

## Session 114 - (2001-2002)

**H\*3053 (Rat #0029, Act #0016 of 2001) General Bill, By J. Young, G.M. Smith, Kirsh, W.D. Smith, Harrison, Davenport and Whipper**

**Summary:** Embezzlement by employee, general lien created upon public retirement system or pension plan; Ethics, Crimes, Property

A BILL TO AMEND CHAPTER 1, TITLE 8, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, RELATING TO PUBLIC OFFICERS AND EMPLOYEES, BY ADDING SECTION 8-1-115, SO AS TO CREATE A GENERAL LIEN UPON ANY PUBLIC RETIREMENT OR PENSION PLAN NOT COVERED BY ERISA OF ANY PUBLIC OFFICER, EMPLOYEE, OR ANY OTHER PERSON WHO IS CONVICTED OF AN OFFENSE INVOLVING EMBEZZLEMENT OR MISAPPROPRIATION OF PUBLIC FUNDS OR PROPERTY TO THE PRIVATE USE OF HIMSELF OR ANY OTHER PERSON, TO THE EXTENT OF THE TOTAL LOSS, DAMAGE OR EXPENSE TO THE STATE, OR TO A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE, TO PROVIDE FOR THE JUDGE SENDING A NOTICE OF THE LIEN TO THE ATTORNEY GENERAL AND APPROPRIATE RETIREMENT OR PENSION PLAN SYSTEM, TO PROVIDE THAT THE SPOUSE OR REPRESENTATIVE OF MINOR CHILDREN MAY FILE A PETITION TO HAVE THE JUDGE DISSOLVE THE LIEN IN WHOLE OR IN PART IN FAVOR OF THE SPOUSE OR MINOR CHILDREN BECAUSE THE SPOUSE OR MINOR CHILDREN WOULD SUFFER EXTREME FINANCIAL HARDSHIP IF THE LIEN WERE TO ATTACH, TO PROVIDE THE LIEN SHALL NOT ATTACH TO THE ALTERNATE PAYEE'S PORTION OF THE RETIREMENT BENEFIT IF THE CONVICTED PERSON IS SUBJECT TO A QUALIFIED DOMESTIC RELATIONS ORDER OR IF THE CONVICTED PERSON IS SUBJECT TO A CHILD SUPPORT ORDER, TO PROVIDE THAT AN ACTION TO ENFORCE THE LIEN CREATED BY THIS SECTION MAY BE BROUGHT AT ANY TIME UP TO THE DEATH OF A PERSON WHOSE RETIREMENT OR PENSION PLAN IS SUBJECT TO THE LIEN, TO PROVIDE FOR SATISFACTION AND DISCHARGE OF THE LIEN CREATED BY THIS SECTION BY THE ATTORNEY GENERAL OR HIS DESIGNEE; TO AMEND SECTION 9-1-1680, AS AMENDED, RELATING TO EXEMPTION, WITH EXCEPTIONS, OF ANNUITY RETIREMENT ALLOWANCES, AND CONTRIBUTIONS FROM TAXATION AND LEGAL PROCESS, SO AS TO PROVIDE THAT ANNUITIES, RETIREMENT ALLOWANCES AND CONTRIBUTIONS ARE SUBJECT TO THE GENERAL LIEN CREATED BY SECTION 8-1-115 AND THE DOCTRINE OF CONSTRUCTIVE TRUST EX MALEFICIO; TO AMEND SECTIONS 9-8-190, 9-9-180, AND 9-11-270, ALL AS AMENDED, ALL RELATING TO THE EXEMPTION OF RETIREMENT ALLOWANCES FROM TAXATION AND LEGAL PROCESS, SO AS TO PROVIDE THE RETIREMENT ALLOWANCE IS SUBJECT TO SECTION 8-1-115 AND THE DOCTRINE OF CONSTRUCTIVE TRUST EX MALEFICIO; TO PROVIDE FOR THE ACT'S RETROACTIVE APPLICATION; AND TO PROVIDE A SEVERABILITY CLAUSE.-AMENDED TITLE

12/06/00	House	Prefiled
12/06/00	House	Referred to Committee on Judiciary
01/09/01	House	Introduced and read first time HJ-32
01/09/01	House	Referred to Committee on Judiciary HJ-33
01/17/01	House	Committee report: Favorable with amendment Judiciary HJ-4
01/23/01	House	Amended HJ-25
01/23/01	House	Read second time HJ-32
01/24/01	House	Read third time and sent to Senate HJ-19
01/25/01	Senate	Introduced and read first time SJ-5
01/25/01	Senate	Referred to Committee on Judiciary SJ-5
03/07/01	Senate	Committee report: Favorable with amendment Judiciary SJ-14
03/13/01	Senate	Amended SJ-19
03/13/01	Senate	Read second time SJ-19
03/13/01	Senate	Ordered to third reading with notice of amendments SJ-19
03/15/01	Senate	Read third time and returned to House with amendments
03/15/01	Senate	Reconsidered
03/22/01	Senate	Amended SJ-31
03/22/01	Senate	Read third time and returned to House with amendments SJ-31
03/28/01	House	Concurred in Senate amendment and enrolled HJ-21
04/10/01		Ratified R 29
04/10/01		Signed By Governor
04/10/01		Effective date 04/10/01
04/23/01		Copies available

04/25/01

**Act No. 16**