1) The recording shall not operate as a lien, encumbrance, or security interest.

(2) No owner or buyer shall be required to record any document voiding the recording.

(3) The recording shall not provide actual or constructive notice to any person interested in the residential real estate that is identified in the unfair real estate service agreement.

(C) In addition to any other rights provided by law, any person with an interest in residential real estate identified by a recording that is void under subsection (A) may recover damages, costs, and attorney's fees that may be proved against the service provider named in the unfair real estate service agreement. Any actual damages, costs, and attorney's fees that are proved against the service provider are not offset by the consideration paid by the service provider to the owner or buyer of the residential real estate.

Section 27-28-50. In addition to any other rights provided by law, a violation of this chapter constitutes an unfair trade practice under Chapter 5 of Title 39, the South Carolina Unfair Trade Practices Act. Any party aggrieved by a violation of this chapter may bring a cause of action against the service provider and is entitled to the relief available in Section 39-5-140. Any recoveries available under Section 39-5-140 against the service provider are not offset by the consideration paid by the service provider to the owner or buyer in connection with the unfair real estate service agreement. The Attorney General is empowered to enforce this chapter as allowed by Chapter 5 of Title 39.

Time effective

SECTION 2. This act takes effect upon approval by the Governor and applies to any unfair real estate service agreements that are recorded on the effective date of this act or that are executed, modified, extended, or amended on or after the effective date of this act.

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 166

(R192, S962)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 38-71-2330, RELATING TO DUTIES OF PHARMACY SERVICE ADMINISTRATIVE ORGANIZATIONS, SO AS TO REMOVE THE REQUIREMENT THAT PHARMACY SERVICE ADMINISTRATIVE ORGANIZATIONS MUST ACT AS FIDUCIARIES TO PHARMACIES.

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

Duties of pharmacy service administrative organizations

SECTION 1. Section 38-71-2330(A)(1) of the S.C. Code is amended to read:

(1) perform its duties to a pharmacy exercising good faith and fair dealing;

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 167

(R193, S968)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-1-80, RELATING TO APPLICATIONS FOR DRIVERS' LICENSES OR PERMITS, SO AS TO ALLOW APPLICANTS TO VOLUNTARILY DISCLOSE THEIR BLOOD TYPES, ALLOW THEIR BLOOD TYPES TO BE DISCLOSED ON DRIVERS' LICENSES AND PERMITS, AND TO PROVIDE NO CAUSE OF ACTION MAY ARISE NOR LIABILITY BE IMPOSED ON CERTAIN PERSONS WHEN INACCURATE BLOOD TYPES ARE INDICATED ON DRIVERS' LICENSES AND PERMITS.

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

Driver's license and permit applications

SECTION 1. Section 56-1-80 of the S.C. Code is amended to read:

Section 56-1-80. (A) An application for a driver's license or permit must:

(1) be made upon the form furnished by the department;

(2) be accompanied by the proper fee and acceptable proof of date and place of birth;

(3) contain the full name, date of birth, sex, race, and residence address of the applicant and briefly describe the applicant;

(4) state whether the applicant has been licensed as an operator or chauffeur and, if so, when and by what state or country;

(5) state whether a license or permit has been suspended or revoked or whether an application has been refused and, if so, the date of and reason for the suspension, revocation, or refusal;

(6) allow an applicant voluntarily to disclose a permanent medical condition, provided that the disclosure is made on a form prescribed by the department and includes a certification from a physician licensed in this State, as defined in Chapter 47, Title 40 that affirms the existence of the medical condition. The medical condition must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The motor vehicle record of a driver may not contain more than three permanent medical conditions unless item (8) or (9) applies;

(7) allow an applicant voluntarily to disclose that he is an organ and tissue donor, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record;

(8) allow an applicant voluntarily to disclose that he is autistic, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The applicant must provide documentation that he is autistic from a physician licensed in this State, as defined in Section 40-47-20(35);

(9) allow an applicant voluntarily to disclose blood type, provided that the disclosure is made on a form prescribed by the department and includes a certification from a physician or medical provider. Blood type must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The department may use the same symbol used to indicate voluntary disclosure of a permanent medical condition; and

(10) include a statement that certain driver's license and driver's record information may be released, upon request, pursuant to subsection (B).

(B)(1) The information contained on a driver's license and in the driver's department records pertaining to a person's permanent medical condition, as provided for in subsection (A)(6) or (8), or blood type, as provided for in subsection (A)(9), must be made available, upon request only to:

(a) law enforcement, emergency medical services, and hospital personnel;

(b) the medical advisory board pursuant to Section 56-1-221;

(c) permitted entities pursuant to the Driver Privacy Protection Act, 18 U.S.C. 2721; and

(d) the person to whom the records of the permanent medical condition applies.

(2) The information contained on a driver's license and in the driver's department records pertaining to a person's organ and tissue donor status, as provided for in subsection (A)(7), must be made available, upon request only to:

(a) law enforcement, emergency medical services, and hospital personnel; and

(b) the South Carolina Donor Referral Network, as provided for in Section 44-43-910.

(3) The information contained on a driver's license and in the driver's department records pertaining to a person's permanent medical condition, as provided for in subsection (A)(6) or subsection (8), and pertaining to a person's organ and tissue donor status, as provided for in

subsection (A)(7), or blood type, as provided for in subsection (A)(9), may not be sold and is exempt from disclosure pursuant to Chapter 4, Title 30, the South Carolina Freedom of Information Act.

(4) No cause of action may arise nor may liability be imposed against any person, government entity, or government entity officer, agent, or employee arising from any action taken by any person in reliance upon an inaccurate blood type indicated on a person's driver's license or driver's record when the license holder, physician, or medical provider provided the inaccurate blood type on the forms required pursuant to this section.

(C)(1) Whenever an application is received from a person previously licensed or permitted in another state, the Department of Motor Vehicles may request a copy of the applicant's record from the other state. When received, the record becomes a part of the driver's record in this State with the same effect as though entered on the operator's record in this State in the original instance. Every person who obtains a driver's license or permit for the first time in South Carolina and every person who renews his driver's license or permit in South Carolina must be furnished a written request form for completion and verification of liability insurance coverage.

(2) The completed and verified form or an affidavit prepared by the department showing that neither he, nor a resident relative, owns a motor vehicle subject to the provisions of this chapter, must be delivered to the department at the time the license or permit is issued or renewed.

Time effective

SECTION 2. This act takes effect six months after approval by the Governor.

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 168

(R196, S1005)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-25-1320, RELATING TO MOTOR RESTRICTIONS ON LAKE WILLIAM C. BOWEN, SO AS TO PROHIBIT BOATS, WATERCRAFTS, OR OTHER TYPES OF VESSELS POWERED BY AN OUTDRIVE OR INBOARD MOTOR HAVING AN ENGINE AUTOMOTIVE HORSEPOWER RATING IN EXCESS OF TWO HUNDRED HORSEPOWER AND THAT PERSONAL WATERCRAFT MAY NOT EXCEED ONE HUNDRED NINETY HORSEPOWER; AND BY AMENDING SECTION 50-25-1350, RELATING TO WATER SKIING AND TOWING RESTRICTIONS ON LAKE WILLIAM C. BOWEN, SO AS TO PROHIBIT THE OPERATION OF PERSONAL WATERCRAFT, SPECIALTY PROPCRAFT, OR VESSELS IN EXCESS OF IDLE SPEED WITHIN ONE HUNDRED FEET OF A WHARF, DOCK, BULKHEAD, OR PIER OR WITHIN FIFTY FEET OF A MOORED OR ANCHORED VESSEL OR PERSON IN THE WATER.

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

Motor restrictions on Lake William C. Bowen

SECTION 1. Section 50-25-1320(3) and (4) of the S.C. Code is amended to read:

(3) No boat, watercraft, or any other type of vessel powered by an outdrive or inboard motor having an engine automotive horsepower rating in excess of two hundred horsepower is permitted. This restriction does not apply to towboats which have been approved by the American Waterski Association or any Coast Guard-approved boat commonly referred to as an inboard boat designed by the manufacturer for towing waterskiers with the motor or engine located near the midpoint of the boat between the bow and stern, propeller driven by a single rod drive shaft extending through the hull with the propeller located under the boat in front of a rudder. V-Drive towboats will not be permissible.

(4) Personal watercraft may not exceed one hundred ninety horsepower.

(5) There is no minimum or maximum restriction on length of boats,

watercraft, or any other type of vessel. Boats, watercraft, and other vessels operated for law enforcement, emergency medical services, or dam maintenance and repair are exempted from the restrictions in items (1) and (3) of this section.

Waterskiing and towing restrictions on Lake William C. Bowen

SECTION 2. Section 50-25-1350 of the S.C. Code is amended to read:

Section 50-25-1350. On Lake William C. Bowen it is unlawful to:

(1) operate a personal watercraft, specialty propcraft, or vessel in excess of idle speed within one hundred feet of a wharf, dock, bulkhead, or pier or within fifty feet of a moored or anchored vessel or person in the water;

(2) waterski and tow rafts, discs, or other similar floating devices upstream and west of the Interstate Highway 26 bridge which crosses over Lake William C. Bowen;

(3) pull more than two persons at one time from any boat or to waterski while carrying one or more persons piggyback;

(4) operate any boat, watercraft, or any other type of a vessel between midnight and one hour before sunrise.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 169

(R197, S1021)

AN ACT TO EXTEND THE PROVISIONS OF THE SOUTH CAROLINA ABANDONED BUILDINGS REVITALIZATION ACT TO 2035; TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-67-140, RELATING TO

THE ABANDONED BUILDINGS TAX CREDIT, SO AS TO INCREASE THE AMOUNT OF THE MAXIMUM TAX CREDIT THAT MAY BE EARNED; AND BY ADDING SECTION 12-6-3810 SO AS TO PROVIDE FOR AN INCOME TAX CREDIT EQUAL TO FIFTY PERCENT OF AN ELIGIBLE TAXPAYER'S QUALIFIED RAILROAD RECONSTRUCTION OR REPLACEMENT EXPENDITURES, AND TO PROVIDE FOR THE ADMINISTRATION OF THE TAX CREDIT.

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

Extension of Abandoned Buildings Revitalization Act

SECTION 1. Notwithstanding SECTION 1.B. of Act 57 of 2013, the provisions of Chapter 67, Title 12 of the South Carolina Code are repealed on December 31, 2035.

Maximum abandoned buildings credit

SECTION 2. Section 12-67-140(B)(3)(b) of the S.C. Code is amended to read:

(b) The entire credit earned pursuant to this subsection may not exceed seven hundred thousand dollars for any taxpayer in a tax year for each abandoned building site. The limitation provided in this subitem applies to each unit or parcel deemed to be an abandoned building site.

Short line railroad credits

SECTION 3. A. Article 25, Chapter 6, Title 12 of the S.C. Code is amended by adding:

Section 12-6-3810. (A) As used in this section:

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

(2) "Eligible taxpayer" means any railroad owner located in this State that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(3) "Qualified railroad reconstruction or replacement expenditures" means gross expenditures for maintenance, reconstruction, or replacement of railroad infrastructure, including track, roadbed, bridges, industrial leads and sidings, and track-related

structures owned or leased by a Class II or Class III railroad located in this State.

(B)(1) There is allowed a credit against the tax imposed pursuant to Section 12-6-510, 12-6-530, 12-11-20, or 38-7-20 equal to fifty percent of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures.

(2) For qualified railroad reconstruction or replacement expenditures the amount of the credit may not exceed five thousand dollars multiplied by the number of miles of railroad track owned or leased within this State by the eligible taxpayer as of the close of the taxable year or one million five hundred thousand dollars in any taxable year, whichever is lesser.

(C)(1) Following the completion of qualified railroad reconstruction or replacement expenditures, the eligible taxpayer shall submit to the Department of Commerce a verification of qualified expenditures on a form provided for that purpose by the Department of Commerce. The verification must include a statement certifying:

(a) the status of the owner or lessee of the railroad as an eligible taxpayer;

(b) certification of the miles of railroad track owned or leased in this State;

(c) the qualified railroad reconstruction or replacement work completed; and

(d) a description of the amount of qualified railroad reconstruction or replacement expenditures paid or incurred.

Within thirty days after receipt and approval of the foregoing documentation from the eligible taxpayer, the department shall issue a tax credit certificate in an amount equivalent to the amount of the qualified railroad reconstruction or replacement expenditures incurred by the eligible taxpayer, not to exceed the amount of the tax credits reserved for the project.

(2) At the end of each year, the department shall furnish to the Department of Revenue a list of all eligible taxpayers who have qualified for the credit along with the amount of the credit authorized.

(3) Section 12-54-240 may not apply to any information exchanged between the Department of Commerce and the Department of Revenue relating to the credit allowed pursuant to this section.

(D) The department may adopt rules to implement and administer this section and to enable the certification of the income tax credit amount earned by each eligible taxpayer.

(E) In order to obtain a credit against any state income tax due, an eligible taxpayer shall file the tax credit certificate with the taxpayer's

South Carolina state income tax return.

(F) Any tax credit generated pursuant to the provisions of this section, to the extent not used, may be carried forward for each of the five years following the year of qualification.

(G) The department shall report to the Senate Finance Committee and the House Ways and Means Committee by July 1, 2026, and annually thereafter for the duration of the existence of this program, on the use of the credit, including the number of tax credits applied for and the number of tax credits granted from the qualified railroad reconstruction or replacement expenditures for which tax credits have been allowed.

(H) A member of a railroad construction limited liability company must refrain from competing with the company in the conduct of the company's business before the dissolution of the company. This section does not apply when the member becomes a member of another limited liability company, and that company does not have an enforceable noncompete provision in its operating agreement.

B. This SECTION takes effect upon approval by the Governor and first applies to income tax years beginning after December 31, 2023. The provisions of this act are repealed on December 31, 2028, except that if the credit allowed by Section 12-6-3810, as added by this act, is earned before the repeal, then the provisions of Section 12-6-3810 continue to apply until the credits have been fully claimed.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 170

(R199, S1099)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 7-7-360, RELATING TO DESIGNATION OF VOTING PRECINCTS IN LAURENS COUNTY, SO AS TO REDESIGNATE THE MAP NUMBER ON WHICH THESE PRECINCTS ARE DELINEATED.

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

Precinct boundaries

SECTION 1. Section 7-7-360(B) of the S.C. Code is amended to read:

(B) The precinct lines defining the precincts in subsection (A) are as shown on the official map designated as P-59-24 and on file with the Revenue and Fiscal Affairs Office and as shown on certified copies provided to the Board of Voter Registration and Elections of Laurens County.

Time effective

SECTION 2. This act takes effect January 1, 2025.

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 171

(R208, H3748)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16-11-680, RELATING TO THE UNLAWFUL ALTERATION OR REMOVAL OF BOUNDARY LANDMARKS, SO AS TO CLARIFY THAT THE

SECTION PROHIBITS MALICIOUSLY OR FRAUDULENTLY ALTERING, DESTROYING, OR REMOVING ANY GEODETIC CONTROL MONUMENTS OR PROPERTY CORNER MONUMENTS, TO DEFINE NECESSARY TERMS, AND TO ALLOW RESTITUTION TO BE REQUIRED AS PART OF A PERSON'S SENTENCE FOR A CONVICTION UNDER THIS SECTION.

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

Destruction or removal of geodetic control or property corner monuments

SECTION 1. Section 16-11-680 of the S.C. Code is amended to read:

Section 16-11-680. (A) As used in this section:

(1) "Geodetic control monuments" means those land surveying monuments which are established by federal, state, and local governments, and private entities, the position of which monuments on the earth's surface has been fixed by high-order surveying and computation for use by the land surveyors. Such monuments may be in the form of, but are not limited to, metal, disks set in concrete, rock, or some other fixed permanent object, the horizontal and vertical positions of which have been published by the agency which established the monument and made available to the public as well as to land surveyors and engineers for public use.

(2) "Property corner monuments" means those land surveying monuments which are established by a licensed professional land surveyor to identify property corners or property lines, the location and description of which are made a part of any recorded or unrecorded plat or any instrument pertaining to real property filed in the register of deeds office or other public office of any county of this State. These surveying monuments may be any permanent or semipermanent object or any live or dead tree material including, but not limited to:

(a) iron or steel pipes, rebars, spikes, nails, scribed marks in concrete, or metal rods;

(b) concrete markers, including highway right of way markers;

(c) stone or rock, whether natural or erected;

(d) trees, stumps, stakes, and marks, including those marks made on trees, concrete, or metal;

(e) and such other monuments as may be described in plats, instruments of record, and federal, state, and local law.

(B)(1) It is unlawful for a person to maliciously or fraudulently move, alter, destroy, or remove any certain geodetic control monuments or property corner monuments. Proof that a geodetic control device or property corner monument was unintentionally removed, altered, destroyed, or otherwise tampered with is prima facie evidence of noncriminal intent of the acting party. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not exceeding one hundred dollars or imprisoned not exceeding thirty days, and may be required by the court to make restitution. For the purpose of this section, "restitution" means payment for specific damages and economic losses and expenses sustained by a crime victim resulting from an offender's criminal conduct. Restitution orders do not limit any civil claims a crime victim may file. If the amount of restitution exceeds the magistrates court's limitation on ordering restitution as provided in Section 22-3-550, the court of general sessions has concurrent jurisdiction with the magistrates court and the case may be transferred to the court of general sessions.

(2) The provisions of this subsection do not apply to the authorized removal, alteration, destruction, or movement of geodetic control devices or property corner monuments.

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 15th day of May, 2024

Approved the 20th day of May, 2024

No. 172

(R209, H3776)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY REPEALING SECTION 14-5-130 RELATING TO JUDGES ABSENTING THEMSELVES FROM THE STATE.

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

Circuit court judges absenting

SECTION 1. Section 14-5-130 of the S.C. Code is repealed.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 173

(R210, H3934)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 6-29-1625, RELATING TO FEDERAL DEFENSE FACILITIES DEFINITIONS, SO AS TO ADD CERTAIN INSTALLATIONS TO THE DEFINITION OF "FEDERAL MILITARY INSTALLATIONS".

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

Federal military installations

SECTION 1. Section 6-29-1625(A) of the S.C. Code is amended to read:

(A) For purposes of this article and for the allocation of Base Protection Plan appropriations from the Department of Veterans' Affairs' Military Enhancement Fund, "federal military installations" includes Fort Jackson, Shaw Air Force Base, McEntire Joint National Guard Base, Joint Base Charleston, Beaufort Marine Corps Air Station, Beaufort Naval Hospital, Parris Island Marine Recruit Depot, Fort Eisenhower, U.S. Coast Guard Sector Charleston, North Auxiliary Airfield, and Charleston Naval Weapons Station.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 174

(R213, H4436)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-5-1538, RELATING TO EMERGENCY SCENE MANAGEMENT, SO AS TO PROVIDE DRIVERS ARE RESPONSIBLE FOR MAINTAINING VEHICLE CONTROL IN CERTAIN EMERGENCY CIRCUMSTANCES TO AVOID INTERFERING WITH THE OPERATION OF AUTHORIZED EMERGENCY VEHICLES, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

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

Motorist obligations and emergency scenes

SECTION 1. Section 56-5-1538(F) and (H) of the S.C. Code is amended to read:

(F) The driver of a vehicle shall ensure that the vehicle is kept under control when approaching or passing an emergency scene or authorized emergency vehicle stopped on or near the right-of-way of a street or highway with emergency lights flashing. The exercise of control required for a driver to comply with this section is that control possible and necessary by the driver to prevent a collision, to prevent injury to persons or property, and to avoid interference with the performance of emergency duties by emergency personnel, or interfering with the operation of an authorized emergency vehicle.

(H) A person who violates the provisions of this section is guilty of the misdemeanor of endangering emergency services personnel or operators of authorized emergency vehicles and, upon conviction, must be fined not less than three hundred dollars nor more than five hundred dollars.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 175

(R215, H4594)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-6-40, RELATING TO APPLICATION OF FEDERAL INTERNAL REVENUE CODE TO STATE TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2023 AND TO PROVIDE THAT IF THE INTERNAL REVENUE CODE SECTIONS ADOPTED BY THIS STATE ARE EXTENDED, THEN THESE SECTIONS ALSO ARE EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES.

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

Internal Revenue Code conformity

SECTION 1. Section 12-6-40(A)(1)(a) and (c) of the S.C. Code is amended to read:

(a) Except as otherwise provided, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2023, and includes the effective date provisions contained in it.

(c) If Internal Revenue Code sections adopted by this State which expired or portions thereof expired on December 31, 2023, are extended, but otherwise not amended, by congressional enactment during 2024, these sections or portions thereof also are extended for South Carolina

income tax purposes in the same manner that they are extended for federal income tax purposes.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 176

(R217, H4611)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 50-11-785 SO AS TO PROHIBIT THE UNLAWFUL REMOVAL OR DESTRUCTION OF ELECTRONIC COLLARS OR OTHER ELECTRONIC DEVICES PLACED ON DOGS BY THEIR OWNERS AND TO PROVIDE PENALTIES.

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

Unlawful removal or destruction of an electronic collar

SECTION 1. Chapter 1, Title 50 of the S.C. Code is amended by adding:

Section 50-11-785. (A) It is unlawful to intentionally remove or destroy an electronic collar or other electronic device placed on a dog by its owner.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be:

(1) fined not more than five hundred dollars or imprisoned for not more than ten days for a first offense; or

(2) fined not more than one thousand dollars or imprisoned not more than thirty days for a second or subsequent offense.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 177

(R218, H4617)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-53-230, RELATING TO SCHEDULE III CONTROLLED SUBSTANCES, SO AS TO ADD XYLAZINE AS A SCHEDULE III CONTROLLED SUBSTANCE; BY ADDING SECTION 44-53-372 SO AS TO PROHIBIT THE PRODUCTION, MANUFACTURE, DISTRIBUTION, OR POSSESSION OF XYLAZINE, WITH EXCEPTIONS, AND TO ESTABLISH ASSOCIATED CRIMINAL PENALTIES; AND BY ADDING SECTION 44-53-373 SO AS TO CREATE AN EXCEPTION FOR VETERINARY USE OF XYLAZINE.

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

Schedule III controlled substances

SECTION 1. Section 44-53-230(c) of the S.C. Code is amended by adding:

13. Xylazine.

Prohibited acts, xylazine

SECTION 2. Article 3, Chapter 53, Title 44 of the S.C. Code is amended by adding:

Section 44-53-372. (A)(1) It is unlawful for any person to knowingly

or intentionally produce, manufacture, distribute, or possess with intent to produce, manufacture, or distribute xylazine for a use other than a nonhuman use.

(2) A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than fifteen thousand dollars, or both.

(B)(1) It is unlawful for any person to knowingly or intentionally possess xylazine.

(2) A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one hundred eighty days or fined not more than five hundred dollars, or both.

(C) The provisions of this section do not apply to any of the following:

(1) the production, manufacturing, distribution, or possession of xylazine for use in legitimate veterinary practice;

(2) the production, manufacturing, distribution, or possession of a xylazine bulk chemical for pharmaceutical compounding by a licensed pharmacist or veterinarian for use in a nonhuman species;

(3) the possession of xylazine pursuant to a valid prescription from a licensed veterinarian for use in a nonhuman species; or

(4) the possession of xylazine in an injectable form for use in a nonhuman species.

(D) For purposes of this section, "xylazine" means xylazine and any salt, sulfate, isomer, homologue, analogue, or other preparation of xylazine, and any salt, isomer, compound, derivative, precursor, homologue, analogue, or other preparation thereof that is substantially chemically equivalent or identical to xylazine.

Xylazine, authorized uses

SECTION 3. Chapter 53, Title 44 of the S.C. Code is amended by adding:

Section 44-53-373. Nothing in this article applies to veterinarians in connection with the practice of their profession and the legitimate use of xylazine within the veterinary practice, including:

(A) the distribution or possession of xylazine by a licensed veterinarian for use in legitimate veterinary practice;

(B) the possession of xylazine pursuant to a valid prescription from a licensed veterinarian; or

(C) the possession of xylazine in an injectable form for use in nonhuman species.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 178

(R220, H4674)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-3-1240, RELATING TO THE DISPLAY OF LICENSE PLATES, SO AS TO PROVIDE THE CIRCUMSTANCES IN WHICH THE PROVISIONS OF THIS SECTION APPLY, TO PROVIDE HOW LICENSE PLATES MUST BE FASTENED TO VEHICLES, TO MAKE TECHNICAL CHANGES, AND TO PROVIDE FOR THE DISPLAY OF TEMPORARY LICENSE PLATES ON LARGE COMMERCIAL MOTOR VEHICLES; BY ADDING SECTION 56-3-15020 SO AS TO PROVIDE FOR THE ISSUANCE OF "HEARING IMPAIRED" SPECIAL LICENSE PLATES; BY ADDING ARTICLE 150 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "SOUTH CAROLINA EQUINE INDUSTRY" SPECIAL LICENSE PLATES; BY AMENDING SECTION 56-3-7340, RELATING TO THE ISSUANCE OF "NATIVE AMERICAN" SPECIAL LICENSE PLATES, SO AS TO PROVIDE THESE LICENSE PLATES MAY BE ISSUED TO OWNERS OF MOTORCYCLES; BY ADDING ARTICLE 151 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "CATAWBA NATION" SPECIAL LICENSE PLATES; BY ADDING ARTICLE 152 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "CHEROKEE INDIAN NATION" SPECIAL LICENSE PLATES; BY ADDING ARTICLE 153 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "SOUTH CAROLINA BEEKEEPERS ASSOCIATION" SPECIAL LICENSE PLATES; BY AMENDING

SECTION 56-3-14210, RELATING TO THE ISSUANCE OF "UNIVERSITY OF SOUTH CAROLINA 2017 AND 2022 WOMEN'S BASKETBALL NATIONAL CHAMPIONS" SPECIAL LICENSE PLATES, SO AS TO PROVIDE FOR THE ISSUANCE OF "UNIVERSITY OF SOUTH CAROLINA 2017, 2022, AND 2024 WOMEN'S BASKETBALL CHAMPIONS" SPECIAL LICENSE PLATES; BY ADDING ARTICLE 60 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "AUTISTIC AND NEURODIVERGENT" SPECIAL LICENSE PLATES; BY ADDING ARTICLE 154 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE FOR THE ISSUANCE OF "SOUTH CAROLINA ASSOCIATION FOR PUPIL TRANSPORTATION" SPECIAL LICENSE PLATES; BY AMENDING SECTION 56-3-14910, RELATING TO THE ISSUANCE OF SPECIAL LICENSE PLATES REFLECTIVE OF VALOROUS AWARDS CONFERRED UPON ACTIVE OR PRIOR SERVICE MEMBERS, SO AS TO INCLUDE THE ISSUANCE OF THESE LICENSE PLATES TO RECIPIENTS OF NAVY AND MARINE CORPS MEDALS; AND BY AMENDING SECTION 56-3-14990, RELATING TO ALLOWING SURVIVING SPOUSES TO APPLY FOR OR TRANSFER CERTAIN MILITARY SPECIAL LICENSE PLATES, SO AS TO PROVIDE A SURVIVING SPOUSE OF A MEMBER OF THE NATIONAL GUARD MAY APPLY FOR OR TRANSFER CERTAIN MILITARY LICENSE PLATES.

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

Display of license plates

SECTION 1. Section 56-3-1240 of the S.C. Code is amended to read:

Section 56-3-1240. (A) Unless the provisions of this section apply, license plates issued for motor vehicles must be attached to the outside rear of the vehicle, open to view. License plates must always be fastened securely in a horizontal and upright position to the vehicle for which it was issued so as to prevent the plate from swinging.

(B) License plates for truck tractors and road tractors must be attached to the outside front of the vehicle provided that single-unit commercial motor vehicles with a gross vehicle weight rating in excess of twenty-six thousand pounds may have the license plate on either the outside front or rear of the vehicle. During the forty-five days, an intrastate-only large

commercial motor vehicle may operate on a temporary license plate issued pursuant to Section 56-3-212, the vehicle owner may display a motorcycle-sized temporary license plate securely in the front, passenger-side windshield of the vehicle provided the unique identifying license plate text faces the exterior of the vehicle. The owner must position the temporary license plate to not obstruct the driver's view.

(C) When a motorcycle is equipped with vertically mounted license plate brackets, its license plate must be mounted vertically with its top fastened along the right vertical edge. The bottom of the plate must be at a height of not less than twelve inches from the ground in a place and position clearly visible as provided in Section 56-5-4530, and it must be maintained free from foreign materials and in a clearly legible condition.

(D) No other license plate, lighting equipment, except as permitted in Section 56-5-4530, tag, sign, monogram, tinted cover, or inscription of metal or other material may be displayed above, or upon the plate other than that which is authorized and issued by the Department of Motor Vehicles for the purpose of validating the plate. It is not unlawful to place a decal or a frame on the license plate if it does not obscure any letters or numbers. A motor vehicle owner may attach a trailer hitch to a motor vehicle provided the hitch does not obscure more than two inches of the license plate issued to the motor vehicle. It is unlawful to operate or drive a motor vehicle with the license plate missing and a person who is convicted for violating this section must be punished as provided by Section 56-3-2520.

Hearing impaired special license plates

SECTION 2. Chapter 3, Title 56 of the S.C. Code is amended by adding:

Section 56-3-15020. The Department of Motor Vehicles may issue "Hearing Impaired" special motor vehicle license plates to owners of private passenger-carrying motor vehicles or motorcycles registered in their names who are hearing impaired. The application for this special motor vehicle license plate must include an original certificate from a licensed physician, as defined in Section 40-75-5, that certifies that the applicant has a permanent, uncorrectable hearing loss of forty decibels or more in one or both ears. The fee for each special license plate is the regular motor vehicle license fee set forth in Article 5. The department may issue this special license plate six months following approval of its design. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate

must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

South Carolina equine industry special license plates

SECTION 3. Chapter 3, Title 56 of the S.C. Code is amended by adding:

Article 150

South Carolina Equine Industry Special License Plates

Section 56-3-16000. (A) The Department of Motor Vehicles may issue "South Carolina Equine Industry" special license plates to owners of private passenger-carrying motor vehicles or motorcycles registered in their names. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(B) This special license plate must be the same size and general design as regular motor vehicle license plates. The department may issue this special license plate six months following approval of its design.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for each special license plate is thirty dollars plus the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. Any portion of the thirty-dollar fee in excess of the costs of production and distribution of the license plates must be distributed to the Department of Agriculture for the purpose of promoting the equine industry in the State.

Native American special license plates

SECTION 4. Section 56-3-7340 of the S.C. Code is amended to read:

Section 56-3-7340. (A) The Department of Motor Vehicles may issue "Native American" special license plates to owners of private passenger motor vehicles or motorcycles registered in their names. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of thirty dollars. Any portion of the additional thirty-dollar fee not set aside by the Comptroller General to defray costs of production

and distribution must be distributed to the Native American Prison Program of South Carolina.

Catawba Nation special license plates

SECTION 5. Chapter 3, Title 56 of the S.C. Code is amended by adding:

Article 151

Catawba Nation Special License Plates

Section 56-3-16010. (A) The Department of Motor Vehicles may issue "Catawba Nation" special license plates. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(B) The Catawba Nation shall submit to the department for approval the design, emblem, seal, logo, or other symbols it desires to be used for this special license plate. The department may issue this special license plate six months following approval of its design.

(C) This special license plate is exempt from the provisions contained in Section 56-3-8100.

(D) The biennial fee for each special license plate is forty dollars plus the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. The forty-dollar fee must be distributed to the Catawba Nation.

Cherokee Indian Nation special license plates

SECTION 6. Chapter 3, Title 56 of the S.C. Code is amended by adding:

Article 152

Cherokee Indian Nation Special License Plates

Section 56-3-16110. The Department of Motor Vehicles may issue "Cherokee Indian Nation" special license plates to owners of private passenger motor vehicles or motorcycles registered in their names. Only members of the Cherokee Indian Nation are eligible to receive a license plate produced pursuant to this section. A member of the Cherokee Indian Nation applying for the license plate must produce with the license plate application an official document from the Cherokee Indian

Nation verifying membership. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The department may issue this special license plate six months following approval of its design. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of thirty dollars. Any portion of the additional thirty-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the to the Museum of the Cherokee in Oconee County.

South Carolina Beekeepers Association special license plates

SECTION 7. Chapter 3, Title 56 of the S.C. Code is amended by adding:

Article 153

South Carolina Beekeepers Association Special License Plates

Section 56-3-16210. (A) The Department of Motor Vehicles may issue "South Carolina Beekeepers Association" special license plates to owners of private passenger-carrying motor vehicles, as defined in Section 56-3-630, or motorcycles registered in their names. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(B) This special license plate must be the same size and general design as regular motor vehicle license plates. The department may issue this special license plate six months following approval of its design.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for each special license plate is forty dollars plus the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. Any portion of the forty-dollar fee not set aside by the Comptroller General to defray costs of production and distribution of the license plates must be distributed to the South Carolina Beekeepers Association to be used for research and education.

University of South Carolina 2017, 2022, and 2024 Women's Basketball National Champions special license plates

SECTION 8. Section 56-3-14210 of the S.C. Code is amended to read:

Section 56-3-14210. (A) The Department of Motor Vehicles shall issue "University of South Carolina 2017, 2022, and 2024 Women's Basketball National Champions" special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names.

(B) The University of South Carolina may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate. The department may issue this special license plate six months following approval of its design.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside to defray costs of production and distribution must be distributed to the fund established for the University of South Carolina pursuant to Section 56-3-3710(B) used for the purposes provided in that section.

(D) License number "1" for the "University of South Carolina 2017, 2022, and 2024 Women's Basketball National Champions" license plate is reserved for the University of South Carolina Women's Basketball Coach.

(E) The department must issue to registrants who have a license plate commemorating only the 2017 Women's Basketball National Championship or only the 2017 and 2022 Women's Basketball National Championships, the license plate commemorating the 2017, 2022, and 2024 national championships once both the 2017 and the 2017 and 2022 license plates reach the end of their ten-year lifecycles. This subsection does not apply to registrants who choose to switch to the "2017, 2022, and 2024" license plate on their own.

Autistic and Neurodivergent special license plates

SECTION 9. Chapter 3, Title 56 of the S.C. Code is amended by adding:

Article 60

Autistic and Neurodivergent Special License Plates

Section 56-3-7100. The Department of Motor Vehicles may issue "Autistic and Neurodivergent" special motor vehicle license plates to owners of private passenger-carrying motor vehicles registered in their

names who are autistic or neurodivergent or who are parents of children who are autistic or neurodivergent. The application for this special motor vehicle license plate must include an original certificate from a licensed physician that certifies the applicant or his child is autistic or neurodivergent. The fee for each special license plate is the regular motor vehicle license fee set forth in Article 5. Each special license plate must be of the same size and general design of regular motor vehicle license plates and contain the "Just Bee" icon as identification for autistic or neurodivergent individuals. The department may issue this special license plate six months following approval of its design. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

South Carolina Association for Pupil Transportation special license plates

SECTION 10. Chapter 3, Title 56 of the S.C. Code is amended by adding:

Article 154

South Carolina Association for Pupil Transportation Special License Plates

Section 56-3-16310. (A) The Department of Motor Vehicles may issue "South Carolina Association for Pupil Transportation" special license plates. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(B) The South Carolina Association for Pupil Transportation shall submit to the department for approval the design, emblem, seal, logo, or other symbols it desires to be used for this special license plate. The department may issue this special license plate six months following approval of its design.

(C) The requirements for production, collection, and distribution of fees for a special license plate under this section must meet the requirements in Section 56-3-8100.

(D) The biennial fee for each special license plate is twenty-five dollars plus the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. The twenty-five-dollar fee must be distributed to the South Carolina Association for Pupil Transportation.

Valorous Awards special license plates

SECTION 11. Section 56-3-14910(A) of the S.C. Code is amended to read:

(A) The department may issue the following special license plates reflective of valorous awards for private passenger vehicles and motorcycles to active or prior service members who received the following awards:

(1) Medal of Honor- Army
(2) Medal of Honor- Navy
(3) Medal of Honor- Air Force
(4) Distinguished Service Cross- Army
(5) Distinguished Service Cross- Navy
(6) Distinguished Service Cross- Air Force
(7) South Carolina Medal of Valor
(8) Silver Star
(9) Bronze Star (with valor)
(10) Soldier's Medal
(11) Navy and Marine Corps Medal.

Issuance of special license plates to surviving spouses

SECTION 12. Section 56-3-14990 of the S.C. Code is amended to read:

Section 56-3-14990. (A) Upon the death of an award recipient, a surviving spouse may apply to the department for a license plate issued under the provisions of Section 56-3-14910, 56-3-14920, or 56-3-14930(A)(3). The surviving spouse may apply to the department to transfer a license plate previously issued to the award recipient under the provisions of Section 56-3-14910, 56-3-14920, or 56-3-14930(A)(3) pursuant to Section 56-3-210(G). The surviving spouse must turn the plate into the department when the surviving spouse is no longer eligible for surviving spouse military benefits.

(B) Upon the death of a member of the National Guard, a surviving spouse may apply to the department for a license plate issued under the provisions of Section 56-3-14970(A)(10), (11), or (12). The surviving spouse may apply to the department to transfer a license plate previously issued to a member of the National Guard under the provisions of Section 56-3-14970(A)(10), (11), or (12) pursuant to Section 56-3-210(G). The surviving spouse must turn the plate into the department when the surviving spouse is no longer eligible for surviving

spouse National Guard benefits.

Time effective

SECTION 13. This act takes effect six months after approval by the Governor.

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 179

(R224, H4867)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 23-23-45 SO AS TO REQUIRE ALL 911 TELECOMMUNICATORS THAT PROVIDE DISPATCH FOR EMERGENCY MEDICAL CONDITIONS TO BE TRAINED IN HIGH-QUALITY TELECOMMUNICATOR CARDIOPULMONARY RESUSCITATION (T-CPR), AND TO PROVIDE CERTAIN PERSONS WHO COMPLY WITH THE PROVISIONS CONTAINED IN THIS SECTION ARE NOT LIABLE FOR CERTAIN INJURIES THAT OCCUR FROM ACTS PERFORMED UNDER THIS SECTION; AND BY AMENDING SECTION 23-23-10, RELATING TO DEFINITIONS OF TERMS REGARDING THE LAW ENFORCEMENT TRAINING COUNCIL AND CRIMINAL JUSTICE ACADEMY, SO AS TO PROVIDE A DEFINITION FOR THE TERM "T-CPR".

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

911 telecommunicators training

SECTION 1. Chapter 23, Title 23 of the S.C. Code is amended by adding:

Section 23-23-45. (A) Beginning January 1, 2025, all 911

telecommunicators that provide dispatch for emergency medical conditions shall be required to be trained, utilizing the most current nationally recognized cardiovascular care guidelines, in high-quality T-CPR. The instruction shall incorporate recognition protocols for out-of-hospital cardiac arrest (OHCA), compression-only CPR instruction for callers, and continuous education which must be completed on an annual basis.

(B) All agencies within this State employing 911 telecommunicators that provide dispatch for emergency medical conditions shall be responsible for providing the instruction specified in subsection (A).

(C) The South Carolina Criminal Justice Academy shall establish a procedure for monitoring adherence by telecommunicators and their employing agencies to the requirements set forth in subsection (A) and penalizing agencies for noncompliance, as described in Section 23-23-100.

(D) Neither telecommunicators that provide dispatch for emergency medical conditions who have completed the training specified in subsection (A) nor the State or the agency, political subdivision, or governmental entity employing such telecommunicators shall be liable for any civil damages for any personal injury arising from the provision of CPR instructions to 911 callers except acts or omissions amounting to gross negligence, recklessness, or wilful, wanton, or intentional misconduct. Any civil cause of action for damages arising from the provision of T-CPR instructions and brought against the State, an agency, a political subdivision, or a governmental entity and its employee acting within the scope of his official duty must be brought pursuant to the South Carolina Tort Claims Act, Chapter 78, Title 15.

Definitions

SECTION 2. Section 23-23-10(E) of the S.C. Code is amended to read:

(E) As contained in this chapter:

(1) “Law enforcement officer” means an appointed officer or employee hired by and regularly on the payroll of the State or any of its political subdivisions, who is granted statutory authority to enforce all or some of the criminal, traffic, and penal laws of the State and who possesses, with respect to those laws, the power to effect arrests for offenses committed or alleged to have been committed.

(2) “Council” means the South Carolina Law Enforcement Training Council created by this chapter.

(3) “Academy” means the South Carolina Criminal Justice

Academy created by this chapter.

(4) "Director" means the Director of the South Carolina Criminal Justice Academy.

(5) "T-CPR" means telecommunicator cardiopulmonary resuscitation, which is the dispatcher-assisted delivery of cardiopulmonary resuscitation (CPR) instruction by trained emergency call takers or public safety dispatchers to callers or bystanders for events requiring CPR, such as out-of-hospital cardiac arrest (OHCA).

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 180

(R225, H4869)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 38-3-150, RELATING TO THE AUTHORITY OF THE DIRECTOR OF THE DEPARTMENT OF INSURANCE OR HIS DESIGNEES TO CONDUCT EXAMINATIONS, INVESTIGATIONS, AND HEARINGS, SO AS TO PROVIDE FOR THE CONFIDENTIALITY OF SUCH INVESTIGATIONS; BY AMENDING SECTION 38-9-200, RELATING TO CONDITIONS FOR ALLOWING REINSURANCE CREDITS, SO AS TO REVISE CERTAIN CONDITIONS; BY AMENDING SECTION 38-13-10, RELATING TO INSURER EXAMINATIONS, SO AS TO PROVIDE SUCH EXAMINATIONS ARE FINANCIAL EXAMINATIONS, TO APPLY THE PROVISIONS TO HEALTH MAINTENANCE ORGANIZATIONS AND OTHER LICENSEES OF THE DEPARTMENT, TO PROVIDE MARKET CONDUCT EXAMINATIONS, AND TO REMOVE OBSOLETE PROVISIONS, AMONG OTHER THINGS; BY AMENDING

SECTION 38-13-70, RELATING TO INVESTIGATIONS OF ALLEGED VIOLATIONS, SO AS TO PROVIDE THE DIRECTOR OR HIS DESIGNEES MAY CONDUCT INVESTIGATIONS, TO PROVIDE FOR THE CONFIDENTIALITY OF INVESTIGATIONS, AND TO PROVIDE FINAL ORDERS DISCIPLINING LICENSEES ARE PUBLIC INFORMATION, AMONG OTHER THINGS; BY AMENDING SECTION 38-57-130, RELATING TO INSURANCE TRADE PRACTICES, SO AS TO PROVIDE REVISED EXEMPTIONS FROM PROVISIONS PROHIBITING MISREPRESENTATIONS, SPECIAL INDUCEMENTS, AND REBATES IN INSURANCE CONTRACTS; AND BY AMENDING SECTION 38-77-170, RELATING TO THE REQUIRED CONDITIONS TO SUE OR RECOVER UNDER UNINSURED MOTORIST PROVISION WHEN THE OPERATOR OF THE MOTOR VEHICLE CAUSING INJURY OR DAMAGE IS UNKNOWN, SO AS TO ALLOW FOR THE SUBMISSION OF A RECORDING OF THE ACCIDENT, AMONG OTHER THINGS.

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

Examinations, investigations, and hearings

SECTION 1. Section 38-3-150 of the S.C. Code is amended to read:

Section 38-3-150. All examinations or investigations provided by this title, unless otherwise provided by any other insurance laws of this State, may be conducted by the director or by one or more of his duly authorized assistants or agents. Investigations conducted pursuant to this title are confidential as set forth in Section 38-13-70. All hearings must be held by the director or by one of his duly authorized assistants or agents when authorized to do so in writing by the director. However, in any hearing concerning the adjustment of insurance rates the director or his designee may conduct the hearing.

Reinsurance credits

SECTION 2. Section 38-9-200(G)(4)(a) of the S.C. Code is amended to read:

(a) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective

date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with Section 38-9-210.

Examinations of insurers

SECTION 3. Section 38-13-10 of the S.C. Code is amended to read:

Section 38-13-10. (A) The director or his examiners may conduct a financial examination under this chapter of an insurer or health maintenance organization (HMO) or other licensee as authorized by this title as often as the director or his designee consider appropriate but, at a minimum, shall conduct a financial examination of every insurer licensed in this State not less frequently than once every five years. When the director or his designee considers it prudent for the protection of policyholders in this State, he may examine or have examined an insurer applying for admission in this State. In scheduling and determining the nature, scope, and frequency of the examinations, the director or his designee shall consider compliance with relevant South Carolina laws and regulations, the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria set forth in the Financial Condition Examiners' Handbook adopted by the National Association of Insurance Commissioners and in effect when the director or his designee exercises his authority under this subsection.

(B) The director or his examiners may conduct a market conduct examination whenever the director considers it appropriate based on the market analysis or practices of the insurer or HMO or other licensee as authorized by this title. The director or his designee has the discretion to conduct full scope or targeted, on-site market conduct examinations in accordance with the NAIC Market Regulation Handbook and other market analysis tools. The director is authorized to determine the frequency, depth, and timing of market conduct examinations and may schedule and coordinate multiple examinations simultaneously or participate in multistate examinations.

(C) For purposes of completing an examination of an insurer under this chapter, the director or his designee may examine or investigate a person or his business in a manner considered necessary or material by the director or his designee.

(D) In lieu of an examination under this section of a foreign or an alien insurer licensed in this State, the director or his designee may accept an examination report on the insurer prepared by the insurance department

for the insurer's state of domicile or port-of-entry state if one or both of the following apply:

(1) The insurance department at the time of the examination was accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program;

(2) The examination is performed with the participation of one or more examiners who are employed by the accredited insurance department, and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their department.

Investigations of charges

SECTION 4. Section 38-13-70 of the S.C. Code is amended to read:

Section 38-13-70. (A) 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.

(B) The director or any of his duly authorized assistants or employees may investigate allegations that the insurance laws have been violated. Investigations conducted pursuant to this title are confidential and all work papers and regulatory communications are privileged and confidential. Nothing in this article may be construed as prohibiting the respondent from normal access to the charges and evidence filed against

the respondent once the investigation is complete. The final order disciplining a licensee is public information as provided under applicable South Carolina law.

Exceptions to prohibitions in insurance contracts

SECTION 5. Section 38-57-130 of the S.C. Code is amended by adding:

(5) Nothing in this section may be construed to prohibit an insurer or producer, by or through employees, affiliates or third-party representatives of value-added products or services at no or reduced cost when such products or services are not specified in the policy of insurance if the product or service:

(a) relates to the insurance coverage; and

(b) is primarily designed to satisfy one or more of the following:

(i) provide loss mitigation or loss control;

(ii) reduce claim costs or claim settlement costs;

(iii) provide education about liability risks or risk of loss to persons or property;

(iv) monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;

(v) enhance health;

(vi) enhance financial wellness through items such as education or financial planning services;

(vii) provide post-loss services;

(viii) incentivize behavioral changes to improve the health or reduce the risk of death or disability of a customer (defined for purposes of this subsection as policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured or applicant); or

(ix) assist in the administration of the employee or retiree benefit insurance coverage.

(c) The cost to the insurer or producer offering the product or service to any given customer must be reasonable in comparison to that customer's premiums or insurance coverage for the policy class.

(d) If the insurer or producer is providing the product or service offered, the insurer or producer must ensure that the customer is provided with contact information to assist the customer with questions regarding the product or service.

(e) The director may adopt regulations when implementing the permitted practices set forth in this statute to ensure consumer protection.

Such regulation, consistent with applicable law, may address, among other issues, consumer data protections and privacy, consumer disclosure, and unfair discrimination.

(f) The availability of the value-added product or service must be based on documented objective criteria and offered in a manner that is not unfairly discriminatory. The documented criteria must be maintained by the insurer or producer and produced upon request by the department.

(g) If an insurer or producer does not have sufficient evidence but has a good faith belief that the product or service meets the criteria in this subitem, the insurer or producer may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for no more than one year. An insurer or producer must notify the department of such a pilot or testing program offered to consumers in this State prior to launching and may proceed with the program unless the department objects within twenty-one days of notice.

(h) Information derived from the product or service offered under this subsection may not be used in underwriting the risk or to discriminate against any insured or potential insured.

Interpretation

SECTION 6. Section 38-57-130(4) of the S.C. Code is amended to read:

(4) Nothing in this section may be construed to permit an unfair method of competition or an unfair or deceptive act or practice.

Required conditions to sue or recover under uninsured motorist provision

SECTION 7. Section 38-77-170 of the S.C. Code is amended to read:

Section 38-77-170. (A) If the owner or operator of any motor vehicle which causes bodily injury or property damage to the insured is unknown, there is no right of action or recovery under the uninsured motorist provision, unless:

(1) the insured or someone in his behalf reports the accident to some appropriate police authority within a reasonable time, under all the circumstances, after its occurrence; and

(2) one of the following conditions is met:

(a) the injury or damage was caused by physical contact with the unknown vehicle;

(b) the accident was witnessed by someone other than the owner or operator of the insured vehicle; provided, however, the witness must sign an affidavit attesting to the truth of the facts of the accident contained in the affidavit or upon failing to obtain the affidavit, the insured may seek a court order for a presuit deposition of the witness under the procedures set forth in Rule 27, South Carolina Rules of Civil Procedure; or

(c) the insured can provide a recording of the accident, obtained electronically or otherwise, showing that the damage or injury was caused by the unknown vehicle; and

(3) the insured was not negligent in failing to determine the identity of the other vehicle and the driver of the other vehicle at the time of the accident.

(B) The following statement must be prominently displayed on the face of the affidavit provided in item (2)(b): A FALSE STATEMENT CONCERNING THE FACTS CONTAINED IN THIS AFFIDAVIT MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL PENALTIES AS PROVIDED BY LAW.

Time effective

SECTION 8. This act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 181

(R227, H5008)

AN ACT TO ADOPT REVISED CODE VOLUME 17A OF THE SOUTH CAROLINA CODE OF LAWS, TO THE EXTENT OF ITS CONTENTS, AS THE ONLY GENERAL PERMANENT STATUTORY LAW OF THE STATE AS OF JANUARY 1, 2024.

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

Revised code volume, authorization

SECTION 1. (A) Section 2-13-90 of the S.C. Code authorizes the Legislative Council and the Code Commissioner to contract to be prepared and published under their supervision and direction revised volumes of the Code of Laws.

(B) The Legislative Council and the Code Commissioner have determined that Volume 17A is appropriate for revision.

(C) Section 2-13-90 of the S.C. Code also provides that the revised volumes must be submitted to the General Assembly for its consideration.

Revised code volume, adopted

SECTION 2. (A) Revised Volume 17A containing Titles 51-55, South Carolina Code of Laws, is substituted for original Volume 17A which contained Titles 51-55.

(B) Revised Volume 17A is adopted as part of the Code of Laws and, to the extent of its contents, is the only general permanent statutory law of the State as of January 1, 2024.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 182

(R228, H5023)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 56-1-219 SO AS TO ESTABLISH THE WORK ZONE PROGRAM WITHIN THE DEPARTMENT OF MOTOR VEHICLES; BY AMENDING SECTION 56-1-15, RELATING TO THE ADMINISTRATION OF DRIVER'S

LICENSE EXAMINATIONS, SO AS TO REQUIRE DRIVER'S LICENSE APPLICANTS COMPLETE THE WORK ZONE SAFETY PROGRAM COURSE; AND BY AMENDING SECTION 56-1-130, RELATING TO LICENSE EXAMINATIONS AND BASIC AND CLASSIFIED LICENSES, SO AS TO REQUIRE CERTAIN DRIVER'S LICENSE APPLICANTS COMPLETE THE WORK ZONE SAFETY PROGRAM COURSE, AND TO MAKE TECHNICAL CHANGES.

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

Work zone safety program

SECTION 1. Chapter 1, Title 56 of the S.C. Code is amended by adding:

Section 56-1-219. The Department of Motor Vehicles shall establish a work zone safety program. The work zone safety program shall be designed to educate the motoring public on the dangers of committing moving violations while traveling in highway construction work zones. The department shall develop and house on its website an online work zone awareness presentation for all persons obtaining an initial license that includes, but is not limited to, facts and figures representing the dangers of motorists committing work zone moving violations, testimonials from highway construction workers and their families, information on the importance of awareness and slowing down in work zones, and a question-and-answer section to ensure participants understand and retain the information presented. The Department of Motor Vehicles is authorized to contract for the production, development, and maintenance of the webpage through a vendor. The department shall maintain in its database a record of those completing the program.

Driver's license examinations

SECTION 2. Section 56-1-15 of the S.C. Code is amended to read:

Section 56-1-15. (A) The Department of Motor Vehicles must enter into contracts with persons, corporations, or governmental subdivisions, including public schools, in localities throughout the State to administer the portion of the driver's license examination that tests the driver's license applicant's ability to read and understand highway signs

that regulate, warn, and direct traffic, and his knowledge of the traffic laws of the State, and the actual demonstration of his ability to exercise ordinary and reasonable control in the operation of the type of motor vehicle for which the license is sought as contained in Section 56-1-130(A). The department must supervise the provision of services contained in this subsection. The department must supply driver education instructors appropriate testing materials to administer the examinations contained in this section. A person or corporation administering an examination pursuant to this section may charge a fee in excess of the fee charged by the department for the examination.

(B) The department must require all persons obtaining an initial driver's license, and who are required to complete a driver's education course as defined in Section 56-1-175 or 56-1-180, to take the work zone safety program course as established in Section 56-1-219.

(C) The department must randomly test driver's license applicants who successfully complete the driver's license examination pursuant to subsection (A) to ensure that the driver's license instructors are properly certifying that their students have successfully completed a driver's license examination.

(D) If through testing or other review procedures, the department determines that a contractor is not conforming to the law and regulations applicable to licensing, it may:

(1) suspend the authority of a particular individual or entity operating under the contract to administer the tests;

(2) suspend the contract;

(3) cancel the contract.

(E) The department must test randomly a driver's license applicant only at the time the applicant is seeking his initial driver's license at the Department of Motor Vehicles.

Driver's license examinations

SECTION 3. Section 56-1-130 of the S.C. Code is amended to read:

Section 56-1-130. (A) The Department of Motor Vehicles shall examine every applicant for a driver's license, except as otherwise provided in this article. The examination shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning, and directing traffic, and his knowledge of the traffic laws of this State and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of the type of motor vehicle, including motorcycles, for which a license is

sought. The department may require a further physical and mental examination as it considers necessary to determine the applicant's fitness to operate a motor vehicle upon the highways, the further examination to be at the applicant's expense. The department shall make provisions for giving an examination in the county where the applicant resides. The department shall charge an appropriate fee for each complete examination or reexamination required in this article.

(B) The department must require all persons obtaining an initial driver's license, and who are required to complete a driver's education course as defined in Section 56-1-175 or 56-1-180, to take the work zone safety program course as established in Section 56-1-219.

(C) No persons, except those exempted under Section 56-1-30 and Section 56-1-50(E), or those holding beginners' permits under Section 56-1-50, shall operate any classification of motor vehicle without first being examined and duly licensed by the driver examiner as a qualified driver of that classification of motor vehicle.

(D)(1) A basic driver's license authorizes the licensee to operate motor vehicles, autocycles, motorcycle three-wheel vehicles, excluding a motorcycle with a detachable side car, or combinations of vehicles which do not exceed twenty-six thousand pounds gross vehicle weight rating; provided, that the driver has successfully demonstrated the ability to exercise ordinary and reasonable control in the operation of a motor vehicle in this category. A basic driver's license also authorizes the licensee to operate farm trucks provided for in Sections 56-3-670, 56-3-211, and 56-3-215, which are used exclusively by the owner for agricultural, horticultural, and dairying operations or livestock and poultry raising. Notwithstanding another provision of law, the holder of a conditional license, or special restricted license operating a farm truck for the purposes provided in this subsection, may operate the farm truck without an accompanying adult after six o'clock a.m. and no later than nine o'clock p.m., but may not operate a farm truck on a freeway. A person operating a farm truck while holding a conditional driver's license or a special restricted license may not use the farm truck for ordinary domestic purposes or general transportation.

(2) A classified driver's license shall authorize the licensee to operate a motorcycle, motorcycle three-wheel vehicle, including a motorcycle with a detachable side car, or those vehicles in excess of twenty-six thousand pounds gross vehicle weight rating which are indicated by endorsement on the license. The endorsement may include classifications such as: motorcycles, two-axle trucks, three- or more axle trucks, combination of vehicles, motor buses, or oversize or overweight vehicles. The department shall determine from the driving

demonstration the endorsements to be indicated on the license.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 183

(R229, H5042)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 10-1-185 SO AS TO ESTABLISH ON THE GROUNDS OF THE STATE HOUSE A ROBERT SMALLS MONUMENT, CREATE A COMMISSION TO DETERMINE THE DESIGN AND LOCATION OF THE MONUMENT, PROVIDE FOR THE MEMBERSHIP OF THE COMMISSION, AND SUNSET THE COMMISSION AT A DATE CERTAIN.

Whereas, the members of the General Assembly propose a monument of enduring historical significance to Robert Smalls, an escaped slave who became a Civil War hero and a legislator in the South Carolina General Assembly and served five terms in the United States House of Representatives; and

Whereas, Robert Smalls was born a slave on April 5, 1839, in Beaufort, South Carolina. He was the son of Lydia Polite but owned by John McKee; and

Whereas, during the Civil War, Mr. Smalls, illiterate and twenty-three years old, escaped by commandeering the Confederate ship, the Planter, on which he worked, delivering its black passengers from slavery to freedom through a gauntlet of gunboats and forts. Thereafter, he served the Union Army as a civilian boat pilot with distinction in numerous

engagements, acted as a spokesperson for African Americans, and was made the first black captain of an Army vessel for his valor; and

Whereas, Mr. Smalls served in the South Carolina House of Representatives, the South Carolina Senate, and the United States House of Representatives, enduring violent elections to achieve internal improvements for coastal South Carolina and to fight for his black constituents in the face of growing disenfranchisement; and

Whereas, Mr. Smalls spoke openly in defense of his race and his party. Even with the rise of Jim Crow laws, Mr. Smalls stood firm as an unyielding advocate for the political rights of African Americans; and

Whereas, he was one of the first South Carolinians to advocate successfully for compulsory education; and

Whereas, Mr. Smalls played a critical role in bridging relations between the black and white communities during and after Reconstruction; and

Whereas, he was the founder of the Enterprise Railroad Company of Charleston; and

Whereas, Mr. Smalls also served as Brigadier General of the South Carolina Militia; opened a store for freedmen and a school for black children; published a newspaper, the Beaufort Southern Standard; and served as the U.S. Customs collector at the port of Beaufort; and

Whereas, he promoted the establishment of the US Naval Station at Port Royal and the purchase of Parris Island; and

Whereas, in 2007, the US Army named a ship after an African American for the first time, the support vessel Maj. Gen. Robert Smalls; and

Whereas, Mr. Smalls married Hannah Jones and, upon her death, remarried Annie Wigg. He had four children: Elizabeth, Sarah, Robert, Jr., and William Robert; and

Whereas, Mr. Smalls died in Beaufort on February 22, 1915, in the same house behind which he had been born and served as a slave, and later came to purchase; and

Whereas, a monument to honor Robert Smalls would represent the

remarkable contributions, achievements, and accomplishments of this forgotten son of South Carolina and would serve as an overdue tribute to the many slaves who sacrificed alongside him. Now, therefore,

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

Robert Smalls Monument and Commission

SECTION 1. Chapter 1, Title 10 of the S.C. Code is amended by adding:

Section 10-1-185. (A) Notwithstanding the provisions of Section 2-1-240, there is hereby established on the grounds of the State House a Robert Smalls Monument. The design and location of the monument shall be determined by the commission appointed pursuant to subsection (C). The monument must be erected as soon as is reasonably possible after the design plan has been approved by the General Assembly by concurrent resolution.

(B) The Robert Smalls Monument Commission is created to determine the design of the monument to Robert Smalls and its location on the State House grounds. The commission is empowered and directed to raise private funds and may receive gifts and grants to carry out its purpose. The commission has the power to create a tax-exempt nonprofit corporation for the purpose of receiving and disbursing funds for the monument. The staff of the Department of Administration shall assist with the preparation and maintenance of financial records. The financial records are public records except that the names of anonymous donors must not be disclosed.

(C) The commission is composed of eleven members, including:

(1) the director of the Department of Administration or his designee, to serve as chairman of the commission;

(2) five members appointed by the Speaker of the House of Representatives; and

(3) five members appointed by the President of the Senate.

(D) The commission shall consult with the South Carolina Department of Archives and History to determine and confirm the historical accuracy of the monument's engravings.

(E) By January 15, 2025, the commission must report the proposed design and location of the monument to the State House Committee for its approval.

(F) The commission is dissolved on January 15, 2028. The commission must be dissolved earlier if the monument is dedicated and

the final report is made before the dissolution date. If the Robert Smalls Monument has not been dedicated by January 15, 2028, the powers, duties, and responsibilities of the commission must be transferred to the State House Committee.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 184

(R233, H5235)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 43-7-465, RELATING TO INSURERS PROVIDING COVERAGE TO PERSONS RECEIVING MEDICAID, SO AS TO COMPORT WITH THE FEDERAL CONSOLIDATED APPROPRIATIONS ACT OF 2022.

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

Health insurers, Medicaid beneficiaries

SECTION 1. Section 43-7-465 of the S.C. Code is amended to read:

Section 43-7-465. A health insurer, including a self-insured plan, group health plan as defined in Section 607(1) of the Employee Retirement Income Security Act of 1974, service-benefit plan, managed-care organization, pharmacy benefit manager, or another party that is legally responsible by statute, contract, or agreement for payment of a claim for a health care item or service, as a condition of doing business in this State, shall:

(1) provide, with respect to an individual eligible for or receiving medical assistance under the state plan, on request of the single-state

agency, information to determine during what period the individual or his spouse or dependent may be, or may have been, covered by a health insurer and the nature of coverage provided or that may have been provided by the insurer in a manner prescribed by the Secretary of the United States Department of Health and Human Services or by the single-state agency. This information must include the insured's name, address, and the plan's identifying number;

(2) accept the state's right of recovery and the assignment to the State of an individual or another entity's right to payment for a health care item or service for which payment was made under the state plan (or under a waiver of such plan);

(3) in the case of a responsible third party (other than the original Medicare fee-for-service program under parts A and B of subchapter XVIII of the Social Security Act, a Medicare Advantage plan offered by a Medicare Advantage organization under part C of subchapter XVIII of the Social Security Act, a reasonable cost reimbursement plan under Section 1395mm of Title XVIII of the Social Security Act, a health care prepayment plan under Section 1395I of Title XVIII of the Social Security Act, or a prescription drug plan offered by a PDP sponsor under part D of subchapter XVIII of the Social Security Act) that requires prior authorization for an item or service furnished to an individual eligible to receive medical assistance under this subchapter, accept authorization provided by the State that the item or service is covered under the state plan (or waiver of such plan) for such individual, as if such authorization were the prior authorization made by the third party for such item or service;

(4) not later than sixty days after receiving any inquiry by the State regarding a claim for payment for any health care item or service that is submitted not later than three years after the date of the provision of such health care item or service, respond to such inquiry; and

(5) agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim, the type or format of the claim form, a failure to present proper documentation at the point-of-sale that is the basis of the claim, or in the case of a responsible third party (other than the original Medicare fee-for-service program under parts A and B of subchapter XVIII of the Social Security Act, a Medicare Advantage plan offered by a Medicare Advantage organization under part C of subchapter XVIII of the Social Security Act, a reasonable cost reimbursement plan under Section 1395mm of Title XVIII of the Social Security Act, a health care prepayment plan under Section 1395I of Title XVIII of the Social Security Act, or a prescription drug plan offered by a PDP sponsor under part D of such title) a failure to obtain prior

authorization for the item or service for which the claim is being submitted, if:

(a) the claim is submitted by the State within the three-year period beginning on the date on which the item or service was furnished; and

(b) any action by the State to enforce its rights with respect to such claim is commenced within six years of the State submission of such claim.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 185

(R234, H5236)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44-6-50, RELATING TO RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES OR A SUCCESSOR AGENCY, SO AS TO MAKE CERTAIN CHANGES CONCERNING MEDICAID CLAIMS PROCESSING CONTRACTS.

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

Medicaid claims processing

SECTION 1. Section 44-6-50(2) of the S.C. Code is amended to read:

(2) Contract for operation of certified Medicaid management information claims processing system. In reliance upon the prior notification published by the National Association of State Procurement Officials (NASPO) for any multi-state solicitation it issues, the Department of Health and Human Services or a successor agency is

authorized to award contracts and procure Medicaid systems and services using competitively solicited NASPO ValuePoint Master Cooperative Purchasing Agreements. Sections 11-35-1520(3) and 11-35-4810(4) are not applicable.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 186

(R235, H5246)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 1-1-612 SO AS TO PROVIDE THAT THE BROWN PELICAN IS THE OFFICIAL SEABIRD OF THE STATE.

Whereas, the first known eastern brown pelican was described in 1789 and at the Charleston Harbor; and

Whereas, the brown pelican is one of the largest birds found on the east coast and is known for its long bill and underlying throat pouch; and

Whereas, eastern brown pelicans are the only pelicans in the world that are not entirely white. The front of a brown pelican’s head is white, but its feathers fade to dark brown. During breeding season, the bird swaps white for a vibrant yellowish gold and exchanges dark brown for a silver-grey; and

Whereas, in 1970, the eastern brown pelican was listed as endangered under the federal Endangered Species Act, when populations plummeted to less than one hundred; and

Whereas, unlike most birds that warm their eggs with the skin of their breasts, pelicans incubate their eggs with the skin of their feet, standing on them and holding the eggs under the webbing of their feet. Widespread use of a pesticide known as DDT caused the chemical to leak into the food chain and caused the eastern brown pelican's eggs to have thinner shells, which caused them to break during incubation, leading to the populations decline; and

Whereas, the United States' ban of DDT in 1972 and the Brown Pelican Recovery Plan of 1979 helped the brown pelican population recover, and the brown pelican is no longer considered endangered; and

Whereas, designating the brown pelican as the state seabird of South Carolina will highlight the importance of preserving and enhancing the habitat of this species and other seabirds along our coastline and serve as a symbol of our commitment to environmental stewardship and wildlife conservation; and

Whereas, eastern brown pelicans and other similar South Carolina coastal birds add to the unique and beautiful character of South Carolina, increasing quality of life. Now, therefore,

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

Official seabird

SECTION 1. Article 9, Chapter 1, Title 1 of the S.C. Code is amended by adding:

Section 1-1-612. The eastern brown pelican is the official seabird of the State.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 20th day of May, 2024

No. 187

(R180, S241)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 84 TO TITLE 40 SO AS TO PROVIDE FOR THE REGULATION OF GENETIC COUNSELORS, TO ESTABLISH THE BOARD OF GENETIC COUNSELORS, TO PROVIDE POWERS AND DUTIES OF THE BOARD, TO DEFINE NECESSARY TERMS, TO PROVIDE PROCEDURES AND CRITERIA FOR LICENSURE OF GENETIC COUNSELORS, TO PROVIDE RELATED DUTIES OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, TO PROVIDE FOR THE INVESTIGATION OF VIOLATIONS AND IMPOSITION OF PENALTIES, AND TO PROVIDE CERTAIN EXEMPTIONS FROM THE PROVISIONS OF THIS CHAPTER, AMONG OTHER THINGS; AND PROVIDE FOR THE ESTABLISHMENT AND ADJUSTMENT OF VARIOUS RELATED FEES, SUBJECT TO CERTAIN LIMITATIONS.

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

Regulation of genetic counselors established

SECTION 1. Title 40 of the S.C. Code is amended by adding:

CHAPTER 84

Genetic Counselors

Section 40-84-10. (A) There is created the South Carolina Board of Genetic Counselors, to license genetic counselors. The purpose of this board is to protect the public through the regulation of professionals who educate and communicate with the public regarding the human problems associated with the occurrence, or the risk of occurrence, of a genetic disorder in a family, including the provision of services to help an individual or family.

(B)(1) The board must be composed of five members appointed by the

Governor, one of whom must be a lay member from the State at large and four practicing genetic counselors. The board shall review and make determinations regarding all matters relating to genetic counselors including, but not limited to:

(a) applications for licensure;

(b) licensure renewal requirements;

(c) disciplinary investigations or actions; and

(d) promulgation of administrative regulations.

(2) Members of the board shall serve three-year terms until their successors are appointed and qualify, except for initial appointments.

(3) The chair of the board must be elected by a majority vote of the board members and must preside over meetings. Meetings must be held biennially. Additional meetings may be held at the call of the chair or upon the written request of three board members.

(4) Initial appointments must be for staggered terms. Two members shall serve a three-year term, two members shall serve a two-year term, and one member shall serve a one-year term.

(a) Initial genetic counselor members shall serve without a license until licenses become available.

(b) Initial genetic counselor members must be ABGC certified for a minimum of five years.

(5) Members of the board are entitled to per diem, subsistence, and mileage as provided by law for members of state boards, committees, and commissions.

(6) A board member may be removed by the Governor for good cause or if he misses two consecutive committee meetings without good cause.

(7) Upon the death, resignation, or removal of any member, the vacancy for the unexpired term must be filled by the Governor.

Section 40-84-20. As used in this chapter:

(1) "ABGC" means the American Board of Genetic Counseling, its successor or equivalent.

(2) "ACGC" means the Accreditation Council for Genetic Counseling, its successor or equivalent.

(3) "Board" means the Board of Genetic Counselors created in Section 40-84-10.

(4) "Department" means the Department of Labor, Licensing and Regulation.

(5) "Genetic counselor" means a person who has met all the conditions of this chapter and is licensed in this State to practice genetic counseling.

(6) "Limited licensee" means a person who obtains a limited license by the board who meets all the requirements for licensure except the successful completion of the examination, and whose activities are performed under supervision.

(7) "NSGC" means the National Society of Genetic Counselors, its successor or equivalent.

(8) "Practice of genetic counseling" means:

(a) obtain and evaluate individual, family, and medical histories to determine genetic risk for genetic/medical conditions and diseases in a patient, his offspring, and other family members;

(b) discuss the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic/medical conditions and diseases;

(c) identify and order genetic laboratory tests as appropriate for the genetic assessment;

(d) integrate genetic laboratory test results and other diagnostic studies with personal and family medical histories to assess and communicate risk factors for genetic/medical conditions and diseases;

(e) explain the clinical implications of genetic laboratory tests and other diagnostic studies and their results;

(f) evaluate responses of the client and his family to the condition or risk of recurrence and provide client-centered counseling and anticipatory guidance;

(g) identify and use community resources that provide medical, educational, financial, and psychosocial support and advocacy; and

(h) provide written documentation of medical, genetic, and counseling information for families and health care professionals.

(9) "Student" or "genetic counselor student" means an individual enrolled in an ACGC-approved genetic counselor program while engaged in completing the clinical education requirement for graduation.

(10) "Supervision" means supervision provided by a licensed genetic counselor or physician and shall mean the review of genetic counseling and case management as appropriate that include regular chart reviews of clients with the limited licensee and the supervisor. Supervision may be conducted in person or by telesupervision. For the purposes of this definition, "telesupervision" means clinical supervision that is provided by an electronic communication device, whether audio or video, or both.

Section 40-84-30. A person may not engage in the practice of genetic counseling without a license issued in accordance with this chapter. A person who practices as a genetic counselor without being licensed under

this chapter, whose license has been suspended or revoked, or who uses in connection with his name the words or letters “GC”, “LGC”, or uses the title “gene counselor”, “genetic associate”, “genetic counselor”, “genetic consultant”, or “licensed genetic counselor”, or any other letters, words, or insignia indicating or implying that he is a genetic counselor or who in any other way, orally, in writing, in print, by sign directly or by implication, represents himself as a genetic counselor without being licensed by the board is subject to the penalties provided in this chapter.

Section 40-84-40. (A) A person desiring to be licensed as a genetic counselor under this chapter shall apply to the department on a form approved by the board.

(B) The board shall license an applicant who:

(1) has completed the application form and remitted the required fees;

(2) is of good moral character;

(3) provides satisfactory documentation of having earned:

(a) a master’s degree from a genetic counseling training program accredited by the ACGC or an equivalent program as determined by the board; and

(b) ABGC certification.

(C) The board may issue a limited license to a limited licensee applicant who meets all of the requirements for licensure except the certification requirement in this section and has obtained active candidate status establishing eligibility to sit for the certification examination administered by the ABGC or ACGC. A limited license shall expire automatically upon the earliest of:

(1) issuance of a full license;

(2) thirty days after the applicant fails to pass the certification examination; or

(3) one year from the date the limited license was issued.

(D) An applicant may be licensed pursuant to this chapter if he demonstrates to the satisfaction of the board that he is licensed or registered under the laws of another state, territory, or jurisdiction of the United States which, in the opinion of the board, imposes substantially the same licensing requirements as this chapter.

(E) The board shall not issue a permanent license to a licensed or registered genetic counselor of another state or territory of the United States:

(1) whose license is currently revoked, suspended, restricted in any way, or on probationary status in that state or territory; or

(2) who currently has a disciplinary action pending in another state or territory.

Section 40-84-50. (A) The department shall renew a license upon receipt of the renewal application and upon payment of the fee in an amount to be determined by the board in regulation.

(B) A renewal applicant shall provide documentation that he continues to maintain certification required in Section 40-84-40(B)(3)(b).

(C) The board shall require NSGC-approved course criteria, not to exceed twenty-five hours biennially, as a condition for license renewal.

Section 40-84-60. The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Chapter 1.

Section 40-84-70. The board may adopt rules governing its proceedings and may promulgate regulations necessary to carry out the provisions of this chapter including, but not limited to, promulgation of regulations for the practice of genetic counseling, and establishing disciplinary procedures.

Section 40-84-80. The Department of Labor, Licensing and Regulation shall investigate complaints and violations of this chapter as provided in Chapter 1. The board may designate individuals to serve as advisors to provide professional expertise to inspectors or investigators.

Section 40-84-90. For the purpose of an investigation or proceeding under this chapter, the board or its designee may subpoena witnesses, take evidence, and require the production of documents or records which the board considers relevant to the inquiry.

Section 40-84-100. In addition to other remedies provided in this chapter or Chapter 1, the board, in accordance with Section 40-1-100, also may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

Section 40-84-110. (A) In addition to other grounds provided in Section 40-1-110, the board, after notice and hearing, may restrict or refuse to grant a license to an applicant and may refuse to renew the license of a licensed person, and may suspend, revoke, or otherwise

restrict the license of a licensed person who:

(1) requests, receives, participates, or engages, directly or indirectly, in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services or profits by means of a credit or other valuable consideration including, but not limited to, wages, an unearned commission, discount, or gratuity with a person who referred a patient, or with a relative or business associate of the referring person;

(2) has treated or undertaken to treat human ailments otherwise than by a genetic counselor or has practiced genetic counseling and failed to refer to a licensed medical doctor a patient whose medical condition should have been determined at the time of evaluation or treatment to be beyond the scope of practice of a genetic counselor; or

(3) knowingly aided, assisted, procured, or advised a person to practice genetic counseling contrary to this chapter or to regulations promulgated by the board pursuant to this chapter or knowingly performed an act which aids, assists, procures, or advises an unlicensed person to practice genetic counseling.

(B)(1) An act or omission by a licensee causing the denial, revocation, suspension, or restriction of a license to practice genetic counseling in another state is sufficient for the issuance of a formal complaint and the commencement of disciplinary proceedings as provided in this section. Proof of an act or omission may be shown by a copy of the transcript of record of the disciplinary proceedings in another state or a copy of the final order, consent order, or similar order stating the basis for the action taken. This subsection only applies when the disciplinary action taken in another state is based on grounds that would constitute grounds for disciplinary action under subsection (A) and Section 40-1-110.

(2) Upon the filing of an initial complaint alleging that a licensee has been disciplined in another state, the licensee must submit to the board copies of all transcripts, documents, and orders used, relied upon, or issued by the licensing authority in the other state. Failure to submit these items within ninety days of the board's request results in the suspension of the individual's license to practice genetic counseling in this State until all of the items have been provided to the board.

(3) A licensee may present mitigating testimony to the board regarding disciplinary action taken in another state or evidence that the acts or omissions committed in another state do not constitute grounds for disciplinary action under subsection (A) and Section 40-1-110.

(C) A complaint may be made in writing to the board or may be made by the board on its own initiative.

(D) In enforcing the provisions of this chapter, the board, upon reasonable grounds, may require a licensee or applicant to submit to a

mental or physical examination performed by a physician designated by the board and including, but not limited to, urinalysis and blood work to determine the presence of drugs. The results of an examination are admissible in a hearing before the board, notwithstanding a claim or privilege under a contrary rule of law or statute. A person who accepts the privilege of practicing genetic counseling in this State is considered to have consented to submit to a mental or physical examination and to have waived all objections to the admissibility of the results in a hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to an examination when properly directed to do so by the board, unless the failure was due to circumstances beyond the person's control, the board shall enter an order automatically suspending or denying the license pending compliance and further order of the board. A licensee or applicant who is prohibited from practicing genetic counseling under this subsection must be afforded at reasonable intervals the opportunity to demonstrate to the board the ability to resume or begin the practice of genetic counseling with reasonable skill and safety to patients.

(E) In enforcing the provisions of this chapter, the board upon reasonable grounds, may obtain records relating to the mental or physical condition of a licensee or applicant including, but not limited to, psychiatric records; and these records are admissible in a hearing before the board, notwithstanding another provision of law. A person who accepts the privilege of practicing genetic counseling in this State or who files an application to practice genetic counseling in this State is considered to have consented to the board obtaining these records and to have waived all objections to the admissibility of these records in a hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee or applicant refuses to sign a written consent for the board to obtain these records when properly requested by the board, unless the failure was due to circumstances beyond the person's control, the board shall enter an order automatically suspending or denying the license pending compliance and further order of the board. A licensee or applicant who is prohibited from practicing genetic counseling under this subsection must be afforded reasonable opportunity to demonstrate to the board the ability to resume or begin the practice of genetic counseling with reasonable skill and safety to patients.

Section 40-84-120. The board has jurisdiction over the actions of licensees and former licensees as provided in Section 40-1-115.

Section 40-84-130. In addition to the sanctions the board may impose against a person pursuant to this chapter, the board may take disciplinary action against a person as provided in Section 40-1-120, and also may impose a civil penalty of not more than two thousand dollars for each violation of this chapter or of a regulation promulgated under this chapter, the total penalty not to exceed ten thousand dollars.

Section 40-84-140. As provided in Section 40-1-130, the board may restrict or deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

Section 40-84-150. A license may be denied based on a person's prior criminal record only as provided in Section 40-1-140.

Section 40-84-160. A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license in accordance with Section 40-1-150.

Section 40-84-170. A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40-1-160.

Section 40-84-180. A person found in violation of this chapter or a regulation promulgated pursuant to this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40-1-170.

Section 40-84-190. All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40-1-180.

Section 40-84-200. Investigations and proceedings conducted under this chapter are confidential, and all communications are privileged as provided in Section 40-1-190.

Section 40-84-210. A person who engages in the practice of or offers to engage in the practice of genetic counseling in the State in violation of this chapter or who knowingly submits false information to the board for the purpose of obtaining a license or who violates another provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than ninety days, or both. Each violation is a separate offense.

Section 40-84-220. The department, on behalf of the board and in accordance with Section 40-1-120, may petition an administrative law judge, in the name of the State, for injunctive relief against a person violating this chapter.

Section 40-84-230. The provisions of this act do not apply to:

(1) a "genetic counselor student" who is a student enrolled in an ACGC-approved genetic counselor program while engaged in completing the clinical education requirement for graduation under the on-site supervision of a genetic counselor or physician who is licensed to practice in this State;

(2) a genetic counselor licensed in another state who is teaching or participating in special genetic counselor education projects, nonprofit delivery of service from outside the State, demonstrations, or courses in this State;

(3) a genetic counselor solely employed by the United States Armed Services, United States Public Health Service, Veterans Administration, or another federal agency and practicing within the scope of employment; or

(4) a person licensed by the State to practice in a profession such as a physician or nurse practitioner when acting within the scope of the person's profession and doing work of a nature consistent with the person's training. The person cannot hold himself out to the public as a genetic counselor in accordance with Section 40-84-30.

Section 40-84-240. Nothing in this chapter may be construed to authorize a licensed genetic counselor or another person to practice medicine, surgery, osteopathy, homeopathy, chiropractic, naturopathy, magnetic healing, or another form, branch, or method of healing as authorized by the laws of this State. Nothing in this chapter may be construed to restrict, inhibit, or limit the practice of licensed physicians, nurse practitioners, or licensed physician assistants.

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.

Fees

SECTION 3. The initial license fee is six hundred dollars. The license fee is subject to change in regulation in accordance with the provisions of Section 40-1-50, as added to the S.C. Code by this act. The department may establish and adjust application fees, license renewal fees, late fees, reinstatement fees, and other related fees in regulation. The department shall only establish fees at levels which are adequate to ensure the continued operation of the regulatory program established in this act and may not set or maintain fees that substantially exceed this need.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 188

(R185, S557)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-6-3477, RELATING TO THE APPRENTICE INCOME TAX CREDIT, SO AS TO INCREASE THE AMOUNT OF THE CREDIT AND THE NUMBER OF YEARS IN WHICH IT MAY BE CLAIMED.

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

Apprentice tax credit

SECTION 1. Section 12-6-3477 of the S.C. Code is amended to read:

Section 12-6-3477. A taxpayer who employs an apprentice pursuant to an apprentice agreement registered with the Office of Apprenticeship of the Employment and Training Administration of the United States Department of Labor is allowed a credit against an income tax imposed pursuant to this chapter equal to the greater of the cost of the apprenticeship or one thousand dollars for each apprentice employed, but not to exceed four thousand dollars for an apprentice, or six thousand dollars for the youth apprenticeship program. A credit is not allowed unless the apprentice was in the employ of the taxpayer for at least seven full months of the taxable year and a credit is not allowed for an individual apprentice for more than four taxable years; however, if the apprentice completes the apprenticeship and remains an employee of the taxpayer, the taxpayer may claim the one thousand dollar credit for up to three additional taxable years. Notwithstanding any other provision of this section, the maximum aggregate credit for all taxpayers may not exceed five million dollars in any one tax year. The General Assembly, in the annual general appropriations act, may increase or decrease the maximum aggregate credit amount. The department shall prescribe a form to claim this credit that provides information to the department sufficient for the proper administration of this credit. Any unused credit may be carried forward for three years.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 189

(R187, S610)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "PROFESSIONAL COUNSELING COMPACT ACT" BY ADDING ARTICLE 6 TO CHAPTER 75, TITLE 40 SO AS TO PROVIDE THE PURPOSE, FUNCTIONS,

OPERATIONS, AND DEFINITIONS FOR THE COMPACT; AND BY AMENDING SECTION 40-75-220, RELATING TO PROFESSIONAL COUNSELOR LICENSURE REQUIREMENTS, SO AS TO REQUIRE CERTAIN CRIMINAL BACKGROUND CHECKS.

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

Citation

SECTION 1. This act may be cited as the "Professional Counseling Compact Act".

Professional Counseling Compact

SECTION 2. Chapter 75, Title 40 of the S.C. Code is amended by adding:

Article 6

Professional Counseling Compact

Section 40-75-910. (A) The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of the 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 professional counseling 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 multistate practice for licensed professional counselors;

(4) support spouses of relocating active duty military personnel;

(5) enhance the exchange of licensure, investigative, and disciplinary information among member states;

(6) allow for the use of telehealth technology to facilitate increased access to professional counseling services;

(7) support the uniformity of professional counseling licensure

requirements throughout the states to promote public safety and public health benefits;

(8) invest all member states with the authority to hold a licensed professional counselor accountable for meeting all state practice laws in the state in which the client is located at the time of care is rendered through the mutual recognition of member-state licenses;

(9) eliminate the necessity for licenses in multiple states; and

(10) provide opportunities for interstate practice by licensed professional counselors who meet uniform licensure requirements.

Section 40-75-920. As used in this compact, and except as otherwise provided, the following definitions shall apply:

(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. Chapters 1209 and 1211.

(2) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a licensed professional counselor, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a licensed professional counselor's authorization to practice, including issuance of a cease and desist action.

(3) "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a professional counseling licensing board to address impaired practitioners.

(4) "Continuing competence/education" 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.

(5) "Counseling compact commission or commission" means the national administrative body whose membership consists of all states that have enacted the compact.

(6) "Current significant investigative information" means:

(a) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) investigative information that indicates that the licensed professional counselor represents an immediate threat to public health

and safety regardless of whether the licensed professional counselor has been notified and had the opportunity to respond.

(7) "Data system" means a repository of information about licensees including, but not limited to, continuing education, examination, licensure, investigative, privilege to practice, and adverse action information.

(8) "Encumbered license" means a license in which an adverse action restricts the practice of licensed professional counseling by the licensee and said adverse action has been reported to the National Practitioners Data Bank (NPDB).

(9) "Encumbrance" means a revocation of, suspension of, or any limitation on, the full and unrestricted practice of licensed professional counseling by a licensing board.

(10) "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them, by the commission.

(11) "Home state" means the member state that is the licensee's primary state of residence.

(12) "Impaired practitioner" means an individual who has conditions that may impair their ability to practice as a licensed professional counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

(13) "Investigative information" means information, records, and documents received or generated by a professional counseling licensing board pursuant to an investigation.

(14) "Jurisprudence requirement" if required by a member state, means the assessment of an individual's knowledge of the laws and rules governing the practice of professional counseling in the state.

(15) "Licensed professional counselor" means a counselor licensed by a member state regardless of the title used by that state, to independently assess, diagnose, and treat behavioral health conditions.

(16) "Licensee" means an individual who currently holds an authorization from the state to practice as a licensed professional counselor.

(17) "Licensing board" means the agency of a state, or equivalent, that is responsible for the licensing and regulation of licensed professional counselors.

(18) "Member state" means a state that has enacted the compact.

(19) "Privilege to practice" means a legal authorization, which is equivalent to a license, permitting the practice of professional counseling in a remote state.

(20) "Professional counseling" means the assessment, diagnosis, and treatment of behavioral health conditions by a licensed professional counselor.

(21) "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the privilege to practice.

(22) "Rule" means a regulation promulgated by the commission that has the force of law.

(23) "Single-state license" means a licensed professional counselor license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

(24) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of professional counseling.

(25) "Telehealth" means the application of telecommunication technology to deliver professional counseling services remotely to assess, diagnose, and treat behavioral health conditions.

(26) "Unencumbered license" means a license that authorizes a licensed professional counselor to engage in the full and unrestricted practice of professional counseling.

Section 40-75-930. (A) To participate in the compact, a state must currently:

(1) license and regulate licensed professional counselors;

(2) require licensees to pass a nationally recognized exam approved by the commission;

(3) require licensees to have a sixty semester hours (or ninety quarter hours) master's degree in counseling or sixty semester hours (or ninety quarter hours) of graduate coursework including the following topic areas:

(a) professional counseling orientation and ethical practice;

(b) social and cultural diversity;

(c) human growth and development;

(d) career development;

(e) counseling and helping relationships;

(f) group counseling and group work;

(g) diagnosis and treatment, assessment, and testing;

(h) research and program evaluation; and

(i) other areas as determined by the commission;

(4) require licensees to complete a supervised postgraduate professional experience as defined by the commission; and

(5) have a mechanism in place for receiving and investigating complaints about licensees.

(B) A member state shall:

(1) participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(2) 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;

(3) implement or utilize procedures for considering the criminal history records of applicants for an initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

(a) a member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions;

(b) communication between a member state, the commission and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544;

(4) comply with the rules of the commission;

(5) require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;

(6) grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules; and

(7) provide for the attendance of the state's commissioner to the counseling compact commission meetings.

(C) Member states may charge a fee for granting the privilege to practice.

(D) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting a privilege to practice professional counseling in any other member state.

(E) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

(F) A license issued to a licensed professional counselor by a home state to a resident in that state shall be recognized by each member state as authorizing a licensed professional counselor to practice professional counseling, under a privilege to practice, in each member state.

Section 40-75-940. (A) To exercise the privilege to practice under the terms and provisions of the compact, the licensee shall:

(1) hold a license in the home state;

(2) have a valid United States social security number or national practitioner identifier;

(3) be eligible for a privilege to practice in any member state in accordance with subsections (D), (G), and (H);

(4) have not had any encumbrance or restriction against any license or privilege to practice within the previous two years;

(5) notify the commission that the licensee is seeking the privilege to practice within a remote state;

(6) pay any applicable fees, including any state fee, for the privilege to practice;

(7) meet any continuing competence/education requirements established by the home state;

(8) meet any jurisprudence requirements established by the remote state in which the licensee is seeking a privilege to practice; and

(9) report to the commission any adverse action, encumbrance, or restriction on a license taken by any nonmember state within thirty days from the date the action is taken.

(B) The privilege to practice is valid until the expiration date of the home-state license. The licensee must comply with the requirements of subsection (A) to maintain the privilege to practice in the remote state.

(C) A licensee providing professional counseling in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

(D) A licensee providing professional counseling services 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 privilege to practice in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a privilege to practice in any member 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 privilege to practice in any remote state until the following occur:

(1) the home-state license is no longer encumbered; and

(2) have not had any encumbrance or restriction against any license or privilege to practice within the previous two years.

(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 privilege to practice in any remote state.

(G) If a licensee's privilege to practice in any remote state is removed, the individual may lose the privilege to practice in all other remote states until the following occur:

(1) the specific period of time for which the privilege to practice was removed has ended;

(2) all fines have been paid; and

(3) have not had any encumbrance or restriction against any license or privilege to practice within the previous two years.

(H) Once the requirements of subsection (G) have been met, the licensee must meet the requirements in subsection (A) to obtain a privilege to practice in a remote state.

Section 40-75-950. (A) A licensed professional counselor may hold a home-state license, which allows for a privilege to practice in other member states, in only one member state at a time.

(B) If a licensed professional counselor changes primary state of residence by moving between two member states:

(1) The licensed professional counselor shall file an application for obtaining a new home-state license based on a privilege to practice, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the commission.

(2) Upon receipt of an application for obtaining a new home-state license by virtue of a privilege to practice, the new home state shall verify that the licensed professional counselor meets the pertinent criteria outlined in Section 40-75-940 via the data system, without need for primary source verification except for:

(a) a Federal Bureau of Investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544;

(b) other criminal background check as required by the new home state; and

(c) completion of any requisite jurisprudence requirements of the new home state.

(3) The former home-state shall convert the former home-state license into a privilege to practice once the new home state has activated the new home-state license in accordance with applicable rules adopted

by the commission.

(4) Notwithstanding any other provision of this compact, if the licensed professional counselor cannot meet the criteria in Section 40-75-940, the new home state may apply its requirements for issuing a new single-state license.

(5) The licensed professional counselor shall pay all applicable fees to the new home state in order to be issued a new home-state license.

(C) If a licensed professional counselor changes primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the state criteria shall apply for issuance of a single-state license in the new state.

(D) Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states, however for the purposes of this compact, a licensee shall have only one home state license.

(E) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

Section 40-75-960. Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state, or through the process outlined in Section 40-75-950.

Section 40-75-970. (A) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with Section 40-75-930 and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

(B) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

Section 40-75-980. (A) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

(1) take adverse action against a licensed professional counselor's privilege to practice within that member state;

(2) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of

evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall 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 in which the witnesses or evidence are located; and

(3) only the home state shall have the power to take adverse action against a licensed professional counselor's license issued by the home state.

(B) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(C) The home state shall complete any pending investigations of a licensed professional counselor who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

(D) A member state, if otherwise permitted by state law, may recover from the affected licensed professional counselor the costs of investigations and dispositions of cases resulting from any adverse action taken against that licensed professional counselor.

(E) A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

(F) Joint investigations:

(1) In addition to the authority granted to a member state by its respective professional counseling practice act or other applicable state law, any 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.

(G) If adverse action is taken by the home state against the license of a licensed professional counselor, the licensed professional counselor's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home

state disciplinary orders that impose adverse action against the license of a licensed professional counselor shall include a statement that the licensed professional counselor's privilege to practice is deactivated in all member states during the pendency of the order.

(H) If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

(I) 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.

Section 40-75-990. (A) The compact member states hereby create and establish a joint public agency known as the Counseling Compact Commission:

(1) The commission is an instrumentality of the compact states.

(2) 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.

(3) Nothing in this compact shall 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 shall be either:

(a) a current member of the licensing board at the time of appointment, who is a licensed professional counselor or public member; or

(b) an administrator of the licensing board.

(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 licensing board shall fill any vacancy occurring on the commission within sixty days.

(5) 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.

(6) 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.

(7) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(8) The commission shall by rule establish a term of office for delegates and may by rule establish term limits.

(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 rules which shall be binding to the extent and in the manner provided for in the compact;

(6) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall 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 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 committee; 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 professional counseling licensure and practice.

(D) The executive committee:

(1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact.

(2) The executive committee shall be composed of up to eleven members:

(a) seven voting members who are elected by the commission from the current membership of the commission;

(b) up to four ex officio, nonvoting members from four recognized national professional counselor organizations; and

(c) the ex officio members will be selected by their respective organizations.

(3) The commission may remove any member of the executive committee as provided in the bylaws.

(4) The executive committee shall meet at least annually.

(5) The executive committee 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 privilege to practice;

(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 the rules or bylaws.

(E) Meetings of the commission:

(1) 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 40-75-1010.

(2) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee 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 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.

(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 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.

(G) Qualified immunity, defense, and indemnification:

(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 40-75-1000. (A) The commission shall provide for the development, maintenance, operation, 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 privilege to practice;

(4) nonconfidential information related to alternative program participation;

(5) any denial of application for licensure, and the reason for such denial;

(6) current significant investigative information; and

(7) 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 member 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 shall be removed from the data system.

Section 40-75-1010. (A) The commission shall promulgate

reasonable rules in order to effectively and efficiently achieve the purpose of the compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force or effect.

(B) 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.

(C) 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.

(D) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(E) 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:

(1) on the website of the commission or other publicly accessible platform; and

(2) on the website of each member-state professional counseling licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(F) 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.

(G) 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.

(H) 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.

(I) 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 shall 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 will be recorded. A copy of the recording will be made available on request.

(4) 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.

(J) 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.

(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) 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.

(M) 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.

(N) 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 40-75-1020. (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. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(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) 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/or any other action to be taken by the commission; and

(b) provide remedial training and specific technical assistance regarding the default.

(C) 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.

(D) 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.

(E) 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.

(F) 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.

(G) 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.

(H) 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.

(I) 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 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 40-75-1030. (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) 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 professional counseling 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 shall be construed to invalidate or prevent any professional counseling 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 40-75-1040. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any member 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 shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

Section 40-75-1050. (A) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations, including scope of practice, of the remote state.

(B) Nothing herein prevents the enforcement of any other law of a

member state that is not inconsistent with the compact.

(C) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(D) Any lawful actions of the commission, including all rules and bylaws properly promulgated by the commission, are binding upon the member states.

(E) All permissible agreements between the commission and the member states are binding in accordance with their terms.

(F) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Professional counselor licensure requirements

SECTION 3. Section 40-75-220 of the S.C. Code is amended to read:

Section 40-75-220. (A) 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 coursework, 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 coursework, 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.

(B) In addition to other requirements established by law, a person applying to be a licensed professional counselor, as defined in Section 40-75-20(13), must undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain the fingerprints for identification and certification purposes and for notification of the department regarding criminal charges. Cost of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed to the board as may be necessary to support the administrative action. The results of these criminal record checks must not be shared outside the department.

(C) In addition to other requirements established by law, a licensed professional counselor applying to enter the compact via a privilege to practice must undergo a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain the fingerprints for identification and certification purposes and for notification of the department regarding criminal charges. Cost of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed to the board as may be necessary to support the administrative action. The results of these criminal record checks must not be shared outside the department.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 190

(R188, S700)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 8 TO CHAPTER 5, TITLE 39 SO AS TO ESTABLISH THE "SOUTH CAROLINA EARNED WAGE ACCESS SERVICES ACT" SO AS TO PROVIDE FOR REQUIREMENTS FOR EARNED WAGE ACCESS SERVICES PROVIDERS, AND TO PROVIDE FOR CERTAIN EXEMPTIONS AND LIMITATIONS.

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

South Carolina Earned Wage Access Services Act

SECTION 1. Chapter 5, Title 39 of the S.C. Code is amended by adding:

Article 8

South Carolina Earned Wage Access Services Act

Section 39-5-810. This article may be cited as the "South Carolina Earned Wage Access Services Act".

Section 39-5-820. As used in this article, unless the context clearly requires otherwise, the term:

(1) "Consumer" means a natural person residing in the State of South Carolina. A provider may use the mailing address provided by a

consumer to determine such consumer's state of residence for purposes of this article.

(2) "Consumer-directed wage access services" means offering or providing earned wage access services directly to consumers based on the consumer's representations and the provider's reasonable determination of the consumer's earned but unpaid income.

(3) "Earned but unpaid income" means salary, wages, compensation, or other income that a consumer or an employer has represented, and that a provider has reasonably determined, have been earned or have accrued to the benefit of the consumer in exchange for the consumer's provision of services to the employer or on behalf of the employer, including on an hourly, project-based, piecework, or other basis and including where the consumer is acting as an independent contractor of the employer, but have not, at the time of the payment of proceeds, been paid to the consumer by the employer.

(4) "Earned wage access services" means the business of providing consumer-directed wage access services or employer-integrated wage access services, or both.

(5)(a) "Employer" means:

(i) a person who employs a consumer; or

(ii) any other person who is contractually obligated to pay a consumer earned but unpaid income in exchange for consumer's provision of services to the employer or on behalf of the employer including on an hourly, project-based, piecework, or other basis and including where the consumer is acting as an independent contractor with respect to the employer.

(b) The term "employer" does not include:

(i) a customer of the employer; or

(ii) any other person whose obligation to make a payment of salary, wages, compensation, or other income to a consumer is not based on the provision of services by that consumer for or on behalf of such person.

(6) "Employer-integrated wage access services" means the business of delivering to consumers access to earned but unpaid income that is based on employment, income, and attendance data obtained directly or indirectly from an employer.

(7) "Fee" shall include a:

(a) fee imposed by a provider for delivery or expedited delivery of proceeds to a consumer; or

(b) subscription or membership fee imposed by a provider for a bona fide group of services that include earned wage access services.

A voluntary tip, gratuity, or other donation shall not be deemed to be

a fee.

(8) "Outstanding proceeds" means proceeds remitted to a consumer by a provider that have not yet been repaid to that provider.

(9) "Person" means a partnership, association, corporation, or other business unit.

(10) "Proceeds" means a payment to a consumer by a provider that is based on earned but unpaid income.

(11) "Provider" means a person who is in the business of providing earned wage access services to consumers.

(12) "Department" means the South Carolina Department of Consumer Affairs.

Section 39-5-830. (1) A person, including a person that is not physically located in this State, may not provide earned wage access in this State unless the person is registered under this article as a provider. This article does not apply to any person doing business under authority of and as permitted by any law of this State or the United States relating to banks, credit unions, savings and loan associations, savings banks, or trust companies.

(2) A person required to be registered under subsection (1) shall apply to the department for a registration on a form and in the manner prescribed by the department. The application shall include all of the following information:

(a) the name of the provider;

(b) the name under which the provider transacts business, if different than listed for item (a);

(c) the address of the provider's principal office, which may be outside of this State;

(d) the addresses of all of the provider's offices or retail stores, if any, in this State;

(e) if the provider provides earned wage access services at a location that is not an office or retail store in this State, a brief description of the manner in which the provider provides earned wage access services;

(f) the provider's federal employer identification number;

(g) a copy of the policy of the applicant relating to the privacy of information concerning users;

(h) a schedule of fees proposed to be charged to a user or employer for the provision of earned wage access services, which must include, without limitation, a statement identifying at least one option for a user to obtain earned wage access services from the applicant at no cost to the user;

(i) a statement that the applicant is applying to be registered as an

employer-integrated earned wage access provider or a consumer-directed earned wage access provider, or both; and

(j) any other information or documentation the department requires to administer this article.

(3) Registration is on an annual basis and must be on a form prescribed by the department. The annual renewable period runs from May first until June thirtieth. A provider that files its renewal and annual report on a timely basis may continue operating unless the registration is denied or revoked by the department.

(4) The application for a registration pursuant to subsection (2) or renewal pursuant to subsection (3) shall be accompanied by a nonrefundable fee of one thousand dollars payable to the department. All application and renewal fees collected by the department may be retained by the department and used to implement the provisions of this article.

(5) A provider shall file with the department, and maintain in force, a surety bond that is issued by a surety company authorized to do business in this State. The surety bond must be:

(a) in a form satisfactory to the department;

(b) payable to the State for the benefit of a claimant against the provider to secure the faithful performance of obligations of the provider with respect to earned wage access services;

(c) in an amount equal to $30,000; and

(d) maintained for three years after revocation, denial, or failure to renew the registration.

(6) A registration issued pursuant to this article is not transferable or assignable.

Section 39-5-840. A provider shall comply with all of the following requirements:

(1) The provider shall develop and implement policies and procedures to respond to questions raised by consumers and address complaints from consumers in an expedient manner.

(2) The provider shall offer to the consumer at least one reasonable option to obtain proceeds at no cost to the consumer and clearly explain how to elect that no-cost option.

(3) Before providing a consumer with earned wage access services, the provider shall provide a consumer with a written paper or electronic document, which can be included as part of the contract to provide earned wage access services, and which meets all of the following requirements:

(a) informs the consumer of the terms and conditions of the earned

wage access services;

(b) clearly and conspicuously describes how the consumer may obtain proceeds at no cost to that consumer;

(c) provides a phone number or a website through which consumers can submit complaints about the provider's earned wage access services to the provider and the website and telephone number for the department;

(d) is written in a font and using language intended to be easily understood by a layperson;

(e) discloses any fees that may be directly imposed by the provider in connection with the provision of earned wage access services.

(4) The provider must inform the consumer of the fact of any material changes to the terms and conditions of the earned wage access services before implementing those changes for that consumer, using a font and language intended to be easily understood by a layperson.

(5) The provider shall provide proceeds to a consumer via any means mutually agreed upon by the consumer and provider.

(6) The provider shall comply with all local, state, and federal privacy and information security laws.

(7) If the provider solicits, charges, or receives a tip, gratuity, or other donation from a consumer, the provider shall:

(a) clearly and conspicuously disclose to the consumer immediately prior to each transaction that a tip, gratuity, or other donation amount may be zero and is voluntary;

(b) clearly and conspicuously disclose in its service contract with the consumer and elsewhere that tips, gratuities, or donations are voluntary and that the offering of earned wage access services, including the amount of proceeds a consumer is eligible to request and the frequency with which proceeds are provided to a consumer, is not contingent on whether the consumer pays any tip, gratuity, or other donation or on the size of the tip, gratuity, or other donation;

(c) not mislead or deceive consumers about the voluntary nature of such tips, gratuities, or other donations; and

(d) make no representations that tips, gratuities, or other donations will benefit any specific individuals.

(8) In any case in which a provider will seek repayment of outstanding proceeds, fees, or other payments, in connection with the activities covered by this article, including voluntary tips, gratuities, or other donations from a consumer's account at a depository institution including via electronic transfer, the provider shall:

(a) comply with applicable provisions of the federal Electronic Fund Transfer Act and its implementing regulations;

(b) reimburse the consumer for the full amount of any overdraft or

non-sufficient funds fees imposed on a consumer by the consumer's depository institution that were caused by the provider attempting to seek payment of any outstanding proceeds, fees, or other payments, in connection with the activities covered by this article, including voluntary tips, gratuities, or other donations, on a date before, or in an incorrect amount from, the date or amount disclosed to the consumer; and

(c) not be subject to the requirements in subitem (b) with respect to payments of outstanding amounts or fees incurred by a consumer through fraudulent or other unlawful means.

(9) In any case in which a provider will seek repayment of outstanding proceeds, fees, or other payments in connection with the activities covered by this article, including voluntary tips, gratuities, or other donations from a consumer via payroll deduction, the provider's terms and conditions shall inform the consumer that by using the provider's earned wage access services, the consumer consents to repayment from the consumer's employer or its payroll services provider.

(10) A provider shall allow a consumer to discontinue receiving services at any time, without imposing a financial penalty on that consumer.

Section 39-5-850. No person subject to this article shall do any of the following:

(1) share with an employer any fees, voluntary tips, gratuities, or other donations that were received from or charged to a consumer for earned wage access services;

(2) charge a late fee, interest, or any other penalty or charge for failure to repay outstanding proceeds;

(3) accept payment of outstanding proceeds, fees, voluntary tips, gratuities, or other donations from a consumer via credit card or charge card;

(4) charge a deferral fee or any other charge in connection with deferring the collection of any outstanding proceeds beyond the original scheduled repayment date;

(5) solicit a consumer to delay repayment of outstanding proceeds for the purpose of increasing the total nonmandatory payments that the provider may collect;

(6) report a consumer's payment or failed repayment of outstanding proceeds to a consumer credit reporting agency or a debt collector;

(7) require a credit score to determine a consumer's eligibility for earned wage access services;

(8) advertise, display, distribute, broadcast, televise, or cause or permit to be advertised, displayed, distributed, broadcasted, or televised

in any manner whatsoever any false, misleading, or deceptive statement or representation regarding the conditions of the earned wage access services offered and provided by the provider;

(9) compel or attempt to compel payment by a consumer of outstanding proceeds, fees, voluntary tips, gratuities, or other donations to the provider through any of the following means:

(a) a suit against the consumer in a court of competent jurisdiction;

(b) use of a third party to pursue collection from the consumer on the provider's behalf; or

(c) sale of outstanding amounts to a third-party collector or debt buyer for collection from the consumer;

(10) provide proceeds in an amount that exceeds the consumer's earned but unpaid income, provided that this limitation shall not apply to any provision of proceeds that exceeds the consumer's earned but unpaid income due to administrative or technical errors so long as repayment of such proceeds provided due to an error otherwise complies with the repayment provisions of this article.

However, the limitations in this item shall not preclude the use by a provider of any of these methods to compel payment of outstanding amounts or fees incurred by a consumer through fraudulent or other unlawful means, nor shall they preclude a provider from pursuing an employer for breach of its contractual obligations to the provider.

Section 39-5-860. The following shall apply in connection with the earned wage access services offered and provided by a provider in compliance with the provisions of this article:

(A) Proceeds provided to a consumer by the provider shall not be considered a consumer loan for purposes of Section 37-3-104 or a loan for purposes of Section 37-3-106.

(B) The provider shall not be considered a lender for purposes of Section 37-3-107(1), unless the provider is conducting business pursuant to Chapter 3, Title 37.

(C) Fees, voluntary tips, gratuities, or other donations paid by a consumer to a provider shall not be considered a loan finance charge for purposes of Section 37-3-109.

(D) The provider shall not be considered to be engaged in the business of money transmission for purposes of Section 35-11-200.

(E) Earned wage access services shall not be considered wage assignment for the purposes of Section 37-3-403.

(F) The provider shall not be considered a deferred presentment provider for purposes of Section 34-39-130 unless the provider is conducting business pursuant to Chapter 39, Title 34.

Section 39-5-870. (1) A provider shall maintain records of its earned wage access services transactions and shall preserve its records for at least two years after the final date on which it provides proceeds to a consumer. A provider shall keep such books and records that, in the opinion of the department, will enable the department to determine whether the provider is in compliance with this article. The provider may keep books and records at a place of business located outside this State if the provider is able to readily produce those books and records for review.

(2) On or before June thirtieth of each year, a provider shall submit an annual report to the department relating to the provider's business conducted during the prior calendar year in this State. The report shall be on a form prescribed by the department and include, at a minimum:

(a) gross revenue attributable to those earned wage access services;

(b) a copy of each complaint that has been filed by a consumer against the provider with the Better Business Bureau or a state or federal agency other than the department and a description of the resolution, if any, of each such complaint;

(c) the total number of transactions in which the provider provided proceeds to consumers;

(d) the total number of unique consumers to whom the provider provided proceeds;

(e) the total dollar amount of proceeds the provider provided to consumers; and

(f) the total dollar amount of fees, voluntary tips, gratuities, or other donations the provider received from consumers.

(3) Data collected by the department pursuant to this section is confidential and may be released only in composite form, except as otherwise provided by law. The department shall prepare and make available to the public a report based on the above data. The report must be made available by October thirty-first each year.

Section 39-5-880. Upon satisfactory evidence that a provider has violated or failed to comply with a provision of this article or regulation promulgated pursuant to the authority of this article, the department may issue an order requiring the provider to cease and desist from engaging in the violation, requiring the provider to pay an administrative penalty or issue a refund to the consumer, denying, revoking, or suspending the provider's registration, or a combination thereof.

Section 39-5-890. An appeal of an order issued by the department must be made pursuant to the Administrative Procedures Act and the

rules governing practice before the Administrative Law Court. A contested hearing pursuant to this article is before the Administrative Law Court, with notice to, and an opportunity for a hearing by, the affected provider.

Time effective

SECTION 2. This act takes effect six months after approval by the Governor.

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 191

(R194, S974)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTIONS 59-104-20, 59-149-10, AND 59-150-370, ALL RELATING TO THE DEFINITION OF "PUBLIC OR INDEPENDENT INSTITUTION" FOR PURPOSES OF THE PALMETTO FELLOWS SCHOLARSHIPS, THE LEGISLATIVE INCENTIVES FOR FUTURE EXCELLENCE (LIFE) SCHOLARSHIPS, AND THE SC HOPE SCHOLARSHIPS, RESPECTIVELY, SO AS TO ADD NOT FOR PROFIT INSTITUTIONS ACCREDITED BY THE ACCREDITING COMMISSION OF CAREER SCHOOLS AND COLLEGES TO THE DEFINITION.

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

Accredited institutions

SECTION 1. Section 59-104-20(F)(1) of the S.C. Code is amended by adding:

(c) not for profit institutions accredited by the Accrediting

Commission of Career Schools and Colleges.

Accredited institutions

SECTION 2. Section 59-149-10(B) of the S.C. Code is amended by adding:

(3) not for profit institutions accredited by the Accrediting Commission of Career Schools and Colleges.

Accredited institutions

SECTION 3. Section 59-150-370(B) of the S.C. Code is amended by adding:

(3) not for profit institutions accredited by the Accrediting Commission of Career Schools and Colleges.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 192

(R195, S1001)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 24-3-430, RELATING TO THE AUTHORIZATION OF INMATE LABOR IN PRIVATE INDUSTRY AND REQUIREMENTS AND CONDITIONS, SO AS TO PROVIDE THAT NO INMATE PARTICIPATING IN THE PROGRAM MAY EARN LESS THAN THE FEDERAL MINIMUM WAGE.

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

Inmate labor compensation

SECTION 1. Section 24-3-430 of the S.C. Code is amended to read:

Section 24-3-430. (A) The Director of the Department of Corrections may establish a program involving the use of inmate labor by a nonprofit organization or in private industry for the manufacturing and processing of goods, wares, or merchandise or the provision of services or another business or commercial enterprise considered by the director to enhance the general welfare of South Carolina. No violent offender shall be afforded the opportunity to perform labor for nonprofit organizations if such labor is outside the confines of a correctional institution. Inmates participating in such labor shall not benefit in any manner contradictory to existing statutes.

(B) The director may enter into contracts necessary to implement this program. The contractual agreements may include rental or lease agreements for state buildings or portions of them on the grounds of an institution or a facility of the Department of Corrections and provide for reasonable access to and egress from the building to establish and operate a facility.

(C) An inmate may participate in the program established pursuant to this section only on a voluntary basis and only after he has been informed of the conditions of his employment.

(D) No inmate participating in the program may earn less than an hourly rate equal to the federal minimum wage for work of similar nature in the private sector.

(E) Inmate participation in the program may not result in the displacement of employed workers in the State of South Carolina and may not impair existing contracts for services.

(F) Nothing contained in this section restores, in whole or in part, the civil rights of an inmate. No inmate compensated for participation in the program is considered an employee of the State.

(G) No inmate who participates in a project designated by the Director of the Bureau of Justice Assistance pursuant to Public Law 90-351 is eligible for unemployment compensation upon termination from the program.

(H) The earnings of an inmate authorized to work at paid employment pursuant to this section must be paid directly to the Department of Corrections and applied as provided under Section 24-3-40.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 193

(R198, S1051)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 50-11-580, RELATING TO THE SEASON FOR HUNTING AND TAKING MALE WILD TURKEYS, BAG LIMITS, TAKING FEMALE WILD TURKEYS, AND ANNUAL REPORTING, SO AS TO ADJUST THE HUNTING AND LIMIT FOR TAKING MALE WILD TURKEYS, AND TO PROVIDE A SUNSET PROVISION; BY AMENDING SECTION 50-25-1330, RELATING TO WATERCRAFT RESTRICTIONS ON LAKE H. TAYLOR BLALOCK, SO AS TO EXTEND THE HUNTING OF WATERFOWL FOR FIVE YEARS; AND BY AMENDING SECTION 50-13-675, RELATING TO NONGAME FISHING DEVICES OR GEAR PERMITTED IN CERTAIN BODIES OF WATER, SO AS TO PERMIT HOOP NETS IN THE CONGAREE RIVER AND THE UPPER REACH OF THE SANTEE RIVER.

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

Season for hunting and taking male wild turkey

SECTION 1. Section 50-11-580 of the S.C. Code is amended to read:

Section 50-11-580. (A) The season for hunting and taking a male wild turkey is April 10 through May 10.

(B) The season bag limit for male wild turkeys is two statewide for residents and two statewide for nonresidents. The daily bag limit is one.

(C) It is unlawful for a person to take a female wild turkey unless authorized by the department pursuant to Section 50-11-500(3).

(D) The department shall provide an annual report on wild turkey resources in South Carolina to the Chairman of the Senate Fish, Game and Forestry Committee and the Chairman of the House Agriculture and Natural Resources Committee.

Season for hunting and taking male wild turkey

SECTION 2. Section 50-11-580(A) and (B) of the S.C. Code is amended to read:

(A) The season for hunting and taking a male wild turkey is:

(1) in Game Zones 1 and 2, April 1 through May 10; and

(2) in Game Zones 3 and 4, March 22 through April 30.

(B) The season bag limit for male wild turkeys is three statewide for residents and two statewide for nonresidents. The daily bag limit is one, provided that:

(1) only one male wild turkey may be taken from April 1 through April 10 from within Game Zones 1 and 2; and

(2) only one male wild turkey may be taken from March 22 through March 31 from within Game Zones 3 and 4.

Enforceability

SECTION 3. The amendments in this act of Sections 1 and 2 of Section 50-11-580 of the S.C. Code do not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under Sections 1 and 2 of Section 50-11-580. After the effective dates included in this act, the provisions of law referred to as 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 applicable effective dates of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the amended laws.

Time effective

SECTION 4. Section 1 of this act takes effect January 1, 2025. Section 2 of this act takes effect January 1, 2030.

Watercraft restrictions on Lake H. Taylor Blalock

SECTION 5. Section 50-25-1330(B) of the S.C. Code is amended to read:

(B) It is unlawful on Lake H. Taylor Blalock to:

(1) operate personal watercraft, including jet skis;

(2) operate any boat, watercraft, or any other type of vessel between midnight and one hour before sunrise, except that public access to Lake H. Taylor Blalock for the purpose of hunting waterfowl on 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 2028-2029 federal waterfowl hunting season, unless reauthorized in statute;

(3) operate any boat, watercraft, or any other type of vessel with an outboard motor having horsepower in excess of the United States Coast Guard rating for the watercraft or with the Coast Guard rating plate missing or changed;

(4) operate, anchor, moor, or dock any boat, watercraft, or allow such vessel to enter within five hundred feet of any pump station, water intake of a dam, hydroelectric generator outfall, or spillways, and these restricted areas must be clearly marked with signs designed and installed by the Spartanburg Water System. Boats, watercraft, and other vessels operated for law enforcement, emergency medical service, or dam maintenance and repair are exempted from this requirement;

(5) operate, anchor, moor, or dock any boat, watercraft, or any other type of vessel within one hundred fifty feet of public fishing piers;

(6) operate sailing craft with a mast height in excess of thirty feet;

(7) wade, bathe, or swim within two hundred feet of any public landing, bridge, or restricted area, and these restricted areas must be clearly marked with signs designed and installed by the Spartanburg Water System.

Nongame fishing devices or gear permitted in the Congaree River

SECTION 6. Section 50-13-675(9) of the S.C. Code is amended to read:

(9) Congaree River:

(a) set hooks:

(i) recreational license-fifty;

(ii) commercial license-fifty;

(b) traps:

(i) recreational license-two;

(ii) commercial license-ten;

(c) trotlines:

(i) recreational license-one line with fifty hooks maximum;

(ii) commercial license-three lines with one hundred fifty hooks maximum;

(d) hoop nets:

(i) recreational license-residents sixty-five years of age or older-one;

(ii) the provisions contained in Section 50-13-675(9)(d) expire on January 1, 2030;

Nongame fishing devices or gear permitted in the Upper Reach of the Santee River

SECTION 7. Section 50-13-675(23) of the S.C. Code is amended to read:

(23) Lakes Marion and Moultrie, and the upper reach of the Santee River:

(a) traps:

(i) recreational license-two;

(ii) commercial license-twenty-five;

(b) trotlines: Hooks must have a gap or clearance between point and shank no greater than seven-sixteenths inch:

(i) recreational license-one line with fifty hooks maximum;

(ii) commercial license-three lines with not more than four hundred hooks on each line;

(c) set hooks: Recreational license-Upper Reach of the Santee River-fifty hooks. The use of set hooks in the Upper Reach of the Santee River as described in this item expire on January 1, 2030.

Time effective

SECTION 8. SECTIONS 3 and 5 of this act take effect upon approval by the Governor.

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 194

(R201, S1188)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-63-240, RELATING TO EXPULSION FOR THE REMAINDER OF THE YEAR AND HEARINGS, SO AS TO AMEND REQUIREMENTS TO BE INCLUDED IN THE WRITTEN NOTIFICATION TO PARENTS OR LEGAL GUARDIANS OF THE PUPIL.

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

Written notification requirements revised

SECTION 1. Section 59-63-240 of the S.C. Code is amended to read:

Section 59-63-240. The board may expel for the remainder of the school year a pupil for any of the reasons listed in Section 59-63-210. If procedures for expulsion are initiated, the parents or legal guardian of the pupil shall be notified in writing of the time and the place of a hearing either before the board or a person or committee designated by the board. The written notification to the parents or legal guardian of the pupil must include their right to have legal counsel present at the hearing, the right to question all witnesses, and contact information for a legal aid service provider which may determine eligibility for free legal representation. The notification must also include the right to access the investigative file in its entirety, to include all documents and videos, at least three days prior to the hearing, with appropriate exemptions and redactions as

required by the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g. If the hearing is held by any authority other than the board of trustees, the right to appeal the decision to the board is reserved to either party. The hearing shall take place within fifteen days of the written notification at a time and place designated by the board and a decision shall be rendered within ten days of the hearing. The pupil may be suspended from school and all school activities during the time of the expulsion procedures. The action of the board may be appealed to the proper court. The board may permanently expel any incorrigible pupil.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 195

(R203, H3220)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 6 TO CHAPTER 15, TITLE 63 SO AS TO ENACT THE "UNIFORM CHILD ABDUCTION PREVENTION ACT", TO PROVIDE A LEGAL MECHANISM TO PROTECT CHILDREN FROM CREDIBLE RISKS OF ABDUCTION RELATED TO LEGAL CUSTODY OR VISITATION, AND FOR OTHER PURPOSES; AND BY AMENDING SECTIONS 63-7-2340, 63-7-2345, 63-7-2350, 63-13-50, 63-13-60, 63-13-190, 63-13-420, 63-13-430, 63-13-620, 63-13-630, 63-13-820, 63-13-830, 63-13-1010, AND 63-11-70, RELATING TO FINGERPRINT REVIEWS AND BACKGROUND CHECK REQUIREMENTS FOR FOSTER PARENTS, ADOPTIVE PARENTS, CHILD PROTECTIVE SERVICE WORKERS, OTHER CHILD WELFARE EMPLOYEES AND VOLUNTEERS, GROUP CHILDCARE HOMES, FAMILY CHLDCARE HOMES, AND RELIGIOUS

CHILDCARE CENTERS, AMONG OTHERS, SO AS TO PROVIDE FOR FINGERPRINT-BASED BACKGROUND CHECKS AND FOR OTHER PURPOSES.

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

Citation

SECTION 1. This act may be cited as the "Uniform Child Abduction Prevention Act".

Uniform Child Abduction Prevention Act

SECTION 2. Chapter 15, Title 63 of the S.C. Code is amended by adding:

Article 6

Uniform Child Abduction Prevention Act

Section 63-15-600. As used in this article:

(1) "Abduction" means the wrongful removal or wrongful retention of a child.

(2) "Child" means an unemancipated individual who is less than eighteen years of age.

(3) "Child-custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order.

(4) "Child-custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, or protection from domestic violence.

(5) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.

(6) "Petition" means a motion or its equivalent.

(7) "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.

(8) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory

or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe or nation.

(9) "Travel document" means records relating to a travel itinerary, including a travel ticket, pass, reservation for transportation, or accommodation. The term does not include a passport or visa.

(10) "Wrongful removal" means the taking of a child that breaches rights of custody or visitation given or recognized under the laws of this State.

(11) "Wrongful retention" means the keeping or concealing of a child that breaches rights of custody or visitation given or recognized under the laws of this State.

Section 63-15-610. Sections 63-15-318, 63-15-320, and 63-15-322 apply to cooperation and communication among courts in proceedings under this article.

Section 63-15-620. (A) A court on its own motion may order abduction prevention measures in a child-custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child.

(B) A party to a child-custody determination or another individual or entity having a right under the laws of this State or another state to seek a child-custody determination for the child may file a petition seeking abduction prevention measures to protect the child under this article.

(C) A prosecutor or public authority designated under Section 63-15-378 may seek a warrant to take physical custody of a child under Section 63-15-670 or other appropriate prevention measures.

Section 63-15-630. (A) A petition under this article may be filed only in a court that has jurisdiction to make a child-custody determination with respect to the child at issue under S.C. Code Section 63-15-300, et seq.

(B) A court of this State has temporary emergency jurisdiction under Section 63-15-336 if the court finds a credible risk of abduction.

Section 63-15-640. A petition under this article must be verified or supported by a sworn affidavit and include a copy of any existing child-custody determination, if available. The petition must specify the risk factors for abduction, including the relevant factors described in Section 63-15-650. Subject to Section 63-15-346(E), if reasonably ascertainable, the petition must contain:

(1) the name, date of birth, and gender of the child;

(2) the customary address and current physical location of the child;

(3) the identity, customary address, and current physical location of the respondent;

(4) a statement of whether a prior action to prevent abduction or domestic violence has been filed by a party or other individual or entity having custody of the child, and the date, location, and disposition of the action;

(5) a statement of whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking, or child abuse or neglect, and the date, location, and disposition of the case; and

(6) any other information required to be submitted to the court for a child-custody determination under Section 63-15-346.

Section 63-15-650. (A) In determining whether there is a credible risk of abduction of a child, the court may consider any evidence that the petitioner or respondent:

(1) has previously abducted or attempted to abduct the child;

(2) has threatened to abduct the child;

(3) has recently engaged in activities that may indicate a planned abduction, including:

(a) abandoning employment;

(b) selling a primary residence;

(c) terminating a lease;

(d) closing a bank account or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting unusual financial activities;

(e) applying for a passport or visa or obtaining travel documents for the respondent, a family member, or the child; or

(f) seeking to obtain the child's birth certificate, school or medical records;

(4) has engaged in domestic violence, stalking, child abuse, or neglect;

(5) has refused to follow a child-custody determination;

(6) lacks strong familial, financial, emotional, or cultural ties to this State or the United States;

(7) has strong familial, financial, emotional, or cultural ties to another state or country;

(8) is likely to take the child to a country that:

(a) is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child;

(b) is a party to the Hague Convention on the Civil Aspects of

International Child Abduction but:

(i) the Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country;

(ii) is noncompliant according to the most recent compliance report issued by the United States Department of State; or

(iii) lacks legal mechanisms for immediately and effectively enforcing a return order under the Hague Convention on the Civil Aspects of International Child Abduction;

(c) poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children;

(d) has laws or practices that would:

(i) enable the respondent, without due cause, to prevent the petitioner from contacting the child;

(ii) restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status, or religion; or

(iii) restrict the child's ability legally to leave the country after the child reaches the age of majority because of a child's gender, nationality, or religion;

(e) is included by the United States Department of State on a current list of state sponsors of terrorism;

(f) does not have an official United States diplomatic presence in the country; or

(g) is engaged in active military action or war, including a civil war, to which the child may be exposed;

(9) is undergoing a change in immigration or citizenship status that adversely affects the respondent's ability to remain in the United States legally;

(10) has had an application for United States citizenship denied;

(11) has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a Social Security card, a driver's license, or other government-issued identification card or has made a misrepresentation to the United States government;

(12) has used multiple names to attempt to mislead or defraud; or

(13) has engaged in any other conduct the court considers relevant to the risk of abduction.

(B) In the hearing on a petition under this article, the court shall consider evidence that the respondent believed in good faith that the

respondent's conduct was necessary to avoid imminent harm to the child or respondent and any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the child.

Section 63-15-660. (A) If a petition is filed under this article, the court may enter an order that must include:

(1) the basis for the court's exercise of jurisdiction;

(2) the manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding;

(3) a detailed description of each party's custody and visitation rights and residential arrangements for the child;

(4) a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and

(5) identification of the child's country of habitual residence at the time of the issuance of the order.

(B) If, at a hearing on a petition under this article or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the child, the court shall enter an abduction prevention order. The order must include the provisions required by subsection (A) and measures and conditions, including those in subsections (C), (D), and (E), that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of a party. The court shall consider the age of the child, the potential harm to the child from an abduction, the legal and practical difficulties of returning the child to the jurisdiction if abducted, and the reasons for the potential abduction, including evidence of domestic violence, stalking, or child abuse or neglect.

(C) An abduction prevention order may include one or more of the following:

(1) an imposition of travel restrictions that require that a party traveling with the child outside a designated geographical area provide the other party with the following:

(a) the travel itinerary of the child;

(b) a list of physical addresses and telephone numbers at which the child may be reached at specified times; and

(c) a copy of all travel documents;

(2) a prohibition of the respondent directly or indirectly:

(a) removing the child from this State, the United States, or another geographical area without permission of the court or the petitioner's written consent;

(b) removing or retaining the child in violation of a child-custody determination;

(c) removing the child from school or a childcare or similar facility; or

(d) approaching the child at a location other than a site designated for supervised visitation;

(3) a requirement that a party register the order in another state as a prerequisite to allowing the child to travel to that state;

(4) with regard to the child's passport:

(a) a direction that the petitioner place the child's name in the United States Department of State's Child Passport Issuance Alert Program;

(b) a requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child; and

(c) a prohibition upon the respondent from applying on behalf of the child for a new or replacement passport or visa;

(5) as a prerequisite to exercising custody or visitation, a requirement that the respondent provide:

(a) to the United States Department of State Office of Children's Issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the child;

(b) to the court:

(i) proof that the respondent has provided the information in subitem (a); and

(ii) an acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child;

(c) to the petitioner, proof of registration with the United States Embassy or other United States diplomatic presence in the destination country and with the Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that convention is in effect between the United States and the destination country, unless one of the parties objects; and

(d) a written waiver under the Privacy Act, 5 U.S.C. Section 552a, as amended, with respect to any document, application, or other information pertaining to the child authorizing its disclosure to the court and the petitioner; and

(6) upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child-custody determination issued in the United States.

(D) In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:

(1) limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision;

(2) require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorney's fees and costs if there is an abduction; and

(3) require the respondent to obtain education on the potentially harmful effects to the child from abduction.

(E) To prevent imminent abduction of a child, a court may:

(1) issue a warrant to take physical custody of the child under Section 63-15-670 or the laws of this State other than this article;

(2) direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child, or enforce a custody determination under this article or the laws of this State other than this article; or

(3) grant other relief allowed under the laws of this State other than this article.

(F) The remedies provided in this article are cumulative and do not affect the availability of other remedies to prevent abduction.

Section 63-15-670. (A) If a petition under this article contains allegations, and the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the child.

(B) The respondent on a petition under subsection (A) must be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but no later than the next judicial day unless a hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible.

(C) An ex parte warrant under subsection (A) to take physical custody of a child must:

(1) recite the facts upon which a determination of a credible risk of imminent wrongful removal of the child is based;

(2) direct law enforcement officers to take physical custody of the child immediately;

(3) state the date and time for the hearing on the petition; and

(4) provide for the safe interim placement of the child pending further order of the court.

(D) If feasible, before issuing a warrant and before determining the

placement of the child after the warrant is executed, the court may order a search of the relevant databases of the National Crime Information Center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking, or child abuse or neglect.

(E) The petition and warrant must be served on the respondent when or immediately after the child is taken into physical custody.

(F) A warrant to take physical custody of a child, issued by this State or another state, is enforceable throughout this State. If the court finds that a less intrusive remedy will not be effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

(G) If the court finds, after a hearing, that a petitioner sought an ex parte warrant under subsection (A) for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney's fees, costs, and expenses.

(H) This article does not affect the availability of relief allowed under the laws of this State other than this article.

Section 63-15-680. An abduction prevention order remains in effect until the earliest of:

(1) the time stated in the order;

(2) the emancipation of the child;

(3) the child's attaining eighteen years of age; or

(4) time the order is modified, revoked, vacated, or superseded by a court with jurisdiction under Sections 63-15-330, 63-15-332, and 63-15-334.

Section 63-15-690. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Uniform Child Abduction Prevention Act.

Foreign jurisdictions

SECTION 3. Chapter 15, Title 63 of the S.C. Code is amended by adding:

Section 63-15-605. A court of this State shall treat a foreign country as it if were a state of the United States for the purpose of applying this article if its child-custody determination was made under factual

circumstances in substantial conformity with the jurisdictional standards of this article and if the child custody laws of that foreign country do not violate fundamental principles of human rights.

Electronic Signature in Global and National Commerce Act

SECTION 4. The Uniform Child Abduction Prevention Act modifies, limits, and supersedes the federal Electronic Signature in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of the act, 15 U.S.C. Section 7001(c) of that act, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Code Commissioner

SECTION 5. After enactment of the provisions of this act, the Code Commissioner is authorized to insert the Reporter's Comments, as amended, provided by the Reporter for the South Carolina Law Initiative Council, into the annotated version of the provisions of this act, as contained in the South Carolina Code of Laws, after the appropriate provisions. The Reporter's Comments, prepared by the Reporter for the South Carolina Law Initiative Council with the intent of aiding the user in understanding the provisions to the Uniform Child Abduction Prevention Act, are not considered part of this act and do not indicate legislative intent. The official comments prepared by the Uniform Law Commissioner are not included in this act, but interested users may access these comments at the Uniform Law Commission's depository website: https://uniformlaws.org.

Foster parent fingerprint-based background checks

SECTION 6. Sections 63-7-2340 through 63-7-2350 of the S.C. Code are amended to read:

Section 63-7-2340. (A) A person applying for licensure as a foster parent or for approval for adoption placement, for approval as a prospective legal guardian for a child in the custody of DSS, or seeking employment or a volunteer role with direct, unsupervised contact with children under the age of eighteen in a child-placing agency, qualified residential treatment program or residential facility, or a contracted service provider, and a person eighteen years of age or older, residing in a home in which a person has applied to be licensed as a foster parent or

an approved adoption placement, must undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history.

(B) The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain and store fingerprints for further use in the identification of persons including, but not limited to, use in identifying unsolved latent prints. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to provide the department with current and future information regarding the fingerprints stored, including arrests, convictions, dispositions, warrants, and other information available to the South Carolina Law Enforcement Division and the Federal Bureau of Investigation, such as civil and criminal information.

Section 63-7-2345. (A) Notwithstanding the provisions of Section 63-7-2350, the department is authorized to pay from funds appropriated for foster care the costs of Federal Bureau of Investigation fingerprint-based background checks for foster care families recruited and selected as potential adoption and foster care providers for children in the custody of the department.

(B) Costs for Federal Bureau of Investigation fingerprint-based background checks required for prospective employees or volunteers of a qualified residential treatment program or residential facility, or prospective legal guardians or persons in a prospective placement household aged eighteen years and older, must be paid by the individual or entity requesting the background checks.

Section 63-7-2350. (A) No child in the custody of the Department of Social Services may be placed in a foster home, adoptive home, legal guardian's home, qualified residential treatment program, or residential facility with a person if the person or anyone eighteen years of age or older residing in the home or a person working or volunteering with direct unsupervised contact with children under the age of eighteen in the qualified residential treatment program or residential facility:

(1) has a substantiated history of child abuse or neglect; or

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

(a) an "Offense Against the Person" as provided for in Chapter 3, Title 16;

(b) an "Offense Against Morality or Decency" as provided for in Chapter 15, Title 16;

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

(d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

(e) criminal domestic violence as defined in Section 16-25-20;

(f) criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65;

(g) a felony drug-related offense under the laws of this State;

(h) unlawful conduct toward a child as provided for in Section 63-5-70;

(i) cruelty to children as provided for in Section 63-5-80;

(j) child endangerment as provided for in Section 56-5-2947; or

(k) criminal sexual conduct with a minor in the first degree as provided for in Section 16-3-655(A).

(B) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in subsection (A) when the crime was committed in another jurisdiction or under federal law is subject to the restrictions set out in this section.

(C) At a minimum, the department shall require that all persons referenced in subsection (A) undergo a fingerprint-based background check to be conducted by the State Law Enforcement Division and a fingerprint-based background check to be conducted by the Federal Bureau of Investigation. The department also shall check the State Central Registry of Child Abuse and Neglect, department records, the equivalent registry system for each state in which the person has resided for five years preceding an application for licensure as a foster parent, the National Sex Offender Public Website, and the state sex offender registry for applicants and all persons twelve years of age and older residing in the home of an applicant.

(D) This section does not prevent placement in a foster home, adoptive home, qualified residential treatment program, legal guardian's home, or residential facility when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in subsection (A) has been pardoned. However, notwithstanding the entry of a pardon, the department or other entity making placement or licensing decisions may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited to provide foster care services.

(E) For the purposes of this section, "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. This includes, but is not limited to, child-caring institutions, emergency shelters, group homes, wilderness therapeutic camps, and organizations with supervised individual living facilities.

(F) Notwithstanding the provisions in this section, in the discretion of the department when it is in a child's best interest, a child may be placed in the home of a kin or fictive kin caregiver who has been convicted of or has plead guilty or nolo contendere to a criminal offense described in this section if more than five years have elapsed since the conviction, guilty plea, or nolo contendere plea and the criminal offense was not a violent crime as defined in Section 16-1-60 or a felony involving violence including, but not limited to, child abuse and neglect, domestic violence, or any crime against a child.

Childcare facility employee fingerprint-based background checks

SECTION 7. Sections 63-13-50 and 63-13-60 of the S.C. Code are amended to read:

Section 63-13-50. The fingerprint-based background checks required by this chapter are not required of a certified education personnel who has undergone a fingerprint-based background check pursuant to Section 59-26-40 or of a person licensed as a foster parent who has undergone a state and federal fingerprint-based background check pursuant to Section 63-7-2340, and the results of these fingerprint-based background checks have been submitted to the department and the person has remained employed since the fingerprint-based background check in certified education or licensed as a foster parent or the fingerprint-based background checks have been conducted within the preceding six months.

Section 63-13-60. For conducting a state fingerprint-based criminal history record check as required by this chapter, the State Law Enforcement Division may not impose a fee greater than the fee imposed by the Federal Bureau of Investigation for conducting such a fingerprint-based background check.

Department of Social Services' employee fingerprint-based background checks

SECTION 8. Section 63-13-190 of the S.C. Code is amended to read:

Section 63-13-190. (A)(1) Before the Department of Social Services employs a person in its childcare licensing or child protective services divisions, the person shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history. No person may be employed in these divisions if the person has been convicted of or pled guilty or nolo contendere to any crime listed in Section 63-13-40(A).

(2) A volunteer or an employee of a contractor or subcontractor who contracts for delivery of protective services, family preservation services, foster care services, family reunification services, adoption services, and other related services or programs or a person who has direct unsupervised contact with a child in the custody of the Department of Social Services shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history. No person may be employed by a contractor or a subcontractor, act in a volunteer capacity, or have access to a child in the custody of the department if the person has been convicted of or pled guilty or nolo contendere to any crime listed in Section 63-13-40(A).

(3) Persons in subsection (A)(1) and (2) shall also submit to a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the state sex offender registry pursuant to Section 23-3-430.

(4) This section does not prohibit employment when a conviction or plea of guilty or nolo contendere for one of the crimes listed has been pardoned. However, notwithstanding the entry of a pardon, the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited for employment.

(B) Notwithstanding subsection (A) or any other provision of law, a person may be provisionally employed in the childcare licensing or child protective services divisions upon receipt and review of the results of the State Law Enforcement Division fingerprint-based background check if the results show no convictions of the crimes referenced in subsection (A). Pending receipt of the results of the Federal Bureau of Investigation fingerprint-based background check, the department must obtain from the prospective employee a written affirmation on a form provided by

the department that the employee has not been convicted of any crime referenced in Section 63-13-40.

(C) A person who has been convicted of a crime referenced in subsection (A) who applies for employment with the childcare licensing or child protective services divisions, or with a contractor or subcontractor of DSS, or applies or seeks to act in a volunteer capacity for such entities, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

(D) The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to retain and store fingerprints for further use in the identification of persons including, but not limited to, use in identifying unsolved latent prints. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to provide the department with current and future information regarding the fingerprints stored, including arrests, convictions, dispositions, warrants, and other information available to the South Carolina Law Enforcement Division and the Federal Bureau of Investigation, such as civil and criminal information.

(E) The department shall be responsible for the costs of background checks for prospective employees of the childcare licensing and child protective services divisions. The costs for other fingerprints required under this section shall be the responsibility of the individual, contractor, or subcontractor. Fees shall not exceed the actual cost of processing and administration.

Group family childcare homes, fingerprint-based background checks

SECTION 9. Section 63-13-420(G), (H), (I), and (J) of the S.C. Code is amended to read:

(G) A person eighteen years of age or older living in a group family childcare home, and any person eighteen years of age or older who moves into a group family childcare home after an initial application for licensing is approved, shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the

National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years. The fingerprint-based background checks required by this subsection are required to be repeated every five years.

(H) A person fifteen through seventeen years of age living in a group family childcare home, and any person fifteen through seventeen years of age who moves into a group family childcare home after an initial application for licensing is approved, shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The fingerprint-based background checks required by this subsection are required to be repeated every five years.

(I) A person applying for a license as an operator under this section shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years. If a person is not employed or does not provide caregiver services for six months or longer, then the fingerprint-based background checks must be repeated. The fingerprint-based background checks required by this subsection are required to be repeated every five years.

(J) A person applying for a license as an operator under this section or seeking employment or seeking to provide caregiver services at a facility licensed under this section shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or

neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years. If a person is not employed or does not provide caregiver services for six months or longer, then the fingerprint-based background checks must be repeated. The fingerprint-based background checks required by this subsection are required to be repeated every five years.

Childcare center license renewal, fingerprint-based background checks

SECTION 10. Section 63-13-430(F) of the S.C. Code is amended to read:

(F) A licensee seeking license renewal under this section, its employees, and its caregivers, who have not done so previously, on the first renewal after June 30, 1995, shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years.

Statement of approval, fingerprint-based background checks

SECTION 11. Section 63-13-620(C) of the S.C. Code is amended to read:

(C) A person applying for approval under this section shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal

Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years. The fingerprint-based background checks required by this subsection are required to be repeated every five years.

Statement of approval renewal, fingerprint-based background checks

SECTION 12. Section 63-13-630(D)(1) of the S.C. Code is amended to read:

(1) A person applying for approval renewal under this section, a person who will operate the facility, and its employees and caregivers, who have not done so previously, on the first approval renewal after June 30, 1995, shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years.

Family childcare homes, fingerprint-based background checks

SECTION 13. Section 63-13-820(C) and (D) of the S.C. Code is amended to read:

(C) A person applying to become a registered operator of a family childcare home under this section, a person eighteen years of age or older living in the family childcare home, and any person eighteen years of age or older who moves into the family childcare home after the initial

application for registration is approved shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The fingerprint-based background checks required by this subsection are required to be repeated every five years.

(D) A person fifteen through seventeen years of age living in a family childcare home and any person fifteen through seventeen years of age who moves into a family childcare home after an initial application for registration is approved shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The fingerprint-based background checks required by this subsection are required to be repeated every five years.

Family childcare homes, fingerprint-based background checks

SECTION 14. Section 63-13-830(C)(1) of the S.C. Code is amended to read:

(1) A person applying for renewal of registration as an operator of a family childcare home registered under this article and a person employed or providing caregiver services at a family childcare home registered under this article, who has not done so previously, on the first renewal after June 30, 1996, shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and

database check in each state where the person has lived in the previous five years.

Religious childcare centers, fingerprint-based background checks

SECTION 15. Section 63-13-1010(E), (G), and (H) of the S.C. Code is amended to read:

(E) A person applying for a license or registration as an operator of a church or religious childcare center shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years. If a person is not employed or does not provide caregiver services for six months or longer, then the fingerprint-based background checks must be repeated. The fingerprint-based background checks required by this subsection are required to be repeated every five years.

(G) A person applying for a license or registration as an operator of a church or religious childcare center or seeking employment or seeking to provide caregiver services at a church or religious childcare center shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years. The fingerprint-based background

checks required by this subsection are required to be repeated every five years.

(H) A person applying for renewal of a license or registration as an operator of a church or religious childcare center licensed or registered under this chapter and a person employed or registered under this chapter, who has not done so previously, on the first renewal after June 30, 1996, shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child, and a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry pursuant to Section 23-3-430. The person shall be subject to a state criminal register or repository check, a state sex offender check, and a state child abuse and neglect registry and database check in each state where the person has lived in the previous five years.

Background checks

SECTION 16. Section 63-11-70 of the S.C. Code is amended to read:

Section 63-11-70. (A) A person seeking employment with a child welfare agency for a position with direct unsupervised contact with children must undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history. A person seeking to serve as a volunteer with a child welfare agency for a position with direct unsupervised contact with children must undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history. Additionally, the persons described in this section must also undergo a check of the State Central Registry of Child Abuse and Neglect, DSS department records, the equivalent registry system for each state in which the person has resided for five years preceding an application for employment or as a volunteer, the National Sex Offender Public Website, and the state sex offender registry.

(B) The South Carolina Law Enforcement Division and the Federal

Bureau of Investigation are authorized to retain and store fingerprints for further use in the identification of persons including, but not limited to, use in identifying unsolved latent prints. The South Carolina Law Enforcement Division and the Federal Bureau of Investigation are authorized to provide the department with current and future information regarding the fingerprints stored, including arrests, convictions, dispositions, warrants, and other information available to the South Carolina Law Enforcement Division and the Federal Bureau of Investigation, such as civil and criminal information.

(C) Costs for Federal Bureau of Investigation fingerprint-based background checks required for prospective employees of a child welfare agency must be paid by the individual or entity requesting the background checks.

(D) When a provision of law or regulation provides for a criminal history background check in connection with licensing, placement, service as a volunteer, or employment with a child welfare agency, the provision of law or regulation may not operate to prohibit licensing, placement, service as a volunteer, or employment when a conviction or plea of guilty or nolo contendere has been pardoned. However, notwithstanding the entry of a pardon, the department, child welfare agency, or employer may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited for licensing, placement, service as a volunteer, or employment.

Savings

SECTION 17. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Severability

SECTION 18. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 196

(R204, H3278)

AN ACT A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-60-10, RELATING TO THE SOUTH CAROLINA REAL ESTATE APPRAISERS BOARD, SO AS TO MODIFY THE COMPOSITION OF THE BOARD; BY AMENDING SECTION 40-60-20, RELATING TO DEFINITIONS, SO AS TO ADD DEFINITIONS AND MODIFY EXISTING DEFINITIONS; BY AMENDING SECTIONS 40-60-30, 40-60-31, AND 40-60-33, ALL RELATING TO REAL ESTATE APPRAISER LICENSURE REQUIREMENTS, SO AS TO MODIFY EXEMPTIONS, REVISE, AND PROVIDE EDUCATION REQUIREMENTS AND ACCEPTABLE EQUIVALENCIES FOR APPRENTICE APPRAISERS, AND TO REVISE REQUIREMENTS AND QUALIFICATIONS FOR

LICENSED MASS APPRAISERS; BY AMENDING SECTION 40-60-34, RELATING TO REQUIREMENTS RELATING TO APPRENTICE APPRAISERS AND APPRAISER SUPERVISING APPRENTICES, SO AS TO REVISE REQUIREMENTS; BY AMENDING SECTION 40-60-35, RELATING TO CONTINUING EDUCATION REQUIREMENTS, SO AS TO IMPOSE REPORTING REQUIREMENTS UPON LICENSEES; BY AMENDING SECTION 40-60-36, RELATING TO THE APPROVAL OF COURSES, EDUCATIONAL PROVIDERS, AND INSTRUCTORS, SO AS TO IMPOSE REPORTING REQUIREMENTS UPON PROVIDERS; BY AMENDING SECTION 40-60-37, RELATING TO RECIPROCAL APPLICATIONS FROM APPRAISERS FROM OTHER JURISDICTIONS, SO AS TO MAKE A TECHNICAL CORRECTION; BY AMENDING SECTION 40-60-40, RELATING TO REQUIRED APPRAISER CONTACT INFORMATION, SO AS TO INCLUDE EMAIL ADDRESSES OF LICENSEES; BY AMENDING SECTION 40-60-50, RELATING TO APPLICATION AND LICENSE FEES, SO AS TO OUTLINE REQUIREMENTS FOR APPLICATION; BY AMENDING SECTION 40-60-70, RELATING TO THE CODE OF ETHICS, SO AS TO REQUIRE APPRAISERS TO CONDUCT THEMSELVES IN ACCORDANCE WITH A CODE OF ETHICS AS ESTABLISHED IN THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE; BY AMENDING SECTION 40-60-80, RELATING TO INVESTIGATION OF COMPLAINTS AND VIOLATIONS, SO AS TO ALLOW THE BOARD TO DECLINE TO CONDUCT AN INVESTIGATION UNDER CERTAIN CIRCUMSTANCES; BY AMENDING SECTION 40-60-110, RELATING TO GROUNDS FOR DENYING LICENSURE OR TAKING DISCIPLINARY ACTIONS, SO AS TO REMOVE REFERENCES TO PERMITS AND TO PROVIDE CIRCUMSTANCES WHEN DISCIPLINARY ACTIONS MAY BE TAKEN; BY AMENDING SECTION 40-60-220, RELATING TO THE CONTINUATION OF EXISTING LICENSES, SO AS TO REFERENCE PEOPLE CREDENTIALED IN THIS STATE; BY AMENDING SECTION 40-60-320, RELATING TO DEFINITIONS, SO AS TO REVISE THE DEFINITION OF APPRAISAL PANEL; BY AMENDING SECTION 40-60-330, RELATING TO REGISTRATION REQUIREMENTS, SO AS TO REVISE REQUIREMENTS CONCERNING CERTAIN FINANCIAL INFORMATION; BY AMENDING SECTION

40-60-340, RELATING TO EXCLUSIONS FROM REGISTRATION REQUIREMENTS, SO AS TO REQUIRE REGULATION BY THE OFFICE OF COMPTROLLER GENERAL, AMONG OTHER THINGS; BY AMENDING SECTION 40-60-350, RELATING TO RENEWAL OF REGISTRATIONS, SO AS TO MODIFY THE RENEWAL FREQUENCY; BY AMENDING SECTION 40-60-360, RELATING TO PROMULGATION OF REGULATIONS, SO AS TO SPECIFY REQUIRED REGULATIONS; BY AMENDING SECTION 40-60-370, RELATING TO REQUIREMENTS FOR OWNERS OF APPRAISAL MANAGEMENT COMPANIES, SO AS TO PROVIDE CIRCUMSTANCES THAT AN APPRAISAL MANAGEMENT COMPANY SHALL NOT BE REGISTERED IN THIS STATE OR INCLUDED ON THE NATIONAL REGISTRY; BY AMENDING SECTION 40-60-400, RELATING TO CERTIFICATION OR LICENSURE REQUIRED FOR EMPLOYEES AND INDEPENDENT CONTRACTORS, SO AS TO INCLUDE REFERENCES TO THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISALS PRACTICE STANDARDS; BY AMENDING SECTION 40-60-420, RELATING TO RECORD-KEEPING REQUIREMENTS FOR REGISTRATION RENEWAL, SO AS TO REVISE REQUIREMENTS CONCERNING RECORDS THAT APPRAISAL MANAGEMENT COMPANIES MUST PROVIDE; AND BY AMENDING SECTION 40-60-450, RELATING TO COMPENSATION, SO AS TO CLARIFY THE APPLICABLE GOVERNING FEDERAL REGULATIONS.

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

South Carolina Real Estate Appraisers Board

SECTION 1. Section 40-60-10(B) of the S.C. Code is amended to read:

(B) The South Carolina Real Estate Appraisers Board consists of eight members who must be residents of this State and appointed by the Governor with the advice and consent of the Senate and with consideration given to appropriate geographic representation and to areas of appraisal expertise as follows:

(1) One member must be a public member who may not be connected in any way with the practice of real estate appraisal, real estate brokerage, or mortgage lending. The member from the general public

may be nominated by an individual, group, or association and must be appointed by the Governor in accordance with Section 40-1-45.

(2) One member must be a licensed real estate broker.

(3) One member must be actively engaged in mortgage lending, representing supervised financial institutions, who is not a real estate licensee or a real estate appraiser and who also must not be connected in any way with the brokerage of real estate, the appraisal of real estate, or the review of real estate appraisals.

(4) Four members must be licensed or certified appraisers, actively engaged in real estate appraisal for at least three years, one of whom must be a certified general appraiser and one of whom must be a certified residential appraiser. In appointing real estate appraisers to the board, the Governor, while not automatically excluding other appraisers, shall give preference to real estate appraisers whose primary source of income is derived from appraising real estate and not real estate brokerage.

(5) One member must represent an appraisal management company registered with the board.

Definitions

SECTION 2. Section 40-60-20 of the S.C. Code is amended to read:

Section 40-60-20. As used in this chapter unless the context requires otherwise:

(1) "Analysis" means a study of real estate or real property other than one estimating value.

(2) "Appraisal", as a noun, means the act or process of developing an opinion of value; as an adjective, "appraisal" means of or pertaining to appraising and related functions including, but not limited to, appraisal practice and appraisal services.

(3) "Appraisal assignment" or "valuation assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion that estimates the value of real estate.

(4) "Appraisal Foundation" means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois, containing the Appraisal Standards Board (ASB), Appraiser Qualifications Board (AQB), a board of trustees, and other advisory bodies.

(5) "Appraisal report" means any communication, written or oral, of an appraisal or appraisal review. The testimony of an individual dealing

with the analyses, conclusions, or opinions concerning identified real estate or real property is considered to be an oral appraisal report.

(6) "Appraisal subcommittee" means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. Section 3301, et seq.), as amended, as well as the Secretary of the Department of Housing and Urban Development, or the secretary's designee, under the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. Section 1708(g)).

(7) "Appraiser" means a person who holds a license or certification issued by the board to perform valuation services competently and in a manner that is independent, impartial, and objective, and in accordance with all applicable laws.

(8) "Apprentice appraiser" means an individual who holds a credential issued by the board to assist a state-certified appraiser in the performance of an appraisal if the apprentice is actively supervised by the certified appraiser.

(9) "Board" means the South Carolina Real Estate Appraisers Board established pursuant to the provisions of this chapter.

(10) "Complex residential property appraisal" means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

(11) "Federally related transaction" means any real estate-related financial transaction which a federal financial institution regulatory agency engages in, contracts for, or regulates and which requires the services of an appraiser.

(12) "Mass appraisal" means the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.

(13) "Mass appraiser" means any appraiser who is employed in the office of a tax assessor to appraise real property for ad valorem tax purposes and who is licensed or certified as a mass appraiser.

(14) "Noncomplex residential property appraisal" means one in which the property to be appraised, the form of ownership, and market conditions are those which are typically found in the subject market.

(15) "Person" means an individual, corporation, partnership, or association, foreign and domestic.

(16) "Price" means the amount asked, offered, or paid for a property.

(17) "Real estate" means an identified parcel or tract of land including improvements, if any.

(18) "Real estate appraisal activity" means the act or process of performing an appraisal and preparing an appraisal report.

(19) "Real property" means the interests, benefits, and rights inherent in the ownership of real estate.

(20) "Residential appraisal" is an appraisal of a vacant or improved parcel of land that is devoted to or available for use as a one-to-four family abode including, but not limited to, a single-family home, apartment, or rooming house.

(21) "Standards of professional appraisal practice" or "USPAP" means the National Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of the Appraisal Foundation and adopted by the board.

(22) "State-certified general appraiser" means an appraiser authorized to engage in the appraisal of all types of real property.

(23) "State-certified general mass appraiser" means an appraiser authorized to engage in all types of real estate mass appraisal activity for ad valorem purposes.

(24) "State-certified residential appraiser" means an appraiser authorized to engage in the appraisal of one to four residential units without regard to transaction value or complexity and nonresidential appraisals with a transaction value less than five hundred thousand dollars.

(25) "State-certified residential mass appraiser" means an appraiser authorized to engage in the mass appraisal of one to four residential units without regard to value or complexity and nonresidential appraisals with a transaction value less than five hundred thousand dollars.

(26) "State-licensed appraiser" means an appraiser authorized to engage in the appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units and nonresidential appraisals having a transaction value less than five hundred thousand dollars.

(27) "State-licensed mass appraiser" means an appraiser authorized to engage in the mass appraisal of noncomplex one to four residential units having a transaction value less than one million dollars and complex one to four residential units and nonresidential appraisals having a transaction value less than five hundred thousand dollars.

(28) "Timberland" means forestland that is producing or is capable of producing timber as a crop.

(29) "Valuation services" means the value of real estate or real property based on assignment instructions of the client in accordance with federal law or regulations.

(30) "Value" means the monetary relationship between properties and those who buy, sell, or use those properties, expressed as an opinion of the worth of the property at a given time.

License requirements and exceptions

SECTION 3. Section 40-60-30 of the S.C. Code is amended to read:

Section 40-60-30. It is unlawful for an individual to assume or use a title, designation, or abbreviation likely to create the impression that the person is a real estate appraiser or to engage in real estate appraisal activity or advertise as an appraiser without a valid license issued by the department. However, nothing in this chapter may be construed to apply to:

(1) A real estate licensee licensed in accordance with Chapter 57, Title 40 who performs valuation services of real estate for a client or customer on the condition that the valuation service is not referred to as an appraisal. In performing a valuation service, which federal law or regulation does not require a license or certified appraiser, the real estate licensee must disclose to the requesting party: "This valuation service may not be used for the purposes of obtaining financing in a federally related transaction.".

(2) A forester registered pursuant to Chapter 27, Title 48 who performs valuation services on standing or growing timber or timberland located in this State and issues a valuation service on the timber or timberland, as permitted by Chapter 27, Title 48 and Regulation 53-13. When a valuation service is to be used in a federally related transaction, the registered forester must be licensed or certified under this chapter if required by federal law or regulation.

(3) A person, employed by a lender in the performance of valuation services, with respect to which federal law or regulation does not require a licensed or certified appraiser.

(4) A person, credentialed by this board in the performance of valuation services, with respect to which federal law or regulation does not require a licensed or certified appraiser.

Required qualifications

SECTION 4. Section 40-60-31 of the S.C. Code is amended to read:

Section 40-60-31. To qualify as an appraiser, an applicant shall:

(1) have attained the age of eighteen years;

(2) satisfy educational requirements of having:

(a) as an apprentice, state-licensed, or mass appraiser:

(i) a high school diploma; or

(ii) hold a certificate of equivalency;

(b) as a state-certified residential appraiser:

(i) a high school diploma or certificate of equivalency; and

(ii) additional education as required by the Appraiser Qualifications Board of the Appraisal Foundation or as promulgated by the board through regulation;

(3) submit proof of completion of appraiser qualifying education as required by the Appraiser Qualifications Board and experience requirements as specified in this chapter or promulgated by the board through regulation;

(4) submit certificates of licensure from all jurisdictions where presently or previously certified;

(5) submit to a state fingerprint-based criminal records check, to be conducted by the State Law Enforcement Division, a national criminal records check, supported by fingerprints, conducted by the FBI, and, if required by the Appraiser Qualifications Board, undergo a criminal background check in compliance with AQB requirements to be submitted by the applicant with his application; and

(6) pass an examination, if applicable. An applicant who does not become licensed or certified within two years after passing the examination must retake the examination.

Educational and experience requirements

SECTION 5. Section 40-60-33 of the S.C. Code is amended to read:

Section 40-60-33. In addition to the requirements of Section 40-60-31, an applicant for a permit, license, or certification shall provide proof of having met the following educational and applicable experience requirements:

(1) To qualify as an apprentice appraiser, an applicant shall:

(a) furnish evidence that the applicant will be supervised by an appraiser who is state-certified by the board;

(b) furnish evidence that the applicant has successfully completed additional education as required by the Appraiser Qualifications Board or promulgated by the board in regulation; and

(c) successfully complete a trainee/supervisor course conducted in compliance with the Appraiser Qualifications Board requirements.

(2) To qualify as a state-licensed appraiser or licensed mass appraiser, an applicant shall:

(a) furnish evidence that the applicant has successfully completed additional education as required by the Appraiser Qualifications Board or promulgated by the board in regulation;

(b) successfully complete experience as required by the Appraiser Qualifications Board or promulgated by the board in regulation. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed fifty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. Mass appraiser experience may be one hundred percent ad valorem tax appraisal. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board; and

(c) pass an examination approved by the board. The prerequisites to sit for the examination are completion of the educational requirements and appraisal experience.

(3) To qualify as a state-certified residential appraiser or certified residential mass appraiser, an applicant shall:

(a) furnish evidence that the applicant has successfully completed additional education as required by the Appraiser Qualifications Board or promulgated by the board in regulation;

(b) successfully complete experience as required by the Appraiser Qualifications Board or promulgated by the board in regulation. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed fifty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. Mass appraiser experience may be one hundred percent ad valorem tax appraisal. The verification for experience credit claimed by an applicant must be by affidavit on forms prescribed by the board; and

(c) pass an examination approved by the board. The prerequisites to sit for the examination are completion of the educational requirements and appraisal experience.

(4) To qualify as a state-certified general appraiser or certified general mass appraiser, an applicant shall:

(a) furnish evidence that the applicant has successfully completed additional education required by the Appraiser Qualifications Board or promulgated by the board in regulation;

(b) successfully complete experience as required by the Appraiser Qualifications Board or promulgated by the board in regulation. Experience may include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal not to exceed fifty percent of the total hours claimed, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. Mass appraiser experience may be one hundred percent ad valorem tax appraisal. The verification for experience credit claimed by an applicant must be by affidavit on forms

prescribed by the board; and

(c) pass an examination approved by the board. The prerequisites to sit for the examination are completion of the educational requirements and appraisal experience.

Identification numbers, requirements related to apprentices

SECTION 6. Section 40-60-34 of the S.C. Code is amended to read:

Section 40-60-34. (A) The board shall prescribe the form of a license and certificate containing an identification number that the appraiser shall use when signing appraisal reports. When an appraiser advertises or executes contracts or other instruments, the appraiser's name, appraiser classification, and number assigned by the board must be printed or typed adjacent to the appraiser's signature.

(B) The apprentice appraiser performing appraisal work or seeking to establish experience for a state-licensed or state-certified designation shall:

(1) perform appraisal assignments only under the direct supervision of a state-certified appraiser;

(2) maintain, jointly with the supervising appraiser, a log containing the following for each assignment:

(a) type of property;

(b) date of report;

(c) address of appraised property;

(d) description of work performed by the apprentice and scope of review and supervision of the supervising appraiser;

(e) number of actual work hours by the apprentice on the assignment; and

(f) signature and state certification number of the supervising appraiser with a separate appraisal log maintained for each supervising appraiser, if applicable;

(3) sign or be given credit in all appraisal reports for which the apprentice acts as an appraiser;

(4) maintain or have access to complete copies of all appraisals.

(C) The apprentice appraiser performing mass appraisal work seeking to establish credit for a licensed or certified mass appraiser designation shall:

(1) perform appraisal assignments only under the direct supervision of a state-certified residential or state-certified general real estate appraiser, mass or otherwise;

(2) maintain a log on a form provided by the board.

(D) The supervisory appraiser supervising an apprentice appraiser shall:

(1) personally review appraisal reports prepared by the apprentice and sign and certify the report as being independently and impartially prepared in compliance with the National USPAP and applicable statutory requirements;

(2) provide a copy or access to final appraisal documents to any participating apprentice;

(3) directly supervise no more than three apprentice appraisers at any one given time, unless board approval is received to supervise more than three apprentices subject to required progress monitoring as approved by the board;

(4) be certified for a minimum of three years and not subject to any disciplinary action within the immediately preceding three years that affects the supervisory appraiser's legal eligibility to engage in appraisal practice; and

(5) successfully complete a trainee/supervisor course conducted in compliance with Appraiser Qualifications Board requirements.

(E) The supervisory appraiser supervising an apprentice appraiser performing mass appraisal work shall personally review and approve all work performed by the apprentice to ensure that the work is prepared in compliance with the National USPAP and applicable statutory requirements.

(F) The board may issue to an appraiser who is licensed or certified in another state a temporary permit, which is only effective for one specific appraisal assignment. If the appraisal is not completed within six months from the date of the permit, the board may grant an extension upon request from the appraiser prior to the expiration of the current temporary permit. The appraiser shall place the following notation on all statements of qualification, contracts, or other instruments: "Practicing in the State of South Carolina under Temporary Permit No.".

(G) Licenses and certifications issued by the board expire biennially on June thirtieth. As a condition of renewal, an appraiser shall provide evidence satisfactory to the board of having met the continuing education requirements established by this chapter. An apprentice appraiser may maintain his license for five years before applying for an upgrade, provided continuing education requirements are satisfied biennially at renewal.

(H) Licenses and certifications not renewed by date of expiration are no longer valid but may be reinstated within twelve months after expiration upon proper application, payment of renewal fee, a late penalty, as established in the fee schedule, and proof of having met

continuing education requirements as prescribed.

(I) A license or certification that has expired and has not been reinstated by the last day of the twelfth month following expiration must be canceled. Such a canceled license or certification may be considered for reinstatement as provided by the board in regulation.

(J) A license or certification may be placed on inactive status by informing the board in writing and must be renewed in the same manner as provided for active renewal. An expired or lapsed apprentice appraiser licensee can reapply for licensure if initial qualifying courses have been completed within five years of the application date.

(K) An appraiser must retain the work file for a period of at least five years after preparation or at least two years after the final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last. The work file must include the original or exact copy of each appraisal report prepared or signed by the appraiser and all supporting data assembled and formulated by the appraiser in preparing each appraisal report. The five-year period for retention of records is applicable to each engagement of the services of the appraiser and commences on the date of delivery of each appraisal report to the client.

(L) An appraiser who has had a license or certification revoked by the board may not be issued a new license or certification within two years after the date of the revocation or at any time thereafter except upon an affirmative vote of a majority of the board.

Continuing education requirements

SECTION 7. Section 40-60-35(A)(1) of the S.C. Code is amended to read:

(1) For renewal of an active license or certification, an appraiser shall present evidence biennially of satisfactory completion by the applicant of twenty-eight hours of instruction in courses or seminars that have been approved by the board, of which seven hours must be the National USPAP update course current at the time of renewal. Licensees shall report completed continuing education as required by the board.

Educational provider reporting requirements

SECTION 8. Section 40-60-36(H) of the S.C. Code is amended to read:

(H) Providers must report completed continuing education of

licensees within fourteen days of course completion as required by the board.

Reciprocal applications of appraisers from other jurisdictions

SECTION 9. Section 40-60-37(A) of the S.C. Code is amended to read:

(A) The board must grant a reciprocal credential to an appraiser credentialed in another jurisdiction if:

(1) the appraiser holds a valid credential to value real property that is in good standing in at least one other jurisdiction; and

(2) the requirements to obtain a credential to value real property in the jurisdiction in which the appraiser is credentialed have been found by the appraisal subcommittee to conform to the qualification criteria of the Appraiser Qualifications Board.

Appraiser contact information

SECTION 10. Section 40-60-40 of the S.C. Code is amended to read:

Section 40-60-40. (A) Each licensee and apprentice must maintain on file with the board a current physical address at which they may be found.

(B) Each licensee and apprentice must notify the board in writing within fifteen days of any change in residential address, office address, office telephone number, or email address.

(C) Service of any notice upon a licensee who cannot be found at the last known address provided by the licensee may be made by leaving with the director, or designee, a copy of the notice and any accompanying documents along with proof of attempted service at the last known address. The board may set aside and reopen a proceeding upon satisfactory showing by the licensee of good cause as to why the licensee did not receive service of the notice.

Application and license fees

SECTION 11. Section 40-60-50(D) of the S.C. Code is amended to read:

(D) Application and license fees are payable to the department in advance and must accompany an application or proper documentation. Fees are nonrefundable.

Code of ethics

SECTION 12. Section 40-60-70 of the S.C. Code is amended to read:

Section 40-60-70. Appraisers shall conduct themselves in accordance with a code of ethics as established in the Uniform Standards of Professional Appraisal Practice (USPAP) and adopted by the board.

Investigations of complaints

SECTION 13. Section 40-60-80 of the S.C. Code is amended to read:

Section 40-60-80. (A) The department shall investigate complaints and violations of this chapter as provided in this chapter and Section 40-1-80.

(B) If a complaint filed with the board involves an appraisal report that varies from a sales, lease, or exchange price, the board may decline to conduct an investigation.

(C) If a complaint filed with this board is received without a stated complainant, along with contact information and supporting documentation as to potential violations, the board may decline to conduct an investigation.

(D) The board is prohibited from conducting an investigation based solely on a dispute over the value of property for ad valorem tax purposes.

(E) A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40-1-160 and the South Carolina Administrative Procedures Act.

Grounds for denying a license

SECTION 14. Section 40-60-110 of the S.C. Code is amended to read:

Section 40-60-110. In addition to the grounds provided in Section 40-1-110, the board may deny licensure to an applicant or may take disciplinary action against an appraiser who:

(1) fails to meet the minimum qualifications for a license or certification established by or pursuant to this chapter;

(2) procures or attempts to procure a license or certification by knowingly making a false statement, submitting false information, or making a material misrepresentation in an application filed with the board, or procures or attempts to procure a license or certification

through fraud or misrepresentation;

(3) performs an act in the practice of real estate appraising that constitutes dishonest, fraudulent, or improper conduct;

(4) engages in the business of real estate appraising under an assumed or fictitious name;

(5) pays a finder's fee or a referral fee in connection with an appraisal of real estate or real property in this State;

(6) makes a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

(7) violates the confidential nature of governmental records to which an appraiser gained access through employment or engagement as an appraiser by a governmental agency;

(8) violates any of the standards for the development or communication of real estate appraisals as set forth in this chapter or regulations promulgated pursuant to this chapter;

(9) fails or refuses without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(10) exhibits negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(11) accepts an independent appraisal assignment or valuation assignment when the employment itself or fee to be paid was contingent upon the appraiser's reporting a predetermined estimate, analysis, valuation, opinion, or conclusion or upon the award, recovery, or consequences resulting from the appraisal assignment;

(12) fails to retain records in accordance with this chapter or regulations promulgated pursuant to this chapter;

(13) fails upon reasonable request of an investigator of the board to make all records required to be maintained under this chapter available to the board for inspection and copying by the board or fails to appear upon reasonable request for an interview with an investigator of the board;

(14) demonstrates bad faith, dishonesty, untrustworthiness, or incompetency to act as an appraiser in a manner so as to endanger the interests of the public;

(15) performs or attempts to perform any real estate appraisal activity on property located in another state without first having complied with that state's laws regarding real estate appraisal activity;

(16) performs or attempts to perform, if licensed or certified as a mass appraiser, any appraisal other than those for ad valorem tax purposes and directly related to the assessor office employment duties of the mass

appraiser, unless assisting and supervised by a nonmass-certified appraiser;

(17) has been convicted of or pleaded guilty or nolo contendere to a felony relating to the practice of appraisal, banking, mortgage lending, or the provision of financial services, or a crime involving fraud or misrepresentation;

(18) fails to report to the department in writing by certified mail, within ten days, notice of conviction of a crime provided for in item (17);

(19) has had a license to practice a regulated profession or occupation in this State, another state or jurisdiction canceled, revoked, suspended, or otherwise disciplined;

(20) issues a check to the board that is returned for insufficient funds or closed account;

(21) fails to comply with or obey a final order of the board or has failed to comply with an order, subpoena, or directive of the board or department;

(22) violates any provision of this chapter or any regulation promulgated under this chapter;

(23) has knowingly performed an act that in any way assists an unlicensed person to practice;

(24) has failed to cooperate with an investigation or other proceeding of the board;

(25) has failed to appear before the board after receiving a formal notice to appear.

Continuation of existing credentials

SECTION 15. Section 40-60-220 of the S.C. Code is amended to read:

Section 40-60-220. A person who is credentialed in this State as a licensed appraiser, licensed mass appraiser, certified residential appraiser, certified residential mass appraiser, certified general appraiser, or certified general mass appraiser on December 31, 2014, may continue licensure in that category without meeting the requirements of Section 40-60-31 and Section 40-60-33, so long as the person is otherwise authorized to hold the license.

Definitions

SECTION 16. Section 40-60-320 of the S.C. Code is amended to read:

Section 40-60-320. For the purposes of this article:

(1) "Appraisal management company" or "AMC" means a person that:

(a) provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(b) provides such services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(c) within a given twelve-month period, oversees an appraiser panel or more than fifteen state-certified or state-licensed appraisers in a state or twenty-five or more state-certified or state-licensed appraisers in two or more states.

Notwithstanding the foregoing, an AMC does not include a department or division of an entity that provides appraisal management services only to that entity.

(2) "Appraisal management services" means one or more of the following:

(a) recruiting, selecting, and retaining appraisers;

(b) contracting with state-certified or state-licensed appraisers to perform appraisal assignments;

(c) managing the process of having an appraisal performed, including providing administrative duties, such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed; or

(d) reviewing and verifying the work of appraisers.

(3) "Appraiser panel" means a network, list, or roster of licensed or certified appraisers approved by an AMC to perform appraisals as independent contractors for the AMC. Appraisers on an AMC's "appraiser panel" under this section include both appraisers accepted by the AMC for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions and appraisers engaged by the AMC to perform one or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor for purposes of this item if the appraiser is treated as an independent contractor by the AMC for purposes of federal income taxation.

(4) "Appraisal review" means the act, by a certified or licensed appraiser employed by an appraisal management company, of developing and communicating an opinion about the quality of work of another appraiser that was performed as part of an appraisal assignment.

Appraisal review does not include:

(a) an examination by an unlicensed employee of an appraisal management company for an appraisal solely for grammatical errors, typographical errors, or other similar errors; or

(b) a quality control examination for completeness that does not make a valuation change.

(5) "Client" means a person or entity that contracts with, or otherwise enters into an agreement with, an appraisal management company for the purpose of real estate appraisal services.

(6) "Controlling person" means:

(a) an owner, officer, or director of a corporation, partnership, limited liability company, or other business entity that seeks to offer an appraisal management service in this State;

(b) an individual employed, appointed, or authorized by an appraisal management company authorized to enter a management agreement with certified or licensed appraisers, who are independent contractors, for the performance of real estate appraisal services; or

(c) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(7) "Covered transaction" means any consumer credit transaction secured by a consumer's principal dwelling, which does not have to be a federally related transaction.

(8) "Independent contractor" means a person in a trade, business, or profession in which he offers his services to the general public, in which the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

(9) "Real estate appraisal services" means the practice of developing an opinion of the value of real property in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP) published by the Appraisal Foundation.

(10) "Payor" means a person or entity responsible for making payment for the appraisal.

Registration requirements

SECTION 17. Section 40-60-330 of the S.C. Code is amended to read:

Section 40-60-330. (A)(1) A person may not directly or indirectly engage or attempt to engage in business as an appraisal management company, or directly or indirectly engage or attempt to perform appraisal management services, or advertise or hold himself out as engaging in or

conducting business as an appraisal management company without first obtaining a registration issued by the board under the provisions of this chapter.

(2) To register as an appraisal management company, an applicant shall submit to the board an application on a form or forms prescribed by the board.

(B) The registration application required in subsection (A) must include:

(1) the name of the entity seeking registration;

(2) the business address of the entity seeking registration;

(3) contact information of the entity seeking registration;

(4) the name and contact information for the company's agent for service of process in this State if the entity seeking registration is not a corporation that is domiciled in this State;

(5) contact information for an individual, corporation, partnership, or other business entity that owns ten percent or more of the appraisal management company;

(6) the name, address, and contact information of a controlling person;

(7) certification that the entity seeking registration has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds a certification or license in good standing in this State pursuant to the South Carolina Real Estate Appraisers Act;

(8) certification that the applicant has a system in place to review the work of all certified or licensed appraisers who are independent contractors and perform real estate appraisal services for the appraisal management company on a periodic basis to validate that the real estate appraisal services are being conducted pursuant to Uniform Standards of Professional Appraisals Practice;

(9) certification that the entity maintains a detailed record of each service request that it receives and the certified or licensed appraisers who are independent contractors and who perform the real estate appraisal services for the appraisal management company;

(10) an irrevocable consent to service of process;

(11) a surety bond in the amount of twenty-five thousand dollars on a surety bond form approved by the board, provided:

(a) the registration requirement provided in this item does not apply to an individual appraiser or an individual appraiser serving on an appraisal panel of an appraisal management company, and appraisal management companies are responsible for any cost of a surety bond as required by this item;

(b) surety bond claims may be filed by the claimant in accordance with the terms of the surety bond on a bond claim form approved by the board, provided claims are limited to actual damages and do not include attorney's fees or punitive damages incurred by the claimant; and

(c) all liability on a surety bond is applicable to the surety bond in effect as of the date of occurrence which gave rise to the liability;

(12) a criminal history background check, pursuant to Section 40-60-31(5), for each controlling person and any individual who owns more than ten percent of the appraisal management company. All costs associated with obtaining a criminal history background check shall be the responsibility of the regulated individual or entity; and

(13) certification that the person has a system in place to require that appraisals are conducted independently and free from inappropriate influence and coercion, as required by the appraisal independence standards established under Section 129E of the Truth in Lending Act, 15 U.S.C. Section 1639e.

(C) A change of an entity's name, address, organizational status, or federal identification number must be reported to the department within fifteen days. Failure to do so may result in registration cancellation and the requirement of the new entity to submit an initial application and meet all requirements for registration.

(D) The board shall review and approve or deny the registration of an appraisal management company.

Exclusions from registration requirements

SECTION 18. Section 40-60-340(5) of the S.C. Code is amended to read:

(5) a federally regulated appraisal management company that is owned and controlled by an insured depository institution as defined in 12 U.S.C. Section 1813 and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation, except that each appraisal management company exempt from registration pursuant to this subsection shall comply with the requirements of Section 40-60-360(C).

Renewal of registrations

SECTION 19. Section 40-60-350 of the S.C. Code is amended to read:

Section 40-60-350. (A) An initial registration granted by the board

pursuant to this article is valid for one year from the date of issuance unless renewed pursuant to subsection (B).

(B) To renew annually, an entity actively registered under this article shall submit all information required by the board before June thirtieth, and the board shall review and renew or review and deny the renewal of the registration of an appraisal management company.

(C) Failure to renew registration by the renewal date must result in the loss of authority to operate under this article. An AMC that fails to renew may be subject to penalties as provided for in this chapter.

(D) A request to reinstate registration within twelve months of expiration must be accompanied by a payment penalty as promulgated by the board in regulation.

(E) A registration expired for more than twelve months must be canceled but may be considered for reinstatement by the board upon proper application and payment of the original registration fee and any late fee.

Promulgation of regulations

SECTION 20. Section 40-60-360 of the S.C. Code is amended to read:

Section 40-60-360. (A) The board shall promulgate regulations to establish fees for registration, renewal, and reinstatement and additional fees as are reasonably necessary for the administration of this chapter and as required in subsection (B) and (C). The fees must be established in consideration of the costs of administering this chapter and the actual cost of the specific service to be provided or performed. The board periodically shall review and adjust the schedule of fees as needed to cover expenses.

(B) The board also shall collect the information and national registry fees established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council pursuant to 12 U.S.C. Section 3338 and regulations adopted pursuant to it from each appraisal management company registered in this State or seeking to be registered in this State.

(C) The board shall collect the information and the national registry fees established by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council pursuant to 12 U.S.C. Section 3338 and regulations adopted pursuant to it from each appraisal management company exempt from registration pursuant to Section 40-60-340(5).

(D) All appraisal management company national registry fees collected must be transferred to the appraisal subcommittee.

(E) The board shall adopt regulations regarding the determination of

the size of the appraiser panel of an appraisal management company in accordance with the rules of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council pursuant to 12 U.S.C. Section 3338.

(F) Notwithstanding another provision of this chapter, pursuant to 12 U.S.C. Section 3338 and regulations pursuant to it, the board must transmit to the appraisal subcommittee, on a timely basis, reports of supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including investigations initiated and action taken.

Requirements of owners of appraisal management companies

SECTION 21. Section 40-60-370 of the S.C. Code is amended to read:

Section 40-60-370. (A) An appraisal management company shall not be registered in this State or included on the national registry if:

(1) it is owned, in whole or in part, directly or indirectly, by a person who has had an appraiser certificate or license refused, denied, canceled, surrendered in lieu of revocation, or revoked in this State or in another state for a substantive cause, as determined by the appropriate state appraiser certifying the licensing agency;

(2) any person who owns more than ten percent of the appraisal management company if the board determines he does not have good moral character, which for purposes of this section requires that the person has not been convicted of or entered a plea of nolo contendere to a felony relating to the practice of appraisal, banking, mortgage lending, or the provision of financial services, or a crime involving fraud or misrepresentation; or

(3) any controlling person or person who owns more than ten percent of the appraisal management company fails to submit to a criminal history background check as required by Section 40-60-31(5) of this chapter or regulations promulgated pursuant to it.

Certification or licensure required for employees and independent contractors

SECTION 22. Section 40-60-400 of the S.C. Code is amended to read:

Section 40-60-400. An employee, or independent contractor of, the appraisal management company must be an appraiser certified or licensed in this State to perform a Uniform Standards of Professional

Appraisals Practice Standards 3 and 4 appraisal review of property located in this State.

Record-keeping requirements

SECTION 23. Section 40-60-420 of the S.C. Code is amended to read:

Section 40-60-420. An appraisal management company shall:

(1) maintain a detailed record of each service request that it receives for at least the latter of:

(a) five years after the date of service request; or

(b) two years after final disposition of a judicial proceeding in which the appraisal management company provided testimony related to an assignment; and

(2) have a policy that requires a certified or licensed appraiser who is an independent contractor and who performs a real estate appraisal service for the appraisal management company to maintain those records including, but not limited to, the work file, for at least the latter of:

(a) five years after preparation; or

(b) two years after the final disposition of a judicial proceeding in which the appraiser or the appraisal management company provided testimony related to the assignment.

Appraiser compensation

SECTION 24. Section 40-60-450(B) of the S.C. Code is amended to read:

(B) An appraisal management company shall compensate appraisers at a rate that is customary and reasonable for appraisals being performed in the market area of the property being appraised, consistent with the requirements of 15 U.S.C. Section 1639e and regulations adopted pursuant to it including, but not limited to, 12 C.F.R. 1026.42.

Time effective

SECTION 25. This act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 197

(R205, H3313)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 30-5-10, RELATING TO THE PERFORMANCE OF THE DUTIES OF A REGISTER OF DEEDS, SO AS TO ADD FLORENCE COUNTY TO THE COUNTIES EXEMPT FROM THE REQUIREMENT THAT THESE DUTIES BE PERFORMED BY THE CLERK OF COURT; AND BY AMENDING SECTION 30-5-12, RELATING TO THE APPOINTMENT OF THE REGISTER OF DEEDS FOR CERTAIN COUNTIES, SO AS TO ADD FLORENCE COUNTY TO THE COUNTIES WHERE THE GOVERNING BODY OF THE COUNTY APPOINTS THE REGISTER OF DEEDS.

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

County exempt from requirement that clerk of court perform register of deeds duties

SECTION 1. Section 30-5-10(A) of the S.C. Code is amended to read:

(A) In every county in the State other than Aiken, Anderson, Beaufort, Berkeley, Charleston, Cherokee, Chesterfield, Clarendon, Colleton, Dorchester, Florence, Georgetown, Greenville, Horry, Jasper, Kershaw, Lancaster, Lexington, Oconee, Orangeburg, Pickens, Richland, Spartanburg, and Sumter the duties prescribed by law for the register of deeds must be performed by the clerk of court who has all the powers

and emoluments given the register of deeds in Aiken, Anderson, Beaufort, Berkeley, Charleston, Cherokee, Chesterfield, Clarendon, Colleton, Dorchester, Florence, Georgetown, Greenville, Horry, Jasper, Kershaw, Lancaster, Lexington, Oconee, Orangeburg, Pickens, Richland, Spartanburg, and Sumter counties.

County council authorized to appoint register of deeds

SECTION 2. Section 30-5-12(A) of the S.C. Code is amended to read:

(A) The governing bodies of Anderson, Beaufort, Cherokee, Chesterfield, Clarendon, Colleton, Florence, Georgetown, Horry, Jasper, Kershaw, Lancaster, Oconee, Orangeburg, and Pickens counties shall appoint the register of deeds for its county under terms and conditions as it may agree upon.

Time effective

SECTION 3. This act takes effect on January 1, 2025.

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 198

(R206, H3424)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 37-1-310 SO AS TO PROVIDE DEFINITIONS, TO PROVIDE THAT A COMMERCIAL ENTITY THAT PUBLISHES CERTAIN OBSCENE MATERIAL ONLINE MAY BE HELD LIABLE FOR CERTAIN DAMAGES, TO PROVIDE THAT IT IS UNLAWFUL FOR A COMMERCIAL ENTITY TO MAKE A PORNOGRAPHIC WEBSITE AVAILABLE TO PERSONS UNDER THE AGE OF EIGHTEEN, AND TO PROVIDE THAT THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE AND OTHER EQUITABLE RELIEF.

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

Child online safety

SECTION 1. Chapter 1, Title 37 of the S.C. Code is amended by adding:

Section 37-1-310. (A) As used in this section:

(1) "Child pornography" means any material depicting a person under the age of eighteen years doing or assisting in doing an act or thing constituting an offense pursuant to Chapter 15, Title 16 and involving any material, act, or thing that is obscene within the meaning of Section 16-15-305.

(2) "Child sexual exploitation" is defined as the term is used in Sections 16-15-395, 16-15-405, and 16-15-410.

(3) "Commercial entity" includes corporations, limited liability companies, partnerships, limited partnerships, sole proprietorships, or other legally recognized entities.

(4) "Digitized identification card" means a data file available on any mobile device which has connectivity to the Internet through a state-approved application that allows the mobile device to download the data file from a state agency or an authorized agent of a state agency that contains all of the data elements visible on the face and back of a license or identification card and displays the current status of the license or identification card.

(5) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmit, circulate, or disseminate by any means.

(6) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks.

(7) "Material harmful to minors" is defined as those terms are used in Section 16-15-375.

(8) "Obscene material" is defined as the term is used in Section 16-15-305.

(9) "Minor" is defined as the term is used in Section 16-15-375.

(10) "News-gathering organization" means any of the following:

(a) an employee of a newspaper, news publication, or news source, printed or on an online or mobile platform, of current news and public interest, while operating as an employee as provided in this subsection, who can provide documentation of such employment with the newspaper, news publication, or news source; or

(b) an employee of a radio broadcast station, television broadcast station, cable television operator, or wire service while operating as an

employee as provided in this subsection, who can provide documentation of such employment.

(11) "Publish" means to communicate or make information available to another person or entity on a publicly available Internet website.

(12) "Reasonable age verification methods" means verifying that the person seeking to access the material is eighteen years old or older by using any of the following methods:

(a) use of a digitized identification card as defined in this subsection;

(b) verification through an independent, third-party age verification service that compares the personal information entered by the individual who is seeking access to the material that is available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for the purpose of age and identity verification; or

(c) any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the material.

(13) "Substantial portion" means more than thirty-three and one-third percent of total material on a website, which meets the definition of "material harmful to minors" as defined in this section.

(14)(a) "Transactional data" means a sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for the purpose of satisfying a request or event.

(b) "Transactional data" includes records from mortgage, education, and employment entities.

(B)(1) Any commercial entity that knowingly and intentionally publishes or distributes obscene material, or material that depicts, describes, or promotes child pornography or child sexual exploitation, on the Internet may be held liable to an individual for nominal damages, actual damages, court costs, and reasonable attorney fees as ordered by the court.

(2) A commercial entity that has violated this section in a manner that satisfies the standards for imposition of punitive damages elsewhere provided by law may be held liable to an individual for punitive damages.

(3) Individual claims that satisfy the generally applicable standards for joinder or class action elsewhere provided by law or rules of court, as applicable, may combine their claims in a single action.

(C)(1) Beginning January 1, 2025, a commercial entity that knowingly

and intentionally publishes or distributes material harmful to minors on the Internet from a website that contains a substantial portion of such material must be held liable if the entity fails to perform reasonable age verification methods to verify the age of an individual attempting to access the material.

(2) A commercial entity that is found to have violated this section is liable to the minor, by and through the minor's parent or legal guardian, for damages resulting from a minor's accessing the material, including liability for nominal damages, actual damages, court costs, and reasonable attorney fees as ordered by the court.

(3) A commercial entity that has violated this section in a manner that satisfies the standards for imposition of punitive damages elsewhere provided by law may be held liable to the minor, by and through the minor's parent or legal guardian, for punitive damages.

(4) Individual claims that satisfy the generally applicable standards for joinder or class action elsewhere provided by law or rules of court, as applicable, may combine their claims in a single action.

(5) A commercial entity may not be held liable under this section for allowing access to its website if the entity uses reasonable age verification methods to verify that the individual attempting to access the material from its website is not a minor.

(6) A commercial entity or third party that uses reasonable age verification methods may not retain any identifying information of the individual after access has been granted to the material.

(7) A commercial entity that is found to have knowingly retained identifying information of the individual after access has been granted to the individual is liable to the individual for damages resulting from retaining the identifying information, including court costs and reasonable attorney fees as ordered by the court.

(8) This section does not apply to any bona fide news or public interest broadcast, website video, report, or event and may not be construed to affect the rights of a news-gathering organization, unless the organization's website contains a substantial portion of material harmful to minors.

(9) An Internet service provider, affiliate or subsidiary of an Internet service provider, search engine, or cloud service provider may not be held to have violated the provisions of this section solely for providing access or connection to or from a website or other information or content on the Internet, or a facility, system, or network not under that provider's control, including transmission, downloading, storing, or providing access, to the extent that such provider is not responsible for the creation of the content of the communication that constitutes material

harmful to minors.

(D) The Attorney General may seek injunctive and other equitable relief against a commercial entity that fails to comply with the provisions of this section.

Severability

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 199

(R207, H3682)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 47-1-140, RELATING TO THE CARE OF ANIMALS AFTER THE ARREST OF THE OWNER, SO AS TO REMOVE PROVISIONS REGARDING A LIEN ON THE SEIZED ANIMAL; BY AMENDING SECTION 47-1-145, RELATING TO CUSTODY AND CARE OF ANIMALS AFTER THE ARREST OF THE OWNER, SO AS TO OUTLINE HEARING PROCEDURES FOR ORDERING THE COST OF

CARE OF THE SEIZED ANIMALS; AND BY AMENDING SECTION 47-1-170, RELATING TO PENALTIES FOR ANIMAL CRUELTY, SO AS TO MAKE CONFORMING CHANGES.

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

Notice to owners

SECTION 1. Section 47-1-140 of the S.C. Code is amended to read:

Section 47-1-140. The law enforcement officer making the arrest, with or without warrant, shall use reasonable diligence to give notice to the owner of the animals found in the charge or custody of the person arrested, if the person is not the owner, and shall care and provide properly for the animals. Notwithstanding any other provision of law, an animal may be seized preceding an arrest and pursuant to Section 47-1-150.

Custody and care of animal after arrest

SECTION 2. Section 47-1-145 of the S.C. Code is amended to read:

Section 47-1-145. (A)(1) Notwithstanding another provision of law, any sheriff, deputy sheriff, deputy state constable, constable, law enforcement officer, or other entity that is awarded custody of an animal under the provisions of Section 47-1-150 or who has seized an animal because of a violation of any provision of Chapter 1, Title 47 or Chapter 27, Title 16 may file a petition with a court of competent jurisdiction to hear civil cases requesting the court to require the owner of the animal or animals to deposit funds at specified intervals in an amount sufficient to secure payment of all anticipated costs of the seizure and care of the animals pending the disposition of the litigation.

(2) If the defendant is found guilty, then the custodian of the animal may then determine if the animal is suitable for adoption or rescue and if adoption or rescue can be arranged for the animal. The animal may not be adopted by the defendant or by any person residing in the defendant's household if the defendant was found guilty. If no adoption or rescue can be arranged after the forfeiture or if the animal is unsuitable for adoption or rescue, then the custodian shall humanely euthanize the animal.

(3) At any time prior to final adjudication, the owner has the right to forfeit ownership of the animal and avoid all future custodial costs related to the animal's care but not costs already accrued, beginning with

the date of the seizure.

(4) In the event that an owner is adjudicated not guilty of all charges related to the animal seizure or all charges are dismissed not pursuant to plea negotiations or an intervention program, the owner shall receive from the filing agency a refund of all costs paid by the owner pursuant to the petition. The court may award interest on the amount refunded to an owner under this subsection.

(B)(1) Every petition filed pursuant to subsection (A) shall contain a description of the time, place, and circumstances of the seizure, the legal authority for the seizure, and the name and address of the owner of the animal seized.

(2) Any sheriff, deputy sheriff, deputy state constable, constable, or other law enforcement officer shall personally serve written process of the petition on the owner of the animal. If the officer is unable to personally serve written process of the petition on the owner of the animal within thirty days of the filing of the petition, the officers shall, within ten days thereafter, post a copy of the petition on the door of the residence of the owner or in another conspicuous place at the location where the animal was seized.

(C)(1)(a) Upon the court's receipt of return of process of the petition on the owner, the court shall set a hearing on the petition to determine the need to care for and provide for the animal pending the final disposition of the animal. The hearing shall be conducted no less than ten days and no more than fifteen business days after the court's receipt of return of service of process of the petition on the owner. Any sheriff, deputy sheriff, deputy state constable, constable, or other law enforcement officer is authorized to serve written notice on the owner of the date, time, and location of the hearing. If no name and address for the owner are set forth in the petition, then such notice shall be posted in a conspicuous place at the location where the animal or animals were seized.

(b) If the owner is financially unable to retain counsel, then counsel shall be provided upon order of the appropriate judge pursuant to Chapter 3, Title 17, unless the owner voluntarily and intelligently waives court-appointed counsel.

(c) The court may reduce the amount the owner is required to pay under this section if the owner is indigent.

(2) The scope of the hearing is limited to whether probable cause existed to seize the animal. Upon such a showing, the court shall require payment to the clerk of court of an amount sufficient to cover reasonable costs of seizure and care, as determined by the court, for a period beginning as of the date of seizure and ending thirty days after the date

of the order. Neither the result of a hearing provided for under this section nor a statement of an owner made at any such hearing shall be admissible in any criminal prosecution related to the seizure of the animal.

(3) The owner shall be ordered to deposit an amount equal to the portion of the original deposit amount attributable to the first thirty days after the date of the initial order and every thirty days thereafter until the owner relinquishes the animal or until the final disposition of the animal. If the required funds are not deposited within five days of the original order setting the amount of funds, or within five days after the expiration of each applicable subsequent thirty-day period, then the animal shall be forfeited to the petitioning agency by operation of law and may be disposed of via transfer to another person or entity capable of providing care or other humane disposition.

(4) The court may correct, alter, or otherwise adjust the owner's thirty-day obligation of payment upon a motion made by the owner or the petitioning agency at least five days before the expiration date of the then current thirty-day payment period. The hearing shall be held within ten days of service of the motion on the opposing party, and any adjustment to the thirty-day payment amount shall become effective five days after the court orders, or refuses to order, an adjustment.

(D)(1) Upon the deposit of funds with the court in accordance with this section, the entity incurring the costs of care may immediately begin to draw from those funds for payment of the actual costs incurred by the petitioning agency in keeping and caring for the animal from the date of seizure to the date of the final disposition of the underlying criminal action regarding the owner and the animal.

(2) Upon final disposition of the animal, remaining funds deposited with the court shall be refunded to the owner.

(E) The remedy provided for in this section is in addition to any other remedy provided by law.

Penalties

SECTION 3. Section 47-1-170 of the S.C. Code is amended to read:

Section 47-1-170. The owner or person having charge or custody of an animal cruelly used who is convicted of any violation of this chapter forfeits ownership, charge, or custody of the animal, and at the discretion of the court, the person who is charged with or convicted of a violation of this chapter may be ordered, if not previously ordered, to pay costs incurred to care for the animal and related expenses.

Applicability

SECTION 4. Nothing in this act may be applied in contradiction to the exemptions and protections provided to hunting dogs, sporting dogs, or working dogs under Section 47-1-40, Section 16-27-60, and Section 16-27-80.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 200

(R211, H4234)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 62-5-101, RELATING TO DEFINITIONS, SO AS TO REVISE THE DEFINITION OF "SUPPORTS AND ASSISTANCE"; BY AMENDING SECTION 62-5-103, RELATING TO FACILITY OF PAYMENT OR DELIVERY, SO AS TO CLARIFY THE NATURE OF THE FIFTEEN-THOUSAND-DOLLAR THRESHOLD; BY AMENDING SECTION 62-5-106, RELATING TO DUTIES OF GUARDIANS AD LITEM, SO AS TO INCREASE THE LENGTH OF TIME THE GUARDIAN AD LITEM HAS TO SUBMIT HIS REPORT PRIOR TO THE HEARING; BY AMENDING SECTION 62-5-108, RELATING TO EMERGENCY AND TEMPORARY ORDERS AND HEARINGS, SO AS TO CLARIFY CERTAIN ASPECTS OF THE PROCESS; BY AMENDING SECTIONS 62-5-303, 62-5-303A, 62-5-303B, 62-5-303C, AND 62-5-303D, ALL RELATING TO THE PROCEDURE FOR COURT APPOINTMENT OF A GUARDIAN, SO AS TO CLARIFY CERTAIN ASPECTS OF THE PROCESS; BY AMENDING SECTION 62-5-307, RELATING TO INFORMAL

REQUESTS FOR RELIEF, SO AS TO CLARIFY THE WARD'S ABILITY TO SUBMIT CERTAIN REQUESTS TO THE COURT; BY AMENDING SECTION 62-5-401, RELATING TO VENUES, SO AS TO CLARIFY, AMONG OTHER THINGS, THAT, IN THE CASE OF MINOR CONSERVATORSHIPS, PROPER VENUE IS THE COUNTY IN WHICH THE MINOR RESIDES OR OWNS PROPERTY; BY AMENDING SECTION 62-5-403A, RELATING TO SERVICE OF SUMMONS AND PETITIONS, SO AS TO INCLUDE CERTAIN OTHER AFFIDAVITS AND REPORTS AMONG THOSE THAT MUST BE FILED WITH THE PETITION; BY AMENDING SECTION 62-5-403B, RELATING TO THE APPOINTMENT OF COUNSEL AND GUARDIANS, SO AS TO APPOINT NURSE PRACTITIONERS, PHYSICIAN ASSISTANTS, NURSES, AND PSYCHOLOGISTS TO SERVE AS EXAMINERS UNDER CERTAIN CIRCUMSTANCES; BY AMENDING SECTION 62-5-403C, RELATING TO HEARINGS AND WAIVERS, SO AS TO REVISE, AMONG OTHER THINGS, CERTAIN PROCEDURES IF NO PARTY REQUESTS A HEARING OR IF THE ALLEGED INCAPACITATED INDIVIDUAL WAIVES HIS RIGHT TO A HEARING; BY AMENDING SECTION 62-5-405, RELATING TO PROTECTIVE ARRANGEMENTS, SO AS TO REVISE CERTAIN ACTS THAT MAY BE PERFORMED BY CONSERVATORS AND SPECIAL CONSERVATORS; BY AMENDING SECTION 62-5-422, RELATING TO POWERS OF CONSERVATORS IN ADMINISTRATION, SO AS TO MAKE CONFORMING CHANGES REGARDING THE PAYMENT OF CERTAIN FEES; BY AMENDING SECTION 62-5-426, RELATING TO CLAIMS AGAINST PROTECTED PERSONS, SO AS TO REQUIRE, AMONG OTHER THINGS, THAT THE CLAIMANT ALSO MUST FILE A WRITTEN STATEMENT OF THE CLAIM WITH THE PROBATE COURT IN WHICH THE CONSERVATORSHIP IS UNDER ADMINISTRATION; BY AMENDING SECTION 62-5-428, RELATING TO ACTIONS FOR REQUESTS SUBSEQUENT TO THE APPOINTMENT, SO AS TO, AMONG OTHER THINGS, REVISE CERTAIN ACTIONS THAT THE COURT MAY TAKE AFTER THE TIME FOR RESPONSE TO THE PETITION HAS ELAPSED TO ALL PARTIES SERVED; BY AMENDING SECTION 62-5-433, RELATING TO DEFINITIONS AND PROCEDURES FOR SETTLEMENT OF CLAIMS IN FAVOR OF OR AGAINST MINORS OR INCAPACITATED PERSONS, SO AS TO, AMONG OTHER

THINGS, DEFINE "GUARDIAN AD LITEM"; BY AMENDING SECTION 62-5-715, RELATING TO CONFIRMATIONS OF GUARDIANSHIPS OR CONSERVATORSHIPS TRANSFERRED FROM OTHER STATES, SO AS TO ALLOW THE COURT MORE DISCRETION AS TO THE TYPE OF DOCUMENTS IT MAY REQUIRE IN THE TRANSFER OF A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER JURISDICTION; BY AMENDING SECTION 62-5-716, RELATING TO THE REGISTRATION OF ORDERS FROM ANOTHER STATE, SO AS TO, AMONG OTHER THINGS, ACKNOWLEDGE THAT IN CERTAIN OTHER JURISDICTIONS, A GUARDIAN MAY ALSO HOLD THE SAME POWERS AS A CONSERVATOR; BY ADDING SECTION 62-6-401 SO AS TO ESTABLISH A TRANSFER ON DEATH; BY AMENDING SECTIONS 50-23-60, 50-23-70, 50-23-90, 50-23-130, 56-19-290, AND 56-19-420, ALL RELATING TO THE TRANSFER OF PROPERTY, SO AS TO INCLUDE REFERENCE TO TRANSFER ON DEATH; AND BY AMENDING SECTION 62-6-101, RELATING TO DEFINITIONS, SO AS TO DEFINE "OWNER", "TRANSFER ON DEATH", AND "TITLED PERSONAL PROPERTY".

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

Definitions

SECTION 1. Section 62-5-101(23) of the S.C. Code is amended to read:

(23) "Supports and assistance" includes:

(a) systems in place for the alleged incapacitated individual to make decisions in advance or to have another person to act on his behalf including, but not limited to, having an agent under a durable power of attorney, a health care power of attorney, a trustee under a trust, a representative payee to manage social security funds, a designated health care decision maker under Section 44-66-30, or an educational representative designated under Section 59-33-310 to Section 59-33-370; and

(b) reasonable accommodations that enable the alleged incapacitated individual to act as the principal decision-maker including, but not limited to, using technology and devices; receiving assistance with communication; having additional time and focused discussion to process information; providing tailored information oriented to the

comprehension level of the alleged incapacitated individual; and accessing services from community organizations and governmental agencies.

Facility of payment or delivery

SECTION 2. Section 62-5-103 of the S.C. Code is amended to read:

Section 62-5-103. (A) A person under a duty to pay or deliver money or personal property to a minor or incapacitated individual may perform this duty in amounts not exceeding a net aggregate amount of fifteen thousand dollars each year by paying or delivering the money or property to the conservator for the minor or incapacitated person, if the person under a duty to pay or deliver money or personal property has actual knowledge that a conservator has been appointed or an appointment is pending. If the net aggregate amount to be paid or delivered in a given year exceeds fifteen thousand dollars, a protective proceeding is required. If the person under a duty to pay or deliver money or personal property to a minor or incapacitated person does not have actual knowledge that a conservator has been appointed or that appointment of a conservator is pending, the person may pay or deliver the money or property in amounts not exceeding a net aggregate of fifteen thousand dollars each year to:

(1) a person having the care and custody of the minor or incapacitated individual with whom the minor or incapacitated individual resides;

(2) a guardian of the minor or an incapacitated individual; or

(3) a financial institution incident to a deposit in a federally insured savings account in the sole name of the minor or for the minor under the Uniform Transfers to Minors Act and giving notice of the deposit to the minor.

(B) The persons, other than a financial institution under subsection (A)(3) above, receiving money or property for a minor or incapacitated individual, serve as fiduciaries subject to fiduciary duties, and are obligated to apply the money for the benefit of the minor or incapacitated individual with due regard to:

(1) the size of the estate, the probable duration of the minority or incapacity, and the likelihood that the minor or incapacitated individual, at some future time, may be able to manage his affairs and his estate;

(2) the accustomed standard of living of the minor or incapacitated individual and members of his household; and

(3) other funds or resources used or available for the support or any

obligation to provide support for the minor or incapacitated individual.

(C) The persons may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's or incapacitated individual's support. Money or other property received on behalf of a minor or incapacitated individual may not be used by a person to discharge a legal or customary obligation of support that may exist between that person and the minor or incapacitated individual. Excess sums must be preserved for future benefit of the minor or incapacitated individual, and any balance not used and property received for the minor or incapacitated individual must be turned over to the minor when he attains majority or is emancipated by court order; or, to the incapacitated individual when he has been readjudicated as no longer incapacitated. Persons who pay or deliver in accordance with provisions of this section are not responsible for the proper application of the money or personal property.

(D) An employer may fulfill his duties to a minor or incapacitated individual by delivering a check to or depositing payment into an account in the name of the minor or incapacitated employee.

Independent investigations

SECTION 3. Section 62-5-106(A)(2) of the S.C. Code is amended to read:

(2) conducting an independent investigation to determine relevant facts and filing a written report with recommendations no later than seventy-two hours prior to the hearing, unless excused or required earlier by the court. The investigation must include items listed in subitems (a) through (i) and also may include items listed in subitems (j) through (m), as appropriate or as ordered by the court:

(a) obtaining and reviewing relevant documents;

(b) meeting with the alleged incapacitated individual, at least once within thirty days following appointment, or within such time as the court may direct;

(c) investigating the residence or proposed residence of the alleged incapacitated individual;

(d) interviewing all parties;

(e) discerning the wishes of the alleged incapacitated individual;

(f) identifying less restrictive alternatives to guardianship and conservatorship;

(g) reviewing a criminal background check on the proposed guardian or conservator;

(h) reviewing a credit report on the proposed conservator;

(i) interviewing the person whose appointment is sought to ascertain the:

(i) proposed fiduciary's knowledge of the fiduciary's duties, requirements, and limitations; and

(ii) steps the proposed fiduciary intends to take or has taken to identify and meet the needs of the alleged incapacitated individual;

(j) consulting with persons who have a significant interest in the welfare of the alleged incapacitated individual or knowledge relevant to the case;

(k) contacting the Department of Social Services to investigate any action concerning the alleged incapacitated individual or the proposed fiduciary;

(l) determining the financial capabilities and integrity of the proposed conservator including, but not limited to:

(i) previous experience in managing assets similar to the type and value of the alleged incapacitated individual's assets;

(ii) plans to manage the alleged incapacitated individual's assets; and

(iii) whether the proposed conservator has previously borrowed funds or received financial assistance or benefits from the alleged incapacitated individual;

(m) interviewing any persons known to the guardian ad litem having knowledge of the alleged incapacitated individual's financial circumstances or the integrity and financial capabilities of the conservator, or both, and reviewing pertinent documents;

Emergency orders, temporary orders, and hearings

SECTION 4. Section 62-5-108 of the S.C. Code is amended to read:

Section 62-5-108. (A) The process for emergency orders without notice is as follows:

(1) Emergency orders without notice must not be issued unless the moving party files a summons, verified petition, notice of and motion for emergency relief and hearing with any available supporting affidavit(s), and any other document required by the court. The verified petition, motion, and affidavits shall set forth specific facts supporting the allegation that an immediate and irreparable injury, loss, or damage will result before notice can be served on adverse parties and a hearing held pursuant to subsection (B).

(a) If emergency relief is requested, the moving party must

present evidence of the emergency and of the individual's incapacity to the court's satisfaction including, but not limited to, an affidavit from a physician or nurse practitioner, or at the discretion of the court, a physician assistant or psychologist, who has performed an examination within thirty days prior to the filing of the action. Additionally, the moving party shall file a motion for the appointment of counsel if counsel has not been retained for an alleged incapacitated individual, and a motion for the appointment of a guardian ad litem.

(b) If the emergency relief requested is an order for:

(i) appointment of a temporary guardian, conservator, guardian ad litem, or other fiduciary; or

(ii) the removal of an existing guardian, conservator, or other fiduciary, and the appointment of a substitute, then the moving party must submit evidence of the suitability and creditworthiness of the proposed fiduciary.

(2) If the motion for emergency relief is not granted, the moving party may seek temporary relief after notice pursuant to subsection (B) or proceed to a final hearing. The court may, in its discretion, treat a motion for emergency relief as a motion for temporary relief as set forth in subsection (B).

(3) If the motion for an emergency relief is granted, the date and hour of its issuance must be endorsed on the order. The date and time for the emergency hearing must be entered on the notice of hearing and it must be no later than ten days from the date of the order or as the court determines is reasonable for good cause shown.

(4) The moving party shall serve all pleadings on the alleged incapacitated individual, ward or protected person, counsel for the alleged incapacitated individual, guardian ad litem, and other adverse parties immediately after issuance of the emergency order.

(5) If the moving party does not appear at the emergency hearing, the court may dissolve the emergency order without notice.

(6) Evidence admitted at the hearing may be limited to verified pleadings and any supporting affidavits. Upon good cause shown or at the court's direction, additional evidence of incapacity and the nature of the emergency may be admitted.

(7) On two days' notice to the party who obtained the emergency order without notice or on such shorter notice to that party as the court may prescribe, an adverse party may appear and move for the emergency order's dissolution or modification, and in that event, the court shall proceed to hear and determine the motion as expeditiously as possible and may consolidate motions.

(8) No emergency order for conservatorship must be issued except

upon the court receiving adequate assurances the assets will be protected, which may include providing of security by the moving party in a sum the court deems proper for costs and damages incurred by any party who without just cause is aggrieved as a result of the emergency order. A surety upon a bond or undertaking submits to the jurisdiction of the court.

(9) The court may take whatever actions it deems necessary to protect assets including, but not limited to, issuing an order to freeze accounts.

(10) Upon the hearing on the ex parte order, if the court continues its prior emergency order, the order must be for a duration of no more than six months unless otherwise specified in an order. A hearing held for the purpose of the issuance of a final order shall be de novo as to all issues.

(11) In an emergency, the court may exercise the power of a guardian with or without notice if the court makes emergency findings as required by the Adult Health Care Consent Act, Section 44-66-30.

(B) The process for temporary orders and temporary hearings with notice is as follows:

(1) A temporary order must not be issued without proof of service on a notice of hearing to the alleged incapacitated individual, ward or protected person, counsel for the alleged incapacitated individual, the guardian ad litem, and other parties.

(2) A temporary hearing may be scheduled upon the filing of the summons, motion for temporary hearing with any supporting affidavits, a verified petition, and motions for the appointment of counsel and guardian ad litem if none have been previously appointed or retained. The temporary hearing may not be held fewer than ten days from service on all interested parties or as the court determines is reasonable.

(a) If temporary relief is requested, the moving party shall present evidence of the need for temporary relief and of incapacity, including without limitation, an affidavit from a physician or nurse practitioner or, at the discretion of the court, a physician assistant or psychologist, who has performed an examination within the previous forty-five days.

(b) If the temporary relief requested is an order for:

(i) appointment of a temporary guardian, conservator, guardian ad litem, or other fiduciary; or

(ii) removal of an existing guardian, conservator or other fiduciary, and the appointment of a substitute, in addition to the requirements set forth in subsection (B)(2) and (a), as applicable, the moving party shall submit evidence of the suitability and creditworthiness of the proposed fiduciary.

(3) If the motion for temporary relief is not granted, the action will remain on the court docket for a de novo hearing on the underlying petition.

(4) If the court determines that the motion for temporary relief should be set for a hearing, the court shall enter a date and time for the temporary hearing on the notice of hearing.

(5) Temporary orders resulting from the hearing shall expire six months from the date of issuance unless otherwise specified in an order.

(C) After preliminary hearing upon such notice as the court deems reasonable, and if the petition requests temporary relief, the court has the power to preserve and apply the property of the alleged incapacitated individual as may be required for his benefit or the benefit of his dependents. Notice of the court's actions shall be given to interested parties as soon thereafter as possible.

(D) A hearing concerning the need for a protective order or the appointment of a permanent guardian or conservator must be a hearing de novo as to all issues before the court.

Seeking a finding of incapacity or appointment of guardian ad litem

SECTION 5. Section 62-5-303(A) of the S.C. Code is amended to read:

(A) A person seeking a finding of incapacity, appointment of a guardian, or both, shall file a summons and petition. When more than one petition is pending in the same court, the proceedings may be consolidated.

Required service

SECTION 6. Section 62-5-303A(A) of the S.C. Code is amended to read:

(A) As soon as reasonably possible after the filing of the summons and petition, the petitioner shall serve:

(1) a copy of the summons, petition, and a notice of right to counsel upon the alleged incapacitated individual and any other documents required if filing an emergency or temporary action;

(2) a copy of the summons and petition upon all co-respondents and the petitioner in any pending guardianship proceeding; and

(3) any affidavits or physician's or nurse practitioner's reports or, at the discretion of the court, the report of a physician assistant or psychologist filed with the petition.

Required examiners

SECTION 7. Section 62-5-303B(A)(2)(b) of the S.C. Code is amended to read:

(b) one examiner, who must be a physician or nurse practitioner or, at the discretion of the court, may be a physician assistant or psychologist, to examine the alleged incapacitated individual and file a notarized report setting forth his evaluation of the condition of the alleged incapacitated individual in accordance with the provisions set forth in Section 62-5-303D. Unless the guardian ad litem or the alleged incapacitated individual objects, if a physician's or nurse practitioner's notarized report or, at the discretion of the court, or the report of a physician assistant or psychologist is filed with the petition and served upon the alleged incapacitated individual and all interested parties with the petition, then the court may appoint such physician as the examiner. Upon the court's own motion or upon request of the initial examiner, the alleged incapacitated individual, or his guardian ad litem, the court may appoint a second examiner, who must be a physician, physician assistant, nurse, nurse practitioner, social worker, or psychologist.

Notice of hearing

SECTION 8. Section 62-5-303C of the S.C. Code is amended to read:

Section 62-5-303C. (A) As soon as the interests of justice may allow, but after the time for filing a response to the petition has elapsed as to all parties, the court shall hold a hearing on the merits of the petition, unless the provisions in subsection (C) apply. The alleged incapacitated individual, all parties, and any person who has filed a demand for notice shall be given notice of the hearing. The alleged incapacitated individual is entitled to be present at the hearing, to conduct discovery, and to review all evidence bearing upon his condition. The hearing may be closed at the request of the alleged incapacitated individual or his guardian ad litem.

(B) The alleged incapacitated individual may waive notice of a hearing and his presence at the hearing.

(C) If no party has requested a hearing, there is an agreement among all the parties and the guardian ad litem's report indicates that a hearing would not further the interests of justice, the alleged incapacitated individual may waive his right to a hearing. If the alleged incapacitated individual is unable to communicate to his guardian ad litem his wishes,

interests, or preferences regarding the appointment of a guardian or the petition for appointment is not contested, either the attorney for the alleged incapacitated individual or the guardian ad litem, if the attorney has been relieved, shall be allowed to waive his right to a hearing. If the alleged incapacitated individual, his attorney, or his guardian ad litem waives his right to a hearing, the court may:

(1) require a formal hearing;

(2) require an informal proceeding as the court shall direct; or

(3) proceed without a hearing.

(D) If no formal hearing is held, the court shall issue a temporary consent order based upon the terms agreed to by the parties and the guardian ad litem. The order shall be considered to be a temporary order which shall expire in thirty days. A ward, under a temporary consent order, may request a formal hearing at any time during the thirty-day period after the order is filed. At the end of the thirty-day period, if the ward, his guardian ad litem, or any other fiduciary empowered to act on the ward's behalf by law or contract has not requested a formal hearing, the court shall issue an order upon such terms agreed to by the parties and the guardian ad litem and the consent order shall become the final order of the court. The ward, his guardian, his attorney, his guardian ad litem, or any other fiduciary empowered to act on the ward's behalf by law or contract also may request any desired corrections or amendments to the order during the thirty-day period.

Examiner's report

SECTION 9. Section 62-5-303D of the S.C. Code is amended to read:

Section 62-5-303D. (A) Each examiner shall complete a notarized report setting forth an evaluation of the condition of the alleged incapacitated individual. The original report must be filed with the court by the court's deadline, but not less than forty-eight hours prior to any hearing in which the report is introduced as evidence. For good cause, the court may admit an examiner's report filed less than forty-eight hours prior to the hearing. All parties are entitled to review the reports after filing, which must be admissible as evidence. The evaluation shall contain, to the best of the examiner's knowledge and belief:

(1) a description of the nature and extent of the incapacity, including specific functional impairments;

(2) a diagnosis and assessment of the alleged incapacitated individual's mental and physical condition, including whether he is taking any medications that may affect his actions;

(3) an evaluation of the alleged incapacitated individual's ability to exercise the rights set forth in Section 62-5-304A;

(4) when consistent with the scope of the examiner's license, an evaluation of the alleged incapacitated individual's ability to learn self-care skills, adaptive behavior, social skills, and a prognosis for improvement;

(5) the date of all examinations and assessments upon which the report is based;

(6) the identity of the persons with whom the examiner met or consulted regarding the alleged incapacitated individual's mental or physical condition; and

(7) the signature and designation of the professional license held by the examiner.

(B) Unless otherwise directed by the court, the examiner may rely upon an examination conducted within the ninety-day period immediately preceding the filing of the petition, or longer at the discretion of the court in extraordinary circumstances. In the absence of bad faith, an examiner appointed by the court pursuant to Section 62-5-303B, is immune from civil liability for breach of patient confidentiality made in furtherance of his duties.

(C) For the purposes of this section, at the discretion of the court, the "examination" must be conducted in person or virtually via telemedicine or other appropriate methods.

Informal request for relief

SECTION 10. Section 62-5-307 of the S.C. Code is amended to read:

Section 62-5-307. (A) The ward or another person interested in his welfare, may make an informal request for relief by submitting a written request to the court. The court may take such action as it considers in its sole discretion to be reasonable and appropriate including, but not limited to, limiting or terminating the guardianship.

(B) A person making an informal request submits personally to the jurisdiction of the court.

Venue

SECTION 11. Section 62-5-401 of the S.C. Code is amended to read:

Section 62-5-401. Subject to the provisions of Section 62-5-701, et seq., venue for proceedings under this part is:

(1) in the county where the alleged incapacitated individual or minor child resides; or

(2) if the alleged incapacitated individual or minor child does not reside in this State, in any county in the state where the alleged incapacitated individual or minor child has property or has the right to take legal action.

Service of summons and petition

SECTION 12. Section 62-5-403A(A)(3) of the S.C. Code is amended to read:

(3) any affidavits or physicians' or nurse practitioners' reports, at the discretion of the court, the report of a physician assistant or psychologist, filed with the petition.

Appointment of counsel

SECTION 13. Section 62-5-403B(A)(2)(b) of the S.C. Code is amended to read:

(b) except in cases governed by Section 62-5-431 relating to benefits from the VA, one examiner, who must be a physician or nurse practitioner or, at the discretion of the court, may be a physician assistant or psychologist, to examine the alleged incapacitated individual and file a notarized report setting forth his evaluation of the condition of the alleged incapacitated individual in accordance with the provisions set forth in Section 62-5-403D. Unless the guardian ad litem or the alleged incapacitated individual objects, if a physician's or nurse practitioner's notarized report or, at the discretion of the court, may be a physician assistant or psychologist, is filed with the petition and served upon the alleged incapacitated individual and all interested parties with the petition, then the court may appoint that physician or nurse practitioner or, at the discretion of the court, may be a physician assistant or psychologist, as the examiner. Upon the court's own motion or upon request of the initial examiner, the alleged incapacitated individual, or his guardian ad litem, the court may appoint a second examiner, who must be a physician, physician assistant, nurse practitioner, nurse, social worker, or psychologist. No appointment of examiners is required when the basis for the petition is that the individual is confined, detained, or missing.

Hearing

SECTION 14. Section 62-5-403C of the S.C. Code is amended to read:

Section 62-5-403C. (A) As soon as the interests of justice may allow, but after the time for filing a response to the petition has elapsed as to all parties, the court shall hold a hearing on the merits of the petition, unless the provisions in subsection (C) apply. The alleged incapacitated individual, all parties, and any person who has filed a demand for notice shall be given notice of the hearing. The alleged incapacitated individual is entitled to be present at the hearing, to conduct discovery, and to review all evidence bearing upon his condition. The hearing may be closed at the request of the alleged incapacitated individual or his guardian ad litem.

(B) The alleged incapacitated individual may waive notice of a hearing and his presence at the hearing.

(C) If no party has requested a hearing, there is an agreement among all the parties and the guardian ad litem's report indicates that a hearing would not further the interests of justice, the alleged incapacitated individual may waive his right to a hearing. If the alleged incapacitated individual is unable to communicate to his guardian ad litem his wishes, interest, or preferences regarding the appointment of a guardian or the petition for appointment is not contested, either the attorney of the alleged incapacitated individual or the guardian ad litem, if the attorney has been relieved, shall be allowed to waive the alleged incapacitated individual's right to a hearing. If the alleged incapacitated individual waives his right to a hearing, the court may:

(1) require a formal hearing;

(2) require an informal proceeding as the court shall direct; or

(3) proceed without a hearing.

(D) If no formal hearing is held, the court shall issue a temporary consent order, based upon such terms agreed to by the parties and the guardian ad litem. The order shall be considered to be a temporary order which shall expire in thirty days. A protected person under a temporary consent order may request a formal hearing at any time during the thirty-day period after the order is filed. At the end of the thirty-day period, if the protected person, his conservator, his attorney, his guardian ad litem, or any other fiduciary empowered to act on the protected person's behalf by law or contract has not requested a formal hearing, the court shall issue an order upon such terms agreed to by the parties and the guardian ad litem. The consent order shall become the final order of the court. The protected person, his conservator, his attorney, his

guardian ad litem, or any other fiduciary empowered to act on the protected person's behalf by law or contract also may request any desired corrections or amendments to the order during the thirty-day period.

Formal proceedings

SECTION 15. Section 62-5-405(A) of the S.C. Code is amended to read:

(A) When it is established in a formal proceeding that a basis exists for affecting a protective arrangement that concerns the property and affairs of a minor or an incapacitated individual, the court may:

(1) without appointing a conservator, authorize, direct, or ratify any provision within a protective arrangement that is in the best interest of the minor or incapacitated individual. A protective arrangement includes, but is not limited to, the payment, delivery, deposit, or retention of funds or property; the sale, mortgage, lease, or other transfer of property; the entry into an annuity contract, a contract for life care, a deposit contract, or a contract for training and education; or the addition to or establishment of a suitable trust. If the formal proceeding involves the sale of real property, the petitioner shall file in the office of the clerk of the circuit court a notice of pendency of action authorized by Sections 15-11-10 to 15-11-50 and upon the filing of such notice, it has the same force and effect as a notice of pendency of action filed in an action in the circuit court.

(2) authorize a conservator or a special conservator to exercise the power to perform the following acts:

(a) make gifts as the court, in its discretion, believes would be made by the protected person;

(b) convey or release the protected person's contingent and expectant interests in property including material property rights and any right of survivorship incident to joint tenancy;

(c) create or amend revocable trusts or create irrevocable trusts of property of the protected person's estate that may extend beyond the protected person's disability or life, or the protected person attaining the age of majority, including the creation or funding of a trust for the benefit of a minor, and a special needs trust or a pooled fund trust for disabled individuals;

(d) fund trusts;

(e) exercise the protected person's right to elect options and change beneficiaries under insurance and annuity policies and to surrender policies for their cash value;

(f) exercise the protected person's right to an elective share in the

estate of a deceased spouse;

(g) renounce any interest by testate or intestate succession or by inter vivos transfer;

(h) ratify any such actions taken on behalf of the protected person.

Powers of conservator

SECTION 16. Section 62-5-422(B) of the S.C. Code is amended to read:

(B) A conservator acting reasonably and in the best interest of the protected person to accomplish the purpose for which he was appointed, may file an application with the court pursuant to Section 62-5-428(A) requesting authority to:

(1) continue or participate in the operation of any unincorporated business or other enterprise;

(2) acquire an undivided interest in an estate asset in which the conservator, in a fiduciary capacity, holds an undivided interest;

(3) buy and sell an estate asset, including land in this State or in another jurisdiction for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset; when selling real property, the conservator shall file in the office of the clerk of the circuit court a notice of pendency of action authorized by Sections 15-11-10 to 15-11-50 and upon the filing of such notice, it has the same force and effect as notice of pendency of action filed in an action in the circuit court;

(4) subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration;

(5) enter into a lease as lessor or lessee, other than a residential lease described in subsection (A);

(6) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(7) grant an option involving disposition of an estate asset or to take an option for the acquisition of any asset;

(8) undertake another act considered necessary or reasonable by the conservator and the court for the preservation and management of the estate;

(9) make charitable gifts pursuant to the protected person's gifting and estate plan if the estate is sufficient to provide for the health,

education, support, and maintenance of the protected person and his dependents;

(10) encumber, mortgage, or pledge an asset for a term extending within or beyond the term of the conservatorship;

(11) pay a reasonable fee to the conservator, special conservator, guardian ad litem, attorney, examiner, physician, physician assistant, nurse practitioner, or psychologist for services rendered;

(12) adopt an appropriate budget for routine expenditures of the protected person;

(13) reimburse the conservator for monies paid to or on behalf of the protected person;

(14) exercise or release the protected person's powers as personal representative, custodian for minors, conservator, or donee of a power of appointment;

(15) exercise options to purchase securities or other property; and

(16) establish or fund a special needs trust or other trust.

Claims against protected person

SECTION 17. Section 62-5-426(A) of the S.C. Code is amended to read:

(A) The probate court has exclusive jurisdiction over claims against the protected person arising from the internal affairs of the conservatorship which may be commenced in the following manner:

(1) A claimant may deliver or mail to the conservator a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed. The claimant also must file a written statement of the claim, in the form prescribed by rule, with the probate court in which the conservatorship is under administration.

(2) A claim is considered presented upon the filing of the statement of claim with the court.

(3) As to claims presented in the manner described in item (1), within sixty days after the presentment of the claim, the conservator must serve upon the claimant a notice stating the claim has been allowed or disallowed in whole or in part. Service of such notice shall be by United States mail, personal service, or otherwise as permitted by rule, and a copy of the notice must be filed with the probate court, along with proof of delivery setting forth the date of mailing or other service on the claimant. A notice of disallowance or partial disallowance of a claim must contain a warning that the claim will be barred to the extent disallowed unless the claimant commences a proceeding for allowance of the claim in accordance with item (4) within thirty days of the mailing

or other service of the notice of disallowance or partial disallowance. Every claim which is disallowed in whole or in part by the conservator is barred so far as not allowed unless the claimant commences a proceeding for allowance of the claim in accordance with item (4) no later than thirty days after the mailing or other service of the notice of disallowance or partial disallowance by the conservator. For good cause shown, the court may reasonably extend the time for filing the notice of allowance or disallowance of a properly filed claim.

(4) Once a claim is presented in accordance with item (1), a claimant may at any time thereafter commence a legal proceeding against the conservator by the filing of a summons and petition for allowance of a claim in the probate court having jurisdiction over the conservatorship, seeking payment of the claim by the conservatorship, and serving the same upon the conservator. Thereafter, the probate court shall not authorize the termination of the conservatorship until the legal proceeding has ended.

(5) In lieu of the procedure provided for in items (1) through (4), a claimant may commence a legal proceeding against the conservator, by the filing of a summons and petition for allowance of a claim or complaint in the probate court having jurisdiction over the conservatorship, seeking payment of his claim by the conservatorship, and serving the same upon the conservator. Thereafter, the probate court may not permit the termination of the conservatorship until the legal proceeding has ended.

(6) Notwithstanding another provision of this section, no proceeding for enforcement or allowance of a claim may be commenced more than thirty days after the conservator has mailed a notice of disallowance or partial disallowance of the claim.

(7) This subsection does not apply to a proceeding by a secured creditor to enforce the secured creditor's right to its security.

Actions for requests subsequent to appointment

SECTION 18. Section 62-5-428(B)(2)(c) of the S.C. Code is amended to read:

(c) As soon as the interests of justice may allow, but after the time for response to the petition has elapsed as to all parties served, the court may hold a hearing on the merits of the petition or may follow the procedure for a consent order without a hearing outlined in Section 62-5-403C. The protected person and all parties not in default must be given notice of the hearing. If all parties not in default waive a hearing,

the court may issue a consent order.

Definitions, procedures for settlement of claims in favor of or against minors or incapacitated persons

SECTION 19. Section 62-5-433 of the S.C. Code is amended to read:

Section 62-5-433. (A)(1) For purposes of this section and for any claim exceeding twenty-five thousand dollars in favor of or against any minor or incapacitated individual, "court" means the circuit court of the county in which the minor or incapacitated individual resides or the circuit court in the county in which the suit is pending. For purposes of this section and for any claim not exceeding twenty-five thousand dollars in favor of or against any minor or incapacitated individual, "court" means either the circuit court or the probate court of the county in which the minor or incapacitated individual resides or the circuit court or probate court in the county in which the suit is pending.

(2) "Claim" means the net or actual amount accruing to or paid by the minor or incapacitated individual as a result of the settlement.

(3) "Petitioner" means either a conservator appointed by the court for the minor or incapacitated individual or the guardian or guardian ad litem of the minor or incapacitated individual if a conservator has not been appointed.

(4) "Guardian ad litem" means a person who has been appointed by the court as provided in Rule 17, South Carolina Rules of Civil Procedure and not a person appointed pursuant to Section 62-5-303B or Section 62-5-403B.

(B) The settlement of a claim over twenty-five thousand dollars in favor of or against a minor or incapacitated individual for the payment of money or the possession of personal property must be effected on his behalf in the following manner:

(1) The petitioner must file with the court a verified petition setting forth all of the pertinent facts concerning the claim, payment, attorney's fees, and expenses, if any, and the reasons why, in the opinion of the petitioner, the proposed settlement should be approved. For all claims that exceed twenty-five thousand dollars, the verified petition must include a statement by the petitioner that, in his opinion, the proposed settlement is in the best interests of the minor or incapacitated individual.

(2) If, upon consideration of the petition and after hearing the testimony as it may require concerning the matter, the court concludes that the proposed settlement is proper and in the best interests of the minor or incapacitated individual, the court shall issue its order

approving the settlement and authorizing the petitioner to consummate it and, if the settlement requires the payment of money or the delivery of personal property for the benefit of the minor or incapacitated individual, to receive the money or personal property and execute a proper receipt and release or covenant not to sue therefor, which is binding upon the minor or incapacitated individual.

(3) The order authorizing the settlement must require that payment or delivery of the money or personal property be made through the conservator or pursuant to a protective order issued by the probate court. If a conservator has not been appointed nor a protective order issued, the petitioner, upon receiving the money or personal property, shall pay and deliver it to the court pending the appointment and qualification of a duly-qualified conservator or the issuance of a protective order. If a party subject to the court order fails or refuses to pay the money or deliver the personal property as required by the order, he is liable and punishable as for contempt of court, but failure or refusal does not affect the validity or conclusiveness of the settlement.

(C) The settlement of a claim that does not exceed twenty-five thousand dollars in favor of or against a minor or incapacitated individual for the payment of money or the possession of personal property may be effected in any of the following manners:

(1) If a conservator has been appointed, he may settle the claim without court authorization or confirmation, as provided in Section 62-5-422, or he may petition the court for approval, as provided in items (1), (2), and (3) of subsection (B). If the settlement requires the payment of money or the delivery of personal property for the benefit of the minor or incapacitated individual, the conservator shall receive the money or personal property and execute a proper receipt and release or covenant not to sue therefor, which is binding upon the minor or incapacitated individual.

(2) If a conservator has not been appointed, the guardian or guardian ad litem must petition the court for approval of the settlement, as provided in items (1) and (2) of subsection (B), and without the appointment of a conservator. The payment or delivery of money or personal property to or for a minor or incapacitated individual must be made in accordance with Section 62-5-103. If a party subject to the court order fails or refuses to pay the money or deliver the personal property, as required by the order and in accordance with Section 62-5-103, he is liable and punishable as for contempt of court, but failure or refusal does not affect the validity or conclusiveness of the settlement.

(D) The settlement of a claim that does not exceed two thousand five hundred dollars in favor of or against a minor or incapacitated individual

for the payment of money or the possession of personal property may be effected by the parent or guardian of the minor or incapacitated individual without court approval of the settlement and without the appointment of a conservator. If the settlement requires the payment of money or the delivery of personal property for the benefit of the minor or incapacitated individual, the parent or guardian shall receive the money or personal property and execute a proper receipt and release or covenant not to sue therefor, which is binding upon the minor or incapacitated individual. The payment or delivery of money or personal property to or for a minor or incapacitated individual must be made in accordance with Section 62-5-103.

Confirmation of transfer from another state

SECTION 20. Section 62-5-715(A) of the S.C. Code is amended to read:

(A) To confirm transfer of a guardianship or conservatorship to this State under provisions similar to Section 62-5-714, the guardian or conservator must petition the court in this State to accept the guardianship or conservatorship. The petition must include a copy of the other state's provisional order of transfer and copies of the other documents from the other state's file, as the court in this State shall require, said copies being either certified or exemplified, in the discretion of the court.

Conservator or guardian ad litem in another state

SECTION 21. Section 62-5-716(B) of the S.C. Code is amended to read:

(B) If a conservator or a guardian with financial and contractual authority, guardian of the assets, has been appointed in another state and a petition for a protective order is not pending in this State, the conservator or guardian of the assets appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this State by filing as a foreign judgment in the Probate Court, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond. The court shall treat this as the filing of authenticated or certified records and shall charge the fees set forth in Section 8-21-770 for the filing of such documents. The court will then issue a certificate of registration. The conservator or guardian of the assets shall file the certificate, along with a copy of the fiduciary letters

in the county real estate records.

Transfer on death

SECTION 22. Article 6, Chapter 6, Title 62 of the S.C. Code is amended by adding:

Section 62-6-401. (A) In addition to such other methods for registering and titling titled personal property as permitted in Title 50 and Title 56, any owner of a vehicle, mobile home, watercraft, outboard motor, or any similar personal property for which legal titles are issued and administered by the Department of Motor Vehicles or Department of Natural Resources may establish a Transfer on Death (TOD) designation upon any such title or registration, subject to the provisions of this section, for the purposes set forth herein.

(B) A TOD designation on any titled personal property shall pass, upon the death of all owners of such titled personal property, to the TOD beneficiary or beneficiaries pursuant to this section and is effective by reason of this statute and such transfer is not testamentary or subject to Articles 1 through 4 (estate administration).

(C) A beneficiary of a TOD designation on any titled personal property has no ownership of the titled personal property during the lifetime of the owner or owners of such titled personal property.

(D) The following rules shall apply to titled personal property owned by one owner with TOD designation:

(1) On the death of an owner who is the sole owner of titled personal property with a TOD designation, the titled personal property belongs to the surviving beneficiary or beneficiaries named in the TOD designation. If two or more beneficiaries survive, the titled personal property must be titled to them in undivided equal shares, and there is no right of survivorship in the event of a later death of a beneficiary, unless such beneficiaries shall thereafter change the titling during their lifetimes to reflect such a right of survivorship.

(2) If no beneficiary named on the TOD designation survives upon the death of the owner, then the titled personal property belongs to the estate of the owner.

(3) Any sole owner who utilizes a TOD designation on titled personal property may revoke or modify the TOD designation at any time during the owner’s life without the consent of any beneficiary listed on a TOD designation.

(E) The following rules shall apply to titled personal property owned by two or more owners with a TOD designation:

(1) Only multiple owners who own titled personal property with right of survivorship shall be entitled to utilize a TOD designation to transfer property pursuant to this section and a TOD designation for multiple owners who own titled personal property without such right of survivorship shall be ineffective.

(2) On the death of one owner among multiple owners with right of survivorship the titled personal property belongs to the surviving owner or owners. If two or more owners survive, the titled personal property belongs to the surviving owners in undivided equal shares and the right of survivorship continues between the surviving parties.

(3) On the death of the last surviving owner among multiple owners with right of survivorship, the titled personal property belongs to the surviving beneficiary or beneficiaries named in a TOD designation. If two or more beneficiaries survive, the titled personal property belongs to them in undivided equal shares, and there is no right of survivorship in the event of a later death of a beneficiary, unless such beneficiaries shall thereafter change the titling to reflect such a right of survivorship during their lifetimes. If no beneficiary named in the TOD designation is living on the date of the last surviving owner's death, the titled personal property belongs to the estate of the last surviving owner.

(4) When multiple owners own titled personal property, all of such multiple owners, or the survivors among them, must act together to establish such TOD designation or to thereafter revoke or modify such TOD designation, but the consent of any beneficiary selected in such TOD designation must not be required.

(F) An owner or multiple owners of a vehicle, mobile home, or any other similar vehicle or property for which the Department of Motor Vehicles issues and administers titles shall apply to the Department of Motor Vehicles for such TOD designation pursuant to the terms of this section pursuant to the rules and standards of the department.

(G) An owner or multiple owners of a watercraft, outboard motor, or any other similar watercraft or property for which the Department of Natural Resources issues and administers titles shall apply to the Department of Natural Resources for such TOD designation pursuant to the terms of this section pursuant to the rules and standards of the department.

(H) The Department of Motor Vehicles or the Department of Natural Resources, as appropriate, upon request, shall retitle the appropriate titled personal property with a TOD designation, to:

(1) The beneficiary or beneficiaries named in the TOD designation, if proof of death is presented to the appropriate department showing that the beneficiary or beneficiaries survived all owners of the titled personal

property.

(2) The personal representative of a deceased party, if proof of death is presented to the appropriate department showing that the deceased party was the last survivor of all other owners named on the title to the titled personal property and there shall be no surviving beneficiaries named in any TOD designation.

(3) To such party or parties in accordance with a court order directing the retitling of such titled personal property.

(I) For purposes of this section, ownership of titled personal property using "OR" with two or more multiple owners shall indicate "joint tenants with right of survivorship", while ownership using "AND" with two or more multiple owners shall indicate ownership "tenants in common". Only sole owners and multiple owners holding title to titled personal property with such right of survivorship (e.g., "OR" titling between multiple owners) are eligible to utilize the TOD procedures described in this statute.

Application for certificate

SECTION 23. Section 50-23-60(A) of the S.C. Code is amended to read:

(A) Every person who acquires a watercraft or outboard motor required to be titled under this chapter shall apply to the department within thirty days of the date of acquisition for a certificate of title for the watercraft or outboard motor accompanied by the required fee and on forms required by the department. The application must be signed by the person who acquires the watercraft or outboard motor and shall contain:

(1) the applicant's name, domiciled address, including the county, date of birth, and the county where the watercraft is principally located, state-issued identification number, and state of issue;

(2) for watercraft, a description of the watercraft, including its make, model, model year, length, the principal material used in construction, hull number, and the manufacturer's engine serial number if an inboard; for an outboard motor, its make, model, model year, or year of manufacture, and horsepower, and manufacturer's serial number;

(3) the date of acquisition by the applicant, the name and address of the person from whom the watercraft or outboard motor was acquired, and the names and addresses of persons having a security interest in the order of their priority;

(4) a bill of sale;

(5) further information reasonably required by the department to

enable it to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in the watercraft or outboard motor;

(6) when a Transfer of Death (TOD) beneficiary is designated, each TOD beneficiary's name, domiciled address, including the county, date of birth, state-issued identification number, and state of issue; and

(7) in the case of one or more TOD beneficiaries receiving the title and registration to a watercraft or outboard motor, a bill of sale shall not be required for the department to issue a title, but such TOD beneficiaries shall establish the death of all owners of the watercraft or outboard motor.

Fees

SECTION 24. Section 50-23-70 of the S.C. Code is amended by adding:

(F) The fee to establish, modify, or revoke a Transfer of Death designation upon a certificate of title for watercraft or outboard motor is ten dollars.

Certificate of title

SECTION 25. Section 50-23-90(a) of the S.C. Code is amended to read:

(a) Each certificate of title issued by the department shall contain:

(1) the date issued;

(2) the name and address of the owner;

(3) the names and addresses of any lienholders, in the order of priority as shown on the application or, if the application is based on a certificate of title, as shown on the certificate;

(4) the title number assigned to the watercraft or outboard motor;

(5) a description of the watercraft or outboard motor, including its make, model, model year, or year of manufacture, horsepower, registration number, and manufacturer's serial number or, hull number assigned to the watercraft by the department, length, and the principal material used in construction;

(6) on the reverse side of the certificate, spaces for assignment of title by the owner or by the dealer and for a warranty that the signer is the owner and that there are no mortgages, liens, or encumbrances on the watercraft or outboard motor except as are noted on the face of the certificate of title;

(7) information of whether Transfer of Death beneficiary

designations have been filed with the department; and

(8) any other data the department prescribes.

Transfer of ownership by operation of law

SECTION 26. Section 50-23-130(a) of the S.C. Code is amended to read:

(a) If the ownership of a watercraft or outboard motor is transferred by operation of law, such as by inheritance, Transfer on Death, devise or bequest, order in bankruptcy, insolvency, replevin, or execution sale, or satisfaction of mechanic's lien, or repossession upon default in performance of the terms of a security agreement, the transferee shall, except as provided in subsection (b), promptly mail or deliver to the department the last certificate of title, if available, or the manufacturer's or importer's statement of origin or, if that is not possible, satisfactory proof of the transfer of ownership, and his application for a new certificate of title accompanied by the required fee, and upon the appropriate form or forms prescribed and furnished by the department.

Contents of certificate

SECTION 27. Section 56-19-290 of the S.C. Code is amended to read:

Section 56-19-290. Each certificate of title issued by the Department of Motor Vehicles shall contain:

(1) the date issued;

(2) the name and address of the owner;

(3) the names and addresses of any lienholders, in the order of priority as shown on the application, and dates of the liens, or if the application is based on a certificate of title, as shown on the certificate;

(4) the title number assigned to the vehicle;

(5) a description of the vehicle including, so far as the following data exists: its make, model, vehicle identification number, odometer reading at the time of application, and type of body;

(6) the names of any Transfer on Death beneficiary established upon such title pursuant to Section 62-6-401; and

(7) any other data the department prescribes.

The certificate of title shall contain forms for assignment and warranty of title by the owner and for reassignment and warranty of title by a dealer and may contain forms for application for a certificate of title by a transferee, the naming of a lienholder and the assignment or release of

the security interest of a lienholder.

Fee allocation

SECTION 28. Section 56-19-420(A) of the S.C. Code is amended to read:

(A) The Department of Motor Vehicles shall charge fifteen dollars for:
(1) the issuance of a certificate of title;
(2) the transfer of a certificate of title;
(3) the issuance of a duplicate certificate of title; or
(4) the establishment, modification, or revocation of Transfer on Death beneficiaries pursuant to Section 62-6-401.

Definitions

SECTION 29. Section 62-6-101 of the S.C. Code is amended to read:

Section 62-6-101. In this subpart:
(1) "Account" means a contract of deposit between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account, and other like arrangements.
(2) "Agent" means a person authorized to make account transactions for a party.
(3) "Beneficiary" means a person named as one to whom sums on deposit in an account are payable on request after the death of all parties or for whom a party is named as the trustee; or, as it relates to titled personal property, any party named as one to whom a title shall be reregistered and retitled on request after the death of all owners of titled personal property.
(4) "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.
(5) "Multiple-party account" means an account payable on request to one or more of two or more parties, whether or not a right of survivorship is mentioned including, but not limited to, joint accounts or POD accounts.
(6) "Net contribution of a party" means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted

from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes deposit life insurance proceeds added to the account by reason of death of the party whose net contribution is in question.

(7) "Party" means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than as a beneficiary or agent.

(8) "Payment" of sums on deposit includes withdrawal, payment to a party, or third person pursuant to a check or other request, and a pledge of sums on deposit by a party, or a set-off, reduction, or other disposition of all or part of an account pursuant to a pledge.

(9) "Proof of death" includes a death certificate or record or report which is prima facie proof of death under Section 62-1-507.

(10) "POD designation" means the designation of: (i) a beneficiary in an account payable on request to one party during the party's lifetime and on the party's death to one or more beneficiaries, or to one or more parties during their lifetimes and on death of all of them to one or more beneficiaries, or (ii) a beneficiary in an account in the name of one or more parties as trustee for one or more beneficiaries if the relationship is established by the terms of the account and there is no subject of the trust other than the sums on deposit in the account, whether or not payment to the beneficiary is mentioned.

(11) "Receive" as it relates to notice to a financial institution, means receipt in the office or branch office of the financial institution in which the account is established, but if the terms of the account require notice at a particular place, in the place required.

(12) "Request" means a request for payment complying with all terms of the account, including special requirements concerning necessary signatures and regulations of the financial institution. However, for purposes of this subpart, if terms of the account condition payment on advance notice, a request for payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for payment.

(13) "Sums on deposit" means the balance payable on an account including interest and dividends earned, whether or not included in the current balance, and any deposit life insurance proceeds added to the account by reason of the death of a party.

(14) "Terms of the account" includes the deposit agreement and other terms and conditions, including the form, of the contract of deposit.

(15) "Owner" as it relates to titled personal property, means one or more parties with titled personal property registered and titled in such parties' respective name or names.

(16) "Transfer on Death" or "TOD" means the designation of a

beneficiary named on titled personal property for purposes of reregistering and retitling such titled personal property in such beneficiary's or beneficiaries' name or names upon the death of the last surviving owner of such titled personal property.

(17) "Titled personal property" means any vehicle, mobile home, watercraft, outboard motor, or any other similar personal property for which the Department of Motor Vehicles or Department of Natural Resources issues and administers legal titles.

Time effective

SECTION 30. SECTIONS 1-21 of this act take effect upon approval by the Governor and their provisions shall apply to all applicable actions, proceedings, and matters filed on and after the effective date; SECTIONS 22-29 of this act take effect on July 1, 2025.

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 201

(R214, H4563)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 6-11-345 SO AS TO CLARIFY THE POWER OF SPECIAL PURPOSE DISTRICTS TO OWN, ACQUIRE, PURCHASE, HOLD, USE, LEASE, CONVEY, SELL, TRANSFER, OR OTHERWISE DISPOSE OF PROPERTY IN FURTHERANCE OF CERTAIN FUNCTIONS, TO PROVIDE THESE POWERS ARE IN ADDITION TO POWERS AND AUTHORIZATIONS PREVIOUSLY VESTED IN SUCH DISTRICTS, AND TO DEFINE NECESSARY TERMINOLOGY.

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

Powers of special purpose districts

SECTION 1. Article 1, Chapter 11, Title 6 of the S.C. Code is amended by adding:

Section 6-11-345. A special purpose district may own, acquire, purchase, hold, use, lease, convey, sell, transfer, or otherwise dispose of property, real, personal, or mixed, or any interest therein in furtherance of all functions committed to such special purpose districts pursuant to an act of the General Assembly or general law. The powers and authorizations conferred upon special purpose districts by this section shall be in addition to all other powers and authorizations previously vested in such special purpose districts. For the purposes of this section, "special purpose district" means any district, however named, created by or pursuant to an act of the General Assembly before March 7, 1973, and to which has been committed before March 7, 1973, any governmental function, including those districts created by special legislation and those districts created by referenda held pursuant to general legislation.

Sunset clause

SECTION 2. Unless the General Assembly amends, reenacts, or otherwise extends Section 6-11-345 in any manner before the passing of three years after the effective date of this act, the provisions of Section 6-11-345, as added by this act, are repealed June 30, 2027.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 202

(R216, H4601)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 56-5-4100, RELATING TO PREVENTING ESCAPE OF MATERIALS LOADED ON VEHICLES AND CLEANING THE HIGHWAYS OF ESCAPED SUBSTANCES OR CARGO, SO AS TO INCORPORATE THE PROVISIONS OF SECTION 56-5-4110 TO CLARIFY THE EXCEPTIONS FOR TRANSPORTATION OF CERTAIN FARM PRODUCTS AND MATERIALS; AND BY REPEALING SECTION 56-5-4110 RELATING TO THE REQUIREMENTS THAT LOADS AND COVERS MUST BE FIRMLY ATTACHED.

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

Exceptions for transportation of certain farm products and materials

SECTION 1. Section 56-5-4100 of the S.C. Code is amended to read:

Section 56-5-4100. (A) No vehicle may be driven or moved on any public highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping from the vehicle, except that sand, salt, or other chemicals may be dropped for the purpose of securing traction, and water or other substance may be sprinkled on a roadway in the cleaning or maintaining of the roadway by the public authority having jurisdiction.

(B) Trucks, trailers, or other vehicles when loaded with rock, gravel, stone, or other similar substances which could blow, leak, sift, or drop must not be driven or moved on any highway unless the height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading point; or, if the load is not level, unless the height of the sides of the load against all four walls does not extend above a horizontal line six inches below their tops, and the highest point of the load does not extend above their tops, when loaded at the loading point; or, if not so loaded, unless the load is securely covered by tarpaulin or some other suitable covering; or unless it is otherwise constructed so as to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping from the vehicle. This subsection also includes the transportation of garbage or waste materials

to locations for refuse in this State.

(C) The loader of the vehicle and the driver of the vehicle, in addition to complying with the other provisions of this section, shall sweep or otherwise remove any loose gravel or similar material from the running boards, fenders, bumpers, or other similar exterior portions of the vehicle before it is moved on a public highway.

(D) No person shall operate on any highway any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent such covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(E) Any person operating a vehicle from which any substances or cargo, excluding water, have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon the public highway, shall make every reasonable effort to immediately cause the public highway to be cleaned of all substances and shall pay any costs for the cleaning.

If the person does not make every reasonable effort to clean the public highway promptly, the Department of Transportation or any law enforcement officer may, without the consent of the owner or carrier of the substance or cargo, remove or have removed the substance from the public highway if the substance or cargo is blocking the public highway or endangering public safety. The State, its political subdivisions, and their officers and employees are not liable for any damages to the substance or cargo that may result from the removal or the disposal of the substance or cargo unless the removal or disposal was carried out recklessly or in a grossly negligent manner. The State, its political subdivisions, and their officers and employees are not liable for any damages or claims of damages that may result from the failure to exercise any authority granted under this section. The owner, driver of the vehicle, or motor carrier of the substance or cargo removed under this subsection shall bear all reasonable costs of its removal and subsequent storage or disposition.

Nothing in this section bars a claim for damages.

(F) Any person who violates the provisions of subsections (B), (C), (D), or (E) is guilty of a misdemeanor and, upon conviction, must be fined one hundred dollars.

(G) The provisions contained in subsections (A), (B), (C), (D), and (E) are not applicable to and do not restrict the transportation of seed cotton, soybeans, tobacco, poultry, livestock or silage, or other feed grain used in the feeding of poultry or livestock or of paper, wastepaper utilized for the manufacture of industrial products, paper products, forest products, or textile products.

Repeal

SECTION 2. Section 56-5-4110 of the S.C. Code is repealed.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 203

(R219, H4624)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING CHAPTER 42 TO TITLE 44 SO AS TO DEFINE GENDER, SEX, AND OTHER TERMS, TO PROHIBIT THE PROVISION OF GENDER TRANSITION PROCEDURES TO A PERSON UNDER EIGHTEEN YEARS OF AGE, TO PROVIDE EXCEPTIONS, TO PROHIBIT THE USE OF PUBLIC FUNDS FOR GENDER TRANSITION PROCEDURES, AND TO PROVIDE PENALTIES; AND BY ADDING SECTION 59-32-36 SO AS TO PROHIBIT PUBLIC SCHOOL STAFF AND OFFICIALS FROM WITHHOLDING KNOWLEDGE OF A MINOR'S PERCEPTION OF THEIR GENDER FROM THE MINOR'S PARENTS, AMONG OTHER THINGS.

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

Gender reassignment procedures

SECTION 1. Title 44 of the S.C. Code is amended by adding:

CHAPTER 42

Gender Reassignment Procedures

Section 44-42-310. For the purposes of this article:

(1) "Sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender.

(2) "Cross-sex hormones" means testosterone, estrogen, or progesterone given to an individual in an amount greater than would normally be produced endogenously in a healthy individual of that individual's age and sex.

(3) "Gender" means the psychological, behavioral, social, and cultural aspects of being male or female.

(4) "Gender reassignment surgery" means any surgical service that seeks to surgically alter or remove healthy physical or anatomical characteristics or features that are typical for the individual's sex, in order to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's sex including, without limitation, genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition.

(5) "Gender transition" means the process in which a person goes from identifying with and living as a gender that corresponds to his or her sex to identifying with and living as a gender different from his or her sex, and may involve social, legal, or physical changes.

(6) "Gender transition procedures" means puberty-blocking drugs, cross-sex hormones, or genital or nongenital gender reassignment surgery, provided or performed for the purpose of assisting an individual with a physical gender transition.

(7) "Genital gender reassignment surgery" means a surgical procedure performed for the purpose of assisting an individual with a physical gender transition including, without limitation, penectomy, orchiectomy, vaginoplasty, clitoroplasty, vulvoplasty, hysterectomy, ophorectomy, reconstruction of the urethra, metoidioplasty or phalloplasty, vaginectomy, scrotoplasty, or implantation of erection and/or testicular prostheses.

(8) "Nongenital gender reassignment surgery" means surgical procedures performed for the purpose of assisting an individual with a physical gender transition including, without limitation, augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice

surgery, thyroid cartilage reduction, gluteal augmentation, hair reconstruction, subcutaneous mastectomy, pectoral implants, or various aesthetic procedures.

(9) "Puberty-blocking drugs" means gonadotropin releasing hormone analogues or other synthetic drugs used to stop luteinizing hormone and follicle stimulating hormone secretion, synthetic antiandrogen drugs used to block the androgen receptor, or any drug to suppress or delay normal pubertal development in children.

Section 44-42-320. (A) A physician, mental health provider, or other health care professional shall not knowingly provide gender transition procedures to a person under eighteen years of age.

(B) A physician, mental health provider, or other health care professional shall not engage in the provision or performance of gender transition procedures to a person under eighteen years of age. This section may not be construed to impose liability on any speech protected by federal or state law.

(C) If prior to August 1, 2024, a health care professional initiated a course of treatment that includes the prescription, delivery, or administration of a puberty-blocking drug or a cross-sex hormone to a person under the age of eighteen, and if the health care professional determines and documents in the person's medical record that immediately terminating the person's use of the drug or hormone would cause harm to the person, the health care professional may institute a period during which the person's use of the drug or hormone is systematically reduced. That period may not extend beyond January 31, 2025.

(D) Subject to the provisions in subsections (A) and (B), nothing in this section prohibits a licensed health provider from offering mental health services within the scope of his practice.

(E) A physician who knowingly performs genital gender reassignment surgery in violation of this chapter is guilty of inflicting great bodily injury upon a child as provided for in Section 16-3-95(A).

Section 44-42-330. Notwithstanding the provisions contained in Section 44-42-320, a physician or other health care professional may provide to a patient who is under eighteen years of age:

(1) appropriate medical services to a person for precocious puberty, prostate cancer, breast cancer, endometriosis, or other procedure unrelated to gender transition, or to a person who was born with a medically verifiable disorder of sexual development including, but not limited to, a person with external biological sexual characteristics that

are ambiguous including, but not limited to, people who were born with forty-six XX chromosomes with virilization or forty-six XY chromosomes with under virilization or having both ovarian and testicular tissue;

(2) appropriate medical services to treat a disorder of sexual development arising because the person does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action that was diagnosed through genetic or biochemical testing;

(3) treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not the gender transition procedure was performed in accordance with state or federal law; and

(4) any procedure undertaken because the person suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the person in imminent danger of death or impairment of a major bodily function unless treated by the physician.

Section 44-42-340. Public funds may not be used directly or indirectly for gender transition procedures.

Section 44-42-350. The South Carolina Medicaid Program shall not reimburse or provide coverage for practices prohibited under the provisions of this chapter.

Section 44-42-360. (A) The provision of services described in Section 44-42-320 to any person under eighteen years of age shall, upon an adverse ruling by the appropriate licensing board, be considered unprofessional conduct and shall be subject to discipline by the licensing entity with jurisdiction over the physician, mental health provider, or other medical health care professional.

(B) A person may assert an actual or threatened violation of Section 44-42-320 as a claim or defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, or any other appropriate relief.

(C) A person shall be required to bring a claim for a violation of Section 44-42-320 no later than three years after the day the cause of action accrues. A minor may bring an action before reaching eighteen years of age through a parent or guardian and may bring an action in the minor's own name upon reaching eighteen years of age at any time from that point until twenty-one years after.

(D) An action or proceeding initiated under this section for an actual

or threatened violation of Section 44-42-320 may be commenced, and relief may be granted, in a judicial proceeding without regard to whether the person commencing the action has sought or exhausted available administrative remedies.

(E) In any action or proceeding initiated under this section for an actual or threatened violation of Section 44-42-320, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs.

(F) The Attorney General may bring an action to enforce compliance with Section 44-42-320 and Section 44-42-340. Nothing herein shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the State, or any agency, officer, or employee of the State to institute or intervene in any proceeding.

Comprehensive health education program

SECTION 2. Chapter 32, Title 59 of the S.C. Code is amended by adding:

Section 59-32-36. (A) A nurse, counselor, teacher, principal, or other official or staff at a public school shall not knowingly:

(1) encourage or coerce a minor to withhold from the minor's parent or legal guardian the fact that the minor's perception of his or her gender is inconsistent with his or her sex, as defined in Section 44-42-310; or

(2) withhold from a minor's parent or legal guardian information related to the minor's perception that his or her gender is inconsistent with his or her sex, as defined in Section 44-42-310.

(B) The principal, vice principal, or counselor at a public school shall immediately notify in writing a minor's parent or legal guardian if the minor:

(1) asserts to any school employee that the minor's gender is inconsistent with his or her sex, as defined in Section 44-42-310; or

(2) requests a school employee to address a minor using a pronoun or title that does not align with the minor's sex.

Severability

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph,

sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 204

(R221, H4754)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 9 TO CHAPTER 57, TITLE 40 SO AS TO OUTLINE REQUIREMENTS FOR PROVIDERS OF PRELICENSING AND CONTINUING EDUCATION COURSES FOR REAL ESTATE BROKERS, BROKERS-IN-CHARGE, ASSOCIATES, AND PROPERTY MANAGERS; BY ADDING SECTION 40-57-725 SO AS TO ESTABLISH ADMINISTRATIVE CITATIONS AND PENALTIES AND APPEALS; BY AMENDING CHAPTER 57, TITLE 40, RELATING TO REAL ESTATE BROKERS, BROKERS-IN-CHARGE, ASSOCIATES, AND PROPERTY MANAGERS, SO AS TO, AMONG OTHER THINGS, DEFINE TERMS, MAKE CONFORMING CHANGES, DEFINE THE USE OF APPLICATION FEES, OUTLINE THE PROCEDURE FOR A LICENSE CLASSIFICATION CHANGE, ALLOW FOR RECIPROCAL AGREEMENTS WITH OTHER JURISDICTIONS, PROHIBIT BAD FAITH AGREEMENTS, REDUCE THE AMOUNT OF REQUIRED CLASSROOM INSTRUCTION FOR BROKERS-IN-CHARGE, PROHIBIT ENGAGING IN, REPRESENTING OTHERS IN, OR ASSISTING OTHERS IN THE PRACTICE OF WHOLESALING, REGULATE TEAM MARKETING, AND ADDRESS LICENSING AFTER

REVOCATION; AND BY ADDING SECTION 40-57-820 SO AS TO ESTABLISH THAT LICENSEES ARE RESPONSIBLE FOR THEIR WORK PRODUCT.

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

Education requirements for real estate brokers, brokers-in-charge, associates, and property managers

SECTION 1. Chapter 57, Title 40 of the S.C. Code is amended by adding:

Article 9

Education

Section 40-57-910. (A) The commission may promulgate regulations standards and qualification requirements for prelicensing and continuing education providers, instructors, and courses.

(B) Prelicensing and continuing education courses are eligible for distance learning if the provider has attained certification by the Association of Real Estate License Law Officials (ARELLO), its subsidiary, the International Distance Education Certification Center (IDECC), or other national certifying entities as approved by the commission.

(C) The commission may review, approve, and regulate education courses required by this chapter and providers and instructors of these courses including, but not limited to, accredited colleges, universities, private business entities, organizations, schools, associations, and institutions.

(1) The commission shall qualify for continuing education credit designation and certification programs of nationally recognized real estate organizations and associations. The commission may qualify for continuing education credit other than courses currently approved for continuing credit including, but not limited to, courses offered by the South Carolina Bar Association, the South Carolina Forestry Board, and the South Carolina Appraisers Board.

(2) Notwithstanding another provision of law, the commission shall qualify for continuing education credit courses that are related to real estate technology, professional development, and business ethics.

(3) An approved course must be taught by an approved instructor who is qualified and has demonstrated knowledge of the subject matter

to be taught as well as the ability to teach.

(D) In accordance with regulations, providers electronically shall transmit to the commission student continuing education and qualifying course records. The commission shall maintain an accurate and secure database of student records.

Section 40-57-920. (A) All providers and instructors seeking approval by the commission must submit an application and applicable fee to the commission on prescribed forms. To attain approval, applicants must meet qualification requirements as provided in regulations. Approval from the commission must be attained prior to commencement of instruction. If the commission approves an application, a notification must be issued by the commission.

(B) The commission may deny, reprimand, fine, suspend, or revoke the approval of an education provider or instructor if the commission finds violations of statutory or regulatory requirements. If an application for a provider, instructor, or course is not approved, the reason must be detailed and provided to the provider or instructor.

Section 40-57-930. (A) Providers and instructors shall renew their licenses with the commission biennially. The commission may audit providers offering distance education courses to ensure the certification from ARELLO, IDECC, or other national certifying entities as approved by the commission, is maintained. Failure to maintain certification will result in withdrawal of commission approval.

(B) As a condition of renewal, instructors shall attend instructor development workshops sponsored by the commission or provide evidence of equivalent hours of continuing education that increases their knowledge of the subject content in their area of expertise of their teaching techniques.

Penalties

SECTION 2. Article 7, Chapter 57, Title 40 of the S.C. Code is amended by adding:

Section 40-57-725. (A) The department may refer any reports of violations of this chapter and Article 1, Chapter 1 of this title or any reports of violations of regulations promulgated under this chapter directly to the commission or may issue administrative citations and cease and desist orders in person or by certified mail and may assess administrative penalties against any individual or entity, including

unlicensed individuals, for violations of this chapter as specified by the commission.

(B) Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal.

(C) Administrative penalties assessed pursuant to this section may not exceed the following limits:

(1) for a first violation of a particular provision of this chapter or Article 1, Chapter 1 of this title, or any commission regulation, not more than a five-hundred-dollar penalty;

(2) for the second of two violations of the same or substantially similar provision in a five-year period, not more than a one-thousand-dollar penalty; and

(3) for the third or subsequent violation of the same or substantially similar provision in a five-year period, not more than a ten-thousand-dollar penalty.

(D) An individual or entity assessed administrative penalties may appeal those penalties to the commission within ten days of receipt of the citation. If an appeal is filed, the department shall schedule a hearing before the commission, which shall make a determination in the matter. If no appeal is filed, the citation is deemed a final order and the administrative penalties must be paid within thirty days of receipt of the citation.

General provisions for real estate brokers, brokers-in-charge, associates, and property managers

SECTION 3. Chapter 57, Title 40 of the S.C. Code is amended to read:

CHAPTER 57

Real Estate Brokers, Brokers-in-Charge, Associates, and Property Managers

Article 1

General Provisions

Section 40-57-5. Unless otherwise provided in this chapter, the provisions of Article 1, Chapter 1 apply to real estate brokers, associates, and property managers. The provisions of this chapter control when they conflict with the provisions of Article 1, Chapter 1.

Section 40-57-10. There is created the South Carolina Real Estate Commission under the administration of the Department of Labor, Licensing and Regulation. The purpose of this commission is to regulate the real estate industry so as to protect the public's interest when involved in real estate transactions.

Section 40-57-20. It is unlawful for an individual to act as a real estate broker, real estate associate, or real estate property manager or to advertise or provide services as such without an active, valid license issued by the commission.

Section 40-57-30. For purposes of this chapter:

(1) "Active license" means a license that has been issued for the current period and authorizes the licensee to practice in this State.

(2) "Agency relationship" means a legally binding relationship created in writing between a real estate brokerage firm and its client.

(3) "Agent" means one authorized and empowered by a written agency agreement to perform actions for a client. A real estate brokerage firm is the agent of a buyer, seller, landlord, or tenant, and the real estate brokerage firm's "supervised licensees" are its subagents.

(4) "Alternative name" means a first name, other than the licensee's legal first name, that is registered with the commission and used by the licensee for marketing purposes.

(5) "Associate" means a supervised licensee who:

(a) meets experience and education requirements;

(b) passes both the state and national portions of the examination for an associate license; and

(c) engages in or participates in an activity included in the definition of "broker" for a fee, salary, commission, or other valuable consideration, or with the intent or expectation of receiving compensation.

(6) "Broker" means a supervised licensee who has met the experience and education requirements and has passed both the state and national portions of the examination for a broker license and who, for a fee, salary, commission, referral fee, or other valuable consideration, or who, with the intent or expectation of receiving compensation:

(a) negotiates or attempts to negotiate the listing, sale, purchase, exchange, lease, or other disposition of real estate or the improvements to the real estate;

(b) auctions or offers to auction real estate in accordance with Section 40-6-250;

(c) for a fee or valuable consideration solicits a referral;

(d) offers services as a real estate consultant, counselor, or transaction manager;

(e) offers to act as a subagent of a real estate brokerage firm representing a client in a real estate transaction; or

(f) advertises or otherwise represents to the public as being engaged in any of the foregoing activities.

(7) "Broker-in-charge" means the sole broker designated by the commission to have responsibility over the actions of all supervised licensees. A broker-in-charge is responsible for:

(a) the day-to-day management of the brokerage firm;

(b) the control and liability for a real estate trust account; and

(c) ensuring compliance with all applicable laws and regulations.

The authority granted to the broker-in-charge cannot be assigned or designated to another licensee.

(8) "Buyer agency" means a form of agency in which a real estate brokerage firm represents the buyer in an agency capacity as defined in this chapter.

(9) "Canceled license" means a license that is invalidated, can no longer be reinstated or renewed, and requires an individual seeking to be licensed again after cancellation of his prior license to reapply and meet current licensure requirements.

(10) "Client" means a person who enters a written agreement establishing an agency relationship with a real estate brokerage firm through its broker-in-charge, a property manager-in-charge, or a supervised licensee.

(11) "Commission" means the South Carolina Real Estate Commission and its members, who are charged by law with the responsibility of licensing or otherwise regulating the practice of real estate in the State of South Carolina.

(12) "Conversion" means to use trust funds for a purpose other than the purpose for which they are held. Conversion is a breach of trust and is a crime as provided by law.

(13) "Customer" means a buyer, seller, landlord, or tenant who uses the services of a real estate licensee but does not establish an agency relationship through a written agency agreement with the licensee's real estate brokerage firm.

(14) "Department" means the Department of Labor, Licensing and Regulation.

(15) "Designated agency" means a form of agency in which two clients represented by a real estate brokerage firm in the same transaction may be given almost equivalent treatment as a single agency.

(16) "Dual agency" means a form of agency in which a real estate

brokerage firm with two clients in the same transaction gives limited agency services.

(17) "Email" means a system for sending and receiving a message electronically over a computer network and a message sent or received by the system.

(18) "Formal complaint" means a formal written complaint charging misconduct by a licensee in violation of this chapter, regulations promulgated under this chapter, Chapter 1, Title 40, or any other provision of law.

(19) "Inactive license" means the official temporary cessation of a licensee's authorization to practice real estate upon the licensee providing notice to the commission that the person does not intend to practice real estate brokerage, is no longer supervised by a South Carolina-licensed broker-in-charge or property manager-in-charge, or has stepped down as the broker-in-charge or property manager-in-charge from a brokerage or property management office.

(20) "Incompetency" means the failure of a licensee to demonstrate and apply the knowledge, skill, and care that is ordinarily possessed and exercised by other licensees 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.

(21) "Lapsed license" means the termination of a person's authorization to practice under this chapter due to the person's failure to renew his license within the renewal period but before the license is canceled.

(22) "Letter of caution" means a written caution or warning about past or future conduct issued when it is determined that only minor misconduct not warranting discipline 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. While nondisciplinary, the fact that a letter of caution has been issued may be considered in a subsequent disciplinary proceeding.

(23) "Licensee" means an individual currently licensed under this chapter.

(24) "Limited-function referral office" means a brokerage where the office policy allows only the placement of referrals through the broker-in-charge.

(25) "Material adverse fact" means:

(a) a condition or occurrence that is generally recognized as:

(i) significantly and adversely affecting the value of the real estate;

(ii) significantly reducing the structural integrity of improvements to real estate; or

(iii) presenting a significant health risk to occupants of the real estate; or

(b) information that indicates that a party to a transaction is not able to or does not intend to meet an obligation under a contract or agreement made concerning the transaction.

(26) "Ministerial act" means an act performed by a licensee not involving an exercise of discretion or judgment of a licensee on behalf of a person who is not a client and that assists the nonclient to consummate a real estate transaction.

(27) "Office" means the office location where a broker-in-charge or a property manager-in-charge is licensed to conduct real estate business.

(28) "Personal trust account" means an escrow account or demand deposit bank account properly designated and titled to include the words "trust" or "escrow" that is established and maintained by a licensee to safeguard funds belonging to parties to a real estate transaction when the transaction involves the licensee's personal real estate and the real estate is not managed or listed through a real estate brokerage firm.

(29) "Property manager" means a supervised licensee who meets educational requirements and passes the examination for a property manager license, and who will for a fee, salary, commission, other valuable consideration or with the intent or expectation of receiving compensation:

(a) negotiate or attempt to negotiate the rental or leasing of real estate or improvements to the real estate;

(b) list or offer to list and provide a service in connection with the leasing or rental of real estate or improvements to the real estate; or

(c) advertise or otherwise represent to the public as being engaged in an activity in subitems (a) and (b).

(30) "Property manager-in-charge" means a property manager who is designated as having the responsibility over the actions of supervised licensees and also the responsibility and control over and liability for real estate trust accounts. A property manager-in-charge is responsible for the day-to-day management of the office for which the property manager-in-charge is registered with the commission and is responsible for ensuring compliance with all applicable laws and regulations.

(31) "Real estate" means land, buildings, and other appurtenances, including all interests in land, whether corporeal, incorporeal, freehold, or nonfreehold, whether the real estate is within or outside of the

boundaries of this State.

(32) "Real estate brokerage" means the aspect of the real estate business that involves activities relative to property management or a real estate sale, exchange, purchase, lease, or other disposition.

(33) "Real estate brokerage firm" means a real estate company engaged in the business of real estate brokerage.

(34) "Real estate transaction" means an activity involving the sale, purchase, exchange, lease, or other disposition of real estate.

(35) "Residential real estate" means real estate which is used primarily for personal, family, or household purposes and is improved by one to four dwelling units.

(36) "Seller agency" means a form of agency in which a real estate brokerage firm represents the seller in an agency capacity as defined in this chapter.

(37) "Subagent" means an agent of an agent. A "supervised licensee" is a subagent of the real estate brokerage firm if the firm is an agent of a buyer, seller, landlord, or tenant.

(38) "Substantive contact" means contact in which a discussion or dialogue between the consumer and the supervised licensee or broker-in-charge moves from casual introductory talk to a meaningful conversation regarding the selling or buying motives or objectives of the seller or buyer, financial qualifications, and other confidential information that if disclosed could harm the consumer's bargaining position.

(39) "Supervised licensee" means a licensee affiliated with and under the supervision of a broker-in-charge or property manager-in-charge.

(40) "Team" means two or more supervised licensees working together as a single unit within an office established with the commission and supervised by a broker-in-charge.

(41) "Trust account" means an escrow account or properly designated demand deposit bank account that is:

(a) properly designated and titled to include the word "trust" or "escrow"; and

(b) established and maintained by a broker-in-charge or a property manager-in-charge to safeguard funds belonging to parties to a real estate transaction.

(42) "Trust funds" means funds received on behalf of another person by a licensee in the course of performing a real estate activity.

(43) "Transaction broker" means a real estate brokerage firm that provides customer service to a buyer, a seller, or both in a real estate transaction. A transaction broker may be a single agent of a party in a transaction giving the other party customer service. A transaction broker

also may facilitate a transaction without representing either party.

(44) "Wholesaling" means having a contractual interest in purchasing residential real estate from a property owner, then marketing the property for sale to a different buyer prior to taking legal ownership of the property. Advertising or marketing real estate owned by another individual or entity with the expectation of compensation falls under the definition of "broker" and requires licensure. "Wholesaling" does not refer to the assigning or offering to assign a contractual right to purchase residential real estate.

Section 40-57-40. (A) The South Carolina Real Estate Commission consists of ten commissioners elected or appointed as follows:

(1) seven commissioners who are professionally engaged in the active practice of real estate, one elected from each congressional district by a majority of house members and senators representing the house and senate districts located within each congressional district;

(2) two commissioners representing the public who are not professionally engaged in the practice of real estate, each appointed by the Governor with the advice and consent of the Senate;

(3) the elected and appointed commissioners shall elect from the State at large one additional commissioner who must be in the active practice of real estate.

(B) A commissioner serves a term of four years and until his successor is elected or appointed and qualifies. A vacancy on the commission must be filled in the manner of the original election or appointment for the remainder of the unexpired term.

(C) Before discharging of the duties of his office, a commissioner's election or appointment must be certified by the Secretary of State, and the member shall, in writing, take an oath to perform the duties of the office as a member of the commission and to uphold the constitutions of this State and the United States.

(D) The term of a commissioner commences on the date on which his election or appointment is certified by the Secretary of State.

(E) A commissioner may be removed from office in accordance with Section 1-3-240.

Section 40-57-50. The commission annually shall elect from its total membership a chair, vice chair, and other officers the commission determines necessary at the first meeting in the fiscal year of the State. The commission may adopt an official seal and shall adopt rules and procedures reasonably necessary for the performance of its duties and

the governance of its operations and proceedings.

Section 40-57-60. (A) The commission shall administer and enforce this chapter and regulations promulgated under this chapter. In addition to powers contained in Section 40-1-70, the powers and duties include, but are not limited to:

(1) determining the standards for the qualifications and eligibility of applicants for licensure, the qualifications of education providers and instructors, and the conditions for initial license issuance and license renewal;

(2) conducting disciplinary hearings on alleged violations of this chapter and regulations promulgated under this chapter and deciding disciplinary actions as provided in this chapter for those found to be in violation;

(3) recommending changes in legislation and promulgating regulations governing the real estate industry relative to the protection, safety, and welfare of the public; and

(4) establishing a fee schedule.

(B) The commission may not be involved in a resolution of disputes between licensees over the payment or division of a commission or fee.

(C) The commission staff shall conduct periodic inspections of the offices of licensees to assist with and ensure compliance with this chapter.

Section 40-57-65. The commission shall submit an annual report in accordance with established guidelines to the department and the Chairs of the Senate Labor, Commerce and Industry Committee and House Labor, Commerce and Industry Committee.

Section 40-57-70. (A) Fees relevant to the licensure and regulation of real estate brokers, associates, and property managers must be established in accordance with Section 40-1-50(D) and promulgated by regulation prior to implementation.

(B) Application and license fees must be paid to the commission in advance and must accompany an examination application or a license application. An application fee is nonrefundable.

(C)(1) The department may allocate up to ten dollars of each license renewal fee to the South Carolina Real Estate Commission Education and Research Fund which is established as a separate and distinct account within the Office of the State Treasurer. The funds collected must be deposited in this account and used exclusively for the advancement and dissemination of education, tools, and research:

(a) for the benefit, safety, and protection of those licensed under this chapter and the public; or

(b) for the improvement and increased efficiency of the real estate industry in this State through analysis and evaluation of factors which affect the real estate industry in this State.

(2) The commission annually by August first shall submit a report on how the funds were expended for the preceding fiscal year to the Chairs of the Senate Labor, Commerce and Industry Committee and House Labor, Commerce and Industry Committee.

Section 40-57-90. An application for examination or licensure must be made on a form prescribed by the commission and must be accompanied by all applicable fees.

Section 40-57-110. (A) The commission shall issue licenses in the classifications of broker, broker-in-charge, or associate, to individuals who qualify under and comply with the requirements of this chapter; provided the commission may deny a license to an applicant it finds to have engaged in misconduct as provided in Section 40-57-710 or otherwise. No individual may be licensed in more than one classification at the same time. The license must be in the form and size as the commission prescribes and is not transferable. A licensee seeking to change his license classification shall adhere to the procedures provided by the commission in regulations.

(B) A licensee may place a license on inactive status by informing the commission in writing. To maintain an inactive license status, the license must be renewed in the same manner as provided for active license renewals. Upon proper compliance with the renewal requirements, a license may remain on inactive status for an indefinite period of time. An individual seeking to reactivate a license shall apply for the same license classification which was placed on inactive status, pay the appropriate fee, and meet the continuing education requirements as prescribed.

(1) Inactive licensees are prohibited from practicing real estate brokerage as defined in this chapter and regulations.

(2) The status of an associate, broker, or property manager license can be verified on the commission's website or by contacting commission staff.

(3) Licensees seeking to change their license classification shall adhere to the procedures provided by the commission in regulations.

(4) An individual seeking to reactivate an inactive license shall meet the reactivation requirements as prescribed in regulations.

(C) A license only may be renewed in accordance with procedures established by the commission pursuant to Section 40-1-50(D). A licensee is responsible for renewing his license whether or not he receives notice.

(D) A license that is not renewed before its expiration date lapses. Further practice may be sanctioned as unlicensed practice and subject to disciplinary action by the commission pursuant to Sections 40-57-710, 40-57-720, and 40-57-725.

(E) A license that has lapsed and is not reinstated by the last day of the twenty-fourth month following expiration is canceled.

Section 40-57-115. In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for licensure as an associate, broker, broker-in-charge, property manager, and property manager-in-charge, the commission shall require initial applicants and applicants for licensure renewal to submit to a state fingerprint-based criminal records check, to be conducted by the State Law Enforcement Division (SLED); a national criminal records check, supported by fingerprints, by the FBI; and a social-security-number-based criminal records check from a source approved by the commission. Costs of conducting a criminal records check must be borne by the applicant. The commission shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as necessary to support the administrative action.

Section 40-57-120. (A) The commission may recognize applicants who have a license on active status from other jurisdictions only if the other jurisdiction recognizes South Carolina real estate licenses on active status and the other jurisdiction's real estate regulatory authority has entered into a reciprocity agreement with the commission. The commission may enter into reciprocal agreements with real estate regulatory authorities of other jurisdictions that provide for waivers of education requirements, experience requirements, or examinations if the commission considers the education, experience, and examination requirements of another jurisdiction to be substantially equivalent to the requirements of this chapter.

(B) A nonresident licensee, acknowledged by the commission, is not required to maintain a place of business in this State if the nonresident maintains an active place of business in the state of residence. A nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against him in the proper court in a judicial

circuit of the state in which a cause of action may arise or in which the plaintiff may reside.

(C)(1) A resident licensee who becomes a nonresident must notify the commission in writing, within thirty days, of the change in residency and comply with nonresident requirements or place his license on inactive status to avoid cancellation of the license.

(2) A nonresident licensee who becomes a resident of South Carolina must notify the commission in writing, within thirty days, of the change in residency and comply with the requirements of this chapter or place his license on inactive status to avoid cancellation of the license.

(3) Failure to timely notify the commission of a change in residency or failure to comply with the requirements of this subsection are violations of this chapter subject to penalties provided in Section 40-57-710.

(D) A nonresident applicant or licensee must comply with all requirements of commission regulations and of this chapter. The commission may adopt regulations necessary for the regulation of nonresident licensees.

(E) A resident licensee may pay a part of his commission as a referral fee on a cooperative basis to a brokerage of another state or jurisdiction if that brokerage's license does not conduct, in this State, a real estate brokerage service for which a fee, compensation, or commission is paid.

Section 40-57-135. (A) A broker-in-charge or property manager-in-charge shall:

(1) adequately supervise employees or supervised licensees to ensure their compliance with this chapter;

(2) review and approve all forms of listing agreements, agency agreements, offers, sale contracts, purchase contracts, leases, options, contract addenda, or other contractual or disclosure documents routinely used by the real estate brokerage firm;

(3) maintain adequate, reasonable, and regular contact with supervised licensees engaged in real estate transactions so as to prevent or curtail practices by a licensee which would violate any provision of this chapter, Chapter 1, Title 40, the Interstate Land Sales Practices Act, or the Vacation Time Sharing Plans Act;

(4) be available to the public during business hours in order to discuss or resolve complaints and disputes that arise during the course of real estate transactions in which the broker-in-charge or property manager-in-charge or a supervised licensee is involved;

(5) establish and maintain a written office policy in accordance with Sections 40-57-135(I)(2)(a) and 40-57-360 and any requirements

promulgated in regulations and make that policy readily accessible to supervised licensees;

(6) ensure that all supervised licensees have an active real estate license;

(7) establish and maintain control of and responsibility for an active trust account when in possession of trust funds belonging to others resulting from a real estate transaction; and

(8) notify the commission by mail within ten days of any change of office name, address, email address, or telephone number.

(B) A supervised licensee may not receive compensation from an activity requiring a real estate license from an entity or person other than the one for which the license is issued. A supervised licensee may form a business entity allowing the licensee's broker-in-charge or property manager-in-charge to pay fees or commissions to that entity if the principals in that entity hold an active real estate license.

(C)(1) A licensed broker-in-charge or property manager-in-charge shall establish and maintain a specific office location which must be accessible by the public, investigators, and inspectors during reasonable business hours.

(2) A broker-in-charge or property manager-in-charge may maintain one or more offices at different locations. Each office must be managed by a broker-in-charge or property manager-in-charge who is licensed for that real estate brokerage firm's location. The same person may request to be licensed as broker-in-charge or property manager-in-charge of more than one office if the broker-in-charge or property manager-in-charge making the request acknowledges in writing that the applicant understands the duties and can fully assume the responsibility to ensure compliance with this chapter.

(3) A licensee may not conduct real estate business under another name or at an address other than the one for which his license is issued. Alternative names may be utilized following confirmation of registration of the name with the commission.

(4) In the event of the medical incapacitation of a broker-in-charge or property manager-in-charge which precludes him from carrying out the duties of a broker-in-charge or property manager-in-charge as required in this chapter, or in the event of the death of a broker-in-charge or a property manager-in-charge, the department may permit a supervised licensee to act as broker-in-charge or property manager-in-charge for up to six months.

(D)(1) A broker-in-charge or property manager-in-charge shall for a minimum of five years maintain and furnish to the commission upon request a written copy, when applicable, of a:

(a) lease;
(b) contract of sale and any addenda;
(c) listing contract or buyer agency agreement;
(d) transaction broker agreement;
(e) option contract;
(f) property management agreement; and
(g) residential property disclosure form.

(2) These records may be maintained electronically as long as a backup copy is stored in a separate, off-site location including, but not limited to, electronic and Internet, cloud-based storage systems.

(E)(1) A licensee may not advertise, market, or offer to conduct a real estate transaction involving real estate owned, in whole or in part, by another person without first obtaining a written listing agreement between the property owner and the real estate brokerage firm with whom the licensee is associated. However, the signature of the owner of real estate is not required for a sublease agreement involving real estate if the lease allows for subletting. Licensees not associated with the listing brokerage firm may advertise real estate owned, in whole or in part, by another person only if they have written authorization from the listing brokerage firm and acknowledge the listing brokerage firm in the advertisement in a clear and conspicuous way. Authorization may be contained and obtained from the owner through the listing agreement.

The advertising and marketing of real property is to be distinguished from the advertising and marketing of a contractual position in a sales agreement to purchase real estate. An advertisement that markets a contractual position to acquire real property from a person with either equitable or legal title and does not imply, suggest, or purport to sell, advertise, or market the underlying real property is permissible under this section.

(2) When advertising his real estate services or marketing real estate owned, in whole or in part, by another person in any medium, a licensee clearly must:

(a) Identify the full name of the real estate brokerage firm with which the licensee is employed and supervised in accordance with regulations.

(b) If advertising on the Internet or in another electronic media, the above requirements may be met by including a link from the advertisement to the homepage of the brokerage firm or property management company.

(3) If a real estate brokerage firm operates under a trade or franchise name, the identity of the franchisee or holder of the trade name clearly must be revealed.

(F)(1) A licensee clearly shall reveal his license status in a personal transaction involving the purchase, sale, exchange, rental, lease, or auction of real estate:

(a) at first substantive contact with a consumer;

(b) in advertising or marketing in any media; and

(c) in bold, underlined, capital letters on the first page of a contract for the purchase, sale, exchange, rental, or lease of real property.

(2) Trust funds received in a licensee's personal rental or transaction must be deposited in the licensee's personal trust account and may not be deposited in the real estate brokerage firm's trust account unless the real property is managed, listed, or owned by the real estate brokerage firm.

(G) No licensee, either directly or indirectly, may buy for his own account or for a corporation or another business in which he holds an interest or for a close relative, real estate listed with him or real estate for which he has been approached by the seller or prospective buyer to act as agent, without first making his true position clearly known in writing to all parties involved. Upon request of the department, the licensee shall provide evidence of having made this disclosure.

(H) With regard to offers to purchase real estate, a licensee shall:

(1) upon receipt, prepare all offers in writing and promptly present them to the seller;

(2) upon obtaining a written acceptance of an offer, promptly deliver true, executed copies to all parties;

(3) ensure that all of the terms and conditions of the transaction are included in the offer to purchase; and

(4) ensure that changes or modifications made during negotiations are in writing and initialed and dated by both parties before proceeding with the transaction.

(I)(1) A licensee shall properly complete an agency agreement, transaction broker agreement, offer, and counteroffer.

(2) A listing or buyer's representation agreement must be in writing and must set forth all material terms of the parties' agency relationship including, but not limited to:

(a) a description of the agent's duties or services to be performed for the client including, but not limited to, an explanation of the office policy regarding dual agency, designated agency, and transaction brokerage if offered by the real estate brokerage firm;

(b) the amount of compensation to be paid if a flat fee or the method to be used in calculating the amount of compensation to be paid;

(c) an explanation of how and when compensation is earned;

(d) an explanation of how compensation will be divided among

participating or cooperating brokers, if applicable;

(e) the amount of retainer fees, deposits, or any other money collected before the agent's performance of a service on behalf of the client and an explanation of conditions, if any, in which such monies are refundable or payable to or on behalf of the client;

(f) the duration of the agency relationship, setting forth specific dates for the beginning and ending of the relationship;

(g) the signatures of all parties;

(h) a listing agreement or buyer's representation agreement clearly must state that it terminates on the definite expiration date unless a written extension is signed;

(i) a listing agreement or buyer's representation agreement clearly must state, if applicable, that it is either an "exclusive agency" listing or buyer's representation agreement or "exclusive right to represent" listing contract or "exclusive right to represent" buyer's representation contract;

(j) a listing agreement or buyer's representation agreement must clearly specify an exception or variation in an amount of commission to be paid and circumstances that would apply;

(k) a copy of the listing or buyer's representation agreement must be given to the seller or buyer at the time of, or directly following, signing; and

(l) a buyer's representation agreement must provide an adequate property description of the type of property of interest to the buyer and a price or price range for property of interest to the buyer. A listing agreement must have a legal description of the listed property or a description sufficient to identify the listed property and state the price of the listed property.

(3) If there are no clients involved in the transaction, a real estate brokerage firm acting as a transaction broker shall complete a compensation agreement to be signed by the agent and the compensating party. This agreement must contain the amount of the compensation and identify the party responsible for payment.

(4) The broker-in-charge shall ensure that supervised licensees prepare all offers and counteroffers in writing, have them dated and signed by the offerors, and promptly present them to the offerees or the offerees' representative and ensure that:

(a) changes or modifications made during negotiations are in writing and initialed and dated by both parties before proceeding with the transaction;

(b) all of the terms and conditions of the transaction are included in the offer to purchase; and

(c) if supervised licensees obtain a written acceptance of an offer or counteroffer, true, executed copies will be promptly delivered to all parties.

(5) If an offer is rejected without counter, an offer rejection form, promulgated by the commission, signed by the licensee affirming presentation of the offer must be provided to the offeror by the licensee within forty-eight hours of rejection, whether the agent of the buyer, the seller, or if acting as a transaction broker.

(6) An offer and counteroffer may be communicated by use of a fax or other secure electronic means including, but not limited to, the Internet, and the signatures, initials, and handwritten or typewritten modifications to the foregoing documents are considered valid and binding upon the parties as if the original signatures, initials, and handwritten, or typewritten modifications were present on the documents in the handwriting of each party.

(7) If a licensee wishes to purchase real estate listed with his brokerage firm, the broker-in-charge shall ensure that the licensee shall first make his true position clearly known in writing to all parties involved. Upon request of the commission, the broker-in-charge shall provide evidence of the licensee having made this disclosure, including:

(a) purchases made directly or indirectly by the licensee;

(b) purchases made for the licensee's own account or for a corporation or another business in which the licensee holds an interest or purchases made for a close relative; and

(c) real estate for which the licensee has been approached by the seller or prospective buyer to act as agent.

(8) In order for a real estate brokerage firm to claim a fee for the sale of a listed property to a supervised licensee, a separate written agreement signed by the seller client must acknowledge the purchaser as a licensee affiliated with the real estate brokerage firm and recognize the right of the seller to not pay the brokerage fee.

(9) An agreement regarding residential real estate that is to be in effect for greater than one year and either expressly or impliedly purports to do any of the following is unenforceable and is considered to be done in bad faith, and a licensee involved in such an agreement is subject to disciplinary action by the commission:

(a) the agreement runs with the land or binds future owners or heirs of the residential real estate;

(b) the agreement allows for assignment of the right to provide service without notice to and consent of the owner of residential real estate; or

(c) the agreement creates a lien, encumbrance, or other real

property security interest, or is otherwise recorded.

(10) The following are not prohibited by subsection (9) and remain enforceable:

(a) a home warranty or other type of similar product that covers the cost of maintenance of a major housing system, such as plumbing or electrical wiring, for a fixed period;

(b) an insurance contract;

(c) an option or right of refusal to purchase the residential real estate;

(d) a declaration created in the formation of a homeowners association or similar organization;

(e) a maintenance or repair agreement entered by a homeowners association or similar organization;

(f) a mortgage loan or a commitment to make or receive a mortgage loan;

(g) a security agreement under the Uniform Commercial Code relating to the sale or rental of personal property or fixtures; or

(h) water, sewer, electrical, telephone, cable, or other regulated utility service providers.

(J) A real estate brokerage firm shall manage residential and commercial real estate under a written management agreement that shall set forth, at a minimum:

(1) the names and signatures of authorized parties to the agreement;

(2) the property identification;

(3) the method of compensation to the licensee;

(4) that a management agreement may not contain an automatic renewal clause or provision unless the management agreement also contains a clause or provision that allows either party to cancel the management agreement for any cause or no cause with thirty days' notice after the original definite expiration date;

(5) compensation for a future lease renewal by tenants, and if included, the contract must contain a clause in underlined capital letters on the first page providing for such future compensation; and

(6) terms and conditions of tenant rental or lease arrangements. However, a management agreement may not contain a provision binding the property under a future listing agreement if the property is to be sold in the future, in which case a separate listing agreement is required.

(K) For all types of real estate transactions, including leases and sales, an unlicensed employee of the owner or an unlicensed individual working under the supervision of a broker-in-charge or a property manager-in-charge may not:

(1) discuss, negotiate, or explain a contract, listing agreement,

buyer agency agreement, lease, agreement, property management agreement, or other real estate document;

(2) vary or deviate from the rental price or other terms and conditions previously established by the owner or licensee when supplying relevant information concerning the rental of property;

(3) approve applications or leases or settle or arrange the terms and conditions of a lease;

(4) indicate to the public that the unlicensed individual is in a position of authority which has the managerial responsibility of the rental property;

(5) conduct or host an open house or manage an on-site sales or leasing office;

(6) show real property for sale other than vacant units in a multifamily building;

(7) answer questions regarding company listings, title, financing, and closing issues, except for information that is otherwise publicly available;

(8) be paid solely on the basis of real estate activity including, but not limited to, a percentage of commission or an amount based on the listing or sales compensation or commission;

(9) negotiate or agree to compensation or commission including, but not limited to, commission splits, management fees, or referral fees on behalf of a licensee; or

(10) engage in an activity requiring a real estate license as required and defined by this chapter.

(L) A licensee is not required to maintain records of communications that are not designated to be retained or to create a permanent record such as text messages, instant messaging system-formatted messages, voicemail, voice recordings, or social media posts.

Section 40-57-136. (A)(1) A broker-in-charge or a property manager-in-charge, when taking possession of trust funds, shall establish and maintain control of and responsibility for an active real estate trust account which must be a demand deposit account designated and titled to include the word “trust” or the word “escrow” in the name of the real estate brokerage firm for which the respective broker-in-charge’s or property manager-in-charge’s license is issued; provided, however, that one central trust account may be used by real estate brokerage firms with multiple offices managed by:

(a) one broker-in-charge or one property manager-in-charge; and

(b) separate brokers-in-charge or separate property managers-in-charge.

(2) A broker-in-charge and a property manager-in-charge shall maintain records which reflect the transactions in his office.

(3) A trust account maintained by a broker-in-charge or property manager-in-charge must be a demand deposit account located in an insured financial institution authorized to conduct business in South Carolina.

(4) A broker-in-charge or property manager-in-charge shall instruct employees and supervised licensees on the proper handling of trust funds.

(5) A check or statement issued in connection with a real estate trust account must reflect the title and designation of the account as provided in item (1).

(B)(1) A broker-in-charge or property manager-in-charge shall ensure that accurate and complete records, as required by this chapter, are maintained for real estate trust accounts.

(2) A broker-in-charge or property manager-in-charge shall ensure that backup copies are maintained for computerized real estate trust accounts. A backup copy must be maintained on a data storage medium that is stored in a separate off-site location.

(3) A broker-in-charge or property manager-in-charge may not commingle trust funds of the client with his own money, except that he may maintain a clearly identified amount of the company's funds in the trust account to cover bank service charges or in order to avoid the closing of the account when no client's trust funds are on deposit.

(4) Trust funds received by a licensee in connection with a real estate transaction in which the licensee is engaged for the broker-in-charge or property manager-in-charge must be delivered to the broker-in-charge or property manager-in-charge no later than the following business day.

(5) A broker-in-charge or property manager-in-charge who disburses trust funds contrary to the terms of the contract or fails to disburse trust funds not in dispute is considered to have demonstrated incompetence to act as a broker-in-charge or property manager-in-charge.

(C)(1)(a) Except as provided in subitem (b), trust funds received by a broker-in-charge or property manager-in-charge in a real estate rental or lease transaction must be deposited as follows in a real estate trust account as follows:

(i) cash or certified funds must be deposited within forty-eight hours of receipt, excluding Saturday, Sunday, and bank holidays; and

(ii) checks must be deposited within forty-eight hours after a lease or rental agreement is signed by the parties to the transaction,

excluding Saturday, Sunday, and bank holidays.

(b) Rent received by a licensee who is directly employed by the owner of rental property may be deposited in an operating or other similar account, but otherwise must be properly accounted for as provided in this section. However, an advance rental deposit is a trust fund and must be treated as such.

(2) Trust funds received by a broker-in-charge or property manager-in-charge in connection with a real estate rental or lease including, but not limited to, security deposits, pet deposits, damage deposits, and advance rentals, except earned rental proceeds, and deposited in the trust account must remain in the trust account until the lease or rental transaction expires or is terminated, at which time undisputed trust funds must be disbursed pursuant to the contract which directs the broker-in-charge or property manager-in-charge to hold the trust funds, and a full accounting must be made to the landlord or tenant as appropriate. Earned rental proceeds must be disbursed to the landlord within a reasonable time after clearance of the deposit by the bank.

(D)(1)(a) Trust funds received by a broker-in-charge in a real estate sales or exchange transaction must be deposited as follows in a separate real estate trust account:

(i) cash or certified funds must be deposited within forty-eight hours of receipt, excluding Saturday, Sunday, and bank holidays; and

(ii) checks must be deposited within forty-eight hours after written acceptance of an offer by the parties to the transaction, excluding Saturday, Sunday, and bank holidays.

(b) Trust funds received by a broker-in-charge in connection with a real estate sales or exchange transaction and deposited in the real estate trust account shall remain in the trust account until consummation or termination of the transaction, at which time the undisputed trust funds must be disbursed in accordance with the contract which directs the broker-in-charge to hold the trust funds, and a full accounting must be made to the parties.

(2) A broker-in-charge or property manager-in-charge who disburses trust funds from a designated trust account under the following circumstances is considered to have properly fulfilled the duty to the account:

(a) upon rejection of an offer to buy, sell, rent, lease, exchange, or option real estate;

(b) upon the withdrawal of an offer not yet accepted by the offeree; or

(c) at the closing of the transaction.

(E) If a dispute concerning the entitlement to, and disposition of, trust

funds arises between a buyer and a seller, and the dispute is not resolved by reasonable interpretation of the contract by the parties to the contract, the deposit must be held in the trust account until the dispute is resolved by:

(1) a written agreement which:

(a) directs the disposition of monies signed by all parties claiming an interest in the trust monies; and

(b) must be separate from the contract which directs the broker-in-charge or property manager-in-charge to hold the monies;

(2) filing an interpleader action in a court of competent jurisdiction;

(3) an order of a court of competent jurisdiction; or

(4) voluntary mediation.

(F)(1) Records required by this chapter must be maintained for a minimum of five years and the broker-in-charge or property manager-in-charge shall furnish a copy of the records to a representative of the commission upon request. Accounting records that may be requested include, but are not limited to, journals, ledgers, folios, client subaccounts, tenant accounts, canceled checks, deposit slips, and bank statements.

(2) Brokers-in-charge or property managers-in-charge, when required by this chapter to establish and maintain a real estate trust account, also shall maintain, in their designated principal place of business, a record-keeping system consisting of:

(a) a journal or an accounting system that records the chronological sequence in which funds are received and disbursed for real estate sales. For funds received, the journal or accounting system must include the date of receipt, the name of the party from whom the money was received, the name of the principal, identification of the property, the date of deposit, the depository, the payee, the check numbers, dates, and amounts. A running balance must be maintained for each entry of a receipt or disbursement. The journal or accounting system must provide a means of reconciling the accounts;

(b) a journal or an accounting system containing, for property management, the same information as stated in subitem (a) except that the required running balance may be determined at the time of reconciliation;

(c) a separate record for each tenant identifying the unit, the unit owner, amount of rent, due date, security deposit, and all receipts with dates when managing property. An owner’s ledger also must be maintained for all properties owned by each owner showing receipts and disbursements applicable to each property managed. A disbursement must be documented by a bid, contract, invoice, or other appropriate

written memoranda;

(d) a trust account deposit document must identify the buyer or tenant unless other appropriate written memoranda are maintained;

(e) a general ledger identifying security deposits;

(f) a monthly reconciliation of each separate account except when no deposit or disbursement is made during that month. The reconciliation must include a written worksheet comparing the reconciled bank balance with the journal balance and with the ledger total to ensure agreement.

(G) Trust funds received by a broker-in-charge or property manager-in-charge which must be deposited in a trust account may be deposited in an interest-bearing account. Interest earned on these trust funds may be retained by the broker-in-charge or property manager-in-charge if:

(1) the depositors or owners of the trust funds have been informed of their right to ownership of the interest but relinquish the right of ownership to the broker-in-charge or property manager-in-charge by written agreement; and

(2) the agreement, if part of a preprinted form, uses conspicuous language.

(H) If trust funds are held outside a licensee's brokerage firm, the licensee remains obligated to ensure that the trust funds are timely and properly delivered to the trust fund agent as stated in the contract.

Section 40-57-240. This chapter does not apply to:

(1) the sale, lease, or rental of real estate by an unlicensed owner of real estate who owns any interest in the real estate if the interest being sold, leased, or rented is identical to the owner's legal interest;

(2) an attorney at law acting within the scope of his duties involved in the legal representation of a client/owner;

(3) agencies and instrumentalities of the state or federal government and their employees acting within the scope of their official duties;

(4) foresters registered under Chapter 27, Title 48, if the sale of any land is merely incidental to the sale of timber on the land; or

(5) court-appointed receivers and trustees while acting within the scope of their appointment.

Article 3

Real Estate Brokers, Brokers-in-Charge, and Associates

Section 40-57-310. To be eligible for licensure as a real estate broker, broker-in-charge, or associate, an applicant must:

(1) attain the age of twenty-one if applying for a license as a broker or broker-in-charge;

(2) attain the age of eighteen if applying for a license as an associate;

(3) provide a physical address at which the licensee can be contacted in the course of an investigation. A licensee shall maintain on file with the commission his current contact information for his residential address, mailing address, email address, and telephone number. Failure to update this contact information within thirty days after a change may result in an administrative suspension of the property manager, associate, broker, or broker-in-charge pursuant to Section 40-57-710;

(4) graduate from high school or hold a certificate of equivalency recognized by the State Department of Education;

(5) submit proof of completion of education to the commission and, if applicable, experience requirements as specified in this chapter;

(6) if applicable, submit experience requirements as specified in this chapter;

(7) submit to a criminal background check as provided in Section 40-57-115 for initial application; and

(8) pass the state and national portions of the applicable examination.

Section 40-57-320. (A) As a condition for and before applying to the commission for licensure, an applicant for an associate, broker, or broker-in-charge license shall provide proof to the commission of having met the following educational requirements, in addition to the other requirements of this chapter:

(1) for an associate license:

(a) completion of sixty hours of classroom instruction in fundamentals of real estate principles and practices and thirty hours of classroom instruction in advanced real estate principles within five years before the application, provided an applicant may take the license examination before completing the required thirty hours of advanced instruction; or

(b) evidence of holding a juris doctor degree, a bachelor of law degree, a baccalaureate degree or a master's degree with a major in real estate from an accredited college or university, or completion of another course of study approved by the commission; and

(2) for a broker license:

(a) completion of sixty hours of commission-approved real estate classroom instruction, to include completion of the thirty-hour Unit III A Broker Management and of the thirty hour Unit III B Brokerage Principles courses in advanced real estate principles and practices and five years active associate licensure within the past seven years; or

(b) evidence of holding a juris doctor degree, a bachelor of law degree, a baccalaureate degree or a master's degree with a major in real estate from an accredited college or university.

(B)(1) As a condition of licensure, an applicant shall submit to an examination which must be conducted by the commission or a designated test provider at a time and place specified by the commission.

(2) The applicant must receive a passing grade on both the state and national portions of the examination, in accordance with a cut-score determination or a raw-score determination established by the commission.

(3) An applicant who applies to take the examination is granted a twelve-month eligibility period to complete successfully all portions of the examination. An applicant who fails to complete successfully both the state and national portions of the examination may reapply to become eligible for the examination if applicable qualifying courses were completed fewer than three years before applying for the examination.

(4) An applicant who passes both the state and national portions of the examination must apply for a license within one year, or the applicant must reapply and retake all portions of the examination.

(5) An applicant who is denied licensure by the commission may not reapply for licensure for a period of twenty-four months from the date of denial unless he prevails in appealing the denial pursuant to the Administrative Procedures Act.

(6) An individual who, at the time of application, holds an active real estate license in another state or jurisdiction or whose real estate license in another state or jurisdiction expired not more than six months before he makes his application only is required to pass the state portion of the examination to qualify for licensure. This does not exempt the individual from satisfying the educational requirements of this chapter.

(C) The commission or test provider may collect and retain reasonable examination fees. An applicant for an examination to be conducted by a test provider shall pay the fee directly to the test provider.

Section 40-57-330. (A) A broker-in-charge license may not be issued to or renewed for an applicant unless the applicant:

(1) has an ownership interest in the applicant's company; or

(2) is actively engaged in the operation and management of the company.

(B) An individual holding an active broker or associate license must be licensed under a broker-in-charge who is licensed by the commission and may not be licensed during the same period with more than one broker-in-charge. When a licensee becomes disassociated with a

broker-in-charge, he immediately shall notify the commission by completion of the proper form. The licensee must furnish a new business address to the commission, the authorization of the new broker-in-charge, and proof of notification to the former broker-in-charge.

(C) When a designated broker-in-charge becomes disassociated with the office registered with the commission, the broker-in-charge shall notify the commission within five days. The broker-in-charge designation will be removed and the licensee's license will be deactivated.

Section 40-57-340. (A) As a condition of active license renewal:

(1) A broker or associate shall submit to a criminal background check upon every third renewal as required for initial applicants pursuant to Section 40-57-115 and shall provide proof of satisfactory completion biennially of ten hours of continuing education in courses. The ten hours must include a minimum of four hours of instruction in mandated topics.

(2) A broker-in-charge shall submit to a criminal background check upon every third renewal as required for initial applicants pursuant to Section 40-57-115 and shall provide proof of satisfactory completion biennially of ten hours of continuing education in courses approved by the commission. The ten hours must include a minimum of four hours of instruction in mandated topics for a broker or associate license and four hours of continuing education must be in advanced real estate topics designed for brokers-in-charge.

(3) A license must be renewed biennially coinciding with the licensees' continuing education deadline. Approximately one-half of the licensees must renew in even-numbered years and the remainder in odd-numbered years.

(B)(1) Exempt from the biennial continuing education required by subsection (A) are:

(a) an associate who successfully completes a post-licensing course or takes a broker course is exempt for the renewal period during which the course was taken;

(b) a licensee while on inactive status;

(c) a broker or associate with twenty-five years or more of licensure in South Carolina who is sixty-five years of age or more may apply for an age- and experience-based full continuing education waiver, and upon granting of the waiver, is exempt from the continuing education requirements of this chapter; or

(d) a broker or associate with a minimum of twenty-five years of licensure in South Carolina who may apply to be granted an

experience-based partial continuing education waiver, and upon granting of the waiver, is required to complete only a mandatory four-hour core course biennially to maintain active licensure.

(2) A broker-in-charge who has been granted a partial continuing education waiver is required to take a four-hour core course and the mandated four-hour broker-in-charge course biennially.

(3) A licensee who previously has been granted a full continuing education waiver by the commission is exempt from the continuing education requirements of this chapter.

(C) A broker or associate who takes more than the required number of hours during a two-year period may carry forward up to four hours of elective courses to another renewal period.

(D) A broker or associate who fails to submit to criminal background check requirements of this section or complete the continuing education requirements of this section by the date of license renewal may renew by submitting applicable fees but immediately must be placed on inactive status. The license may be reactivated upon proof of completion of required continuing education and payment of applicable fees or submission to a criminal background check and payment of applicable fees, whichever remedies the deficiency that caused the licensee to be placed on inactive status.

Section 40-57-350. (A) A real estate brokerage firm that provides services through an agency agreement for a client is bound by the duties of loyalty, obedience, disclosure, confidentiality, reasonable care, diligence, and accounting as set forth in this chapter. Pursuant to the aforementioned duties owed to a client, a real estate brokerage firm and its subagents are prohibited from engaging in, representing others in, or assisting others in the practice of wholesaling. The following are the permissible brokerage relationships a real estate brokerage firm may establish:

(1) seller agency;

(2) buyer agency;

(3) disclosed dual agency;

(4) designated agency; or

(5) transaction brokerage.

(B) The broker-in-charge of a real estate brokerage firm shall adopt a written company policy that identifies and describes the types of real estate brokerage relationships in which supervised licensees may engage, including teams and limited function referral offices. The written policy must include:

(1) the real estate brokerage firm’s policy regarding cooperation

with transaction brokers, or both buyer agents, and transaction brokers, and whether the broker offers compensation to these licensees;

(2) the scope of services provided to the real estate brokerage firm's clients;

(3) the scope of services provided to the real estate brokerage firm's customers;

(4) when and how supervised licensees shall explain and disclose their brokerage relationships with an interested party to a potential transaction. The explanation and disclosure shall always comply with the minimum requirements set forth in this chapter;

(5) when and how a supervised licensee shall explain the potential for the licensee to later act as a disclosed dual agent, designated agent, or transaction broker in specific transactions, as permitted by this chapter; and

(6) the real estate brokerage firm's policy on compliance with state and federal fair housing laws.

(C)(1) On reaching a written agency agreement to provide brokerage services for a seller of real estate, a seller's agent shall:

(a) perform the terms of the written brokerage agreement made with the seller;

(b) pursuant to subsection (A), promote the interest of the seller by performing agency duties which include:

(i) seeking a sale at the price and terms stated in the brokerage agreement or at a price and terms acceptable to the seller, except that the real estate brokerage firm is not obligated to seek additional offers to purchase unless the brokerage agreement provides otherwise while the property is subject to a contract of sale;

(ii) presenting in a timely manner all written offers and counteroffers to and from the seller, even when the property is subject to a contract of sale;

(iii) disclosing to the seller all material adverse facts concerning the transaction which are actually known to the seller's agent except as directed otherwise in this section;

(iv) advising the seller to obtain expert advice on matters that are beyond the expertise of the licensee; and

(v) accounting in a timely manner, as required by this chapter, for all money and property received in which the seller has or may have an interest;

(c) exercise reasonable skill and care in discharging the licensee's agency duties;

(d) comply with all provisions of this chapter and with regulations adopted by the commission;

(e) comply with all applicable federal, state, or local laws, rules, regulations, and ordinances related to real estate brokerage, including laws which relate to fair housing and civil rights;

(f) preserve confidential information provided by the seller during the course of and following the agency relationship that might have a negative impact on the seller's real estate activity unless:

(i) the seller to whom the confidential information pertains grants written consent to disclose the information;

(ii) disclosure is required by law; or

(iii) disclosure is necessary to defend the licensee against an accusation of wrongful conduct; or

(iv) the information becomes public from a source other than the broker.

(2) No cause of action may arise against a licensee for disclosing confidential information in compliance with item (1)(f).

(D) A licensee acting as a seller's agent may offer alternative properties to prospective buyers. A licensee acting as a seller's agent also may list for sale competing properties.

(E)(1) On reaching a written agency agreement to provide brokerage services to a potential buyer of real estate, a buyer's agent shall:

(a) perform the terms of the written brokerage agreement made with the buyer;

(b) in accordance with subsection (A), promote the interest of the buyer by performing the buyer's agent's duties which include:

(i) seeking the type of property at the price and terms stated in the brokerage agreement or at a price and terms acceptable to the buyer, except that the licensee is not obligated to seek additional properties unless the brokerage agreement provides otherwise for a buyer once the buyer becomes a party to a contract of sale;

(ii) presenting in a timely manner all written offers and counteroffers to and from the buyer;

(iii) disclosing to the buyer all material adverse facts concerning the transaction which are actually known to the licensee except as directed otherwise in this section. Nothing in this chapter may limit a buyer's obligation to inspect the physical condition of the property which the buyer may purchase;

(iv) advising the buyer to obtain expert advice on material matters that are beyond the expertise of the licensee; and

(v) accounting in a timely manner, as required by this chapter, for all money and property received in which the buyer has or may have an interest;

(c) exercising reasonable skill and care in discharging the buyer's

agent's agency duties;

(d) complying with all provisions of this chapter and with regulations promulgated by the commission;

(e) complying with all applicable federal, state, or local laws, rules, regulations, and ordinances related to real estate brokerage, including laws which relate to fair housing and civil rights;

(f) preserving confidential information provided by the buyer during the course of or following the agency relationship that might have a negative impact on the buyer's real estate activity unless:

(i) the buyer to whom the confidential information pertains, grants written consent to disclose the information;

(ii) disclosure is required by law;

(iii) disclosure is necessary to defend the licensee against an accusation of wrongful conduct in a proceeding before the commission or before a professional association or professional standards committee; or

(iv) the information becomes public from a source other than the licensee.

(2) No cause of action may arise against a licensee for disclosing confidential information in compliance with item (1)(f).

(F) A licensee acting as a buyer's agent may offer properties which interest his buyer client to other potential buyers. However, if the licensee has two competing buyer clients in a single real estate transaction, the agent will give written notice to each buyer client that neither will receive the confidential information of the other.

(G)(1) A licensee shall treat all parties honestly and may not knowingly give them false or misleading information about the condition of the property which is known to the licensee. A licensee is not obligated to discover latent defects or to advise parties on matters outside the scope of the licensee's real estate expertise. Notwithstanding another provision of law, no cause of action may be brought against a licensee who has truthfully disclosed to a buyer a known material defect.

(2) No cause of action may be brought against a real estate brokerage firm or licensee by a party for information contained in reports or opinions prepared by an engineer, land surveyor, geologist, wood destroying organism control expert, termite inspector, mortgage broker, home inspector, or other home inspection expert, or other similar reports.

(3) A licensee, the real estate brokerage firm, and the broker-in-charge are not liable to a party for providing the party with false or misleading information if that information was provided to the licensee by the client or customer and the licensee did not know the information was false or incomplete.

(H) Nothing in this chapter limits the obligation of the buyer to inspect the physical condition of the property.

(I)(1) A real estate brokerage firm may act as a disclosed dual agent only with the prior informed and written consent of all parties. Consent is presumed to be informed if a party signs a completed copy of a dual agency agreement, promulgated by the commission. At the latest, the form must be signed by the buyer before writing an offer and by the seller before signing the sales contract. The agreement must specify the transaction, and must name the parties to the dual agency consent agreement, and must state that:

(a) in acting as a dual agent, the real estate brokerage firm represents clients whose interests may be adverse and that agency duties are limited;

(b) the supervised licensees of the real estate brokerage firm may disclose information gained from one party to another party if the information is relevant to the transaction, except if the information concerns:

(i) the willingness or ability of a seller to accept less than the asking price;

(ii) the willingness or ability of a buyer to pay more than the offered price;

(iii) any confidential negotiating strategy not disclosed in an offer as terms of a sale; or

(iv) the motivation of a seller for selling property or the motivation of a buyer for buying property;

(c) that the clients may choose to consent to the disclosed dual agency or may reject it; and

(d) that the clients have read and understood the dual agency agreement and acknowledge that their consent to dual agency is voluntary.

(2) A broker-in-charge and supervised licensees in one office of a real estate brokerage firm may conduct business with a client of another office of the real estate brokerage firm as a customer or client without creating a dual agency relationship, so long as the branch offices each have a separate broker-in-charge and do not share the same supervised licensees.

(J)(1) A broker-in-charge may assign, through the adoption of a company policy, different licensees affiliated with the broker-in-charge as designated agents to exclusively represent different clients in the same transaction. A company policy adopted to fulfill the requirements of this subsection must contain provisions reasonably calculated to ensure each client is represented in accordance with the requirements of this chapter.

(2) A broker-in-charge may personally, or through the broker's duly authorized real estate-licensed representative, specifically designate one or more supervised licensees who will be acting as agent of the buyer client or seller client to the exclusion of all other supervised licensees. Buyers and sellers shall give informed consent to enter into designated agency relationships. The informed consent must be evidenced by a designated agency agreement promulgated by the commission, and must be signed by the buyer before writing the offer and by the seller before signing the sales agreement. The designated agency agreement must include language informing the buyer and seller of the obligations of the broker-in-charge and supervised licensees under this section.

(3) If a buyer client of a real estate brokerage firm wants to view a property that was personally listed by the broker-in-charge, the real estate brokerage firm shall act as a dual agent with the written consent of the buyer and seller, as required by subsection (I). If a seller client of a real estate brokerage firm wants to sell a property to a buyer client of the real estate brokerage firm that is personally represented by the broker-in-charge, the real estate brokerage firm shall act as a dual agent with the written consent of the buyer and seller, as required by subsection (I).

(4) A designated agent of a seller client has the duties and obligations set forth in subsections (C) through (E). A designated agent of a buyer client has the duties and obligations set forth in subsections (E), (G), and (H).

(5) In a transaction where both buyer and seller are represented by designated agents, the broker-in-charge shall act as a dual agent pursuant to subsection (I). The broker-in-charge is not required to complete a dual agency agreement under this provision. Consent must be contained in the designated agency agreement.

(6) A designated agent may disclose to the designated agent's broker-in-charge, or the licensed representative appointed by the broker-in-charge, confidential information of a client for the purpose of seeking advice or assistance for the benefit of the client in regard to a transaction.

(7) If a buyer client of a real estate brokerage firm wants to view and make an offer to purchase a property owned by a seller client being represented by the same supervised licensee, the real estate brokerage firm must act as a dual agent with the written consent of the buyer and seller, as required by subsection (I).

(8) If a broker-in-charge appoints different supervised licensees as designated agents in accordance with subsection (J)(1), the broker-in-charge, all remaining affiliated licensees, and the real estate

brokerage firm must be considered to be dual agents.

(9) There may be no imputation of knowledge or information between and among the broker-in-charge, agents, and the clients. Designated agents may not disclose, except to the designated agent's broker-in-charge or appointed representative, information made confidential by written request or instruction of the client whom the designated agent is representing, except information allowed to be disclosed by this section or required to be disclosed by this section. Unless required to be disclosed by law, the broker-in-charge of a designated agent may not reveal confidential information received from either the designated agent or the client with whom the designated agent is working. For the purposes of this section, confidential information is information the disclosure of which has not been consented to by the client and that could harm the negotiating position of the client.

(10) The designation of one or more of a broker-in-charge's supervised licensees as designated agents does not permit the disclosure by the broker-in-charge or supervised licensees of information made confidential by an express written request or instruction by a party before or after the creation of the designated agency. The broker-in-charge and supervised licensees shall continue to maintain this confidential information unless the party from whom the confidential information was obtained permits its disclosure by written agreement or disclosure is required by law. No liability is created as a result of a broker-in-charge's and supervised licensee's compliance with this subsection.

(K) A licensee who represents one party to a real estate transaction may provide assistance to other parties to the transaction by performing ministerial acts such as writing and conveying offers, and providing information and aid concerning other professional services not related to the real estate brokerage services being performed for a client. Performing ministerial acts does not create an agency relationship.

(L)(1) A real estate brokerage firm may offer transaction brokerage to potential buyers and sellers. A transaction broker may be a single agent of a party in a transaction, giving the other party customer service or the transaction broker may facilitate the transaction without representing either party.

(2) Licensees operating as transaction brokers are required to disclose to buyers and sellers their role and duties in offering customer services to the consumer that shall include the following:

(a) honesty and fair dealing;

(b) accounting for all funds;

(c) using skill, care, and diligence in the transaction;

(d) disclosing material adverse facts that affect the transaction, or

the value or condition of the real property and that are not readily ascertainable;

(e) promptly presenting all written offers and counteroffers;

(f) limited confidentiality, unless waived in writing by a party. This limited confidentiality prohibits disclosing:

(i) information concerning a buyer's motivation to buy or the buyer's willingness to make a higher offer than the price submitted in a written offer;

(ii) factors motivating a seller to sell or the seller's willingness to accept an offer less than the list price;

(iii) that a seller or buyer will agree to financing terms other than those offered; and

(iv) information requested by a party to remain confidential, except information required by law to be disclosed;

(g) additional duties that are entered into by separate agreement.

(3) Prospective buyers and sellers who do not choose to establish an agency relationship with a real estate brokerage firm but who use the services of the firm are considered customers. A licensee may offer the following services to a customer as a single agent or as a transaction broker including, but not limited to:

(a) identifying and showing property for sale, lease, or exchange;

(b) providing real estate statistics and information on property;

(c) providing preprinted real estate forms, contracts, leases, and related exhibits and addenda;

(d) acting as a scribe in the preparation of real estate forms, contracts, leases, and related exhibits and addenda;

(e) providing a list of architects, engineers, surveyors, inspectors, lenders, insurance agents, attorneys, and other professionals; and

(f) identifying schools, shopping facilities, places of worship, and other similar facilities on behalf of the parties in a real estate transaction.

(4) A licensee offering services to a customer shall:

(a) timely present all written offers to and from the parties involving the sale, lease, and exchange of property, even when the property is subject to a contract of sale;

(b) timely account for all money and property received by the broker on behalf of a party in a real estate transaction;

(c) provide a meaningful explanation of brokerage relationships in real estate transactions;

(d) provide an explanation of the scope of services to be provided by the licensee;

(e) be fair and honest and provide accurate information in all dealings;

(f) keep information confidential as requested in writing by the customer; and

(g) disclose known material facts regarding the property or the transaction.

(5) Pursuant to the aforementioned duties owed to a customer, a real estate brokerage firm and its subagents are prohibited from engaging in, representing others in, or assisting others in the practice of wholesaling.

(M) The provisions of this section which are inconsistent with applicable principles of common law supersede the common law, and the common law may be used to aid in interpreting or clarifying the duties described in this section. Except as otherwise stated, nothing in the section precludes an injured party from bringing a cause of action against licensees, their companies, or their brokers-in-charge.

Section 40-57-360. (A) The broker-in-charge must be responsible for supervising the team and all licensed members of the team. The broker-in-charge may not delegate supervisory responsibilities to the team members or team leader. Written office policy of the broker-in-charge shall address team relationships in which supervised licensees may engage.

(B) The team may act as disclosed dual agents only and with the prior informed and written consent of all parties and as addressed in the broker-in-charge's written office policy.

(C) Team members must conduct all real estate brokerage activities from their commission-established office under the supervision of a broker-in-charge.

(D) All team advertising and marketing must contain the full name of the real estate brokerage firm and all team members must display and promote that they are directly connected to the brokerage firm under which the team works. In all team advertising and marketing, the team name may not be more than twice the size, prominence, or frequency of the full name of the brokerage firm.

(E) No team may imply that the team is a separate entity from the brokerage firm of its employment. Team names must end in "[team name] team at [name of real estate brokerage firm]".

(F) The commission may promulgate regulations regarding the creation and operation of real estate teams, including requiring the registration of team names on a form prescribed by the commission.

Section 40-57-370. (A) A licensee shall provide at the first practical opportunity to all potential buyers and sellers of real estate with whom the licensee has substantive contact:

(1) a meaningful explanation of brokerage relationships in real estate transactions that are offered by that real estate brokerage firm, including an explanation of customer and client services;

(2) Disclosure of Brokerage Relationships form prescribed by the commission.

(B) An "Acknowledgement of Receipt of the Disclosure of Brokerage Relationships" form must be included in an agency agreement and in a sales contract. In addition, each sales contract must require the buyer and the seller to acknowledge whether they received customer or client service in that real estate transaction.

(C) At the time of first substantive contact, it is presumed that the potential buyer or seller is to be a customer of the real estate brokerage firm and that the real estate brokerage firm will be acting as a transaction broker as defined by this chapter and that the real estate brokerage firm shall offer services to a customer as defined by Section 40-57-350(L) only until the potential buyer or seller signs an agency representation agreement.

(D) If first substantive contact occurs over the telephone or other electronic means, including the Internet and electronic mail, an "Acknowledgement of Receipt of the Disclosure of Brokerage Relationships" form may be sent by electronic means, including the Internet and electronic mail.

(E) For all real estate transactions, no agency relationship between a buyer, seller, landlord, or tenant and a real estate brokerage firm exists unless the buyer, seller, landlord, or tenant and the brokerage company agree, in writing, to the agency relationship. No type of agency relationship may be assumed by a buyer, seller, landlord, tenant, or licensee or created orally or by implication. A real estate brokerage firm may not be considered to have an agency relationship with a party or have agency obligations to a party but is responsible only for exercising reasonable care in the discharge of the real estate brokerage firm's specified duties, as provided in this chapter, and, in the case of a client, as specified in the agency agreement.

(F) The payment or promise of payment of compensation to a real estate brokerage firm by a seller, buyer, landlord, or tenant does not determine whether an agency relationship has been created between a real estate licensee and a seller, buyer, landlord, or tenant.

(G) The brokerage relationship disclosure requirements of this section do not apply if the:

(1) transaction is regarding the rental or lease of property; or

(2) communication from the licensee is a solicitation of business.

Section 40-57-380. A real estate broker and all supervised licensees owe no duty or obligation to a client following termination, expiration, completion, or performance of an agency agreement or closing of the real property transaction, whichever occurs first, except the duties of:

(1) accounting in a timely manner for all money and property related to and received during the relationship; and

(2) keeping confidential all information received during the course of the engagement which was made confidential by request or instructions from the client, except as provided for in Section 40-57-350(C)(1)(f) and Section 40-57-350(E)(1)(f) unless the:

(a) client permits the disclosure by written agreement;

(b) disclosure is required by law;

(c) disclosure is necessary to defend the licensee against an accusation of wrongful conduct in a proceeding before the commission or before a professional association or professional standards committee; or

(d) the information becomes public from a source other than the broker.

Article 5

Property Managers

Section 40-57-510. (A) To be eligible for licensure as a property manager or property manager-in-charge, an applicant must:

(1) attain the age of twenty-one if applying for a property manager-in-charge;

(2) attain the age of eighteen if applying for a license as a property manager;

(3) provide a physical address at which the licensee can be contacted in the course of an investigation. A licensee shall maintain on file with the commission his current contact information for his residential address, mailing address, email address, and telephone number. Failure to update this contact information within thirty days after a change may result in an administrative suspension of the property manager, associate, broker, or broker-in-charge pursuant to Section 40-57-710;

(4) graduate from high school or hold a certificate of equivalency that is recognized by the South Carolina Department of Education;

(5) submit proof of completion of education to the commission and, if applicable, experience requirements as specified in this chapter;

(6) submit to criminal background check as provided in Section

40-57-115 for initial application; and

(7) pass the applicable examination.

(B) An application for examination or licensure must be made in writing on a form prescribed by the commission and must be accompanied by all applicable fees.

(C) As a condition for and before applying to the commission for licensure, an applicant for a property manager or property manager-in-charge license shall provide proof to the commission of having met the following educational requirements, in addition to the other requirements of this chapter:

(1) for a property manager license:

(a) completion of thirty hours of classroom instruction in property management principles and practices; or

(b) evidence of holding a juris doctor degree, a bachelor of law degree, a baccalaureate degree or a master's degree with a major in real estate or housing from an accredited college or university, or completion of another course of study approved by the commission; and

(2) for a property manager-in-charge license:

(a) an active property manager license; and

(b) completion of seven hours of instruction in property management accounting and record-keeping approved by the commission.

(D) The commission shall issue licenses in the classifications of property manager or property manager-in-charge to individuals who qualify under and comply with the requirements of this chapter. An individual may not be licensed in more than one classification at the same time. The license must be in the form and size as the commission prescribes and is not transferable.

(E) An individual holding an active property manager license must be licensed under a property manager-in-charge or broker-in-charge who is licensed by the commission or must be designated as a property manager-in-charge. A property manager may not be licensed during the same period with more than one property manager-in-charge or broker-in-charge. When a licensee becomes disassociated with a broker-in-charge or property manager-in-charge, the licensee immediately shall notify the commission by completion of the proper form. The licensee must furnish a new business address to the commission, the authorization of the new broker-in-charge or new property manager-in-charge, and proof of notification to the former broker-in-charge or property manager-in-charge.

(F) As a condition for and before applying to the commission for licensure renewal, a property manager or property manager-in-charge

shall submit to a criminal background check upon every third renewal as required for initial applicants pursuant to Section 40-57-115.

(G) A property manager or property manager-in-charge who fails to submit to criminal background check requirements of this section by the date of license renewal may renew by submitting applicable fees but immediately must be placed on inactive status. The license may be reactivated upon proof of submission to a criminal background check.

(H) When a designated property manager-in-charge becomes disassociated with the office registered with the commission, the property manager-in-charge shall immediately notify the commission. The property manager-in-charge designation will be removed and the licensee's license will be inactivated.

Section 40-57-520. (A) The management of each residential multiunit rental location must be provided by an on-site licensee or an off-site licensee if there is no on-site staff.

(B) The commission may permit multiple multiunit rental property locations to be managed by one licensee.

(C) An unlicensed employee of the owner of a multiunit rental property or an unlicensed individual who works under the supervision of a licensee is permitted to perform only the following duties:

(1) maintenance;

(2) clerical or administrative support;

(3) collection of rents that are made payable to the owner or real estate company;

(4) showing rental units to prospective tenants;

(5) furnishing published information;

(6) providing applications and lease forms; and

(7) receiving applications and leases for submission to the owner or the licensee for approval.

Article 7

Misconduct and Redress

Section 40-57-710. (A) In addition to Section 40-1-110, the commission may deny issuance of a license to an applicant or may take disciplinary action against a licensee who:

(1) makes a substantial misrepresentation on an application for a real estate license;

(2) makes a substantial misrepresentation involving a real estate transaction;

(3) makes false promises likely to influence, persuade, or induce;

(4) pursues a continued and flagrant course of misrepresentation or makes false and misleading promises through any medium of advertising or otherwise;

(5) in the practice of real estate, demonstrates bad faith, dishonesty, untrustworthiness, or incompetency in a manner as to endanger the interest of the public;

(6) represents a real estate broker other than the broker-in-charge or property manager-in-charge with whom they are licensed;

(7) guarantees or authorizes and permits a supervised licensee to guarantee future profits from the resale of real estate;

(8) makes a dual set of contracts, written or otherwise, by stating a sales price other than the actual sales price;

(9) is convicted of violating the federal and state fair housing laws, forgery, embezzlement, breach of trust, larceny, obtaining money or property under false pretense, extortion, fraud, conspiracy to defraud, or any other crime involving the theft or taking of the property belonging to another, or has been convicted of a felony sex-related, felony drug-related, felony real estate-related, felony financial, or felony violent offense, or pleading guilty or nolo contendere to such an offense in a court of competent jurisdiction of this State, another state, or a federal court;

(10) fails to report to the commission in writing by certified mail, within ten days, notice of conviction of a crime provided in item (9);

(11) fails, within a reasonable time, to account for or to remit trust funds coming into his possession which belong to others;

(12) pays a commission or compensation to an unlicensed individual for activities requiring a license under this chapter. Notwithstanding this section, a licensee may not pay or offer to pay a referral fee or finder's fee to an unlicensed individual who is not a party in the real estate sales or rental transaction;

(13) violates a provision of law relating to the freedom of a buyer or seller to choose an attorney, insurance agent, title insurance agent, or another service provider to facilitate the real estate transaction;

(14) fails to disclose in accordance with Section 40-57-370 the party or parties for whom the licensee will be acting as an agent in a real estate transaction, if any;

(15) receives compensation in a real estate transaction or directly resulting from a real estate transaction from more than one party except with the full knowledge and written disclosure to all parties;

(16) represents more than one party in a real estate transaction without the full written knowledge and consent of all parties;

(17) acts as an undisclosed principal in a real estate transaction;

(18) accepts deposit money which is to be delivered to the licensee's principal in a real estate transaction without informing the payor and having the payor acknowledge in writing who will hold the money received by the licensee;

(19) issues a check in connection with his real estate business which is returned for insufficient funds or closed account;

(20) fails to disclose in accordance with Section 40-57-350 a known material fact concerning a real estate transaction;

(21) violates a provision of this chapter or a regulation promulgated under this chapter;

(22) violates a rule or order of the commission;

(23) knowingly gives false information to an investigator or inspector;

(24) engages in a practice or takes action inconsistent with the agency relationship that other real estate licensees have established with their clients;

(25) fails to make all records required to be maintained under this chapter available to the commission for inspection and copying by the commission upon request of an investigator or inspector of the commission, fails to appear for an interview with an investigator or inspector of the commission without due cause, or provides false information upon direct inquiry by the investigator or inspector;

(26) fails to promptly submit all offers and counteroffers in a real estate sales transaction;

(27) fails to provide current contact information to the commission;

(28) allows or creates an unreasonable delay in the closing of a transaction or act in a manner which causes failure or termination of a transaction due solely to a dispute among participating licensees concerning the division of a commission; or

(29) fails to disclose civil judgments brought on grounds of fraud, misrepresentation, or deceit.

(B) If after an investigation, charges of a violation are brought against a licensee, the broker-in-charge or property manager-in-charge must be notified of the charges. In the event a supervised licensee is noticed for a formal complaint hearing or otherwise appears before the commission to resolve the charges, the broker-in-charge or property manager-in-charge of record during the events in question must also attend the hearing. Unless the broker-in-charge or property manager-in-charge can show good cause as to why he failed to appear, the absence may result in the broker-in-charge or property manager-in-charge facing disciplinary action at the discretion of the

commission.

Section 40-57-720. (A) An investigation must be conducted in accordance with Section 40-1-80 and must be performed by investigators who have completed one hundred hours of training in programs that are approved by the commission and provide instruction on real estate principles, state statutory and regulatory law, and investigative techniques.

(B) A cease and desist order, restraining order, or an action seeking injunctive relief must be obtained in accordance with Sections 40-1-100 and 40-1-210.

(C)(1) The department shall conclude its investigation within one hundred fifty days from receipt of the complaint or seek a waiver of this period from the commission upon a showing of due diligence and extenuating circumstances.

(2) A hearing on the charges must be at the time and place designated by the commission and must be conducted in accordance with the Administrative Procedures Act.

(3) The commission shall render a decision and shall serve, within ninety days, notice, in writing, of the commission's decision to the licensee charged. The commission also shall state in the notice the date upon which the ruling or decision becomes effective.

(4) The department shall maintain a public docket or other permanent record in which must be recorded all orders, consent orders, or stipulated settlements.

(D) A licensee may voluntarily surrender his license in accordance with Section 40-1-150.

(E)(1) The commission may impose disciplinary action in accordance with Section 40-1-120.

(2) Upon determination by the commission that one or more of the grounds for discipline exists, the commission may impose a fine of not more than ten thousand dollars for each violation and as provided in Section 40-1-120. The commission may recover the costs of the investigation and the prosecution as provided in Section 40-1-170.

(3) Nothing in this section prevents a licensee from voluntarily entering into a consent order with the commission wherein violations are not contested and sanctions are accepted.

(F) The department annually shall post a report that provides the data for the number of complaints received, the number of investigations initiated, the average length of investigations, and the number of investigations that exceeded one hundred fifty days.

Section 40-57-730. (A) Unless the revocation is expressly made permanent as provided for in Section 40-1-120, after revocation of a license, a person may not reapply for three years from the date of revocation.

(B) An individual seeking licensure after revocation shall:

(1) appear before the commission in order for the commission to evaluate the individual's competency and fitness to transact the business of a real estate licensee; and

(2) meet all applicable educational examination and experience requirements that apply to individuals applying for a license who have never been licensed.

Section 40-57-740. (A) No cause of action may arise against an owner of real estate or licensed real estate agent of a party to a transaction for failure to disclose in a transaction:

(1) that the subject real estate is or was occupied by an individual who was infected with a virus or another disease which has been determined by medical evidence as being highly unlikely to be transmitted through occupancy of a dwelling place either presently or previously occupied by the infected individual;

(2) that the death of an occupant of a property has occurred or the manner of the death;

(3) any off-site condition or hazard that does not directly impact the property being transferred; or

(4) any psychological impact that has no material impact on the physical condition of the property being transferred.

(B) Nothing in subsection (A) precludes an action against an owner of real estate or agent of the owner who makes intentional misrepresentations in response to direct inquiry from a buyer or prospective buyer with regard to psychological impacts, offsite conditions, or stigmas associated with the real estate.

Section 40-57-750. Payment and collection of costs associated with investigations and prosecution of violations under this chapter must comply with Section 40-1-170.

Section 40-57-760. Imposition and collection of all costs and fines imposed pursuant to this chapter must comply with Section 40-1-180.

Section 40-57-770. An investigation conducted pursuant to this chapter is confidential. The supervising broker-in-charge or property manager-in-charge of record with whom the supervised licensee is

affiliated with at the time the licensee is sent the information as required pursuant to Section 40-1-80(B) shall also receive a copy of the same information the supervised licensee is sent pursuant to Section 40-1-80(B). Related communications are privileged as provided in Section 40-1-190.

Section 40-57-780. A real estate broker, associate, or property manager who fails to renew or register a license and continues to engage in the business permitted pursuant to the license is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Section 40-57-790. A civil action may be brought for violations of this chapter as provided for violations of Article 1, Chapter 1, in accordance with Section 40-1-210.

Section 40-57-800. (A) Service of a notice provided for by law upon a nonresident licensed under this chapter or upon a resident who, having been licensed, subsequently becomes a nonresident or after due diligence cannot be found at his usual abode or place of business in this State, may be made by providing a copy of the notice, and accompanying documents. A copy of the notice, accompanying documentation, and a certified copy of the service on the administrator must be mailed to the licensee at his last known address, return receipt requested. The administrator shall keep a record of the day of the service of the notice and the return receipt must be attached to and made part of the return of service of the notice by the commission.

(B) A continuance may be given in a hearing under this chapter for which notice is given pursuant to this section so as to afford the licensee a reasonable opportunity to appear and be heard.

Section 40-57-810. 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.

Work product

SECTION 4. Article 7, Chapter 57, Title 40 of the S.C. Code is amended by adding:

Section 40-57-820. A licensee under this chapter is responsible for any and all work product produced by him or with the assistance of artificial intelligence, machine learning, or similar programs. A violation of this chapter that is committed through the use of these programs will be treated as if the violation was committed directly by the licensee.

Time effective

SECTION 5. Section 40-57-135(E)(2) takes effect twelve months after the date of ratification of the act. Section 40-57-360 takes effect thirty-six months after the date of ratification of the act.

Time effective

SECTION 6. Except as otherwise provided, this act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 205

(R222, H4817)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16-17-500, RELATING TO THE SALE OR PURCHASE OF TOBACCO PRODUCTS TO MINORS WITHOUT PROOF OF AGE AND THE LOCATION OF VENDING MACHINES, SO AS TO INCLUDE ALTERNATIVE NICOTINE PRODUCTS AND TO REQUIRE INDIVIDUALS SEEKING TO PURCHASE TOBACCO PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS TO

PRESENT PROOF OF AGE UPON DEMAND, AND TO ALLOW THE PURCHASE OF TOBACCO PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS FROM VENDING MACHINES IN CERTAIN ESTABLISHMENTS.

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

Alternative nicotine products, proof of age, vending machines

SECTION 1. Section 16-17-500(B) and (D) of the S.C. Code is amended to read:

(B) It is unlawful to sell a tobacco product or an alternative nicotine product to an individual who does not present, upon demand, proper proof of age. Failure to demand identification to verify an individual's age is not a defense to an action initiated pursuant to this subsection. Proof that is demanded, is shown, and reasonably is relied upon for the individual's proof of age is a defense to an action initiated pursuant to this subsection.

(D) It is unlawful to sell a tobacco product or an alternative nicotine product through a vending machine unless the vending machine is located in an establishment:

(1) which is open only to individuals who are eighteen years of age or older; or

(2) where the vending machine is under continuous control by the owner or licensee of the premises or an employee of the owner or licensee, can be operated only by activation by the owner, licensee, or employee before each purchase, and is not accessible to the public when the establishment is closed.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 206

(R223, H4832)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "PAID FAMILY LEAVE INSURANCE ACT" BY ADDING CHAPTER 103 TO TITLE 38 SO AS TO DEFINE TERMS, ESTABLISH FAMILY LEAVE BENEFITS, OUTLINE REQUIREMENTS OF FAMILY LEAVE INSURANCE POLICIES, AND TO PROVIDE EXCLUSIONS, AMONG OTHER THINGS.

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

Citation

SECTION 1. This act may be cited as the "Paid Family Leave Insurance Act".

Paid Family Leave Insurance

SECTION 2. Title 38 of the S.C. Code is amended by adding:

CHAPTER 103

Paid Family Leave Insurance

Section 38-103-10. For purposes of this section:

(1) "Child" means a biological, adopted, or foster son or daughter; a stepson or stepdaughter; a legal ward; a son or daughter of a domestic partner; or a son or daughter of a person to whom the employee stands in loco parentis who is either:

(a) under eighteen years of age; or

(b) eighteen years of age or older and incapable of self-care because of a mental or physical disability.

(2) "Department" means the Department of Insurance.

(3) "Director" means the director of the Department of Insurance.

(4) "Employee" means an individual for whom an employer must complete a Form I-9 pursuant to federal law and regulations and does not include an independent contractor.

(5) "Family leave" means any leave taken by an employee from work pursuant to Section 38-103-20.

(6) "Family leave insurance" means an insurance policy issued to an employer related to a benefit program provided to an employee to pay for a percentage or portion of the employee's income loss due to:

(a) the birth of a child or adoption of a child by the employee;

(b) the placement of a child with the employee for foster care;

(c) care of a family member of the employee who has a serious health condition; or

(d) the status of a family member of the employee who is a service member on active duty or who has been notified of an impending call or order to active duty.

(7) "Family member" means a child, spouse, or parent, or another person defined as a family member in a policy of insurance issued under this chapter.

(8) "Health care provider" means a person licensed to provide health care services under Title 40.

(9) "Parent" means a biological, foster, or adoptive parent, a stepparent, a legal guardian, or other person who stands in loco parentis to the employee when the employee was a child.

(10) "Serious health condition" means an illness, injury, impairment, or physical or mental condition, including transplantation preparation and recovery from surgery related to organ or tissue donation, that involves in-patient care in a hospital, hospice, or residential health care facility, continuing treatment or continuing supervision by a health care provider as defined in the insurance policy. Continuing supervision by a health care provider includes a period of incapacity which is permanent or long term due to a condition for which treatment may not be effective and where the family member need not be receiving active treatment by a health care provider.

(11) "Service member" means a member of the United States Armed Forces in active military service.

Section 38-103-20. Family leave benefits may be provided for any leave taken by an employee from work to:

(1) participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;

(2) bond with the employee's child during the first twelve months after the child's birth, or the first twelve months after the placement of the child for adoption or foster care with the employee;

(3) address a qualifying exigency as interpreted under the Family and Medical Leave Act, 29 U.S.C. Section 2612(a)(1)(e) and 29 C.F.R. Section 825.126(a)(1)-(8), arising out of the fact that the spouse, child,

or parent of the employee is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces of the United States;

(4) care for a family service member injured in the line of duty; or

(5) take other leave to provide care for a family member or other family leave as specified in the policy of insurance.

Section 38-103-30. (A) Family leave insurance may be written as:

(1) an amendment or rider to a group disability income policy or life insurance policy, included in a group disability income policy or life insurance policy; or

(2) a separate group insurance policy purchased by an employer.

(B) An insurer licensed to sell life insurance or disability income insurance in this State may issue a policy of family leave insurance in accordance with the bulletins adopted by the department.

(C) The commissioner may publish bulletins to administer this title and authorize the sale of family leave insurance in this State.

Section 38-103-40. A policy of insurance issued under this title must set forth the details and requirements with respect to each reason an employee is entitled to take family leave under the policy.

Section 38-103-50. (A) The policy of insurance must set forth the length of family leave benefits that are available for each covered family leave reason, which will in no event be less than two weeks during a period of fifty-two consecutive calendar weeks.

(B) Fifty-two consecutive calendar weeks may be calculated by:

(1) a calendar year;

(2) any fixed period starting on a particular date such as the effective or anniversary date;

(3) the period measured forward from the employee's first day of family leave;

(4) a rolling period measured by looking back from the employee's first day of family leave; or

(5) any other method that is specified in the policy of insurance.

Section 38-103-60. The policy of insurance must set forth whether there is an unpaid waiting period and, if so, the terms and conditions of the unpaid waiting period, which may include, but are not limited to:

(1) whether the waiting period runs over a consecutive calendar day period;

(2) whether the waiting period is counted toward the annual allotment

of family leave benefits or is in addition to the annual allotment of family leave benefits;

(3) whether the waiting period must be met only once per benefit year or must be met for each separate claim for benefits; and

(4) whether the employee may work or receive paid time off or other compensation by the employer during the waiting period.

Section 38-103-70. (A) The policy of insurance shall set forth:

(1) the amount of benefits that will be paid for covered family leave reasons;

(2) the definition of the wages or other income upon which the amount of family leave benefits will be based; and

(3) how wages or other income will be calculated.

(B) If the family leave benefits are subject to offsets for wages or other income received or for which the insured may be eligible, the policy shall set forth:

(1) all wages or other income that may be set off; and

(2) the circumstances under which it may be offset.

(C) Family leave benefits provided under a policy of insurance must be paid periodically and promptly except as to a contested period of family leave and subject to any of the provisions of Section 38-103-80.

Section 38-103-80. Eligibility for family leave benefits under this article may be limited, excluded, or reduced, but any limitations, exclusions, or reductions shall be set forth in the policy of insurance. Permissible limitations, exclusions, or reductions may include, but are not limited to, any of the following reasons:

(1) for any period of family leave wherein the required notice and medical certification as prescribed in the policy have not been provided;

(2) for any family leave related to a serious health condition or other harm to a family member brought about by the wilful intention of the employee;

(3) for any period of family leave during which the employee performed work for remuneration or profit;

(4) for any period of family leave for which the employee is eligible to receive from his employer, or from a fund to which the employer has contributed remuneration or maintenance;

(5) for any period of family leave which the employee is eligible to receive benefits under any other statutory program or employer-sponsored program including, but not limited to, unemployment insurance benefits, worker's compensation benefits, statutory disability benefits, statutory paid leave benefits, or any paid

time off or employer's paid leave policy;

(6) for any period of family leave commencing before the employee becomes eligible for family leave benefits under the policy; or

(7) for periods of family leave where more than one person seeks family leave for the same family member.

Section 38-103-90. The department shall provide an annual report to the legislature and the public beginning on January 1, 2025, and each year thereafter, with information regarding the utilization of family leave insurance as authorized in this section, including:

(1) the number of insurers in the State who are currently offering family leave insurance;

(2) the total number of employers in the State who have purchased family leave insurance; and

(3) a breakdown of which employers in the State have purchased family leave insurance by industry and employer size.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 207

(R226, H4957)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59-158-10, RELATING TO DEFINITIONS CONCERNING INTERCOLLEGIATE ATHLETES' COMPENSATION FOR NAME, IMAGE, AND LIKENESS, SO AS TO REVISE SEVERAL DEFINITIONS; BY AMENDING SECTION 59-158-20, RELATING TO THE AUTHORIZATION OF COMPENSATION FOR USE OF AN INTERCOLLEGIATE ATHLETE'S NAME, IMAGE, AND LIKENESS, SO AS TO DELETE EXISTING LANGUAGE AND

PROVIDE INSTITUTIONS OF HIGHER LEARNING AND CERTAIN AGENTS OF THE INSTITUTIONS MAY ENGAGE IN CERTAIN ACTIONS THAT MAY ENABLE INTERCOLLEGIATE ATHLETES TO EARN COMPENSATION FOR USE OF THE NAME, IMAGE, AND LIKENESS OF THE ATHLETE, AMONG OTHER THINGS; BY AMENDING SECTION 59-158-30, RELATING TO THE EFFECTS OF NAME, IMAGE, AND LIKENESS COMPENSATION ON GRANT-IN-AID OR ATHLETIC ELIGIBILITY, SO AS TO DELETE EXISTING LANGUAGE AND PROVIDE NAME, IMAGE, AND LIKENESS CONTRACTS MAY NOT EXTEND BEYOND THE INTERCOLLEGIATE ATHLETE'S ELIGIBILITY TO PARTICIPATE IN AN INTERCOLLEGIATE ATHLETICS PROGRAM AT AN INSTITUTION OF HIGHER LEARNING; BY AMENDING SECTION 59-158-40, RELATING TO ALLOWED AND PROHIBITED ACTIONS CONCERNING INTERCOLLEGIATE ATHLETES' NAME, IMAGE, AND LIKENESS-RELATED MATTERS, SO AS TO PROVIDE LIMITATIONS ON LIABILITY FOR INSTITUTION OF HIGHER LEARNING EMPLOYEES FOR DAMAGES RESULTING FROM CERTAIN ROUTINE DECISIONS MADE IN INTERCOLLEGIATE ATHLETICS, AND TO PROHIBIT CERTAIN CONDUCT BY ATHLETIC ASSOCIATIONS, ATHLETIC CONFERENCES, OR OTHER GROUPS WITH AUTHORITY OVER INTERCOLLEGIATE ATHLETIC PROGRAMS AT PUBLIC INSTITUTIONS OF HIGHER LEARNING, AMONG OTHER THINGS; BY AMENDING SECTION 59-158-50, RELATING TO GOOD ACADEMIC STANDING REQUIRED FOR PARTICIPATION IN NAME, IMAGE, AND LIKENESS ACTIVITIES, SO AS TO DELETE EXISTING PROVISIONS AND PROVIDE CERTAIN MATTERS CONCERNING NAME, IMAGE, AND LIKENESS AGREEMENTS MAY NOT BE CONSIDERED PUBLIC RECORDS SUBJECT TO AN EXCEPTION AND MAY NOT BE DISCLOSED TO CERTAIN ENTITIES; BY AMENDING SECTION 59-158-60, RELATING TO DISCLOSURE OF NAME, IMAGE, AND LIKENESS CONTRACTS AND THIRD-PARTY ADMINISTRATORS, SO AS TO DELETE EXISTING LANGUAGE AND PROVIDE FOR THE RESOLUTION OF CONFLICTS BETWEEN CERTAIN PROVISIONS OF THIS ACT AND PROVISIONS IN THE UNIFORM ATHLETE AGENTS ACT, AND TO PROVIDE ATHLETE AGENTS SHALL

COMPLY WITH CERTAIN FEDERAL REQUIREMENTS; BY AMENDING SECTION 59-102-20, RELATING TO DEFINITIONS IN THE UNIFORM ATHLETE AGENTS ACT, SO AS TO REVISE THE DEFINITION OF "ATHLETE AGENT" TO EXEMPT INSTITUTIONS OF HIGHER LEARNING; BY AMENDING SECTION 59-102-100, RELATING TO AGENCY CONTRACTS, SO AS TO REVISE COMPENSATION PROVISIONS; BY REPEALING SECTION 59-158-70 RELATING TO DISCLOSURES AND LIMITATIONS IN NAME, IMAGE, AND LIKENESS CONTRACTS AND REVOCATION PERIODS FOR SUCH CONTRACTS; AND BY REPEALING SECTION 59-158-80 RELATING TO GOVERNING LAW AND FEDERAL COMPLIANCE CONTRACTS.

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

Definitions

SECTION 1. Section 59-158-10 of the S.C. Code is amended to read:

Section 59-158-10. For the purposes of this chapter:

(1) "Athlete agent" means a person who is registered with the Department of Consumer Affairs pursuant to Section 59-102-60 or Section 59-102-80. If an athlete agent is an attorney, then he must also be a member in good standing of a state bar association.

(2) "Compensation" means any remuneration, in cash or in kind, whether provided at the time or at any subsequent date, to an intercollegiate athlete. "Compensation" does not mean any grant, scholarship, fellowship, tuition assistance, or other form of financial aid provided to a student for pursuing a post-secondary education.

(3) "Institution of higher learning" means any post-secondary educational institution, including a technical or comprehensive educational institution.

(4) "Intercollegiate athlete" means an individual who has graduated from high school that engages in, is eligible to engage in, or may be eligible in the future to engage in an intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, then the individual is not an intercollegiate athlete for the purposes of that sport.

(5) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by an intercollegiate athlete are established by a national association that promotes or

regulates collegiate athletics.

(6) "Name, image, or likeness activities", "name, image, or likeness contract", "NIL activities", or "NIL contract" means an agreement in which an intercollegiate athlete participating in intercollegiate sports authorizes a person to use his name, image, or likeness and, in return, receives consideration. This term shall include, but is not limited to, endorsement contracts.

(7) "Third party" means, with respect to an intercollegiate athlete, any entity other than the institution of higher learning in which the intercollegiate athlete is enrolled.

NIL agreements, institutional facilitation and compensation, prohibited acts

SECTION 2. Section 59-158-20 of the S.C. Code is amended to read:

Section 59-158-20. (A) An institution of higher learning or any officer, trustee, director, or employee may directly or through an agreement with a third party, identify, create, solicit, facilitate, and otherwise enable opportunities for a currently enrolled intercollegiate athlete to earn compensation for the use of the intercollegiate athlete's name, image, or likeness. An institution of higher learning may grant permission to intercollegiate athletes to use its trademarks and facilities.

(B) An institution of higher learning may not receive compensation or fees directly from an intercollegiate athlete related to the facilitation of NIL.

(C) No appropriated funds of an institution of higher learning may be used to pay an intercollegiate athlete compensation for the use of their name, image, and likeness.

(D) Compensation earned by an intercollegiate athlete for the use of his name, image, or likeness must represent payment for the use of his name, image, or likeness, independent of, rather than as payment for, his athletic participation or performance unless otherwise permitted or authorized by a collegiate athletic association and institution of higher learning policy, a court order, or a settlement agreement.

Extension of NIL agreements beyond participation eligibility prohibited

SECTION 3. Section 59-158-30 of the S.C. Code is amended to read:

Section 59-158-30. A name, image, or likeness contract with an

intercollegiate athlete may not extend beyond their eligibility to participate in an intercollegiate athletics program at an institution of higher learning.

Institutional liability protections, athletic associations and conferences

SECTION 4. Section 59-158-40 of the S.C. Code is amended to read:

Section 59-158-40. (A)(1) An institution of higher learning may prohibit an intercollegiate athlete from using his name, image, or likeness for compensation if the proposed use of his name, image, or likeness conflicts with institutional values as defined by the institution of higher learning.

(2) An intercollegiate athlete may not earn compensation for the use of his name, image, or likeness for the endorsement of tobacco, alcohol, illegal substances or activities, banned athletic substances, or gambling including, but not limited to, sports betting.

(B) An institution of higher learning or any officers, trustees, directors, employees, including athletics coaching staff, may not be liable for any damages to an intercollegiate athlete's ability to earn compensation for the use of the intercollegiate athlete's name, image, or likeness resulting from decisions or actions routinely taken in the course of intercollegiate athletics. However, nothing in this section should be construed to bar any common law claims by intercollegiate athletes of fraud, fraudulent misrepresentation, or intentional misrepresentation.

(C) An athletic association, an athletic conference, or any other group or organization with authority over an intercollegiate athletic program at an institution of higher learning to which this chapter applies may not:

(1) enforce a contract term, a rule, a regulation, a standard, a bylaw, guidance, or any other requirement that prohibits the institution from participating in intercollegiate sports or otherwise penalizes the institution, the institution's intercollegiate athletic program, or intercollegiate athletes for performing, participating in, or allowing an activity required or authorized by this chapter; or

(2) prevent an institution of higher learning from establishing agreements with a third-party entity to act on the institution's behalf to identify, facilitate, enable, or support an intercollegiate athlete's name, image, or likeness activities.

Disclosure of NIL agreement terms, limitations

SECTION 5. Section 59-158-50 of the S.C. Code is amended to read:

Section 59-158-50. (A) If an institution of higher learning collects, retains, or maintains copies or summaries of the terms of an intercollegiate athlete's name, image, or likeness contract or proposed contract detailing compensation to the intercollegiate athlete for the use of the intercollegiate athlete's name, image, or likeness or athletic reputation, the documentation may not be considered a public record under Section 30-4-20(C) unless they are a party.

(B) An institution of higher learning may not be compelled to disclose the information to a collegiate athletic association, athletic conference, or other group or organization with authority over an intercollegiate athletic program at an institution of higher learning.

Interpretation of chapter, athlete agent compliance with federal law

SECTION 6. Section 59-158-60 of the S.C. Code is amended to read:

Section 59-158-60. (A) If there is a conflict between the provisions of this chapter and those of Chapter 102, then the provisions of this chapter govern. An athlete agent representing an intercollegiate athlete in a transaction authorized pursuant to this chapter also shall comply with all provisions contained in Chapter 102 that do not conflict with the provisions of this chapter.

(B) An athlete agent shall comply with the federal "Sports Agent Responsibility and Trust Act", 15 U.S.C. Sections 7801-7807.

Athlete agents, exemption for institutions of higher learning

SECTION 7. Section 59-102-20(2)(b) of the S.C. Code is amended to read:

(b) does not include an individual who:

(i) acts solely on behalf of a professional sports team or organization;

(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; or

(iii) is an institution of higher learning or an employee or contractor employed by an institution of higher learning.

Athlete agent compensation for NIL agreements

SECTION 8. Section 59-102-100(H) of the S.C. Code is amended to read:

(H) An agency contract for name, image, or likeness activities, as defined in Chapter 158, Title 59, may provide for athlete agent compensation but may not exceed twenty percent of the name, image, or likeness contract.

Repealed

SECTION 9. Sections 59-158-70 and 59-158-80 of the S.C. Code are repealed.

Time effective

SECTION 10. This act takes effect upon approval by the Governor.
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Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 208

(R230, H5154)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 58-5-1030, RELATING TO CIVIL PENALTIES, SO AS TO PROVIDE A GAS UTILITY WHICH VIOLATES SECTION 58-5-1020 OR A REGULATION UNDER ARTICLE 9 OF CHAPTER 5, TITLE 58 IS SUBJECT TO A CIVIL PENALTY NOT MORE THAN THE CIVIL PENALTY PROVIDED BY 49 U.S.C. SECTION 60122 AND 49 C.F.R. 190.233.

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

Civil penalties

SECTION 1. Section 58-5-1030(a) of the S.C. Code is amended to read:

(a) A gas utility which violates a provision of Section 58-5-1020 or a regulation under this article is subject to a civil penalty of not more than the maximum civil penalty provided pursuant to 49 U.S.C. Section 60122 and 49 C.F.R. 190.223.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 209

(R232, H5183)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 40-47-20, RELATING TO THE DEFINITION OF A CERTIFIED MEDICAL ASSISTANT, SO AS TO REVISE THE CERTIFICATION REQUIREMENTS; AND BY AMENDING SECTION 40-47-196, RELATING TO THE DELEGATION OF NURSING TASKS TO UNLICENSED ASSISTIVE PERSONNEL BY CERTAIN MEDICAL PROFESSIONALS, SO AS TO DESIGNATE ADDITIONAL NURSING TASKS THAT MAY BE DELEGATED.

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

Certified medical assistants, qualifications revised

SECTION 1. Section 40-47-20(57) of the S.C. Code is amended to read:

(57) "Certified medical assistant" or "CMA" means a person who:

(1) has completed:

(a) a medical assisting education program accredited by the Commission on Accreditation of Allied Health Education Programs or its successor, by the Accrediting Bureau of Health Education Schools or its successor, or by any accrediting agency recognized by the United States Department of Education, and which must include courses or components in anatomy and physiology, medical terminology, pharmacology, medical laboratory techniques, and clinical experience, provided the clinical experience component may be satisfied through an individual's work experience with a health care employer;

(b) a Career and Technical Education Health Sciences Program approved by the South Carolina Department of Education;

(c) a medical assisting program provided by a branch of the United States military;

(d) a medical assisting United States Department of Labor-approved Registered Apprenticeship program; or

(e) a training program that is delivered, in whole or in part, by a health care employer that aligns to a nationally accredited certification exam; and

(2) a person who has complied with the provisions of subitem (1)

and maintains current certification from a certifying body offering a certification program that is:

(a) approved by the Board of Medical Examiners and the Board of Nursing; and

(b) is accredited by the National Commission for Certifying Agencies or other accreditation body recognized by the Board of Medical Examiners and the Board of Nursing. The term "certified medical assistant" or "CMA" also includes medical assistants who have maintained certification from one of the certifying entities in subitem (2) of this section since January 1, 2020, and individuals employed as certified medical assistants as of the effective date of this act who do not meet the education or training requirements required in this item, but who meet those requirements no later than July 15, 2026.

Unlicensed assistive personnel, supervised nursing tasks allowed

SECTION 2. Section 40-47-196(C) of the S.C. Code is amended to read:

(C)(1) A physician or physician assistant, pursuant to the physician assistant's scope of practice guidelines, may delegate nursing tasks to UAP under the supervision of the physician or physician assistant. Such nursing tasks include, but are not limited to, the following:

(a) meeting patients' needs for personal hygiene;

(b) meeting patients' needs relating to nutrition;

(c) meeting patients' needs relating to ambulation;

(d) meeting patients' needs relating to elimination;

(e) taking vital signs;

(f) maintaining asepsis;

(g) collecting specimens (urine, stool, sputum);

(h) point of care testing and screening tests;

(i) recording information;

(j) performing nonclinical tasks via telemedicine; and

(k) observing, recording, or reporting any of the nursing tasks enumerated in this subsection.

(2) Pursuant to the APRN's practice agreement, he may delegate any of the above nursing tasks to a UAP.

Time effective

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

Ratified the 15th day of May, 2024

Approved the 21st day of May, 2024

No. 210

(R119, S912)

A JOINT RESOLUTION TO EXPRESS SUPPORT FOR THE SC NEXUS FOR ADVANCED RESILIENT ENERGY AND TO ENCOURAGE THE CONTINUED GLOBAL LEADERSHIP TO REDUCE THE STATE'S ENVIRONMENTAL IMPACT WHILE ENHANCING THE ECONOMIC OUTPUT.

Whereas, hurricanes and other natural disasters have had adverse impacts on the State of South Carolina and the nation, thereby drastically affecting various segments of the South Carolina economy; and

Whereas, the State has become a national leader in reducing its environmental impacts while enhancing its economy through advanced manufacturing and continued growth of the state's robust tourism sector; and

Whereas, the State has recently been recognized as the fastest growing state in the nation according to U.S. Census Bureau data because of its rich culture, beautiful landscapes, robust economy, and abundant job opportunities; and

Whereas, the state's rapid growth has been facilitated by conservation of its uniquely beautiful ecology, reduction of environmental impacts, and a favorable business climate; and

Whereas, the State has become a hub for advanced manufacturing, including four major electric vehicle manufacturers and what will be the

nation's largest EV battery recycling facility, as well as many other clean industries; and

Whereas, the State, through the SC Nexus for Advanced Resilient Energy (SC Nexus), a broad consortium of higher education institutions, technical colleges, numerous state agencies, the Savannah River National Laboratory, economic development alliances, community organizations, nonprofits and private companies, including electric utilities, received the U.S. Department of Commerce's Economic Development Administration's (EDA) designation as one of thirty-one Regional Technology and Innovation Hubs (Tech Hubs); and

Whereas, the Tech Hub designation allows the South Carolina Department of Commerce, on behalf of SC Nexus, to apply for EDA's Phase 2 funding – to leverage and accelerate existing efforts – available through the bipartisan CHIPS and Science Act of 2022, which authorized 10 billion dollars over five years to implement the Tech Hubs and appropriated 500 million dollars that the United States Department of Commerce has utilized for the thirty-one designated Tech Hubs to apply for grants of between forty-five and seventy-five million dollars (Phase 2 funding); and

Whereas, the Phase 2 application on behalf of SC Nexus will include a focus on projects that will enable the commercialization of distributed energy resources (DERs) which are defined as small-scale generation, storage, and demand management assets that closely interconnect electricity supply and demand; and

Whereas, DERs create many transformational opportunities for the electric grid technology including, but not limited to: enabling rapid growth of renewable power generation; increasing grid efficiency by reducing grid modernization costs; bolstering grid resiliency for manufacturers and communities; driving economic stability through the creation of workforce and entrepreneurship opportunities for those most impacted by energy transition; and

Whereas, development of DERs will support the development and commercialization of small modular nuclear reactors (SMRs), which are defined as advanced nuclear reactors that produce nuclear power and have a power capacity of up to 400 megawatts per reactor; and

Whereas, South Carolina has been a recognized global leader in the

research, development, and deployment of nuclear power generation for at least the past fifty years and is ideally established to be a leader in the development and commercialization of SMRs; and

Whereas, the designation of SC Nexus as a Tech Hub aligns with the goal of developing and commercializing SMRs as well as other advanced energy, energy storage, and grid resilience technologies in order to revitalize domestic manufacturing, create good-paying American jobs, strengthen American supply chains, and accelerate clean industries to ensure a prosperous future for the Palmetto State; and

Whereas, the South Carolina Department of Commerce, through a newly created office as set forth in this joint resolution, shall continue to lead SC Nexus to target innovation and efforts geared toward commercializing energy generation, distribution, storage, and grid resilience. Now, therefore,

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

Title

SECTION 1. This joint resolution must be known and may be cited as the "SC Nexus Plan for Global Leadership in Advanced Resilient Energy".

Definitions

SECTION 2. As used in this resolution:

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

(2) "Development" means identifying any governmental barriers to application of advanced energy generation, storage, and grid resilience, and potential opportunities to address these barriers.

(3) "Developmental approval" means an approval issued by the State, an agency, or subdivision of the State, regardless of the form of the approval, that is for the development and application of advanced energy generation, storage, and grid resilience, including:

(a) permitting of advanced energy generation, storage, and grid resilience technology;

(b) identification of adverse tax consequences and potential federal opportunities to encourage private sector investment; and

(c) any environmental permit issued by the Department of Health

and Environmental Control or the Department of Environmental Services.

SC Nexus Office, creation

SECTION 3. To facilitate and implement the SC Nexus Plan for Global Leadership in Advanced Resilient Energy, the SC Nexus office is hereby created within the department with such power and authority necessary to take such actions necessary for the State to achieve the following goals:

(A) development of deployable and exportable electricity technologies that accelerate manufacturing of energy components and materials, innovate new battery technologies, and efficiently integrate advanced electricity sources into the grid;

(B) acceleration of high-quality job growth for a diverse workforce, with multiple education and training pathways through South Carolina's broad education ecosystem;

(C) closure of infrastructure gaps in rural and distressed communities; and

(D) enhancement of South Carolina's ability to play a key role advancing the country's competitiveness in the development, integration, and commercialization of globally leading electric-power technologies in the State.

Agency collaboration

SECTION 4. Within thirty days after the effective date of this joint resolution, each agency or subdivision of the State to which this joint resolution applies shall receive a copy of this resolution and shall take all necessary actions to ensure broad collaboration to meet the aforementioned goals. This SECTION does not apply to units of local government.

Interpretation

SECTION 5. The provisions of this joint resolution must be liberally construed to effectuate the purposes of this joint resolution.

If the last act shown on the opposite page is not complete, it will be continued in the next Advance Sheet.

ASHLEY HARWELL-BEACH
Code Commissioner
P. O. Box 11489
Columbia, S.C. 29211